

# General Terms and Conditions for SaaS Service (as of August 1, 2020)



## 1. Applicability

1.1. The provisions of these General Terms and Conditions (hereafter referred to as the "GTCs") shall apply to all contracts for software as a service (SaaS), maintenance and other consulting services between the BELLIN company as stated on the corresponding proposal (hereafter referred to as "BELLIN") and the customer. The GTCs shall apply to the exclusion of all other terms and conditions. Any contractual terms and conditions of the customer which are contrary to or inconsistent with these GTCs shall not be recognized by BELLIN, unless BELLIN expressly agrees in writing that they shall apply. These GTCs shall remain in effect even if BELLIN fully performs contractually agreed services in the knowledge that the customer's contractual terms and conditions are contrary to or inconsistent with these provisions. The GTCs shall also apply to future transactions, even if they are not expressly referred to.

1.2. The GTCs shall, to the exclusion of all other terms and conditions, apply to businesses whether a natural or legal person or a partnership with legal personality within the meaning of Section 14 of the German Civil Code who or which is acting in exercise of his or its trade, business or profession, to legal persons under public law and special funds under public law within the meaning of Section 310(1) of the German Civil Code and to other commercial or professional customers.

1.3. Where terms used in the GTCs are not defined, the definitions listed in Schedule 1 to these GTCs shall apply.

1.4. In the event of conflicting provisions, the provisions of the accepted proposal or order confirmation shall take precedence over the provisions of the GTCs. If the proposal refers to documents other than the GTCs which contain provisions inconsistent with the proposal or the terms of the GTCs, the inconsistent elements in these other documents shall take precedence only if this is explicitly stated with reference to the provision. The provisions and requirements set out in Schedules 1 to 3 shall be regarded as subordinate to the GTCs.

## 2. Contractual Services/Subcontractors

2.1. BELLIN provides customers with cloud services via the internet for the use of its treasury management software and consulting services.

2.2. Contractual Services can cover any of the following:

- provision of the "tm5 treasury management software" (hereafter referred to as "Software") by BELLIN for use as a cloud solution via the internet with user documentation that can be accessed and downloaded in the user-restricted area of the BELLIN web portal, in German and English, together with allocation of storage space on BELLIN servers ("cloud solution");
- provision of maintenance services which are a mandatory part of the provision of the Software under 2.2a;
- (services in 2.2a and b referred to collectively as "SaaS Service");
- provision of consulting services including, but not limited to, consulting, training, configuration, implementation of the customer's business processes, scoping and certification.

2.3. BELLIN shall be entitled to involve Subcontractors in the provision of the Contractual Services. The use of Subcontractors shall not relieve BELLIN of its obligation to the customer to completely fulfill the contract.

## 3. Conclusion of contract/service details in the proposal

3.1. Unless otherwise agreed, or specified in the proposal, BELLIN's proposal shall be binding for the period specified in the proposal. The contract shall be deemed concluded upon acceptance of the proposal. The contract can also be concluded via the DocuSign process.

3.2. The Contractual Services shall arise solely from the accepted proposal.

## 4. Performance of services/timing of performance/force majeure

4.1. BELLIN shall, against payment, make the Software available to the customer for the duration of the term (subscription) specified in the proposal for use as a cloud solution by the agreed number of authorized users. For the purposes of the contractual use of the cloud solution by the customer, BELLIN shall operate the Software on servers in data centers that are accessible to the customer via the internet.

4.2. The transfer point for the Contractual Services provided by BELLIN shall be the router output to the internet of the data centers used by BELLIN. BELLIN shall not be responsible for connecting the customer to the internet, maintaining the network connection or obtaining and installing the hardware and software required by the customer.

4.3. BELLIN shall make the Software available to the customer for cloud use in the current program version. The functional scope of the Software at the time of conclusion of the contract is specified in the Service Description, included as Schedule 2 to these GTCs and accessible via the BELLIN web portal at [https://www.bellin.com/company/tc/tm5/service\\_description](https://www.bellin.com/company/tc/tm5/service_description).

4.4. For the Contractual Services to be performed by BELLIN, only the deadlines for the performance of services given in the proposal shall apply. Only the project manager or senior management at BELLIN shall have the authority to agree to service performance deadlines on behalf of BELLIN.

4.5. BELLIN shall provide the customer with login details consisting of usernames and passwords for the agreed number of authorized users. The customer shall instruct each user to set up a user profile for access and to immediately choose a password known only to the user.

4.6. BELLIN shall develop the Software on an ongoing basis and improve it through new program versions (Updates, Releases), which shall be provided to the customer in accordance with the provisions in clause 8.

4.7. If BELLIN is impeded from performing its services due to an unforeseen event which cannot be avoided even by exercising reasonable care, including, but not limited to, natural disasters, epidemics, pandemics, war, blockade, embargo, energy supply or operational disruptions, energy shortage, official orders, statutory prohibitions, industrial action or other cases of force majeure, the performance deadlines shall be extended by the duration of the impediment plus a reasonable lead time after the end of the impediment ("service impediment"). No breach of duty shall be deemed to have occurred for the period of the service impediment. BELLIN shall immediately notify the customer of such service impediments and their probable duration. If BELLIN is unable to perform any Contractual Services due to force majeure, the customer shall also be released from its performance obligation. If the force majeure lasts for an uninterrupted period of more than two months or if it becomes impossible for BELLIN to perform services in the case of force majeure, the customer and BELLIN shall be released from their respective performance obligations.

## 5. Copyright protection/granting of rights of use for the Software

5.1. The Software is protected by copyright. The Software may contain open-source software tools. These shall be subject to the relevant product-specific open-source license terms provided in the Software.

5.2. BELLIN shall grant the customer the non-exclusive, non-sublicensable and – subject to the provision in clause 5.3 – non-transferable right, limited to the agreed period, to use the Software with the agreed number of users and within the specified scope of services via the internet as a cloud solution in accordance with the agreed terms, provided that the fee for the SaaS Service set out in the proposal is paid in due time. If new program versions of the Software are released by BELLIN during the contract period, the abovementioned right of use shall also apply thereto.

5.3. In the case of a company license granted to affiliated enterprises in accordance with Section 15 ff. of the German Stock Corporation Act, the customer is entitled to grant affiliated enterprises rights of use granted to the customer for a limited period of time, provided that ownership interest in these enterprises amounts to more than 50% and that these terms of use are imposed on and accepted by the affiliated enterprise.

5.4. The customer is entitled to operate the Software as long as it does so in line with proper use of the Software as a cloud solution in accordance with the current Service Description (Schedule 2 to these GTCs).

5.5. The customer is permitted to reproduce the Software as long as it does so in line with proper use of the Software in accordance with the current Service Description (Schedule 2). Permitted reproduction shall include loading the Software into the main memory on BELLIN's server. The customer is not permitted to undertake permanent or temporary installation or use of the Software on data storage devices (such as hard drives, main memories or processors) of the hardware used by the customer or on hardware of Third Parties instructed by the customer.

5.6. The rights of use granted to the customer pursuant to clause 5 shall entitle the customer, its employees or its service providers to use the Software as intended exclusively for the customer's business purposes for the duration of the effective contract between the customer and the employee or service provider. Under no circumstances shall the customer be entitled to grant its employees or service providers their own rights of use for the Software.

## 6. Rights of use for Work Products

6.1. A copy of any Work Products created by BELLIN during performance of the contract shall be provided to the customer upon request to use for the customer's own purposes and in accordance with the contract. The customer must not infringe any Industrial Property Rights which exist.

6.2. BELLIN shall, upon payment of the agreed fee, grant the customer a non-exclusive, permanent, non-transferable right to use the Work Products for its own purposes in accordance with the agreed terms.

6.3. BELLIN shall, upon full payment of the agreed fee, grant the customer a non-exclusive right to use modified Software or Software programming in the object code in accordance with the agreed terms. BELLIN shall grant the customer a non-exclusive non-transferable right to use the Software/programming which may be revoked if the fee is not paid in full within 35 calendar days.

## 7. Provision of storage space/SaaS Service/data storage

7.1. With the provision by BELLIN of the data center service required for the use of the Software as a cloud solution, the customer shall have the opportunity to store data on the storage space, provided to it by BELLIN, that the customer can access in connection with the use of the cloud solution.

- 7.2. The SaaS Service shall have an average annual availability via the internet in accordance with the provisions of the Service Level Agreement (SLA) for SaaS Service (Schedule 3 of the GTCs, available at <https://www.bellin.com/company/tc/tm5/sla>). Availability shall be understood to mean that the data exchange from the BELLIN data center to the next internet exchange point takes place and user login is possible.
- 7.3. The customer shall grant BELLIN the right to process and reproduce the data transmitted by the customer for the purpose of fulfilling the contract (including, but not limited to, data backups) insofar as this is necessary for BELLIN to perform the Contractual Services or for security reasons.
- 7.4. BELLIN shall ensure that the customer's data stored on the storage space provided by BELLIN is adequately protected from loss or damage, in particular through regular backups, virus scanning and the installation of firewalls. BELLIN shall also ensure that the data is protected against unauthorized access by Third Parties. BELLIN Staff and Subcontractors shall only be granted access to the customer's stored data if such access is essential for BELLIN to be able to fulfill its contractual obligations.
- 8. Maintenance services**
- 8.1. The agreement to provide the Software for use as a cloud solution shall, in return for the fee set out in the accepted proposal, also include the provision of maintenance services by BELLIN in accordance with the following provisions for the agreed period of use of the Software as a cloud solution.
- 8.2. Maintenance services shall include
- the remedy of defects;
  - the provision of new program versions (8.2 a and b referred to collectively as "Software maintenance"); and
  - the Support Helpdesk.
- Additional consulting services shall be charged separately.
- 8.3. The remedy of defects shall be carried out by BELLIN's Support Helpdesk by assigning the defects reported in Text Form by the customer to the defect categories listed in Schedule 3 and initiating the measures to remedy the defects within the specified response times.
- 8.4. BELLIN shall choose one of the following measures to remedy defects that are reported or that it identifies itself:
- deploying an Update or Release;
  - issuing instructions to the customer on how to circumvent the problem or to remedy the defect (workaround). The customer shall, as far as reasonably possible, ensure that such instructions are implemented by competent personnel.
- 8.5. The obligation to provide new program versions shall include the deployment of Updates or Releases.
- 8.6. In relation to the Support Helpdesk, BELLIN is obliged under the service contract to provide the customer with a user hotline in accordance with the proposal, which can be contacted in accordance with the provisions in the SLA (Schedule 3). The sole purpose of the user hotline shall be to support the customer in its use of the Contractual Services performed by BELLIN and to facilitate fault reporting by the customer's authorized users.
- 9. The customer's obligations to cooperate**
- 9.1. The customer shall, at its own expense, establish the data connection via the internet between the workstations to be used by the customer and the data transfer point defined by BELLIN. The customer shall have sole responsibility for the operation and maintenance of this data connection and shall bear all associated costs.
- 9.2. The customer shall fulfill the system requirements necessary for the use of the SaaS Service, which are specified in the Service Description pursuant to clause 4.3. BELLIN shall be entitled to modify these system requirements in the course of enhancing the Software. The customer shall be notified of any modifications to the system requirements six (6) weeks before the changes take effect.
- 9.3. The customer shall be required to fulfill other obligations to cooperate in relation to the services offered. Any such obligations to cooperate not set out in the accepted BELLIN proposal shall be agreed separately at least in Text Form, for example in the form of task lists. The proper performance of services by BELLIN requires the customer to meet its specified obligations to cooperate in a timely and professional manner. Additional expenses which are attributable to the failure of the customer to fulfill its obligations to cooperate in a timely manner or to accept the service in a timely manner shall be payable by the customer on production of proof. If the customer does not meet its obligations to cooperate within an appropriate grace period, BELLIN shall, for the duration of the period in which the customer fails to fulfill its obligations to cooperate plus a reasonable lead time, be released from its obligation to perform those services for which the relevant obligations to cooperate are a prerequisite.
- 9.4. If the customer transfers data, in any form whatsoever, for storage on the storage space provided by BELLIN, the customer shall make backup copies of this data on its own data storage devices.
- 9.5. The login details provided to the customer must not be disclosed to unauthorized Third Parties and must be protected from access by Third Parties to prevent misuse of the login details by Third Parties. If the customer becomes aware that login details may have been unlawfully obtained or could be misused by a Third Party, the customer must inform BELLIN immediately.
- 9.6. The customer shall have sole responsibility for protecting and maintaining the confidentiality of login details (e.g. user ID and password) when using the Software as an app for mobile devices (e.g. smartphone, tablet), which is provided by BELLIN for use in accordance with the agreed terms. In particular, the customer must ensure that if a mobile device and/or login details are lost, the Software is immediately blocked as a cloud solution capable of being used with the app. The customer must instruct accordingly those individuals who use apps on mobile devices on behalf of the customer, and shall be responsible for their actions.
- 9.7. The customer must inform BELLIN in Text Form of any changes to its business that are relevant to the performance of the Contractual Services. Such changes include, but are not limited to, changes to the customer's business address, company, legal form or contact person.
- 9.8. If it becomes apparent after the contract is concluded that the customer must, in relation to the use of the cloud solution, comply with further statutory, official or other regulatory requirements not previously taken into account, BELLIN shall, if appropriately instructed and subject to its operational capacity, implement means to enable these requirements to be met by the customer for the relevant functionalities. BELLIN shall be entitled to invoice the customer at the agreed fee rates for any costs incurred in this respect.
- 10. Change requests**
- If the customer requires additional services, enhancements or other changes to the services specified in the accepted proposal ("change request"), these shall be agreed separately at least in Text Form and paid for accordingly. Such changes shall be requested via a separate change request process.
- 11. Fees/terms of payment/default of payment**
- 11.1. The customer shall pay the fee set out in the accepted proposal for the Contractual Services of BELLIN.
- 11.2. The fee agreed for the contractual provision of the SaaS Service shall be invoiced to the customer in accordance with the provisions set out in the accepted BELLIN proposal.
- 11.3. If BELLIN's consulting services are invoiced based on time spent, these services shall be charged in 15-minute increments in accordance with the agreed fee rates.
- 11.4. BELLIN's invoices are due for payment 30 days after invoice date and must be paid in full.
- 11.5. If the customer is in default on a payment pursuant to clause 11.2, BELLIN shall, after setting a reasonable deadline of at least calendar 14 days in accordance with Section 286 of the German Civil Code, be entitled to suspend the customer's access to the use of the SaaS Service for as long as payment remains outstanding. The obligation to pay the agreed fee shall remain in effect during the suspension of access to services provided by BELLIN due to default of payment.
- 11.6. Any agreement in relation to a discount on the fee shall be subject to termination in the event that the customer is in default on the fees due.
- 11.7. BELLIN may, at its reasonable discretion, increase the agreed fee once per year by up to 5 % after the first year of the contract. BELLIN shall notify the customer of the increase in Text Form three months before the date on which the increase takes effect. If the customer does not consent to the fee increase, it may, in Text Form within a period of two weeks from receipt of the notification, terminate the contract with cause at the point in time at which the fee increase planned by BELLIN comes into effect. If the customer does not terminate the contract, the customer shall be deemed to have accepted the fee increase.
- 11.8. If the customer is domiciled in Germany or, for businesses domiciled outside Germany, if the tax regulations require value-added tax to be charged, all prices quoted are exclusive of the value-added tax applicable at the time the service is performed.
- 12. Rights of set-off/retention**
- 12.1. The customer shall have the right of set-off if its counterclaims have been upheld and declared unappealable, are uncontested, or have been acknowledged by BELLIN. Furthermore, the customer shall not be precluded from set-off for counterclaims arising from the same contractual relationship as the original claim.
- 12.2. The customer shall only be entitled to exercise a right of retention if the counterclaim on which it bases the right of retention is uncontested, has been upheld and declared unappealable or is awaiting decision and is based on the same contractual relationship as the original claim.

### 13. Contract period/termination

13.1. The contract between the customer and BELLIN shall be concluded for the term specified in the accepted proposal (minimum contract period). The right to use the Software as a cloud solution and the obligation to pay the agreed fee begin with the month in which access to the use of the Software is activated and end at the end of the contract period. BELLIN's obligation to provide the maintenance services shall begin and end at the same times. The contract period shall be extended thereafter by the same period (extension period) unless one of the Parties terminates the contract in Text Form three months before the end of the minimum contract period or relevant extension period.

13.2. The right of both Parties to terminate the contract for good cause shall remain unaffected. BELLIN shall, as well as in the circumstances provided for in the GTCs, have the right to terminate for good cause if, for example,

- the customer breaches an essential contractual obligation such as in clause 5 or 9.5 and has not remedied the breach despite a reasonable deadline having been set or
- the customer is in default on payment of the fee stipulated in clause 11.2. for a period of more than 12 weeks or
- the ownership structure of the customer changes in accordance with a Change of Control or
- the customer's assets are significantly jeopardized or there is a significant deterioration in the customer's assets, resulting in a Creditreform credit rating of 420 or worse.

13.3. To be legally valid, notice of termination must be served in Text Form.

### 14. Return of data

14.1. The customer shall retain ownership of or exclusive rights over the user data that it stores on the storage space provided by BELLIN (hereafter referred to as "Customer Data") and can demand that BELLIN return the Customer Data at any time, including, but not limited to, after the end of the contract. The return of Customer Data shall take place at the customer's discretion either by the handover of data storage devices or by the provision of an internet download option. The customer shall have no entitlement to receive software suitable for the use of the Customer Data. The customer must inform BELLIN at least 14 calendar days before the end of the contract in Text Form if it wants to receive the Customer Data from BELLIN after the end of the contract. If the customer fails to notify BELLIN, BELLIN shall delete the Customer Data in a timely manner after the contract ends.

14.2. BELLIN shall delete the Customer Data still available to it 90 calendar days after the data is returned to the customer following the end of a contract, unless the customer notifies BELLIN within this period that the data provided to the customer is not readable or is incomplete.

### 15. Rights of customers in the event of defects of quality and title

#### 15.1. Use as a cloud solution/provision of storage space/Software maintenance

- The customer shall immediately report any defects in the SaaS Service to BELLIN, giving a detailed description of the effects of the defects in accordance with the provision in clause 8.3.. Where a Contractual Service does not correspond to the Service Description (Schedule 2), this shall constitute a defect of quality. Where it is not possible for the customer to be validly granted the rights required for the contractual use of the Contractual Service, this shall constitute a defect of title.
- Where reported defects are legitimate, BELLIN shall remedy the defects in accordance with the provision in clause 8.4.
- If BELLIN is unable to remedy the defect at the second attempt after another reasonable period of time, the customer shall be entitled to reduce the agreed monthly fee proportionately for the periods during which the SaaS Service was not available to the agreed extent. The right to a reduction shall be limited in amount to the monthly fee attributable to the defective service component.
- The customer shall have no claim in relation to defects in the SaaS Service which are the result of unauthorized changes to the service by the customer or where the customer has not used the service in accordance with the applicable Service Description.
- BELLIN is unable to guarantee correct results from, efficient use of or defect-free operation of the Software or the error-free transfer of data as part of Updates/Releases if the customer arranges for consulting services for the implementation of the SaaS Service to be performed not solely by BELLIN Staff but by other consultants who are unable to prove that they have the appropriate BELLIN certifications for the corresponding parts of the SaaS Service.

### 15.2. Consulting services

The consulting services provided by BELLIN in accordance with the order are provided under the conditions of a service contract as defined in German law.

### 15.3. Cure of defects of title

Defects of title shall be cured in accordance with the provisions in clauses 8.3 und 8.4., whereby BELLIN provides the customer with a legally unchallengeable means of using the Contractual Service. BELLIN may exchange the Contractual Service concerned for an equivalent Contractual Service in accordance with the contractual provisions, unless this is unacceptable to the customer. If Third Parties assert Industrial Property Rights against the customer, the customer must immediately inform BELLIN at least in Text Form. BELLIN shall defend or settle the claims at its discretion and in consultation with the customer. The customer shall, without delay, provide BELLIN with all information required for defense against such claim. The customer must not acknowledge the claims of Third Parties on its own initiative. BELLIN shall defend the claims against the customer at its own expense and shall indemnify the customer against all reasonable and legal costs and loss or damage associated with the defense, unless these result from a breach of duty by the customer.

### 16. BELLIN's liability for damages and expenses

16.1. BELLIN shall be liable to the customer in accordance with the statutory provisions for claims for damages or expenses resulting from the willful actions of BELLIN or in the event of tortious injury to life, body or health or in the event of claims under the German Product Liability Act. This shall also apply in the event of fraudulent concealment of a defect, assumption of the procurement risk pursuant to Section 276 of the German Civil Code or exceptional provision of a written quality guarantee pursuant to Section 443 of the German Civil Code.

16.2. In the event of gross negligence, BELLIN shall be liable to the extent of the foreseeable loss or damage that the obligation that was breached was intended to prevent.

16.3. In the case of ordinary negligence, BELLIN shall be liable if it has breached a material contractual obligation. Material contractual obligations are those obligations that protect the customer's essential contractual rights which have to be granted to the customer under the contract in relation to subject matter and purpose or the fulfillment of which enables the proper performance of the contract and on the fulfillment of which the customer is entitled to rely. BELLIN's liability in this respect shall be limited to the foreseeable loss or damage typically to be expected. However, this liability shall be limited to a maximum of 65% of the net SaaS Service fee per annum per claim and, in the case of consulting services, to half of the fee or corresponding partial fee (net amount in each case). Liability in respect of slightly negligent breach of other contractual obligations and for loss of profit, additional staff expenditure incurred by the customer, loss of use and/or loss of turnover is excluded.

16.4. Strict liability for loss or damage in relation to defects which already existed at the time of conclusion of the contract is excluded.

16.5. With regard to the communication modules for bank communication, responsibility for providing the correct access rights and/or monitoring them shall lie exclusively with the customer. The customer must check the execution of all data transfers (including, but not limited to, the execution of a payment transaction and the retrieval of account statement files) within the period expected of it. In the event of complications in this regard, the customer shall take all reasonable measures to prevent or mitigate any loss or damage. BELLIN shall not be held responsible for incorrect information transmitted by the customer and/or the bank. BELLIN hereby advises the customer that it should consider arranging its own insurance to cover such risks.

16.6. Any further liability of BELLIN for damages or expenses is excluded regardless of the legal nature of the asserted claim.

16.7. The customer must notify BELLIN immediately in Text Form of any loss or damage arising or ensure that BELLIN has recorded it so that BELLIN is informed as early as possible and can potentially still mitigate the damage in conjunction with the affected customer.

16.8. If the liability of BELLIN is excluded or limited under the foregoing, the same shall also apply to the liability of any official body of BELLIN and its agents and employees.

### 17. Particular obligations and responsibility for data and content

17.1. The customer shall ensure that it has the necessary rights in relation to the data it uploads and processes. BELLIN shall accept no responsibility for the content and legality of the data stored by the customer on the storage space provided by BELLIN. BELLIN shall have no obligation to check the legality of the data stored by the customer. The customer shall not place on the storage space provided any content that violates laws, official requirements or rights of Third Parties.

17.2. If a Third Party asserts that the data stored by the customer infringes its rights, BELLIN is entitled to block the data completely or temporarily if there are doubts about the legality of the data. In this case, BELLIN shall ask the customer to immediately cease the infringement or to demonstrate the legality of the data. If the customer does not comply with this request, BELLIN shall be entitled, without prejudice to further rights and claims, to terminate the contract for good cause without notice.

17.3. Should the data stored by the customer lead to violations of the law or the infringement of the rights of Third Parties, the customer shall indemnify BELLIN against all resulting claims, charges, fees, fines and other reasonable costs on first demand and shall bear all resulting reasonable expenses incurred by BELLIN. This shall include all reasonable costs for BELLIN's legal defense. This presupposes, however,



that BELLIN, on becoming aware of the claim, immediately informs the customer in full about the claim, providing all information and documents related to the claim, and gives the customer sole control regarding the defense against the claim, including at the discretion of the customer the right to conclude a settlement.

#### 18. Confidentiality/data protection/data security/analysis of data

- 18.1. The Parties hereby agree not to disclose any trade or industrial secrets or other confidential information which they have become aware of or received from the other Party during the performance of the contract. Confidential information, and documents incorporating such information, shall not be made available to Third Parties not involved in the performance of the contract. The Parties shall store and secure the information and documents in such a way that misuse by Third Parties is impossible.
- 18.2. The obligation to maintain confidentiality shall not apply to information and documents which were in the public domain and generally available at the time of disclosure or which were already known to the receiving Parties at the time of disclosure or which were later legitimately made available to the receiving Party by Third Parties.
- 18.3. Conclusion of a contract for the use of the SaaS Service or consulting services shall have the effect of canceling any non-disclosure agreements previously in place between the Parties and replacing them with the contractual confidentiality provisions agreed in the GTCs.
- 18.4. BELLIN shall comply with all applicable data protection regulations – including, but not limited to, the General Data Protection Regulation (GDPR) and the German Federal Data Protection Act – in relation to performance of the contract. Details of data processing and the rights of data subjects can be found in the data protection information and privacy policy available at <https://www.bellin.com/privacy-policy/>.
- 18.5. The Parties shall also impose the data protection obligations on their staff and any subcontractors used.
- 18.6. The customer permits BELLIN to analyze the customer's billing data to enable BELLIN to invoice for variable costs according to the proposal.
- 18.7. The customer consents to the data analysis of usage data in anonymous form for the purposes of improving the Software, the user experience and security. This consent includes granting BELLIN the right to use the results in anonymous form for the benefit of other BELLIN customers. Details are given in the Service Description (Schedule 2) accessible from the web address provided in clause 4.3.
- 18.8. With regard to the processing of Personal Data by BELLIN on behalf of the customer within the scope of application of the GDPR, the Parties shall conclude the Data Processing Agreement accessible at <https://www.bellin.com/company/tc/tm5/dpa> pursuant to Art. 28 of the GDPR. The customer must inform BELLIN directly of the persons authorized to issue instructions. The Data Processing Agreement is included as part of the GTCs as Schedule 4, but with regard to the processing of Personal Data it shall take precedence over the provisions of the GTCs.

#### 19. Compliance with legal requirements

- 19.1. The Parties hereby agree to comply with all legal provisions and official regulations, requirements and instructions relevant to the performance of the services concerned. In particular, the Parties shall comply with all sanctions of the Federal Republic of Germany, the European Union and the USA which affect them. The Parties also agree not to maintain any links of any kind with any person, enterprise, institution, body or association that is subject to sanctions and shall, without undue delay, sever any existing links before sanctions enter into force. In the event of a breach by the customer of its obligations, BELLIN is entitled to cease performing its services and to terminate the contractual relationship without notice.

#### 20. Place of performance/applicable law/conciliation/legal venue

- 20.1. The place of performance for supply of all BELLIN goods and services and the place of cure of defects shall be the location of the relevant BELLIN data center used by the customer.
- 20.2. For consulting services, the place of performance shall be the location of BELLIN's registered office, unless otherwise agreed.
- 20.3. These GTCs and any contracts concluded on the basis thereof shall be governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 20.4. In the event of disagreement, the Parties shall endeavor to reach an amicable solution before resorting to legal proceedings. If an amicable solution cannot be found within a period of 2 months, the Parties shall initiate conciliation proceedings before the German Association of Law and Informatics (Deutsche Gesellschaft für Recht und Informatik e.V., DGRI). Each Party shall be obliged to participate actively in the conciliation proceedings and must attend at least one meeting. If no agreement is reached between the Parties within 20 calendar days of the first meeting of the conciliation proceedings, either Party shall be entitled to declare the conciliation to have failed and may pursue legal action. The right of the Parties to seek interim legal protection shall remain unaffected.

- 20.5. If the customer is a merchant, a legal person under public law or a special fund under public law or if the customer has no general legal venue in Germany or after the contract is concluded relocates its registered office abroad, the sole legal venue for disputes before ordinary courts shall be the court having jurisdiction for the place where BELLIN GmbH's registered office in Germany is situated. BELLIN shall also be entitled to bring forward its own claims at the court having jurisdiction for the place where the customer's registered office is situated.

#### 21. Text Form

Oral collateral agreements shall have no legal effect. Amendments or additions to the GTCs and to the contracts or agreements concluded between BELLIN and the customer must be in at least Text Form. This provision shall also apply to this clause pertaining to Text Form. The Parties agree that the use of the DocuSign process shall satisfy the Text Form requirement. Amendments that are not made at least in Text Form shall be considered invalid. The validity of separate agreements, regardless of form, shall remain unaffected by this clause pertaining to Text Form.

#### 22. Miscellaneous provisions

- 22.1. BELLIN shall be entitled to amend the provisions of these GTCs provided that it notifies the customer of the amendment in at least Text Form at the latest six weeks before the amendment comes into effect. The customer shall be entitled to object to the amendment provided that it does so in at least Text Form within a period of four weeks from receipt of the notification, otherwise the amendment shall be deemed approved. BELLIN shall expressly point this out to the customer in the notification regarding the amendment. In the event of objection by the customer, BELLIN shall, within a period of two weeks, be entitled to terminate with cause the contract concluded with the customer. The provision in clause 11.7 shall remain unaffected. Adjustments to the GTCs or the schedules which pertain to feature enhancements or which consist of linguistic corrections, clarifications or rewording that do not change the substance or legal significance of the text do not constitute changes within the meaning of this provision in clause 22.1. BELLIN shall inform the customer in Text Form about new feature enhancements presented in Schedule 2.
- 22.2. The assignment of the contract to a Third Party is only permitted with the prior written consent of BELLIN and the customer. The assignment of claims by the customer to Third Parties shall only be permissible with the prior consent of BELLIN, provided at least in Text Form. Such consent shall not be unreasonably withheld. The provision in Section 354a of the German Commercial Code shall remain unaffected by the foregoing.
- 22.3. Should any individual provisions or any part of any provisions of these contractual terms and conditions be or become invalid or should there be an omission in these contractual terms and conditions, the validity of the remaining provisions will in no way be affected.
- 22.4. This is a translation of the original German GTCs and is intended for information only. In case of discrepancy between the original German version and the translation, the German version shall prevail.
- 22.5. The following schedules, to which reference is made in these GTCs, shall form an integral part of the contract:
  - Schedule 1: Definitions;
  - Schedule 2: Service Description;
  - Schedule 3: Service Level Agreement (SLA) for SaaS Service;
  - Schedule 4: Data Processing Agreement in accordance with <https://www.bellin.com/company/tc/tm5/dpa>.