

# T's & C's for the Use of BIC AI Services (Free Trial Version)

as amended on 15/08/2024

## Terms and Conditions of GBTEC Group regarding the Use of BIC AI Services ("T's & C's BIC AI Services") – Free Trial Version

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GBTEC offers Customers the use of AI features integrated into its BIC software ("BIC AI Services"). With such AI features the Customer can

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generate content and suggestions (e.g. generate BPM models, consolidate catalogue entries, generate descriptions). Additionally, Customer's users can ask questions regarding the Customer's data stored in BIC. To provide AI services in BIC, GBTEC uses services operated by third party service providers (Microsoft Azure). The basis for the integration of such features are GBTEC's contractual agreements with Microsoft Azure. Therefore, GBTEC can only provide the use of AI features based on the terms and conditions that Microsoft Azure imposes on GBTEC, especially Microsoft Azure Legal Terms, Code of Conduct for Azure Open AI Service, Azure Open AI Acceptable Use Policy, Contractual Terms AI ("Contractual Basis"). With the first use of the AI features embedded in BIC software, the Customer automatically agrees to the Contractual Basis. The regulations of such Contractual Basis relevant to the contract between GBTEC and the Customer are set out below.

GBTEC offers its BIC software and corresponding services to Customers at individually designated web addresses (provided after ordering such software and services). The relationship between the parties regarding the subject matter of the provision of BIC AI Services is governed by the following contractual documents in the priority they are listed:

1. T's & C's BIC AI Services (including other terms and conditions as referenced)
2. Data Privacy Notice including the Data Processing Notice for BIC AI Services (both available at <https://www.gbtec.com/data-privacy/>)

All such contractual elements shall be jointly referred to as "this Agreement".

This Agreement applies to the provision of BIC AI Services as Software-as-a-Service ("SaaS"), including related documentation (collectively, the "Service") and to the use of our website. GBTEC provides the Customer with

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an access to use the software via a telecommunications connection and with storage space for their application data under the following conditions.

## I. BIC AI Service specific regulations

### 1. Subject matter - what do we do?

- 1.1 Providing BIC AI Services includes the transmission of Customer's input and data to the third-party services operated by Microsoft for generating responses in the form of prompts and models. By having the AI Services features in BIC activated, Customer acknowledges that they have read and understood the conditions as documented in the Data Processing Notice for BIC AI Services.
- 1.2 The subject of the contract is the provision of AI-based BIC software-as-a-service (SaaS) from GBTEC's portfolio as a free trial version on a loan basis. The Customer is granted access to use the software stored and running on the servers of a service provider commissioned by GBTEC, via an internet connection for the duration of the trial term determined by GBTEC and for their own internal purposes and to store and process their data. An unlimited right to use the Service beyond the end of the trial term is not granted. The subject matter of this Agreement being a free trial version, GBTEC will provide maintenance and support services only at will. Data center services are part of the Service.

### 2. Acceptable and responsible use and content requirements

The third-party provider has set certain terms, conditions and policies for the use of its products (i.e. the Acceptable Use Policy for Online Services, the Responsible Use Policy of Microsoft Generative AI Services, and the Azure OpenAI Code of Conduct). GBTEC is obligated to ensure that Customer agrees to the same regulations. GBTEC ensures this by incorporating the regulations that apply to the Customer into this

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Agreement as further set out in the following paragraphs. Although GBTEC tries to prevent misuse and violation of applicable laws and policies to the best of its ability, the new AI technologies enable a vast number of not entirely foreseeable uses which leaves a wide area of potential misuse and violation without technical restraints.

- 2.1 Customer may use the BIC AI Services only in accordance with this Agreement. Customer may not reverse engineer, decompile, disassemble, or work around technical limitations in BIC ("Product"), except to the extent applicable law permits it despite these limitations. Customer may not disable, tamper with, or otherwise attempt to circumvent any billing mechanism that meters Customer's use of the Online Services. Customer may not rent, lease, lend, resell, transfer, or host the Product, or any portion thereof, to or for third parties except as expressly permitted in this Agreement. Customer may not use any AI to discover any underlying components of the models, algorithms, and systems, such as exfiltrating the weights of models.
- 2.2 Acceptable Use Policy. Neither Customer, nor those that access BIC through Customer, may use BIC:
- in a way prohibited by law, regulation, governmental order or decree;
  - to violate the rights of others;
  - to try to gain unauthorised access to or disrupt any service, device, data, account or network, including by intentionally evading or disrupting restrictions in Metaprompts;
  - to spam or distribute malware;
  - to mine cryptocurrency without GBTEC's and Microsoft's prior written approval;
  - in a way that could harm BIC or impair anyone else's use of it;
  - in any application or situation where failure of BIC AI Services could lead to the death or serious bodily injury of any person, or to severe

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physical or environmental damage, except in accordance with the High-Risk Use section below; or

- to assist or encourage anyone to do any of the above.

Without limiting GBTEC's other remedies, violations of the Acceptable Use Policy in this section may result in suspension of the use of BIC AI Services by GBTEC or Microsoft. If the use of BIC AI Services is suspended, GBTEC respectively Microsoft will suspend only to the extent reasonably necessary. Unless GBTEC or Microsoft believes an immediate suspension is required, they will provide reasonable notice before suspending a BIC AI Service for the reasons stated above.

- 2.3 High-Risk Use. WARNING: Modern technologies, and especially platform technologies, may be used in new and innovative ways, and Customer must consider whether its specific use of these technologies is safe. The BIC AI Services are not designed or intended to support any use in which a service interruption, defect, error, or other failure of a BIC AI Service could result in the death or serious bodily injury of any person or in physical or environmental damage (collectively, "High-Risk Use"). Accordingly, Customer must use every application in a way that, in the event of any interruption, defect, error, or other failure of the BIC AI Service, the safety of people, property, and the environment are not reduced below a level that is reasonable, appropriate, and legal, whether in general or for a specific industry. Customer's High-Risk Use of the BIC AI Services is at its own risk.
- 2.4 Without limiting its other remedies, GBTEC and Microsoft may limit Customer's access to or use of a BIC AI Service if GBTEC or Microsoft has a reasonable basis to believe that the Input Content or Customer's use of a BIC AI Service or Output Content violates the preceding terms, conditions and policies.

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- 2.5 Capacity Limitations. Excessive use of a BIC AI Service may result in temporary throttling of Customer's access to the BIC AI Service.
- 2.6 Customer may not use web scraping, web harvesting, or other data extraction methods to extract data from a BIC AI Service or underlying AI services and models.
- 2.7 Use of Content for Training: Microsoft Generative AI Services do not use Input or Output Content to train, retrain, or improve Azure OpenAI Service foundation models. Customer will not use and will not direct or enable third parties to use, a Microsoft Generative AI Service to generate Output Content for the express purpose of creating synthetic training data to develop or train AI models or systems that have substantially similar functionality to a Microsoft AI service or a BIC AI Service.
- 2.8 By using a BIC AI Service, Customer agrees its data may be stored and processed outside of its tenant's geographic region.
- 2.9 Output Content. Output Content is any content produced respectively generated by using the BIC AI Services. Output Content is considered data owned by Customer ("Customer Data"). Neither GBTEC nor Microsoft owns Customer's Output Content.  
Customer controls access by End Users, and Customer is responsible for their use of the Product in accordance with this Agreement. For example, Customer will ensure End Users comply with the Acceptable Use Policy.
- 2.10 Content requirements. GBTEC prohibits the use of BIC AI Services for processing content or generating content that can inflict harm on individuals or society. GBTEC's content policies are based on those of Microsoft and are intended to improve the safety of BIC platform. These content requirements apply to the output of all models developed by GBTEC AI Services and include content provided as input to the Service and content generated as output from the Service.

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- GBTEC prohibits content that describes, features, or promotes child sexual exploitation or abuse, whether or not prohibited by law. This includes sexual content involving a child or that sexualises a child.
- GBTEC prohibits content that describes or is used for purposes of grooming of children. Grooming is the act of an adult building a relationship with a child for the purposes of exploitation, especially sexual exploitation. This includes communicating with a child for the purpose of sexual exploitation, trafficking, or other forms of exploitation.
- GBTEC prohibits content that describes, features, or promotes non-consensual intimate activity.
- GBTEC prohibits content that describes, features, or promotes, or is used for, purposes of solicitation of commercial sexual activity and sexual services. This includes encouragement and coordination of real sexual activity.
- GBTEC prohibits content describing or used for purposes of human trafficking. This includes the recruitment of individuals, facilitation of transport, and payment for, and the promotion of, exploitation of people such as forced labor, domestic servitude, sexual slavery, forced marriages, and forced medical procedures.
- GBTEC prohibits content that describes, praises, supports, promotes, glorifies, encourages and/or instructs individual(s) on self-injury or to take their life.
- GBTEC prohibits identification or verification of individual identities using media containing people's faces by any user, including by or for state or local police in the United States.
- GBTEC prohibits the inferencing of a person's emotional state based on facial expressions. This includes inferring internal emotions such as anger, disgust, happiness, sadness, surprise, fear or other terms

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commonly used to describe the emotional state of a person. GBTEC also prohibits the inference of gender, age, or facial expressions, or inference of the presence of facial hair, hair, or makeup.

- GBTEC prohibits content that describes, features, or promotes graphic violence or gore.
- GBTEC prohibits content that depicts an act of terrorism; praises, or supports a terrorist organisation, terrorist actor, or violent terrorist ideology; encourages terrorist activities; offers aid to terrorist organisations or terrorist causes; or aids in recruitment to a terrorist organisation.
- GBTEC prohibits content advocating or promoting violence toward others through violent threats or incitement.
- GBTEC prohibits content that attacks, denigrates, intimidates, degrades, targets, or excludes individuals or groups on the basis of traits such as actual or perceived race, ethnicity, national origin, gender, gender identity, sexual orientation, religious affiliation, age, disability status, caste, or any other characteristic that is associated with systemic prejudice or marginalisation.
- GBTEC prohibits content that targets individual(s) or group(s) with threats, intimidation, insults, degrading or demeaning language or images, promotion of physical harm, or other abusive behavior such as stalking.
- GBTEC prohibits content that is intentionally deceptive and likely to adversely affect the public interest, including deceptive or untrue content relating to health, safety, election integrity, or civic participation. GBTEC also prohibits inauthentic interactions, such as fake accounts, automated inauthentic activity, impersonation to gain unauthorised information or privileges, and claims to be from any



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person, company, government body, or entity without explicit permission to make that representation.

- GBTEC prohibits content that supports unlawful active attacks or malware campaigns that cause technical harms, such as delivering malicious executables, organising denial of service attacks, or managing command and control servers.
- GBTEC prohibits the use of BIC AI Services for scenarios in which the system is likely to generate undesired content due to limitations in the models or scenarios in which the system cannot be applied in a way that properly manages potential negative consequences to people and society.
- Without limiting the foregoing restrictions, Microsoft and therefore also GBTEC, reserves the right to revise and expand the above content requirements to address specific harms to people and society. This includes prohibiting content that is sexually graphic, including consensual pornographic content and intimate descriptions of sexual acts.
- We may at times limit our service's ability to respond to particular topics, such as probing for personal information or seeking opinions on sensitive topics or current events.
- GBTEC prohibits the use of BIC AI Services for activities that significantly harm other individuals, organisations, or society, including but not limited to use of the service for purposes in conflict with this Agreement.
- If the Customer suspects that GBTEC AI Services is being used in a manner that is abusive or illegal, infringes on their rights or the rights of other people, or violates these policies, the Customer can report this to their GBTEC contact.

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### 3. Customer Data

Customer is solely responsible for the content of all Customer Data.

Customer will secure and maintain all rights in Customer Data necessary for GBTEC, Microsoft or other data centre providers to provide the Services to Customer without violating the rights of any third party or otherwise obligating GBTEC, Microsoft or other data centre providers to Customer or to any third party. GBTEC and Microsoft do not and will not assume any obligations with respect to Customer Data or to Customer's use of the Product other than as expressly set forth in this Agreement or as required by applicable law.

### 4. Responsibility for accounts

Responsibility for your accounts. You are responsible for maintaining the confidentiality of any non-public authentication credentials associated with your use of the Services. Customer must promptly notify GBTEC's Customer support team about any possible misuse of Customer's accounts or authentication credentials, or any security incident related to the Services.

### 5. Disclaimer

DUE TO THE FACT THAT GBTEC'S BIC AI SERVICES ARE HIGHLY DEPENDENT ON MICROSOFT'S PROVISION OF ITS AZURE OPEN AI SERVICES, GBTEC PROVIDES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT THAT BIC AI SERVICES SHALL PERFORM AS STATED IN THE PRODUCT DOCUMENTATION (as defined in clause II.1.2.) AND SUPPORTED BY THE SLA. THESE DISCLAIMERS WILL APPLY EXCEPT TO THE EXTENT GERMAN LAW DOES NOT PERMIT THEM.

Medical Device Disclaimer. Customer acknowledges that the BIC AI Services (1) are not designed, intended or made available as a medical device(s), and

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(2) are not designed or intended to be a substitute for professional medical advice, diagnosis, treatment, or judgment and should not be used to replace or as a substitute for professional medical advice, diagnosis, treatment, or judgment. Customer is solely responsible for displaying and/or obtaining appropriate consents, warnings, disclaimers, and acknowledgements to end users of Customer's implementation of the BIC AI Services.

## 6. Availability

The technologies underlying the BIC AI Services are new and rapidly evolving. Since at the time of formation of this Agreement such developments are not foreseeable, GBTEC shall have the right to make commercially reasonable changes to BIC AI Services from time to time and to modify or terminate a BIC AI Service.

## II. General BIC AI Services SaaS regulations

### 1. Nature and scope of the Service

1.1 Users must be natural persons who have been granted access either by the Customer itself or by a company affiliated with the Customer in the sense of section 15 et seq. of the Stock Corporation Act (*Aktiengesetz - AktG*) (and the name of which the Customer has provided to GBTEC in text form) and who can be engaged to comply with the regulations of these terms and conditions, comparable to an employee, due to their contractual agreement with the Customer or the affiliated company. The scope of use is determined in the information regarding the free trial version. The scope is further determined by the number of authorised users agreed between the parties respectively the number of tasks executed in process instances or other limitations set out in the Offer. The definition and terms of licences (named

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user/ company licence), and users correspond to those in the Standard Terms and Conditions of GBTEC Group for the Provision of the Standard Software BIC as Software-as-a-Service ("T's&C's SaaS").

- 1.2 Customer will have access to the product documentation (in English and German) as it is provided in the software ("Product Documentation").

Customer is entitled to save this documentation, to print it out and to copy it in an appropriate number for the purpose of this contract while maintaining existing intellectual property right notices. Any restrictions on the usage rights correspond to those in the agreement for the main BIC Product (e.g. BIC Process Design) and Services.

## 2. Technical requirements (system requirements)

- 2.1 The technical requirements are provided via the GBTEC website or are otherwise made available by GBTEC. It is the responsibility of the Customer to take note of the technical requirements before entering into this Agreement. By using the BIC AI Service the Customer confirms that they have read and understood the technical requirements.

- 2.2 GBTEC is not responsible for the quality or performance of the required hardware and/or software on the Customer's end.

## 3. Usage rights

- 3.1 The Product is protected by copyright. For the duration of this Agreement GBTEC grants the Customer the non-exclusive, non-sublicensable and non-transferable right to load the user interface of the BIC AI Service provided by GBTEC for display on the screen into the main memory of the end devices used for this purpose according to this Agreement, to execute it and to make the resulting copies of the user interface as well as to use the BIC AI Service in accordance with this Agreement. The Customer shall not be granted any further rights

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- 3.2 The Customer is entitled to use the BIC AI Service themselves or through the users referred to in clause II.1.1 in accordance with the provisions therein. In any case, GBTEC's licensee shall be exclusively the Customer.
- 3.3 The Customer is not authorised to use the BIC AI Service beyond the use permitted under this Agreement or to have it used by third parties or to make it available to third parties who are not registered as authorised users (clause II.1.1).
- 3.4 The Customer is not permitted to reproduce or sell the Service or parts thereof.
- 3.5 If and when GBTEC creates new versions, updates, upgrades or other new deliveries with regard to the BIC AI Service during the term of this Agreement and makes them available to the Customer, voluntarily or due to an additional contractual obligation, the above rights and this Agreement shall also apply to these applications. If the Customer violates the above-mentioned regulations for reasons for which the Customer is responsible,
- 3.6 GBTEC is entitled to block the Customer's access to the Service or to terminate this Agreement without notice, provided that the Customer continues to commit the act of violation one week after GBTEC's prior written warning.

## 4. Intellectual property rights

- 4.1 All copyrights, patent rights, company rights, trademark rights and other industrial and intellectual property rights, as well as all similar rights to protect information relating to GBTEC's BIC AI Service, are and shall at all times remain the exclusive property of GBTEC respectively the third-party provider. No provision in any quotation, offer, order and/or contract (including these T's & C's AI Services) shall be deemed to result in any

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transfer of such rights in whole or in part to the Customer, nor is any such transfer intended or may be construed as resulting in such.

- 4.2 The Customer shall not alter, remove or obscure any intellectual property rights marking on the BIC AI Service. The Customer shall not register any GBTEC trademark, trade name, logo or domain name or any similar name which may be confused therewith.

## 5. Customer data and content / indemnity from third party claims

- 5.1 In order to be able to correct errors or malfunction of the BIC AI Service reported by the Customer, GBTEC may require the data sets of the Customer, during the use of which the error or the malfunction of the BIC AI Service occurred, in order to reconstruct the error or to carry out test runs with such data records, for example. The Customer therefore consents to the use of their data sets in this context.
- 5.2 By using the BIC AI Service the Customer confirms that they own the rights to grant such right of use to GBTEC. The Customer retains all rights and ownership of their Content. GBTEC does not claim any ownership rights to such content.
- 5.3 In the event that a user uses functions of the BIC AI Service to make data from the service available to other users of the same tenant (e.g. via the "share button") or to third parties (e.g. via the e-mail function or connected third-party systems), the Customer is legally responsible for this transfer of data.
- 5.4 The Customer undertakes not to post any content or data which are unlawful or otherwise illegal in absolute terms or in relation to individual third parties and not to use any programs containing viruses or other malware in connection with the BIC AI Service. The Customer remains the responsible party regarding personal data and must therefore always ensure that the processing of such data via the use of the BIC AI Service is covered by relevant regulation.

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- 5.5 The Customer is solely responsible for all content and processed data used by them as well as for any rights required for this.
- 5.6 In this context, the Customer agrees to indemnify GBTEC against any and all liability and all proven and reasonable costs, including possible and actual costs of legal proceedings, if a claim is made against GBTEC by third parties, including employees of the Customer personally, as a result of alleged acts or omissions of the Customer. GBTEC will inform the Customer of the claim and, as far as legally possible, give the Customer the opportunity to defend the asserted claim. The Customer will immediately provide GBTEC with all available information about the facts which are the subject of the claim.
- 5.7 Further claims for damages of GBTEC remain unaffected.

## 6. The Customer's duties to cooperate

The Customer shall support GBTEC in the performance of the contractual services to a reasonable extent as follows:

- 6.1 Upon the conclusion of this Agreement the Customer shall – in a timely manner - provide GBTEC with all information required by GBTEC to set up the Customer's access to the software. The Customer commits to keeping the access and usage data provided to the Customer confidential, to protect it from access by unauthorised third parties and to not pass it on to unauthorised third parties, unless this has been expressly agreed upon by the parties. The Customer shall ensure that any user to whom access data is made available shall protect such data in the same manner. The Customer will inform GBTEC immediately in the case they suspect that access data and passwords might have become known to unauthorised persons.
- 6.2 The Customer is responsible for the proper and regular backup of their data only insofar as it concerns data which is not stored on the server provided by GBTEC but only on the users' workstation systems or via

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interfaces in third party systems. This also applies to any documents provided by GBTEC during the term of this Agreement. The Customer is free to additionally save all data themselves with the help of the export and import feature.

- 6.3 It is the Customer's responsibility to ensure that the system requirements on their end, which are necessary for the contractual use of the software and are specified by GBTEC for this purpose, are met.

## 7. Free trial version

As a free trial version GBTEC provides the use of BIC AI Services free of charge.

## 8. Rights concerning the provision of the Service and data backup

- 8.1 For the sole purpose of the performance of this Agreement the Customer grants GBTEC the right to duplicate the data stored by GBTEC for the Customer, as far as this is necessary for the provision of the services according to this Agreement. GBTEC is also entitled to keep the data in a disaster recovery system or separate disaster recovery computer center. In order to resolve errors, GBTEC is further entitled to make changes to the structure of the data or the data format.
- 8.2 GBTEC points out that data generated or altered by the Customer during processing and especially in offline operation cannot be backed up by GBTEC. The Customer is responsible for the memory of the browser not to be deleted during this working phase. Only with the successful completion of the processing and the successful provision of such data to other users via the software (e.g. check-in of the data), the data processed in this way will be saved again in the Service. **NOTE: Working in the private mode of the browser is possible with some BIC products, but GBTEC strongly advises against this. Closing the window will delete all the session's data. Closing the browser can also clear the browser memory and thus discard the local data, depending on the company's settings.**



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## 9. Confidentiality / data protection

Then notices on data privacy and confidentiality on GBTEC's website apply.

## 10. Liability and compensation

10.1 Liability for defects in quality and defects in title (collectively referred to as "Defects"). GBTEC shall be liable in accordance with the applicable statutory provisions, i.e. sections 600 respectively 599 of the Civil Code (*Bürgerliches Gesetzbuch - BGB*).

10.2 GBTEC shall not be held liable for an infringement of the rights of third parties committed by the Customer, their affiliates, their respective end users, officers, directors, employees, agents, representatives, subcontractors or successors which results from the use of the Service in violation of this Agreement. In such case the Customer shall indemnify GBTEC upon first request against any all claims of third parties.

## 11. Term and expiration

11.1 The term of this Agreement begins with the Customer's registration for the trial version and expires 30 days thereafter, unless otherwise agreed between GBTEC and the Customer.

11.2 Both parties reserve the right to terminate this Agreement for cause if the legal requirements are met. This shall be the case if the continuation of the contractual relationship until its expiry or until termination by giving notice cannot reasonably be expected from the terminating party, taking into account all circumstances of the individual case and weighing the interests of both parties. GBTEC's reasons for terminating for cause shall include:

- Microsoft's discontinuation, material modification of or material increase of fees for a product or service that GBTEC requires to provide its BIC AI Service,
- Customer's breach of their contractual obligations, in particular:
  - o deliberate provision of false contact data,

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- deliberate provision of a false or invalid e-mail address,
  - the Customer transfers their user account to an unauthorised third party,
  - the Customer allows the use of their user account by unauthorised third parties, in particular by unnamed individuals,
- Customer's non-compliance with legal regulations.

**11.3 Deletion of Customer Data:** Unless there is an obligation or right to retain data, GBTEC shall delete all data stored in the Service by the Customer within a maximum period of 60 days after termination or expiry of the contractual relationship and destroy all documents provided by the Customer that are still in GBTEC's possession. Upon the Customer's explicit request, GBTEC will confirm such deletion/ destruction in text form. This includes all data entered and stored in the Service by the Customer and their users or by GBTEC on behalf of the Customer. The Customer acquires all rights to such data, including property rights and copyrights. However, this does not include data stored by the Customer or their users in areas of the Service that the Customer has made accessible to third parties (see clause II.5.3). The Customer may export their data via the system functions provided by the Service.

## **11. Transfer of rights and obligations**

Neither this contract nor any of the rights, interests or obligations hereunder shall be assigned by either party without the prior written (text form) consent of the other party. GBTEC may subcontract the performance of certain contractual obligations to its affiliated companies (as defined by § 15 AktG) as well as to the data processing centre the parties have agreed on.

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## 12. Final provisions

12.1 The present contractual relationship shall be governed exclusively by the laws of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods - CISG is excluded. Legal venue shall be Bochum (Germany).

12.2 In case any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability. The parties shall then cooperate to replace the invalid, illegal or unenforceable provision with a provision that corresponds as closely as possible to the invalid one.

## GBTEC Group