



General business terms and conditions of use of 'ContentCube®'

Note: 'ContentCube®' is the trade name of the service under contract of ContentCube GmbH

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Preamble

As soon as you register as a user (set up a user account) of ContentCube®, you automatically accept the following General Business Terms and Conditions of Use of ContentCube®, hereinafter referred to as 'GBTC'.

The User concludes the contract regulating the use of services offered by ContentCube® with ContentCube GmbH, Schuhhagen 27, 17489 Greifswald. Further contact information, the details of the commercial register entry and the name of a person authorized to represent ContentCube GmbH can be found in the legal notice ('Impressum').

ContentCube GmbH runs services offered by ContentCube® both in a variety of top-level domains (contentcube.com, contentcube.de etc.) and in several subdomains and aliases of these domains. All websites on which ContentCube® offers services provided by ContentCube® shall be referred to hereinafter as 'ContentCube® Websites'.

These GBTC regulate the contractual relationship between the User and ContentCube GmbH regardless of the ContentCube® website where the User registers or logs on.

The services offered by ContentCube® are intended for use exclusively by adults.

At any time, even after the contract has been concluded, the User can access the 'GBTC' link on any ContentCube® website and print, download or save these GBTC.

1. Definition

a)

'User' refers to a natural person who sets up a user account in his/her name or somebody else's name and obtains access to the services offered by ContentCube®.

b)

'ContentCube®' refers to the services under contract with precisely defined subscription conditions for a limited number of users with access rights.

c)

'Services' refers to the services offered by ContentCube® to the User, the associated software and other related services available to the User under the terms of this ContentCube® contract and which display the characteristics and performance features described by ContentCube® at any given time.

d)

'Test access' refers to a limited period of free access to ContentCube® that ContentCube® offers the User under the terms and conditions specifically regulating such access.

e)

'Content' refers to all visual, written or acoustic data, information or materials including documents, images, videos, calculation sheets, text messages, form data, internet sides and similar materials that are uploaded by the User to the Services and are transmitted, published, processed or input, without any restrictions to the content described above.

f)

'Third Party Owner' refers to a legal entity that is the owner of the e-mail address used by the User when registering and which has a contractual relationship with the User, regardless of the nature of said contractual relationship. A Third Party Owner is not the internet service provider or a similar provider, even if such a provider may be the owner of the e-mail address employed by the User.

2. Services and licensing

a)

Subject to the provisions and conditions contained in this contract, ContentCube GmbH herewith grants the User a non-transferable, non-exclusive limited licence, which may not be transferred to sub-licensees, which allows the User to obtain access to these Services and use them.

b)

The ContentCube® Website offers registered Users two user options: a) a free test access period of 30 days and b) various user accounts subject to a fee. Details of the user accounts subject to a fee are regulated on the ContentCube® Website in the area 'Prices and Registration'. The prices indicated there are binding. Payment for use of the Services will be billed in 3-month increments until the end date for the contract has been reached and the invoice has been paid in full. The User may settle the invoice by using the payment methods indicated there, in particular payment with accepted credit cards, or may select the alternative online payment methods. If it proves impossible to collect payment for our Services, the User shall bear all the resulting costs, in particular bank charges related to reimbursing the direct debit rejection fees and similar fees in a proportion related to the User's responsibility for the event that led to the fees being incurred. ContentCube GmbH can send the invoices for the Services to the User by e-mail. ContentCube GmbH will additionally keep the Services available for download for one (1) year after the invoicing date.

c)

ContentCube GmbH reserves the right to modify the design, operating methods, technical specifications, systems and other functions etc. of the Services at any time without giving notice. The User will be informed about such changes on the ContentCube® Website, through our newsletter or by e-mail.

d)

The Services are available 24 hours a day over the internet. ContentCube GmbH is not liable for interruptions to the connection due to external factors. ContentCube GmbH reserves the right to implement measures that in its opinion are necessary for technical and operational reasons or for maintenance or security purposes. During the period of implementation of such measures, unlimited access may be restricted. The User is responsible for the existence of a fully functional internet connection. ContentCube GmbH is not liable for defects that arise due to a faulty internet connection employed by the User.

e)

The User is entitled to grant a limited number of persons access to its content on ContentCube®.

f)

If the User employs an e-mail address that belongs to a third party owner when concluding this contract for the purpose of setting up a user account, it is possible that sooner or later and as a result of the existing or future business relationship between the third party owner and ContentCube GmbH, the user account may be governed by additional business terms and conditions. In such cases, the User acknowledges and hereby agrees that the third party owner may carry out actions that either modify the Services offered to the User or restrict the User's access to the Services. Such actions may consist of but not be restricted to administrative measures taken by the third party owner or instructions issued by the third party owner to ContentCube GmbH or measures related to the termination of a contractual relationship with the User.

3. Trial access

The User may obtain trial access using one of the methods that are permitted under the terms and conditions of this contract. However, ContentCube GmbH may exercise its discretionary power to deactivate certain performance features and to limit the length of the User's trial access period. Since the Services associated with a trial access are offered free of charge, ContentCube GmbH rejects any instance of liability described in this contract; furthermore, ContentCube GmbH will not be liable for damage caused to the User during the trial access period.

4. The user's obligations

a)

The User shall observe the security and administrative regulations that he/she becomes acquainted with during registration as set out in these GBTC.

b)

The User undertakes to give accurate information regarding the User's identity during registration and to provide a proper and legal e-mail address.

c)

The User shall be solely responsible for his/her actions while using the Services and shall ensure that he/she abides by the provisions of national laws. The User is solely responsible for all content that is uploaded to the Services and which is transmitted, published, processed by or input into said Services.

d)

The User is responsible for supervising the user account provided by ContentCube® and is liable towards ContentCube GmbH for ensuring that content that is processed either by the User or by a person invited by the User, and which is transmitted or transported as part of the Services, neither violates third party rights nor otherwise violates laws and that the User possesses licences issued by third parties wherever these are required to process content or use the Services.

e)

The User undertakes not to use the Services in any way to obtain materials by unlawful means or to obtain materials that in any way violate practices sanctioned by custom.

f)

The User undertakes not to use the Services to obtain documents that if passed on to a third party might damage the reputation of another third party or violate the intellectual property rights of third parties or which lead to the disclosure of company secrets or which might induce third parties to commit or participate in a criminal act or whose dissemination might be interpreted as a threat, nor to use the Services in any way that is incompatible with the purpose of said Services.

g)

The User undertakes not to use the services being offered for inappropriate purposes and not to violate prevailing legal provisions. The User shall also ensure that the materials that are disseminated do not constitute criminal acts such as incitement (Section 130 German Penal Code), dissemination of propaganda issued by organizations banned under the constitution (Section 86 German Penal Code), provisions dealing with violations of personal rights such as insults, slander, defamation (Sections 185 et seq. German Penal Code) or the dissemination of written pornographic materials (Section 184 German Penal Code).

h)

The User undertakes to prohibit access to the Services to anyone other than the persons who signed the registration form and who are consequently governed by the GBTC.

i)

The User is obliged to immediately notify ContentCube GmbH if he/she suspects that actions have been taken that violate these GBTC.

5. Property rights

a)

ContentCube GmbH reserves all rights and in any case reserves the unique right to use intellectual property and technical solutions. The User undertakes to use the intellectual property and the technical solutions in accordance with the provisions of these GBTC. In no case will the User or a third party acquire intellectual property rights related to the services provided or to the software used in these Services nor rights over technical solutions, trademarks or other commercial logos owned or used by ContentCube GmbH. Access to the Services is provided by a licence issued for a limited period and is not sold.

b)

The User or its current legal owner is solely responsible for all content uploaded by the User to the Services and which is transmitted, published or processed by or input into said Services. ContentCube GmbH is not liable in any way for such content.

6. Personal data, data protection

a)

In order for the User to use the Services, he/she must provide ContentCube GmbH with certain data including but not limited to his/her full name, e-mail address and contact information. If a User is invited by another User or customer of ContentCube GmbH to set up a user account, it may be that this data has already been communicated to ContentCube GmbH by the User who made the invitation or the customer. The data received by ContentCube GmbH is processed by ContentCube GmbH using automatic data processing methods that enable and ensure that ContentCube GmbH administers and otherwise fulfils its obligations when providing the Services, thus preventing any unauthorized person from gaining access to the Services. As laid down in Section 10 'Data Protection', ContentCube GmbH may not disclose a User's personal information to third parties. If a User so requests, he/she may inspect his/her personal data. In addition, the User is entitled and obliged to immediately notify changes in such data.

b)

In addition, in order to be able to use the Services, the User must allow ContentCube GmbH to store session data on the User's terminal by means of cookies and to allow these to be called up. This storage and recall of data aids the processes used by the Services when logging on and off and guarantees that no unauthorized persons gain access to the Services.

c)

In accordance with the data protection law, ContentCube GmbH must obtain the consent of persons who have registered (i.e. the User) in order to process personal data.

d)

According to the law governing electronic communications, ContentCube GmbH must obtain the consent of persons who have registered (i.e. the User) in order to store data on the terminals of registered users and to recall such data.

e)

By accepting this agreement, the User explicitly gives his or her consent for

aa) ContentCube GmbH to collect and process personal data as described above;

bb) the data to be stored until the User's user account is closed and;

cc) the information described above to be stored on the User's terminal and to be recalled whenever necessary.

f)

ContentCube GmbH takes appropriate measures to protect the User's privacy. The practices employed by ContentCube GmbH relating to data collection and processing are set down in the current, valid version of the data protection declaration which may be consulted on the ContentCube® Website.

7. Security, passwords etc.

a)

ContentCube GmbH is only liable for the loss or destruction of content that has either been sent to or by the Services by electronic means if such loss or destruction may be attributed to gross negligence or intentional actions carried out by ContentCube GmbH.

b)

The User must store the user name, passwords etc. that he/she received during registration in a secure place to which third parties may not obtain access and must use them in a secure fashion. The User is liable for any unauthorized access to the Services. ContentCube GmbH is not liable for loss or damage deriving from the User's failure to adhere to the aforementioned stipulations.

c)

If the User suspects that an unauthorized person has obtained access to the User's login name and/or password, the User must immediately notify ContentCube GmbH.

d)

The User is liable for any losses or damage suffered by ContentCube GmbH if he/she discloses the login name or password to a third party either intentionally or through gross negligence or if an unauthorized third party obtains access to the login name or password by other means, unless the User promptly notified ContentCube GmbH about his/her suspicions in this respect.

e)

If the User has notified ContentCube GmbH that he/she suspects that an unauthorized person has obtained access to the User's login name and password, the User is only liable for the intervention or failure to intervene of ContentCube GmbH to the extent that the User has acted intentionally or through gross negligence.

f)

ContentCube GmbH takes appropriate measures to ensure that the security of the Services comply with relevant branch standards.

8. Guarantee

a)

ContentCube GmbH is liable for all damage, including damage caused through slight negligence, breaches of fundamental contractual obligations, the inability to or delays or errors in providing assured characteristics and for which it is responsible and personal injury. In the case of slight negligence, liability is restricted to typical damage that could have been reasonably predicted by ContentCube GmbH. In the case of damage deriving from the absence of assured characteristics, ContentCube GmbH is only liable for damage that is covered by such assurances.

b)

In other cases, ContentCube GmbH is liable for damage caused intentionally or through gross negligence by legal representatives or vicarious agents of ContentCube GmbH. The liability for pecuniary damage is limited as set out in Section 7 Para 2 Telecommunications Customer Protection Ordinance. Liability under the product liability law remains unaffected in all cases. ContentCube GmbH provides no guarantee as to the accuracy, completeness or reliability of external content as defined in Section 5 Para 3 German Teleservices Law.

c)

If ContentCube GmbH is liable in the abovementioned instances, its liability in the case of pecuniary damage is limited as laid out in Section 7 Para 2 Telecommunications Customer Protection Ordinance to a maximum amount equal to the sum of the last six monthly payments for the corresponding user-provider relationship. If the possibility of greater damage occurring exists, the User must draw the attention of ContentCube GmbH to this circumstance in good time so that ContentCube GmbH can take the measures it deems necessary to protect itself against such damage from occurring.

d)

Claims for compensation deriving from claims asserted by the User or claims to put right defects under the terms of the guarantee expire one year after the service has been delivered; in all other cases, they expire one year starting from the end of the year in which the claims arose and the User either learned or through gross negligence failed to learn of the circumstance causing the claim and the person causing the claim. However, they expire 5 years at the very latest after they first occurred.

9. Force majeure

ContentCube GmbH is freed from the obligation to provide compensation and suffer other penalties if a User's access to the Services is rendered impossible or severely hampered by circumstances that lie beyond the control of ContentCube GmbH and whose occurrence could not have reasonably been predicted. Such instances of force majeure include in particular industrial disputes, lightning, fire, decisions taken by state authorities or other state regulations, faults in the internet provider's network, delays by third parties in providing services as long as said delays are caused by one of the events described above, general shortages in transport, goods or energy or similar circumstances.

10. Data protection

a)

ContentCube GmbH undertakes not to disclose information it has received from the User under the terms of this agreement to third parties or to otherwise provide access to such information. This duty of confidentiality does not apply to information that ContentCube GmbH had demonstrably obtained otherwise or which is in the public domain. Furthermore, this duty of confidentiality does not apply if one of the contracting parties is obliged to disclose information by virtue of legal dispositions, instructions issued by state authorities or court orders. The duty of confidentiality shall continue to apply even when this agreement has expired.

b)

ContentCube GmbH is entitled to examine content that is published by the web publication functions that form part of the Services. In addition, ContentCube GmbH reserves the right to carry out a brief analysis of a sample of user content.

c)

Apart from the abovementioned instance of content analysis or if ordered to do so by the User or required to do so by virtue of legal dispositions or instructions issued by state authorities or court orders, ContentCube GmbH is not entitled to examine the User's content which has been processed by the Services.

11. Contract duration and termination etc.

a) This contract shall come into force when the User accepts these GBTC when registering as a user (setting up a user account) with ContentCube®. This contract shall run for an undefined period of time until the Services provided by ContentCube® are no longer used and the user account has been closed.

b) The User can terminate the free trial access at any time without giving any reasons. Termination can be effected by using the 'contact form' on the ContentCube® Website which can be called up from any page. When terminating the agreement, the user name and an e-mail address registered on the ContentCube® Website must be indicated.

c) The User and ContentCube GmbH can close a user account subject to a fee without giving any reasons by providing fourteen (14) days notice before the expiry date of the minimum use period specified during the registration process or subsequently before the expiry date of the extended use period. Termination can be effected by using the 'contact form' on the ContentCube® which can be called up from any page or by fax or letter addressed to ContentCube GmbH or to the User, whichever applies. When terminating the agreement, the user name and an e-mail address registered on the ContentCube® Website must be indicated. These rules do not affect the rights of either party to terminate the agreement for good cause.

d)

When terminating the Services of ContentCube® or the contract, ContentCube GmbH takes no responsibility for the content that has been created using the Services. Consequently, the User must ensure that it makes any security copies etc. of the content that are deemed necessary.

e)

In case the User actively ceases to use the Services provided by ContentCube®, ContentCube GmbH is entitled to immediately erase and destroy the entire content of the user account.

f)

If this contract is terminated, regardless of the reason, ContentCube GmbH is entitled and obliged to permanently erase and destroy all copies of the corresponding User content within a period that is governed by Security and Administrative Procedure applied by ContentCube GmbH at that time.

g)

Sections 10 and 11 of these GBTC shall continue to apply even after the agreement has ended.

12. Modifications

ContentCube GmbH reserves the right to modify the GBTC that underlie the contract without prior notice. The User will be notified about such modifications on the ContentCube® Website, through our newsletter or by e-mail.

13. Restricted access, premature termination

a)

ContentCube GmbH is entitled to immediately deactivate the User's access to the Services provided by ContentCube® or to prematurely terminate the contract under the following conditions:

aa) whenever the User employs the Services in a way that is associated with the commission of a criminal offence;

bb) whenever the User employs the Services in a way that causes damage to ContentCube GmbH or a third party or exposes either to the risk of damage;

cc) whenever the User employs the Services in a way that violates the Security and Administration Rules laid down by ContentCube GmbH;

dd) if it can be reasonably concluded that the continued dissemination of content violates prevailing laws or contains pornographic or right-wing extremist subject matter;

ee) whenever the User employs the Services to secure unauthorized access to specific data and services within ContentCube GmbH's system;

or

ff) whenever the User otherwise fundamentally violates the provisions described above.

b)

If the User delays payment, ContentCube GmbH is entitled to block the Services at the User's expense. The User's obligations, in particular regarding payment of the agreed amounts, are not affected by this.

Likewise, ContentCube GmbH is entitled to terminate the contract if the User falls into arrears during two consecutive months with payment of the amount owed or delays payment of a significant portion of the amount owed.

14. Miscellaneous provisions

If any provision of this contract, regardless of the reason, proves partially or completely inoperative, the rest of this contract shall continue to fully apply and be valid; wherever possible and as long as this is lawful, the inoperative provision should be altered and adapted in order for it to fulfil the original intention and economic effect of the original provision as closely as possible.

15. Applicable law and place of jurisdiction

a)

This agreement and the resulting relationship between ContentCube GmbH and the User are exclusively subject to the law of the Federal Republic of Germany.

b)

If the User is a tradesperson or a body governed by public law or in respect of which the natural forum is not Germany (domicile or registered office located abroad), Dresden shall be the place of jurisdiction for all disputes arising from this agreement.

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