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## Section A General provisions

### 1. Scope

- 1.1. These General Terms and Conditions (“**GTC**”) apply in their current version in national and international business transactions to all contracts concluded for the provision of services by a company of ecovium GmbH (hereinafter referred to as “**ecovium**”). They shall only apply to entrepreneurs, legal entities under public law, or special funds under public law within the meaning of Section 310 subsection (1) BGB [German Civil Code] (“**Customer**”).
- 1.2. These GTC shall particularly apply to:
  - (1) the provision of works and services in accordance with *Section B*, and
  - (2) the licensing of standard software in accordance with *Section C*,
  - (3) the licensing of third-party software in accordance with *Section D*,
  - (4) the provision of software maintenance in accordance with *Section E*,
  - (5) the provision of SaaS services in accordance with *Section F*,
  - (6) the sale of hardware in accordance with *Section G*,
  - (7) the processing of personal data on order in accordance with *Section H*.
- 1.3. These GTC shall apply exclusively. Additional, deviating, or conflicting terms and conditions (“**Customer Terms and Conditions**”) shall not become part of the contract, unless ecovium expressly agrees to them in writing. This also applies if the Customer refers to the Customer Terms and Conditions in a standard order form or otherwise in connection with an order, or if ecovium provides services without reservation in the knowledge of conflicting Customer Terms and Conditions.
- 1.4. These GTC and the documents referred to therein conclusively regulate the contractual relationship between ecovium and the Customer. There are no ancillary agreements. Specifications, catalogues of requirements, and other documents provided by the

Customer to ecovium before the conclusion of the contract shall only become part of the contract if they are expressly mentioned in the contract, or if this is otherwise expressly confirmed in writing by ecovium.

- 1.5. Should provisions of these GTC be or become invalid in whole or in part, this shall not affect the validity of the remaining GTC. The same shall apply in case of a gap. Instead of the void, ineffective, contestable, or unenforceable provision or to fill the gap, an appropriate provision shall apply which, as far as legally possible, comes closest to what the parties would have wanted commercially if they had been aware of the incompleteness of the contract.

### 2. Offer and conclusion of contract

- 2.1. Offers and cost estimates from ecovium shall be subject to change and non-binding, unless they are expressly designated as a binding offer.
- 2.2. A contract between ecovium and the customer shall be concluded with order confirmation in text form by ecovium, or by mutual signing of a contract between ecovium and the Customer. The silence of ecovium on offers, orders, requests, or other declarations of the Customer shall only be deemed to be consent if this has been expressly agreed in writing. Insofar as the order confirmation contains obvious errors, spelling or calculation errors, it shall not be binding for ecovium.
- 2.3. In the case of a contract document signed by both parties, the respective contract text shall be decisive for the scope, type, and quality of the deliveries and services to be provided by ecovium, otherwise the service description contained in the offer or the ecovium order confirmation and, if applicable, further provisions listed here. Other information or requirements shall only become part of the contract if ecovium has expressly confirmed this in writing.

### **3. Amendment of contract**

- 3.1. All agreements that contain a change, addition, or concretization of these GTC or the other contractual conditions agreed between the parties, as well as special assurances and agreements, must be made in writing. If they are declared by representatives or auxiliary persons of ecovium, they shall only be binding if ecovium confirms them in writing. The amendment of this written form requirement shall also require the written form.
- 3.2. ecovium shall be entitled to adapt these GTC or other contractual conditions during the term of the contract in accordance with the following provisions:
  - a) ecovium shall be entitled to adapt these GTC or other contractual conditions for valid reasons that make a change appear necessary and do not disadvantage the Customer in bad faith. In this case, ecovium will inform the Customer of the adapted contractual conditions in writing or by email. The adapted contractual conditions become part of the contract if the Customer does not object to the inclusion in the contractual relationship in writing or by email within a period of six (6) weeks after receipt of the notification of change.
  - b) In addition, ecovium shall be entitled to adjust agreed maintenance or SaaS fees a maximum of once per quarter to changes in market conditions or in the event of significantly increased procurement costs. In the event of price increases that exceed the increase in the official consumer index for the Federal Republic of Germany or the index replacing it by more than two (2) full percentage points, the Customer shall be entitled to a right of termination in the event of a price adjustment. In these cases, ecovium will inform the Customer of the right of termination in good time in advance in text form.
- 3.3. Each contractual partner may apply to the other contractual partner in writing for changes to the agreed scope of services. Each contractual partner checks the feasibility of the requested service changes within the scope of equity and reasonableness. If a change request from the Customer requires an extensive review, ecovium will inform the Customer accordingly. If the Customer requests the inspection after the notification

by ecovium, this will be agreed separately. The verification effort for this can be calculated by ecovium. The contractual adjustments to the agreed conditions required for a change, including the dates and remuneration, shall be specified in writing in an additional change agreement or an additional order confirmation.

### **4. Prices and terms of payment**

- 4.1. All prices quoted by ecovium are net prices excluding VAT; the value added tax is added at the respective statutory rate, unless the prices are expressly shown as gross prices including VAT at the respective statutory rate. Unless otherwise agreed, costs for special packaging and transport shall be borne by the Customer. VAT will be invoiced at the rate applicable at the time of performance. If the tax rate is changed within the contractual period, the periods with the respective tax rates shall be deemed to have been agreed separately.
- 4.2. Travel costs and expenses are generally to be borne by the Customer.
- 4.3. Travel times will be charged to the Customer with 50 % of the agreed time fee.
- 4.4. If ecovium is to act for the Customer outside the usual working hours, this, as well as the additional remuneration incurred for this purpose, must be agreed separately in writing.
- 4.5. Invoices shall be due immediately upon receipt of payment. A payment shall be deemed to have been made at the time when ecovium can dispose of the amount.
- 4.6. If the Customer does not pay at the due date, ecovium shall be entitled to charge default interest in accordance with the statutory provisions from the onset of default. The proof and assertion of further damage remain unaffected by this.
- 4.7. ecovium shall be entitled to execute or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, it becomes aware of circumstances which are likely to significantly reduce the creditworthiness of the customer, and which jeopardize the payment of ecovium's outstanding claims from the respective contractual relationship.

## 5. Liability; guarantees

- 5.1. The liability of ecovium – regardless of the legal grounds – is always unlimited:
  - a) in case of intent or gross negligence,
  - b) in the event of culpable injury to life, limb, or health,
  - c) insofar as there is an obligation under the Product Liability Act, and
  - d) in the event of a breach of a guarantee provided by ecovium.
- 5.2. Subject to Section 5.1, ecovium shall only be liable for slight negligence if cardinal obligations are violated. Cardinal obligations are those whose fulfillment makes the proper execution of the contract possible in the first place, and on the observance of which the contractual partner may regularly rely. The liability of ecovium for the slightly negligent breach of other contractual obligations that are not cardinal obligations shall be excluded.
- 5.3. Without prejudice to the liability in accordance with Section 5.1, ecovium shall only be liable for the contractually typical and foreseeable damage.
- 5.4. In addition, the liability of ecovium shall be limited to the payments made by the Customer to ecovium under the respective individual contract in the twelve (12) months before the damage event as consideration for the respective service, regardless of the legal basis per case of damage, but to a maximum of € 25,000.00 per claim, a total of € 75,000.00. If the typical, foreseeable damage would exceed a liability sum of € 25,000.00 per case of damage or a total of € 75,000.00, the customer must point this out so that further protection of the risk can take place.
- 5.5. The liability of ecovium may be further limited or deviating due to individual contractual agreements.
- 5.6. In any case, ecovium shall only be liable for the loss of stored data in accordance with the above provisions if the Customer has ensured by means of a properly performed data backup that this data can be reconstructed by a reasonable effort. The liability shall be limited to the amount of this restoration effort.
- 5.7. Guarantees in the legal sense shall only be granted by ecovium if they are expressly designated as a "guarantee".
- 5.8. The above limitations of liability in this Article 5 shall apply mutatis mutandis to all

employees, representatives, organs, and vicarious agents of ecovium.

## 6. Confidentiality and data protection

- 6.1. The parties undertake to treat as confidential all confidential information, documents, business processes, and data transmitted to them by the other party before or during the execution of the contract, or which otherwise come to their knowledge (collectively, "**Confidential Information**"), not to pass them on to unauthorized third parties, and to use them only for the contractual purpose. In doing so, the parties shall apply the same care as they apply with regard to their own Confidential Information, but at least the diligence of a prudent businessman. Companies of the ecovium Group and their employees, as well as consultants of the parties who are professionally obliged to maintain secrecy shall not be considered third parties within the meaning of this provision.
- 6.2. Non-confidential is information (i) which is generally known or lawfully made publicly available, (ii) which was lawfully known to the receiving party before it received it from the disclosing party, (iii) which was independently developed by a party without recourse to or use of the information received, (iv) which one party lawfully and without obligation to maintain secrecy from third parties, which, in turn, has lawfully acquired this information without any obligation of confidentiality, (v) which a party is required to disclose by law, regulation or court order; in this case, the receiving party shall inform the other party of the disclosure and limit the scope of such disclosure as far as possible. The disclosure of the Confidential Information to employees shall only be permitted to the extent necessary to carry out the contractual obligations incumbent on the party.
- 6.3. Unauthorized third parties within the meaning of Article 6.1 are not consultants of the parties and/or employees and/or consultants of affiliated companies of the parties who need the information to carry out their activities in relation to the respective contract ("**Authorized Third Parties**"). The parties shall oblige any Authorized Third Party in writing to comply with the provisions made in this agreement, unless they are already otherwise obliged to do so. The confidentiality obligation of the Authorized Third Parties shall

continue to apply even after the departure of the employees of one of the parties.

- 6.4. The parties will observe the applicable data protection regulations and oblige their employees employed in connection with the contract and its implementation to data secrecy, unless they are already generally obliged to do so.
- 6.5. If the Customer collects, processes, or uses personal data within the framework of the execution of the contract, the Customer shall be responsible for the fact that the Customer is entitled to do so in accordance with the applicable, in particular data protection regulations, and shall indemnify ecovium in the event of a violation by third-party claims. If ecovium processes personal data on behalf of the Customer, the Customer shall be responsible for the lawfulness of the data transfer to ecovium. If necessary, the parties will regulate the details of data protection in a separate agreement on order data processing.
- 6.6. The Customer agrees to be included in ecovium's reference list. The Customer also allows ecovium to use its trademarks, logos, and the like for this purpose until revoked.

## **7. Offsetting; assignability of claims; right of retention**

- 7.1. The Customer can only offset claims that are undisputed and legally established by ecovium. The above limitation of the Customer's right of set-off does not apply in the case of contracts for work and services.
- 7.2. ecovium may transfer contracts to any other company within the ecovium group of companies. In all other respects, an assignment of rights or transfer of obligations arising from a contract that is subject to these provisions, except in cases of Section 354a HGB [German Commercial Code], shall require the prior written consent of the customer and ecovium. Consent must not be unreasonably refused.
- 7.3. The assertion of a right of retention according to Section 273 BGB [German Civil Code] by the Customer shall be excluded. The Customer can only assert a right to refuse performance in accordance with Section 320 BGB [German Civil Code] on the basis of undisputed, legally established, or decision-ready claims.

## **8. Export and import restrictions**

- 8.1. The parties acknowledge that the software licensed under the contract or other services to be provided under the contract may be subject to export and import restrictions, for example in the form of approval requirements or other restrictions on the use of the software or other services abroad.
- 8.2. The Customer shall be obliged to comply with all applicable export and import control regulations of the Federal Republic of Germany, the European Union, the United States of America, and other relevant export and import control regulations. ecovium's obligation to fulfil the contract shall be subject to the proviso that there are no obstacles to fulfilment due to national and international regulations of export and import law or any other statutory provisions.

## **9. Final provisions, place of jurisdiction and choice of law**

- 9.1. Should differences of opinion arise from the present business relationship, the business partners will endeavor to settle them amicably.
- 9.2. The exclusive place of jurisdiction for all disputes arising in the context of the execution of the contractual relationship is the registered office of ecovium Solution Group GmbH as the parent company of all companies of the ecovium Group in Neustadt am Rübenberge, [Germany]. In addition, ecovium shall also be entitled to sue the customer at his general place of jurisdiction.
- 9.3. The contract shall be governed exclusively by the law of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

## Section B (Work) services

### 10. Scope

The following provisions of this *Section B* shall apply in addition to the provisions of *Section A* to the provision of works and services by ecovium in the field of information technology in the software sector, in particular in the context of applications for shipment processing, foreign trade, transport management systems, and warehouse logistics. This shall in particular include the development and adaptation of software-based optimization processes, as well as the training, consulting, and support of the Customer.

### 11. Provision of services

- 11.1. ecovium shall provide the services owed in accordance with the state of the art applicable at the time the order was placed.
- 11.2. The service shall be provided by sufficiently qualified personnel of ecovium or companies from the ecovium group of companies, or by other third parties used by ecovium as subcontractors to fulfill the performance obligations in accordance with the individual contract. ecovium shall expressly be entitled to use subcontractors within the framework of the General Data Protection Regulation ("GDPR").
- 11.3. ecovium shall be responsible for the manner in which and by whom the individual contract is fulfilled within the framework agreed in each case. In this respect, there shall be no rights of instruction of the Customer vis-à-vis the personnel employed.
- 11.4. Agreed delivery and service dates shall only be binding if they have been expressly agreed as binding. ecovium will inform the Customer at an early stage of impending delays in the provision of services, of which ecovium becomes aware. ecovium shall not be responsible to the Customer for delays for which ecovium is not responsible (e.g. due to force majeure, strike, war, unrest, disasters, or comparable cases). In such cases, ecovium may request a reasonable postponement of the date, including reasonable deadlines for the resumption of the activities owed.

### 12. Remuneration

- 12.1. The remuneration agreed in return for the work or services to be provided by ecovium shall be invoiced in accordance with the contractual agreements as a fixed price or on a time and material basis on the agreed dates, at the latest upon termination or acceptance of the services.
- 12.2. The agreed calculation rates for work and services on a time and material basis may be changed by ecovium with a notice period of three months, for the first time four months after the conclusion of a contract. If the increased price is 20 % or more above the agreed price, the Customer has the right to withdraw from the contract. This right must be exercised immediately after notification of the increased price.
- 12.3. Estimated prices for work and services on a time and material basis stated by ecovium shall be non-binding. The quantity approaches on which an estimate is based are based on an evaluation of the scope of services carried out to the best of our knowledge.
- 12.4. ecovium shall be entitled to make partial deliveries, which can be invoiced according to their execution. ecovium expressly reserves the right to demand advance payments. This shall in particular apply in cases where the contract also includes the adaptation of the software to the Customer's system or the creation of special software, as well as for individual programming sections.
- 12.5. The remuneration for the creation of software does not include installation and training, as well as any error-independent software adaptations; nor the possible adaptation to hardware and/or software other than the agreed one. Such services are to be ordered separately by the Customer and will then be charged separately; Separately calculated instructions provide information about the most important performance characteristics of a delivery item without being able to replace detailed training. ecovium offers the Customer separately remunerated service, care, and training services.
- 12.6. In the case of adaptation and consulting services as well as software development, the services provided by ecovium are billed monthly at the respectively valid or agreed time fee rates.

### 13. Customer's obligations to cooperate

- 13.1. The Customer shall be obliged to cooperate appropriately within the scope of what is reasonable. This shall in particular include (i) the appointment of a contact person for the specific project, who is entitled to make declarations for the Customer and to make project-related decisions, as well as (ii) to the required extent necessary timely and complete provision of all necessary operational and project organization-related information, documents and resources. The Customer shall provide suitable rooms for the ecovium employees working for him, in which documents, documentation and data carriers can also be stored. The Customer shall continue to provide ecovium with all necessary work equipment and, in the case of programming work, shall provide computer times, test data, and data acquisition capacities in a timely manner and to a sufficient extent.
- 13.2. The Customer shall inform ecovium of all circumstances that are important for the effective provision of services without being asked. At the request of ecovium, the Customer will confirm the completeness of the transmitted information and documents in writing.
- 13.3. The parties may agree on further obligations to cooperate in an individual contract.
- 13.4. All obligations to cooperate listed here or in the contractually agreed cooperation obligations are essential primary obligations of the Customer and are agreed as such.
- 13.5. If the Customer does not fulfil one of his obligations to cooperate in accordance with the contract or on time, and thus cannot meet deadlines according to the previous planning, corresponding appointments shall lose their validity. In this case, the parties shall be obliged to agree on new performance dates, taking into account ecovium's resource planning. The Customer shall be obliged to reimburse any additional expenses incurred by ecovium as a result of the breach of obligations to cooperate. Further rights of ecovium due to the violation of obligations to provide and cooperate shall remain unaffected.

### 14. Acceptance

- 14.1. Unless the contractual nature of the service obligation has been expressly agreed between ecovium and the Customer, these shall be deemed to be services and no acceptance of the services shall be required; they shall be deemed to have been rendered when they are carried out.
- 14.2. ecovium shall release work services expressly or implicitly by making them available for acceptance testing. After approval by ecovium, the Customer shall be obliged to check immediately on the basis of the contractually agreed assumptions and prerequisites, acceptance criteria, test data, and test scenarios whether the work services have the contractually agreed quality. Should it become apparent during acceptance that the work services have defects, the Customer shall inform ecovium in writing or document this in the acceptance protocol.
- 14.3. Acceptance cannot be refused due to insignificant defects.
- 14.4. Acceptance shall also be deemed to have been granted in the absence of an express declaration of acceptance if the Customer (i) has put the work into operation in whole or in part, or has otherwise used it productively, or (ii) has neither declared nor justifiably refused acceptance within a period of ten (10) working days after provision.

### 15. Right of use

- 15.1. Unless otherwise agreed in an individual contract, ecovium grants the Customer rights of use to the service results in accordance with the following provisions:
  - a) In the case of work services in the form of adaptations or additions to ecovium's standard software ("**Program Supplements**"), ecovium grants the Customer a simple, non-exclusive right of use in accordance with the provisions of the license agreement for the licensed standard software. In all other respects, all rights shall remain with ecovium.
  - b) In the case of performance results that are not Program Supplements within the meaning of Article 15.1.1, ecovium grants the Customer a temporally and spatially unlimited, irrevocable, simple right to use all performance results created specifically for the Customer.



The right of use shall include the authority to process and change the performance results. The granting of the right of use shall be subject to the condition that the Customer has paid ecovium in full the due and objection-free remuneration to be paid for the respective service results. The granted right of use shall only be transferable with the written consent of ecovium. ecovium will only refuse this consent if there are understandable reasons against such a transfer.

- c) With regard to the rights to open source components and/or software of third parties, which have been incorporated into any performance results or are otherwise handed over in the context of the provision of services, the license conditions applicable to the respective components apply. These are handed over to the customer by ecovium.
- 15.2. In the case of a contract for work and services, ecovium shall only owe the delivery of the programming in the object code version and the Customer shall have no claim to the transfer of the source code, unless the parties have expressly agreed otherwise.
- 15.3. If the Customer receives training documents in the case of training, ecovium shall grant the Customer a simple, unlimited right to use it as intended for the Customer's own business purposes. The granted right of use shall only be transferable with the written consent of ecovium. ecovium will only refuse this consent if there are understandable reasons against such a transfer.
- 15.4. For inventions that have been created or developed by one of the contractual partners during the provision of services, and for which property rights have been or can be applied for, the following shall apply: Inventions of employees of the Customer are claimed by Customers and those of employees of ecovium are claimed by ecovium. For the period of contractual cooperation, the contracting parties grant each other a non-exclusive, irrevocable, worldwide, and royalty-free license to these inventions as well as to property rights granted for this purpose. In the event of termination of the contractual cooperation, both contracting parties will enter into negotiations on the extent to which a non-exclusive, (un)revocable, worldwide, and royalty-free license will continue to be granted.

- 15.5. Inventions made jointly by employees of the Customer and ecovium and the property rights granted for this purpose shall be jointly owned by both contracting parties. Each of the contracting parties shall have the right to grant licenses to third parties for such inventions or to transfer its rights without informing the other contracting party or making payments to him. ecovium shall be entitled to the right to apply for joint inventions.

## 16. Warranty

- 16.1. ecovium warrants that services, in particular training, consulting, and support services, are carried out by suitably qualified personnel with reasonable care and properly. ecovium shall be liable for the breach of this obligation within the scope of the agreed limitation of liability.
- 16.2. Insofar as ecovium provides work services or services to which the purchase contract law applies, ecovium warrants that the service results have the contractual quality and that the contractual use of the work services by the Customer does not conflict with any rights of third parties.
- 16.3. In the event of a material defect in relation to a contract for work services, ecovium shall initially be entitled, after proper notification of the material defect, to subsequent performance at its discretion by eliminating or circumventing the defect, or by delivering an essentially defect-free performance result. Claims for subsequent performance shall be excluded in the event of minor deviations that are reasonable for the customer.
- 16.4. If the supplementary performance fails within a reasonable period of time, the Customer may demand a reduction in the remuneration for the defective part. If there is a significant deviation from the contractually agreed quality, the Customer shall also have the right to withdraw from the contract if he has previously threatened this in writing. In addition, the Customer can - if the legal requirements are met - also claim damages. The right to self-performance shall be excluded.
- 16.5. In the case of programming services, the prerequisite for warranty claims is the reproducibility or detectability of the defects. The Customer must report defects immediately, stating the information known to him and useful for detection and taking measures to the extent necessary to facilitate

the identification of the defects and their causes.

- 16.6. The warranty claims shall lapse with an intervention by the Customer in the performance result, which makes the removal of defects impossible or unreasonably difficult. The assertion of the warranty claim shall also be excluded if operating or maintenance instructions are not followed, changes are made to delivered products, parts are replaced, or consumables are used that do not meet the original specifications. Upon request, in the event of a warranty claim, the customer must send the disputed service carriage paid to ecovium, specifying the complaint and the invoice number. In the event of a justified notification of defects, ecovium shall reimburse the costs of the cheapest shipping route. If a notice of defects is unjustified, ecovium shall be entitled to demand reimbursement of the expenses incurred by the Customer, unless the Customer proves that he is not at fault with regard to the unjustified notification of defects.
- 16.7. The limitation period for claims due to material defects shall be twelve (12) months.
- 16.8. In the event of a defect of title, ecovium shall, at its own discretion, provide the customer with a legally flawless possibility of using the work or an equivalent, defect-free object of performance. The Customer must inform ecovium immediately in writing if third parties assert claims towards the Customer for the infringement of property rights to the object of performance. The limitation period for claims due to defects of title shall be two (2) years.

## Section C Software license for standard software

### 17. Scope

The following provisions of this *Section C* shall apply in addition to the provisions of *Section A* to contracts between ecovium and the Customer for the licensing of standard software solutions of ecovium ("**Software**") for the purpose of indefinite use (purchase license).

### 18. Scope of services

- 18.1. Upon conclusion of the contract, ecovium undertakes towards the Customer (i) to provide the agreed software modules, including user documentation (collectively, "**Licensed Item**") in accordance with Article 19, and (ii) to grant rights of use to the **Licensed Item** in accordance with Article 20.
- 18.2. With the order or signing of the contract, the Customer confirms that he is aware of the essential functional features of the Licensed Item at the time of conclusion of the contract and that the agreed specification corresponds to his wishes and needs.

### 19. Delivery

- 19.1. In the event that the Customer does not obtain SaaS services in accordance with *Section F* in relation to the software, the software shall be delivered by transmitting the software, installing the software via remote maintenance, or providing the Customer with the information required to download the software.
- 19.2. The delivery or provision of the Licensed Item shall take place in the object code version. The Customer shall have no claim to the transfer of the source code of the Licensed Item.
- 19.3. Information on delivery and performance times shall only be binding if it is expressly designated as such within the framework of the contract.
- 19.4. If the parties have expressly agreed to this, ecovium shall also carry out the installation of the object of the purchase license for a separate fee in accordance with the provisions

in *Section B*. Otherwise, the installation of the object of the purchase license shall not be the subject of the service owed by ecovium.

## 20. Rights of use

- 20.1. With full payment of the agreed license fees, ecovium shall grant the Customer the non-exclusive, temporally unlimited right to use the Licensed Item to the contractually agreed extent in accordance with the following provisions. The right of use includes the right to (i) install the Licensed Item and (ii) register and use the software with the number of licenses purchased pursuant to the contract. The Customer shall have the right to print out the user documentation provided if it has been transmitted to him on a data carrier.
- 20.2. The right of use pursuant to Article 20.1 shall be limited to the intended use of the Licensed Item for the purpose of supporting the internal business operations of the Customer and the affiliated group companies. The use for the purpose of supporting the business operations of a third party shall not be covered by the granted right of use, and shall require a separate agreement. No further rights shall be granted. In particular, the granted right of use does not include the right to distribute or make available to the public the Licensed Item.
- 20.3. The granting of rights pursuant to Article 20.1 does not apply to the source code of the Licensed Item. A conversion of the provided object code version of the Licensed Item into source code and/or its processing shall not be permitted. The Customer shall only be entitled to decompile and reproduce the machine-readable Licensed Item insofar as this is legally necessary within the framework of mandatory copyright law in order to establish interoperability with other programs; however, this shall only apply if ecovium has not made the necessary information available to the Customer on request within a reasonable period of time.
- 20.4. The Customer shall be entitled to make a copy of the Licensed Item exclusively for backup or archiving purposes, or to transfer the software to a hard disk, provided that he keeps the original exclusively for backup or archiving purposes. The Customer shall be obliged to visibly affix the note "backup copy" as well as a copyright notice from ecovium to the backup copy created.
- 20.5. The Customer shall not be permitted to assign or transfer the granted rights of use to third

- parties, to grant sublicenses, to publicly reproduce the licensed object by wire or wirelessly, to rent, lease, lend, or otherwise to open up the possibility of use to a third party, e.g. by means of application service providing or as software-as-a-service. Without prejudice to this, the Customer shall be entitled, with the prior written consent of ecovium, to permanently transfer the Licensed Item to a third party by handing over the license certificate and the documentation. ecovium will only refuse this consent if there are understandable reasons against such a transfer. In the event of a transfer, the Customer must completely abandon the use of the Licensed Item, remove all installed copies of the Licensed Item from his computers, and delete all copies on other data carriers or hand them over to ecovium, unless he is legally obliged to store them for a longer period of time. At the request of ecovium, the Customer will confirm in writing to ecovium the complete implementation of the aforementioned measures or, if necessary, explain the reasons for a longer storage. Furthermore, the Customer shall expressly agree with the third party to observe the scope of the granting of rights in accordance with this contract. A splitting of purchased license volume packages shall not be permitted.
- 20.6. If the Customer uses the Licensed Item to an extent that exceeds the acquired rights of use qualitatively (with regard to the type of permitted use) or quantitatively (with regard to the number of licenses purchased), he will immediately acquire the rights of use necessary for the permitted use. If he fails to do so, ecovium will assert the rights to which it is entitled.
  - 20.7. The Customer will not remove or change the copyright notice or other features used for program identification from the Licensed Item.
- ## 21. Material defects
- 21.1. ecovium guarantees that the Licensed Item essentially fulfils the functions described in the agreed product description if it is applied and used in accordance with the specifications in the user documentation. The warranty for program parts that the Customer changes or that he does not apply and use in the manner specified in the user documentation shall be excluded, unless the Customer proves that the change or improper use was not the cause of the defect.

- 21.2. In the event of a material defect, ecovium shall initially have the obligation and the right to subsequent performance. If the supplementary performance fails, the Customer may reduce the price or, in the event of significant defects, withdraw from the contract.
- 21.3. Subsequent performance may be effected at ecovium's discretion by delivery of a new item or by rectification. In the event of malfunctions of the software, the rectification can also be carried out or supported by the delivery or installation of an update or patch.
- 21.4. The Customer shall support ecovium in the error analysis and remedy of defects in an appropriate manner, and shall describe any problems with the Licensed Item in detail and inform ecovium immediately and comprehensively. ecovium shall be entitled to remedy the fault by means of remote maintenance or remote diagnosis, insofar as this is reasonable for the Customer.
- 21.5. In the event of a material defect, the Customer shall not be entitled to any right to self-remedy the defect and reimbursement of the expenses required for this purpose.
- 21.6. The Customer must report obvious defects immediately, but no later than four (4) weeks after delivery. Other defects must be reported immediately after discovery. The notification must be accompanied by a comprehensible description of the defect. If the notification is not made in time, the Licensed Item shall be deemed to have been approved with regard to this defect. The assertion of warranty claims shall be excluded in this respect.
- 21.7. ecovium assumes no warranty or liability (i) insofar as the Customer does not comply with his obligation to notify or the failure of the Licensed Item is due to misuse or incorrect application, as well as (ii) for the error-free interaction of the Licensed Item with third-party software, which the Customer uses on his own authority at his own request.
- 21.8. The limitation period for claims due to material defects shall begin with the handover of the object of performance to the Customer and amounts to one (1) year.

## 22. Defects of title

- 22.1. ecovium guarantees that the contractual use of the Licensed Item by the Customer does not conflict with any rights of third parties. In the event of a defect of title, ecovium shall, at its own discretion, provide the Customer with a

legally flawless possibility of using the Licensed Item or an equivalent, legally defect-free Licensed Item.

- 22.2. The Customer must inform ecovium immediately in writing if third parties assert claims towards the Customer for the infringement of property rights to the Licensed Item.
- 22.3. The limitation period for claims due to defects of title begins with the handover of the object of performance to the Customer and amounts to two (2) years.

## 23. Remuneration

- 23.1. The Customer shall pay ecovium a fee in the amount of the one-off fee specified in the order confirmation or the contract document in return for the provision of the Licensed Item and for the granting of the rights of use.
- 23.2. The remuneration will be invoiced on the dates specified in the order confirmation or the contract document. Invoices shall be payable without deduction within fourteen (14) days of the invoice date.
- 23.3. In all other respects, the provisions of Section 4 in *Section A* shall apply.

## 24. Customer's obligations to cooperate

- 24.1. The Customer shall be obliged to cooperate appropriately within the scope of what is reasonable. This shall in particular include the provision of all necessary operational and project organization-related information.
- 24.2. The Customer must ensure the functionality of the working environment in which the Licensed Item is used.
- 24.3. The Customer must take reasonable precautions in the event that the Licensed Item does not function properly. In connection with the use of the Licensed Item, the Customer shall in particular be obliged to regularly back up data and to use software to ward off viruses and other malware according to the current state of the art.
- 24.4. Obligations to cooperate within the meaning of this Article 24 are essential primary obligations of the Customer, and are agreed as such.

## 25. Right of inspection; prohibition of use

- 25.1. The Customer shall grant ecovium the right to check compliance with the agreed license terms once every six months or for good cause, i.e. in particular in the event of justified suspicion that the software provided is not being used in accordance with the license terms. The Customer shall support ecovium or the expert to the extent necessary during the inspection and shall ensure that the inspection can be carried out unhindered. ecovium will announce the inspection by an expert or by remote access to the Customer at least five (5) working days in advance and shall ensure that this does not affect the normal business operations of the Customer more than necessary. Should a license violation occur during the inspection, the costs of the inspection shall be borne by the Customer. For any case of violation of the provisions of a license agreement existing between ecovium and the Customer, the Customer undertakes to pay additional license fees on the basis of ecovium's applicable price list.
- 25.2. ecovium shall be entitled to prohibit the use of the licensed material if there is an important reason. An important reason is in particular a continued violation of the regulations on the right of use in accordance with the contract after fruitless expiry of a period of ten (10) days after warning.
- 25.3. The Customer acknowledges that the software may regularly transmit metadata about the use to an ecovium web service. This must not be prevented by the Customer. In the event of failure or interruption of metadata transmission, ecovium shall be entitled to investigate the cause of this at the Customer's premises. If the investigation shows that the Customer is responsible for the interruption of the data transmission, the Customer must bear the costs for this, as well as for any necessary measures for recovery.

## Section D Third-party software license

### 26. Scope

In addition to the provisions of *Section A*, the following provisions of this *Section C* shall apply to contracts between ecovium and the Customer for the licensing of third-party software solutions ("**Third-Party Software**") for the purpose of use by the Customer.

### 27. Third-party software license terms

- 27.1. ecovium shall receive the right to resell or sublicense the third party software from a third-party provider ("**Third-Party Software Provider**").
- 27.2. Insofar as supplementary license terms for the third-party software ("**Third-Party Software License Terms**") have been transmitted to the Customer within the scope of the offer or otherwise in the run-up to the conclusion of the contract by ecovium, these shall apply primarily to the agreement on the use of the third party software. The Customer acknowledges the validity of these third-party software license provisions provided to him before the conclusion of the contract upon conclusion of the contract, unless the parties expressly agree otherwise.
- 27.3. Insofar as the Third-Party Software Provider requires a direct declaration by the Customer to the Third-Party Software Provider with regard to the validity of license terms of the Third-Party Software Provider ("**End User License Terms**") and ecovium has informed the Customer of this in the run-up to the conclusion of the contract by presenting or referring to the corresponding End User License Terms, the Customer shall, with the conclusion of the contract, be obliged to consent to this End User License Terms through declaration towards the Third-Party Software Provider, and to adhere to it. Before the conclusion of the contract, the Customer shall inform on the content of the End User License Terms.

## 28. Supplementary provisions

- 28.1. The provisions of Section E shall apply mutatis mutandis to the contract between ecovium and the Customer for the licensing of the Third-Party Software.
- 28.2. To the extent that, in the case of Section 27.2 inconsistencies between individual provisions of the Third Party Software License Terms and the provisions of *Section C*, the provisions of the Third Party Software License Terms shall prevail.

## Section E Software maintenance

### 29. Scope

- 29.1. The following provisions of this *Section E* shall apply, in addition to the provisions of *Section A*, to contracts between ecovium and the Customer for the provision of maintenance services in relation to the standard software solutions. For the individual programming that ecovium has created for the Customer, the parties can conclude a separate maintenance contract.
- 29.2. In the event that the Customer also obtains or licenses Third-Party Software and/or infrastructure from third parties, such as e.g. databases, operating systems, networks, these shall not be subject of maintenance by ecovium, but shall be subject to the regulations of the respective manufacturers.

### 30. Scope of services

- 30.1. Maintenance shall include
  - a) troubleshooting outside of any warranty obligation in relation to the software subject to software maintenance ("**Maintenance Item**"), including the accelerated provision of troubleshooting in urgent cases, in accordance with Article 31,
  - b) the further development of the Maintenance Item and provision of new program versions (updates) in accordance with Article 32, as well as
  - c) the provision of a hotline in accordance with Article 33, provided that this has been

specified in the order confirmation or contract document.

- 30.2. ecovium provides the maintenance services for the duration of the contract period, starting with the conclusion of the contract and the start of operational use of the maintenance status by the Customer.
- 30.3. ecovium provides the maintenance services according to the respective state of the art and in such a way that they are oriented towards the interest of all software users.
- 30.4. Maintenance services are to be provided by ecovium only in relation to the current program status of the Maintenance Item and the program status of the Maintenance Item delivered immediately before by ecovium. Excluded from the maintenance services are the interfaces to third-party systems, such as e.g. the Customer's ERP system.
- 30.5. In order to obtain the maintenance services, the Customer shall be obliged to keep his third-party systems (such as e.g. ERP system) up to date. Maintenance services at a flat rate shall exclusively refer to third-party systems that correspond to the current state of the art at the time of performance, i.e. for SAP systems that are in the "mainstream maintenance" of SAP.
- 30.6. If the Customer acquires further licenses in relation to the Maintenance Item during the term of the contract, e.g. for the use of further modules or additional workstations, an existing maintenance contract automatically extends to the part of the software covered by the extension from the time of conclusion of the license extension. For the additional licenses purchased during the term, maintenance will be charged separately in the first calendar year. In subsequent periods, ecovium may convert to an overall invoice.

### 31. Troubleshooting

- 31.1. ecovium will remedy errors and defects (together "**Errors**") of the maintenance status that occur during the term of the maintenance contract in accordance with the following provisions.
- 31.2. ecovium will begin troubleshooting upon the notification of an Error by the Customer in text form or, if contractually agreed, otherwise transmitted to ecovium within the contractually agreed periods.
- 31.3. ecovium will eliminate Errors within the framework of the maintenance contract as

soon as possible, usually within the framework of patches provided.

- 31.4. If the Error correction requires a serious – and risky for the respective program version – change of the program, ecovium reserves the right to eliminate an Error only in the context of the next program version (update) in order to exclude consequential and accompanying Errors. In this case, if necessary, ecovium will provide the Customer with an interim solution ("Work-Around") for the time until the next update upon request within the framework of the maintenance contract.
- 31.5. A prerequisite for troubleshooting as part of maintenance is that the Error is reproducible.
- 31.6. ecovium shall be entitled to remedy the fault by means of remote maintenance or remote diagnosis.

## 32. Further development; updates

- 32.1. ecovium provides new program versions ("Updates") as part of maintenance if required. Updates may include functional or technological adaptations of the software.
- 32.2. ecovium grants the Customer rights of use to the Updates to the extent agreed in the respective license agreement between ecovium and the Customer for the maintenance status.

## 33. Hotline or self-service portal

ecovium provides the Customer with a hotline and/or a self-service portal online for reporting Errors in the context of maintenance as well as providing the Customer with telephone advice on questions arising from the use of the software. The hotline can generally be reached during ecovium's business hours at the telephone number provided to the Customer by ecovium. Exceptions to this are short-term, performance-typical downtimes (e.g. in the case of system maintenance or when several calls are received at the same time). The Customer will only use the hotline for the aforementioned purposes covered by the maintenance contract and limit the use of the hotline to the necessary extent.

## 34. Business hours

- 34.1. ecovium's business hours are currently Monday to Thursday from 09:00 - 17:00, as well as Fridays 09:00 - 14:30 with the

exception of public holidays at the headquarters of ecovium.

- 34.2. ecovium reserves the right to change business hours within a reasonable and customary framework (e.g. for the purpose of adapting to changed market conditions). In this case, ecovium will inform the Customer of the change in good time, but at least four (4) weeks in advance.

## 35. Services not included

- 35.1. The following services shall not be included in the maintenance contract:

- Training,
- On-site services and remote services (e.g. the installation of Updates and patches on site),
- the reporting of defects and troubleshooting outside the specified hotline hours,
- the migration of individual adaptations to new program versions, patches,
- Program maintenance for individual interface programs, and/or
- the elimination of defects due to incorrect operation by the user, the influence of third parties or force majeure.
- the creation of individual adaptations, individual software and interfaces,

unless this has been expressly agreed by the parties – including the additional remuneration due for this purpose.

- 35.2. If the Customer wishes to provide other troubleshooting and adaptation services that are not the subject of the maintenance contract, ecovium will check them and, if necessary, carry them out on the basis of a separate order in accordance with the provisions in *Section B*.

## 36. Maintenance fees

- 36.1. The annual maintenance fees are specified in the order document and are calculated on the basis of the current list price at the time of the order. The maintenance fees are to be paid at the beginning of each contract year in advance for the respective contract year.
- 36.2. If the Customer acquires further licenses with regard to the Maintenance Item during the term of an existing maintenance contract (e.g.

further workstation licenses or additional modules), the maintenance contract also extends to the newly acquired Licensed Items from the time the new Licensed Item is made available. From this point on, the contractual maintenance fees will be increased by the maintenance fees for the supplemented licenses, whereby the current list prices plus the workstation factor at the time of the subsequent order are also used for the calculation of the maintenance fees for the new licenses.

## 37. Customer's obligations to cooperate

- 37.1. The Customer shall support ecovium within the scope of what is reasonable in the provision of the maintenance services and, if a defect is detected, take the necessary measures to determine and limit the defect and provide ecovium with all necessary documents.
- 37.2. The Customer shall grant ecovium personnel or persons commissioned by ecovium access to its IT systems to the extent necessary to provide the maintenance services owed. The Customer shall also provide the technical equipment necessary for carrying out the maintenance on its part, and shall make them available free of charge to an appropriate extent.
- 37.3. The Customer shall ensure that the persons entrusted with the operation of the Maintenance Item have sufficient program knowledge.
- 37.4. Obligations to cooperate within the meaning of this Article 37 are essential primary obligations of the Customer and are agreed as such.

## 38. Term of contract; termination

- 38.1. Unless the parties have agreed otherwise in an individual contract, the term shall be indefinite and can be terminated by either party properly, for the first time after three (3) years with a notice period of three (3) months to December 31 of the respective year.
- 38.2. Termination for good cause shall remain unaffected by this. An important reason exists for ecovium in particular if the Customer is in arrears with the payment of a due remuneration for more than two (2) months despite a reminder. If the Customer is responsible for the reason for termination, the

Customer shall be obliged to pay ecovium the agreed remuneration less expenses saved by ecovium by the date on which the contract would end at the earliest in the event of ordinary termination.

- 38.3. Notices of termination must be made in writing in order to be effective. Fax and email do not meet the written form requirement.

## Section F SAAS services

### 39. Scope

The following provisions of this *Section F* shall apply in addition to the provisions of *Section A* to contracts between ecovium and the Customer for the provision of Software-as-a-Service services ("**SaaS Services**"). SaaS refers to software applications offered by ecovium that run on a cloud platform ("**Cloud Server**") operated by a commissioned provider ("**Cloud Provider**"), and to which the Customer can access remotely via an internet connection during the term of the contract.

### 40. Service object and scope of services

- 40.1. ecovium provides the Customer with the agreed SaaS Services on the Cloud Server for the individually contractually agreed period of use. The quality of the services is conclusively determined by the service description. The SaaS Services are provided without customer-specific functions.
- 40.2. The Customer shall not be entitled to use the SaaS Services beyond the contractually permitted use, or to have them used by third parties, or to make them accessible to third parties. In particular, the Customer shall not be permitted to reproduce, decompile, redesign, sell, or leave the SaaS Services or parts thereof for a limited period of time, in particular not to lease, rent, or lend.
- 40.3. With the exception of the limited use expressly granted herein, no copyright, proprietary or usage rights to the SaaS Services (including all intellectual property rights contained therein) and any further



developments, changes, and extensions are granted or transferred by ecovium. The Customer may not remove or change any notices and information regarding copyrights, trademark rights, patent rights, and other intellectual property rights of the SaaS Services.

- 40.4. The Customer shall be obliged to protect the usage and access authorizations assigned to him or the authorized users, as well as identification and authentication assurances from access by third parties, and not to pass them on to unauthorized users. As soon as the Customer has indications that the usage and access authorizations have been unlawfully obtained by a third party or could be misused, the Customer shall be obliged to inform ecovium immediately.
- 40.5. The Cloud Server used for the provision of services is operated by the Cloud Provider in the EU, unless the parties agree on the use of a Cloud Server operated in another country in an individual contract.
- 40.6. ecovium guarantees that the SaaS Services correspond to the agreed quality during the term of the contract, and that there are no rights of third parties to the contrary to their contractual use. ecovium will remedy any defects in the SaaS Services within a reasonable period of time.
- 40.7. The warranty does not include downtimes in which the Cloud Server cannot be reached due to technical or other problems that are not within ecovium's sphere of influence (e.g. cases of force majeure or the fault of a third party who is not an agent of ecovium). The Customer acknowledges that access to the SaaS Services may also be restricted if the security of network operation, the maintenance of network integrity, in particular the avoidance of serious disturbances of the network, the software operated or stored on the Cloud Server or data require this.
- 40.8. The technical standards and security measures used by the Cloud Provider will be communicated to the Customer upon request. The technical standards and security measures can be changed at any time, provided that this does not entail any significant disadvantages for the Customer.
- 40.9. ecovium does not owe any telephone or email support or other technical support for the administration of the Cloud Server or otherwise in connection with the SaaS Services beyond the support services agreed individually in individual contracts.

## **41. Duties and responsibilities of the Customer**

- 41.1. The Customer undertakes not to willfully interfere with the proper operation of the Cloud Server.
- 41.2. The Customer shall be responsible for other persons whom he authorizes to use the SaaS Services.
- 41.3. The Customer shall inform ecovium immediately if he becomes aware that the SaaS Services are not available or are otherwise not properly provided, and support ecovium in the determination of the fault and its remedy in an appropriate manner.
- 41.4. The Customer shall be responsible for all Customer data stored and processed in the SaaS Services. The Customer shall be obliged to regularly create independent and self-responsible backups of the Customer data stored on the Cloud Server, to keep backup copies of them, and to take other reasonable precautions for the loss of the Customer data.
- 41.5. The Customer undertakes not to store on the Cloud Server any unlawful data or data that violates official requirements or regulations, as well as no data that (i) contains pornographic or obscene material, (ii) glorifies war, terror, and other acts of violence, (iii) is likely to seriously endanger children or adolescents morally, (iv) depict people in a way that violates human dignity and/or reproduce an actual event, without there being an overriding legitimate interest in precisely this form of reporting, (v) incite hatred against parts of the population or against a national, racial, religious, or ethnic group, call for violent or arbitrary measures against them, or attack the human dignity of others by insulting parts of the population or one of the aforementioned groups, be maliciously despised or slandered, (vi) depict cruel or otherwise inhuman acts of violence against humans or animals in a manner that expresses glorification or trivialization of such violence, or that depicts the cruel or inhuman nature of the process in a manner that violates dignity, (vii) is capable of denying, insulting, threatening, or vilifying others.
- 41.6. ecovium generally does not take note of the Customer data and does not check the

contents of the Customer data. In particular, ecovium shall not be obliged to check the Customer data stored on the Cloud Server for possible legal violations. In the event that ecovium learns of such a legal violation, ecovium shall be entitled to immediately block the Customer's access to the Cloud Server and to maintain the blocking during the period of the infringement. In this case, ecovium will inform the Customer immediately about the blocking.

- 41.7. Obligations to cooperate within the meaning of this Article 42 are essential primary obligations of the Customer and are agreed as such.

## **42. Data security; data protection**

- 42.1. The Customer expressly acknowledges that complete data security for data transmissions in open networks, such as the internet, cannot be comprehensively guaranteed according to the current state of the art. The Customer knows that the Cloud Provider can view the Customer's data stored on the Cloud Server at any time from a technical point of view. Other participants on the internet may also be technically able to intervene in network security and control message traffic without authorization. The Customer shall take full care of the security and protection of the data transmitted by him to the internet and stored on web servers.
- 42.2. The Customer acknowledges that in exceptional cases and to remedy technical faults, technical providers of some products commissioned by the Cloud Provider must access the physical servers on which the Cloud Server is located, and thus also their contents by remote control. In this case, the providers are only allowed to carry out the work necessary to remedy the problems. They may not use this work or the data they access for any other purpose.
- 42.3. The Customer is the controller for all data that he stores on ecovium Cloud Servers in accordance with the GDPR. He must ensure the necessary legal bases for data processing. The Customer indemnifies ecovium from all claims of third parties and will compensate for all damages based on the lack of a corresponding legal basis for data processing.

## **43. Remuneration**

In return for the SaaS Service, the Customer pays ecovium the SaaS fees agreed in the individually contractually agreed SaaS fees in accordance with the respectively agreed payment plan.

## **44. Term of contract and termination of the contract**

- 44.1. Unless the parties have agreed otherwise in an individual contract, the term shall be indefinite and can be terminated by either party properly, for the first time after three (3) years with a notice period of three (3) months to December 31 of the respective year.
- 44.2. Extraordinary termination for good cause shall be reserved to both parties if the legal requirements are met. An important reason for ecovium exists in particular if the Customer is in arrears with the payment of a due remuneration for more than two months despite a reminder. If the Customer is responsible for the reason for termination, the Customer shall be obliged to pay ecovium the agreed remuneration less the expenses saved by ecovium by the date on which the contract would end at the earliest in the event of ordinary termination.
- 44.3. Notices of termination must be made in writing in order to be effective. Compliance with this form is a prerequisite for the effectiveness of the termination. Fax and email do not meet the written form requirement.
- 44.4. Upon termination of this contract, Customer's rights under the SaaS contract with respect to the SaaS Services and the client shall terminate.

## **Section G Hardware**

### **45. Scope; applicable regulations**

- 45.1. The following provisions of this *Section G* shall apply in addition to the provisions of *Section A* to contracts between ecovium and the Customer for the purchase of hardware ("**Hardware**") by the Customer from ecovium.

45.2. The individual contractual provisions agreed between the parties shall take precedence over the purchase contract. In addition, and in the event of an objection subordinated, the following provisions in Sections 47 - 49 shall apply to the purchase contract.

## **46. Scope of delivery; transfer of risk**

- 46.1. Details of the object of performance and the scope of delivery are described in the offer, the order confirmation, or the delivery note.
- 46.2. Set-up, installation, instruction, training, maintenance of any operating system software, as well as maintenance and repair of the Hardware shall not be subject of the contract, unless the parties have expressly agreed otherwise.

## **47. Material defects**

- 47.1. ecovium warrants that the Hardware essentially fulfils the functions described in the agreed product description if it is used and used in accordance with the contract. In the event of a material defect, ecovium shall initially have the obligation and the right to subsequent performance. If the supplementary performance fails, the Customer may reduce the price or, in the event of significant deviations from the agreed quality, withdraw from the contract. Subsequent performance may be effected at ecovium's discretion by delivery of a new item or by rectification. In the event of malfunctions of software contained in the Hardware, the repair can also be carried out or supported by the delivery or installation of an Update or patch.
- 47.2. The customer shall support ecovium in the Error analysis and remedy of defects in an appropriate manner, and shall describe any problems with the Hardware in detail and inform ecovium immediately and comprehensively. In the event of a material defect, the Customer shall not be entitled to any right to self-remedy the defect and reimbursement of the expenses required for this purpose.
- 47.3. The Customer must report obvious defects immediately, but no later than four (4) weeks after delivery. Other defects must be reported immediately after discovery. The notification must be accompanied by a comprehensible description of the defect. If the notification is

not made in time, the Hardware shall be deemed to have been approved with regard to this defect. The assertion of warranty claims shall be excluded in this respect. ecovium assumes no warranty or liability if the Customer does not comply with his obligation to notify or if the defectiveness of the Hardware is due to misuse or incorrect application.

- 47.4. The limitation period for claims due to material defects shall begin with the handover of the object of performance to the Customer and amounts to one (1) year.

## **48. Defects of title**

- 48.1. ecovium guarantees that the contractual use of the delivery item by the Customer does not conflict with any rights of third parties. In the event of a defect of title, ecovium shall, at its own discretion, provide the Customer with a legally flawless possibility of using the delivery item or an equivalent delivery item free of defects.
- 48.2. The Customer must inform ecovium immediately in writing if third parties assert claims against the Customer for the infringement of property rights to the delivery item.
- 48.3. The limitation period for claims due to defects of title shall begin with the handover of the object of performance to the Customer and amounts to two (2) years.

## **Section H Order processing**

### **49. Preamble**

If the Customer makes use of ecovium's services that constitute order processing within the meaning of Art. 28 GDPR, the conditions of this section shall apply.

### **50. Subject matter and duration of order processing**

- 50.1. The object of the order processing results from the contract concluded for the services.

50.2. The duration of the order processing corresponds to the term of the contract concluded for the services.

## 51. Details of data processing

51.1. The subject of the processing are the following categories of personal data: names, addresses, contact details, bank details, order data, contract data. Further data categories can be agreed individually.

51.2. The subject of the processing are the following categories of persons concerned: Employees and business partners of the Customer. Further categories of persons concerned can be agreed individually.

## 52. Technical and organizational measures

52.1. ecovium takes appropriate technical and organizational measures in its area of responsibility in accordance with Art. 32 GDPR to protect personal data.

52.2. Documentation of the technical and organizational measures currently implemented by ecovium can be viewed under the following link:

[ecovium.com/de/datenschutzinformation](https://ecovium.com/de/datenschutzinformation)

52.3. The agreed technical and organizational measures are subject to technical progress and further development. In this respect, ecovium shall be permitted to implement alternative adequate measures. The safety level of the defined measures must not be undercut.

## 53. Obligations of ecovium

53.1. ecovium only uses employees who are committed to confidentiality and have previously been familiarized with the data protection provisions relevant to them when carrying out the work. ecovium and any person subordinate to ecovium who has legitimate access to personal data may only process this data in accordance with the Customer's instructions, unless they are legally obliged to process it.

53.2. ecovium and the Customer shall cooperate with the supervisory authority upon request in the performance of their tasks.

53.3. ecovium shall inform the Customer immediately of any control actions and

measures taken by the supervisory authority insofar as they relate to this order. This shall also apply if a competent authority investigates in the context of administrative offence or criminal proceedings with regard to the processing of personal data during order processing at ecovium.

53.4. Insofar as the Customer is exposed to a control of the supervisory authority, an administrative offence or criminal proceedings, the liability claim of a data subject or a third party, another claim or a request for information in connection with the order processing at ecovium, ecovium must support him to the best of his ability.

## 54. Support by ecovium

54.1. ecovium must support the Customer in its obligation to safeguard the rights of persons concerned in an appropriate manner with appropriate measures. If a person concerned contacts ecovium directly in this regard, ecovium will immediately forward this request to the Customer.

54.2. ecovium shall report personal data breaches to the Customer without undue delay.

54.3. ecovium supports the Customer in his legal obligations according to Art. 32 - 36 GDPR, taking into account the type of processing and the information available to it.

## 55. Use of sub-processors

55.1. Subcontracting relationships within the meaning of these regulations are to be understood as services that relate directly to the provision of the main service. This does not include ancillary services that the contractor uses, e.g. telecommunications services, postal / transport services, cleaning services, or security services. Maintenance and inspection services constitute a subcontracting relationship if they are provided for IT systems that are provided in connection with a service provided by the contractor.

55.2. The Customer agrees to the commissioning of the subcontractors designated under the following link under the condition of a contractual agreement pursuant to Art. 28 para. 2 - 4 GDPR with the subcontractor:

[ecovium.com/de/datenschutzinformation](https://ecovium.com/de/datenschutzinformation)

- 55.3. A change of subcontractors shall be permissible if ecovium informs the Customer in advance of this with a notice period of at least six (6) weeks, so that the Customer is given the opportunity to object to this within this period. If there is an important data protection reason for the objection and if (1) ecovium is not willing or able to continue the order processing without the change of subcontractors, and/or (2) the parties do not reach an amicable solution on the further procedure, the Customer shall be entitled to a special right of termination without notice with regard to the entire order processing. If no objection is lodged within the prescribed period, consent to the change of subcontractors shall be deemed to have been given.
- 55.4. ecovium must design the contractual agreements with the subcontractors in such a way that they comply with the data protection regulations in the relationship between ecovium and the Customer.
- 55.5. The transfer of personal data of the client to the subcontractor and his first action shall only be permitted if all conditions for subcontracting are met.

## **56. Control rights of the Customer**

- 56.1. The Customer has the right to carry out checks or to have them carried out by auditors to be appointed in individual cases. He has the right to satisfy himself of ecovium's compliance with this contract in its business operations during normal business hours by means of random checks, which are usually to be notified in good time.
- 56.2. ecovium ensures that the Customer can convince himself of compliance with ecovium's obligations under Art. 28 GDPR. ecovium undertakes to provide the Customer with the necessary information on request and, in particular, to prove the implementation of the technical and organizational measures.

## **57. Customer's authority to issue instructions**

- 57.1. ecovium processes personal data only on the basis of documented instructions of the Customer, unless ecovium is obliged to process them under the law of the Member State or under Union law; in such a case,

ecovium shall inform the Customer of these legal requirements prior to processing, unless the right in question prohibits such communication due to an important public interest.

- 57.2. ecovium must inform the Customer immediately if ecovium is of the opinion that an instruction violates data protection regulations. ecovium shall be entitled to suspend the execution of the corresponding instruction until it is confirmed or changed by the client.

## **58. Deletion and return of data**

- 58.1. Copies or duplicates of the personal data will not be made without the knowledge of the Customer. Excluded from this are backup copies, insofar as they are necessary to ensure proper data processing, as well as data that are necessary with regard to compliance with statutory retention obligations.
- 58.2. After completion of the contractually agreed work or earlier at the request of the Customer – but at the latest with the termination of the service agreement – ecovium must hand over all personal data in its possession, as well as databases in connection with the contractual relationship to the Customer, or destroy them in accordance with data protection regulations after prior consent, unless there is a legal obligation to store or it is routine made backup copies of electronic data traffic. The record of cancellation shall be submitted on request.

## **59. International data transfers**

The contractually agreed data processing takes place exclusively in a Member State of the European Union or in another state party to the Agreement on the European Economic Area. Any relocation to a third country may only take place if the special requirements of the provisions of Chapter V of the GDPR are met.