

ethinking GmbH GENERAL TERMS AND CONDITIONS

Updated: 25 AUG 2025

Part A. General terms for all types of commission

1. GTC scope of application

- 1.1. These general terms and conditions (GTC) apply to any and all declarations of will, contracts, and contractual, or contractual-like actions of ethinking GmbH, Tucholskystraße 18-20, 10117 Berlin (ethinking), with their clients (client).
- 1.2. Part A of these GTC contains general conditions that equally apply to the special conditions for the licensing of XP Layer in Part B, for operating and maintenance services in part C, for Push Service and for Analytics & Data Engine (ADE) in part D. The special conditions in parts B, C, and D are independent of each other in terms of their validity.
- 1.3. These GTC exclusively apply to entrepreneurs within the meaning of § 14 sec. 1 BGB (German Civil Code).
- 1.4. Client is any natural or legal entity or judicable partnership that sends ethinking a request, commissions ethinking, or acts in any other way for ethinking.
- 1.5. Terms and conditions of the client that deviate from or contradict these GTC shall only apply if accepted in writing by ethinking. This also applies if ethinking performs services without any reservation in full knowledge of said GTC.
- 1.6. ethinking may change these GTC for good cause, whereby this right to change does not apply to essential contractual obligations. The client shall be notified electronically or in writing of any changes. The client may object to the updated version within two (2) weeks after said notification. Continuing the contractual relationship without objection after receiving said notification shall count as acceptance of the changes. An unjustified objection to the GTC may constitute grounds for termination without notice in individual cases.
- 1.7. These GTC are valid in their most recently updated form at the respective point in time of the legal transaction being concluded or the contractual-like relationship being entered. Unless agreed otherwise, the GTC shall also apply to any future legal transactions or contractual-like relationships, even if not expressly agreed upon again. The currently valid version of these GTC can be found at www.ethinking.de/agb.

2. Conclusion of contract

Offers from ethinking are always subject to change and constitute a request for the client to accept the terms of the offer and thus themselves make an offer to conclude a contract. A contract (contract) is concluded between the parties when the client sub-

mitted a binding offer to ethinking, e.g. by accepting ethinking's offer terms, to conclude a contract at least in writing and ethinking's declaration of acceptance of the services offered on ethinking's conditions has been forwarded to the client.

3. Contractual relationships and contents

- 3.1. ethinking is a software company with own product solutions (e.g. XP Layer, ADE, Push Service) to develop platforms, mobile applications, and websites. The ethinking team supports partners and corporate clients with strategic consulting, project planning, conception, and design, all the way to the technical realization of digital business models. The client portfolio features national and international clients.
- 3.2. At ethinking, the client may license the XP Layer (XP Layer) in particular. The services ordered in detail result from the offer subject to these GTC and special conditions in part B.
- 3.3. Additionally, the client may commission ethinking to provide operating and maintenance services for ethinking's digital products. The services ordered in detail result from the offer subject to these GTC and special conditions in part C.
- 3.4. The client may use the Push Service and/or the Analytics & Data Engine (ADE). The services ordered in detail result from the offer subject to these GTC and special conditions in part D.
- 3.5. The scope and content of the services owed by the client and ethinking shall be determined in the offer. The concluded contract between ethinking and the client is essential for this. The services owed by ethinking are hereinafter jointly referred to as "**subject of performance**". ethinking does not guarantee any specific economic success. Using the subject of performance is only allowed on the respectively specified brand channel of the client, and also by affiliated companies.
- 3.6. ethinking is entitled, at its own discretion, to perform the services itself, to use competent third parties as proxies for the performance of services under the contract, and/or to substitute such services (hereinafter "**external services**").
- 3.7. Unless agreed otherwise, invoices are due for payment without deduction within 30 calendar days of invoicing.
- 3.8. The contractual agreements between the parties correlate as follows:
 1. Offer including potential attachments,
 2. these GTC, respective up to date version,
 3. legal provisions.

In the event of any contradictions, the contractual bases shall apply in the order listed.

4. Cooperation duties and approvals, acceptances, releases, business hours

- 4.1. The client shall grant designated preliminary work, approvals, acceptances, and releases detailed in the contract in due time to ensure that workflow at ethinking and its suppliers and thus the jointly fixed objectives are unaffected. Approvals, acceptances, and releases which are not provided or are provided late may cause additional costs which shall be borne by the client. Approvals, acceptances, and releases are deemed granted if ethinking does not receive a statement from the client within a period of seven (7) days after ethinking has sent the respective subject of performance to the client. Acceptance shall be deemed granted at the latest upon use or payment of the remuneration.
- 4.2. The information and materials provided by the client serve as an essential basis for the services of ethinking. The client guarantees ethinking the correctness of the information and is liable for any legal consequences of incorrect information provided. The client ensures that ethinking receive all rights required for use of the provided information and material, and that this information and material does not violate third party rights, and that this information and material is otherwise legally compliant. This also applies to content that provided information and material refers to (e.g. via links). Should ethinking be held liable by a third party, a court, or an authority due to culpable behavior of the client, in particular due to a culpable breach of the obligations specified in this sub-section, the client is obligated to indemnify ethinking from any claims and to assume the costs of legal defense. ethinking shall inform the client immediately of any such claims. The client shall aid ethinking to the best of their ability in defending said claims. If the client does not meet this obligation within a reasonable period of time to be set by ethinking, ethinking is entitled to defend against the third party's alleged claim at its own appropriate discretion, taking into account the factual and legal situation as it presents itself to ethinking. The costs of this defense shall be borne by the client, also in the event that the settlement subsequently proves to be disadvantageous due to the client withholding information. In the case of third-party claims pertaining to said information and material (e.g. for intellectual property infringement), the client shall indemnify ethinking at first notice. The indemnification also includes compensation for costs that have been or will be incurred by ethinking due to prosecution and legal defense.
- 4.3. If the client fails to comply with their duty to cooperate, ethinking shall request the client to do so within a reasonable period of time. If the client does not comply with their information obligation despite a given deadline, ethinking shall be entitled, at their own discretion, either to provide their service on the basis of the information already available or to rescind from the contract. Additionally, ethinking may also claim compensation for any expenses incurred by ethinking within the scope of the contractual relationship which were in vain or were additionally incurred as a result of the breach of duty by the client. Further claims for damages remain unaffected.

- 4.4. If a concept or other service must be modified due to the correction of previously provided information or as a result of the subsequent filing of information, this shall always be deemed to be an extension of the scope of services and shall be remunerated subsequently.
- 4.5. Each party shall designate to the other party a contact person authorized to give and receive information and declarations of intent, and who also assumes full responsibility for the orderly performance of the contractual services.
- 4.6. ethinking business hours are weekdays from 9:00 a.m. to 5:00 p.m. (CET/CEST).

5. Maturity of the subject of performance

- 5.1. The maturity date of ethinking's services shall be based on the joint agreements between ethinking and the client who shall agree on a schedule in the commission and adjust it if necessary.
- 5.2. In the event of delays in performance for which ethinking is responsible, the duration of the grace period to be legally set by the client shall be two weeks, given the nature of the services to be provided by ethinking allowing it, and shall begin upon receipt of the written notice of grace by ethinking.

6. Term and termination of contracts and rescission

- 6.1. The contract term specified in the offer and the notice periods specified therein shall apply. There shall be no ordinary right of termination on the part of the client in case of a fixed-term contract. In the absence of a termination provision in the case of open-ended commissions, an ordinary notice period of six months, in each case by the end of the year, shall be deemed agreed between the parties.
- 6.2. The right to extraordinary termination remains unaffected. Serious grounds for termination exist in particular if one party breaches essential obligations or repeatedly breaches non-essential obligations arising from the contractual relationship and does not remedy the breach within a reasonable period of time after being requested to do so by the other party, or one party cannot reasonably be expected to adhere to the contract as a result of force majeure, or insolvency proceedings have been instituted against the assets of the other party, or such proceedings are imminent.

7. Warranty

- 7.1. If ethinking's services are of a contractual nature, the following provisions shall apply:
 - 7.1.1. The client shall notify ethinking immediately in writing of any defective service. As far as a rectification of defects is possible and feasible with reasonable effort, ethinking has the right to rectify defects for which it is responsible.

- 7.1.2. A defect exclusively exists if the subject of performance does not have the contractually agreed quality or is not suitable for the contractually required use. Negligible deviations shall not constitute a defect.
- 7.1.3. In the event of refusal, impossibility, failure, or unreasonable delay in the rectification of defects, the client may, at their discretion, demand the rescission of the contract or the reduction of the remuneration.
- 7.1.4. Warranty claims of the client shall become time-barred within a period of six (6) months after completion of the respective services.
- 7.1.5. The client's right of self-remedy is excluded.
- 7.1.6. ethinking shall be liable for consequential harm caused by a defect only in accordance with the liability provisions set forth in these GTC. This exemption from liability shall not apply if a warranty of quality was given which covers the consequential damage caused by a defect and if the damage caused by the defect stems from the lack of such quality.

8. Liability

- 8.1. If not differently regulated in the other provisions, ethinking shall be liable to the client for damages due to breach of contractual or non-contractual obligations only in case of intent and gross negligence.
- 8.2. ethinking is only liable for slight negligence in the event of a breach of an essential contractual obligation (cardinal obligation), whereby liability is limited to the foreseeable damage typical of the contract. Cardinal obligations are obligations which are essential to be fulfilled for the proper performance of this contract and on the observance of which the other party may regularly rely.
- 8.3. In the event of atypical and unforeseeable indirect damages, liability shall be limited to the sum of the contractual fees, which the client has paid to ethinking for the period of two (2) years prior to the occurrence of the damaging event within the scope of the specific contractual relationship. In the case of consequential damages and loss of profit, liability shall be limited to the foreseeable damage typical for the contract.
- 8.4. The limitations of liability also apply to legal representatives, executives, and proxies of ethinking.
- 8.5. The limitations specified in 8.1, 8.2, 8.3, 8.4 do not apply to liability for injuries to life, body, or health.
- 8.6. ethinking shall not be liable for the information about the client's products contained in the subject matter of the performance or the protectability under copyright, design, trademark, or brand law of the ideas, proposals, concepts, drafts, (etc.) delivered within the scope of the commission.

9. Remuneration and prices / price changes

- 9.1. The prices stated in the offer shall be deemed agreed between the parties, plus the VAT rate applicable at the time of performance.
- 9.2. Invoicing of ethinking's provided services and of expenses shall be carried out monthly, unless otherwise agreed in the offer.
- 9.3. The client shall reimburse travel expenses incurred by ethinking in connection with the provision of services. Travel expenses include in particular the costs for transportation (airplane, cab, rental car, or train), and for accommodation. For flights, the costs are only reimbursable for the use of economy class, for train travel only for second class, and for accommodation only for a four-star hotel.
- 9.4. ethinking reserves the right to change the remuneration given a written notice in compliance with a deadline of six weeks to the end of the contractual year. Such a change may not exceed the remuneration of the preceding twelve-month period by more than five percent. If the increase of the remuneration exceeds five percent of the remuneration for the preceding twelve-months period, the licensee may terminate the contract in writing with four weeks' notice to the date of the increase.
- 9.5. If the client is in default regarding a payable remuneration by more than 14 days, ethinking shall have the right to suspend performance of services owed to the client for the future while excluding any liability for resulting consequences for the client. This expressly includes the suspension of client accounts.

10. Cession and offset

The client may only transfer the rights and obligations arising from the contract given express written consent of ethinking. The client may only offset claims of ethinking against undisputed or legally established claims.

11. Self-promotion

ethinking as well as its affiliated companies within the meaning of §§ 15 AktG (Stock Corporation Act) are permitted to use work results or excerpts from the commissions, and also the name and brand of the client, free of charge for the purpose of self-promotion, particularly for the purpose of reference advertising, also after the end of the contract term.

12. Force majeure or other occurrences

Force majeure or other unforeseeable, inevitable, or unavoidable events for which ethinking is not responsible and which make it substantially more difficult or temporarily impossible to provide the contractual services, including pandemic, strike, lock-out, and regulatory actions, shall allow ethinking to postpone the performance of their services for the duration of the hindrance plus a reasonable start-up period. ethinking

shall inform the client immediately about the occurrence of such hindrances to performance. If the delays resulting from an event in accordance with sentence 1 above exceed the period of six (6) weeks, and if an adjustment of the contract is not possible and not reasonable for either party, both parties are released from their performance obligations agreed upon in the commission. Services delivered by ethinking are to be remunerated by the client according to their share. Damage claims are excluded in such a case.

13. Non-solicitation agreement

- 13.1. For the term of the agreement and for a period of eighteen (18) months after termination of the contract, the client may not (i) recruit ethinking employees for their own company, and (ii) suggest or recommend to a third party to recruit, employ, or hire such employees.
- 13.2. In case a former ethinking employee becomes an employee of the client within a period of eighteen (18) months after end of the contract of employment, this is assumed to be poaching and thus a violation of the prohibition above.
- 13.3. In case of a breach of the provisions of section 13.1, the client agrees to pay ethinking a contractual penalty of 100,000.00€.
- 13.4. In case the client wishes to hire an ethinking employee, they first need to contact ethinking and obtain a written permission. Mandatory financial compensation is also to be paid by the client. The compensation amount is agreed between the parties for each case individually but shall not be less than 20,000€ per employee. If there is permission, section 13.3 does not apply.
- 13.5. Accordingly, sections 13.1 to 13.4 apply to independent contractors of ethinking and to employees or contractors of companies connected to ethinking. The regulated actions may not be carried out individually nor in connection with others, or as a representative, employer, partner, agent, affiliated company, or in any capacity in the name of a natural or legal person. The aforementioned actions may not be carried out by an affiliate of the client, either.

14. Form

Text form is required for all agreements between ethinking and the client, unless otherwise agreed in the respective commission or in these GTC.

15. Data mining

ethinking expressly reserves the right to use its content for commercial text and data mining within the meaning of section 44b UrhG (Act on Copyright).

16. Place of execution, place of jurisdiction, and severability clause

- 16.1. Place of execution is Berlin.
- 16.2. Place of jurisdiction for any legal disputes arising between ethinking and the client is Berlin.
- 16.3. Solely the law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods.
- 16.4. Should one or more provisions of these GTC be or become invalid or void, the validity of the remaining provisions of these GTC and the validity of the rest of the commission shall remain unaffected. The parties agree to replace the null or void provision with a valid and executable provision that follows the economic purpose of the null or void provision as closely as possible. This also applies in case of a gap in the contract.

Part B. Special conditions for the licensing of XP Layer

In addition to the provisions of part A, these special conditions apply for the licensing and the use of XP Layer.

1. XP Layer

- 1.1. The owed characteristics of the XP Layer are ultimately determined by the offer and the functional description contained therein.
- 1.2. In case of XP Layer being protected by a license key, the client shall receive the key only for the use of the software as detailed in the offer.
- 1.3. Other services such as - exceeding maintenance required to facilitate the contractually agreed use - the maintenance, the set-up, or the configuration of the XP Layer and consults or seminars are not part of the license but may be agreed on by the parties separately. Thus, the special conditions of part C of these GTC shall apply in addition to the general conditions of part A.

2. Granting of rights

- 2.1. In return for payment of the remuneration specified in the offer, the client shall receive the single, non-transferable, and non-sublicensable right to use the XP Layer for the term of the contract, to the extent specified in these GTC and the offer, including any appendixes. Contractual use includes the set-up, loading, display, and running of the installed XP Layer. The type and scope of use are otherwise determined by the offer.
- 2.2. The client is prohibited from giving the copy of the XP Layer provided to them or any potential backup copy to third parties. In particular, the client is prohibited from selling, lending, renting out, or sublicensing the XP Layer in any way, or making the XP Layer publicly accessible or running it publicly. This does not apply to the use of XP Layer by affiliated companies of the same brand channel.

- 2.3. The client shall immediately acquire the rights of use necessary for permitted use if their use of XP Layer exceeds the acquired rights of use in terms of quality (regarding type of permitted use), or in terms of quantity (regarding number of acquired licenses). The rights to which ethinking is legally and contractually entitled remain unaffected.
- 2.4. Copyright notices, serial numbers, and other features serving to identify the program may not be removed or altered from XP Layer. The client is obligated to not engage in, initiate, or enable reverse engineering, disassembly, decompilation, translation, or unauthorized disclosure.
- 2.5. The granting of rights of use shall take place upon acceptance and, subject to a condition precedent, upon full payment of the agreed remuneration.

3. Protection and audit

- 3.1. The client is obliged to protect XP Layer from access of unauthorized third parties using appropriate measures. Each party shall take appropriate and customary precautions to protect user IDs and passwords from access of unauthorized third parties. The parties shall inform each other in case they suspect unauthorized third parties having gained access to user ID and/or password. In this case, the party discovering this must immediately change them in order to protect them. The client shall change their users' passwords in order to protect access to these accounts in the future.
- 3.2. The client shall allow ethinking - within a reasonable period of time - to verify the proper use of the XP Layer, in particular regarding the compliance with the quality and quantity of the client's use of the XP Layer within the agreed limits. For this, the client shall provide information to ethinking, allow access to relevant documents and records, and allow ethinking or an auditing firm chosen by ethinking and acceptable for the client to audit the hardware and software environment in use. ethinking has the right to conduct this audit on the client's premises during the client's business hours (weekdays, 9 a.m. - 5 p.m.), or have third parties bound by confidentiality conduct the audit. ethinking shall ensure that this activity interferes with the client's business operations as little as possible. If the audit shows the number of licenses exceeding the number of licenses purchased by more than 5% (five percent), or any other use not in accordance with the contract, the client shall bear the costs of the audit, otherwise, ethinking shall bear the costs. All other rights remain reserved.

4. Indemnification obligation and end of the license

- 4.1. The client is prohibited from using XP Layer in violation of the rights of third parties or for unlawful purposes. In particular, the client shall refrain from any type of use that could lead to ethinking being accused of violating applicable laws or rights of third parties. The client shall indemnify ethinking against all corresponding third-party

claims, taking reasonable costs for legal review representation into account, upon first request.

- 4.2. In case of termination or any other end of the license corresponding to the terms specified in the offer, the client must cease the use of the XP Layer and remove all installed copies of the XP Layer from their computers and return any potentially created backup to ethinking immediately or destroy them in accordance with ethinking's choice.

Part C. Special conditions for the commissioning of operating and maintenance services

In addition to the provisions of part A, these special conditions apply to the commissioning of operating and maintenance services.

1. Service content

- 1.1. Operating and maintenance services of ethinking typically include ethinking's digital products being adapted to and maintained on the client's systems. Service details are specified in the offer.
- 1.2. Unless otherwise agreed in the offer, ethinking owes a monthly availability of 99% for their digital products for the commissioning of operating and maintenance services.
- 1.3. Availability is agreed by the parties to specify the option of using the respective digital product from the time of delivery in accordance with the contract. Fault classes 2 or 3 as defined below, shall not count as restriction of availability.
- 1.4. Unless otherwise agreed in the offer, ethinking's digital products are also available in case of:
 - 1.4.1. Non-availability for work commissioned by the client;
 - 1.4.2. Non-availability for scheduled maintenance work, given a notice received from ethinking at least 48 hours in advance via email;
 - 1.4.3. Non-availability for the purpose of fixing errors that prevent the secure operation in accordance with GDPR regulations of the respective digital product or otherwise pose a significant risk to IT security, provided the period of non-availability not exceeding 4 hours;
 - 1.4.4. Non-availability caused by the client, in particular by load tests, mass imports, or provision of insufficient server or cloud instances.
- 1.5. ethinking's services do not include:
 - 1.5.1. Services for digital products of ethinking that are not used in accordance with the operating conditions set by ethinking;
 - 1.5.2. Services for digital products of ethinking that were altered by programming not done by ethinking;

- 1.5.3. Services for computer programs or parts thereof that are not part of the licensing.

2. Fault classes and reaction times

2.1. The following fault classes are deemed agreed:

2.1.1. Fault class 1: Critical

Fault with detrimental effect on operations - failure of data center, network, front-end application, payout channels, and similar

Maximum response time: 240 minutes

Target rectification time: 24h

2.1.2. Fault class 2: Substantial

Fault has moderate to severe detrimental effect on operations - partial failure of data center, slow network, slow front-end delivery, and similar

Maximum response time: 360 minutes

Target rectification time: 48h

2.1.3. Fault class 3: Minor

Fault has minor detrimental effect on operations - failure for a single user, insignificant graphical errors or design deviations, and similar

Maximum response time: 2 days

Target rectification time: 1 week

- 2.2. Response time is defined as the period during business hours that elapses after all required information, particularly error description, error behavior, affected product component, and already initiated steps, has been sent to alert@ethinking.de, or from the time the email log from the call center was received after a call to the on-call line, given such a service having been separately commissioned from ethinking by the client. The target rectification time describes the time that ethinking aims to take to rectify the fault during their business hours. For this, the client shall ensure that contact persons are available and reachable through agreed channels at the time of the fault for systems that are not maintained or managed by ethinking (e.g. EPaper, CMS, Paywall, etc.).

- 2.3. Fault rectification services may also include, at ethinking's discretion, a workaround, delivery of an update or upgrade, and/or delivery of a new version.

3. Service Credit Model

- 3.1. Regarding the client's commission of operation and maintenance services, ethinking undertakes a monthly availability of 99% for the respective digital product. If this availability rate is not met for a given calendar month, the client must submit a written request for service credit to ethinking no later than 15 days after the end of the calendar month in question. ethinking provides access to a dashboard allowing the client to check the availability.

- 3.2. If ethinking fails to meet the availability rate, the client may demand the following credit, excluding any other form of compensation: The agreed remuneration may be reduced proportionally for the period during which the service was not available to the client to the agreed extent. If no monthly billing is agreed, the agreed remuneration for the month in question shall be used for this calculation.
 - 3.3. In order to display the availability, ethinking provides a dashboard that shows the availability of the agreed measuring point for the last 30 days and that can be viewed by the client.
 - 3.4. Total compensation shall never exceed the paid total of the monthly remuneration. Compensation may only be claimed for a fault caused by an error for which ethinking is responsible. Within the meaning of this provision, failure of the data center/cloud provider, failure of parts not supplied and maintained by ethinking, and force majeure, for example, does not constitute a fault entitling the client to compensation.
- 4. Backup and recovery of data**
- 4.1. If agreed in the offer, ethinking shall periodically create backup copies of the respective digital product. Data backup shall occur in accordance with the agreements made in the offer and in accordance with the client's requirements.
 - 4.2. If ethinking detects a data loss, ethinking shall restore lost data from a data backup to the time of the last data backup. ethinking shall inform the contact persons as agreed by the parties via email of the loss and the point in time that the data has been restored to.

Part D. Special conditions for the use of Push Service and Analytics & Data Engine (ADE).

In addition to the provisions of part A, these special conditions apply to the use of the Push Service and of the Analytics & Data Engine (ADE).

1. Service content

- 1.1. In general, Push Service by ethinking comprises the temporary provision of the service specified in the offer and, in connection with this, other services also specified therein by ethinking to the client for use via a remote data connection.
- 1.2. In general, ADE by ethinking comprises various subjects of performance within the scope of quantitative and qualitative data collection (analytical data). ethinking provides the client with the worldwide, exclusive, irrevocable right of use for the analytical data without restriction in terms of time, location, or content. ethinking remains permitted to use the data themselves. The client accepts ethinking not guaranteeing any minimum amount of analytics data per billing period or for the term of the contract.

- 1.3. The scope of application and range of functions of the subjects of performance provided as SaaS, and the technical and organizational requirements for their use (e.g. required bandwidth of the remote data connection) are defined in more detail in the offer. ethinking sets up the agreed subjects of performance on one of their servers, accessible to the client via the Internet. A customization or expansion of the respective subject of performance tailored to the specific needs of the client is not agreed but may be agreed upon for a fee.
- 1.4. ethinking is free to provide a more recent version of the subjects of performance than those provided for use at the start of the contract if this change is reasonable for the client. The client has no claim to a newer version of the initially provided and agreed upon subject of performance.
- 1.5. ethinking shall provide the subject of performance at the agreed router output point of the data center where the server is located ("transfer point"). The subject of performance remains on the server of ethinking. ethinking has the right to re-define the transfer point, given this is required for smooth access to the subject of performance owed by them.
- 1.6. Unless otherwise agreed in the offer, ethinking owes a monthly availability of 99% for the provision of the respective subject of performance.
- 1.7. Availability is agreed by the parties to specify the option of using the subject of performance from the time of delivery in accordance with the contract. Fault classes 2 or 3 as defined below, shall not count as restriction of availability.
- 1.8. Unless otherwise agreed in the offer, ethinking's subjects of performance are also available in case of:
 - 1.8.1. Non-availability for work commissioned by the client;
 - 1.8.2. Non-availability for scheduled maintenance work, given a notice received from ethinking at least 48 hours in advance via email;
 - 1.8.3. Non-availability for the purpose of fixing errors that prevent the secure operation in accordance with GDPR regulations of the respective subject of performance or otherwise pose a significant risk to IT security, provided the period of non-availability not exceeding 4 hours.
 - 1.8.4. Non-availability caused by the client, in particular by load tests and other overloads.
- 1.9. ethinking's services do not include:
 - 1.9.1. Services for subjects of performance of ethinking that are not used in accordance with the operating conditions set by ethinking;
 - 1.9.2. Services for subjects of performance of ethinking that were altered by programming not done by ethinking;
 - 1.9.3. Services for computer programs or parts thereof that are not part of the agreed licensing.

2. Fault classes and reaction times

2.1. The following fault classes are deemed agreed:

2.1.1. Fault class 1: Critical

Fault with detrimental effect on operations - failure of data center, network, front-end application, playout channels, and similar

Maximum response time: 240 minutes

Target rectification time: 24 hours.

2.1.2. Fault class 2: Substantial

Fault has moderate to severe detrimental effect on operations - partial failure of data center, slow network, slow front-end delivery, and similar

Maximum response time: 360 minutes

Target rectification time: 48 hours.

2.1.3. Fault class 3: Minor

Fault has minor detrimental effect on operations - failure for a single user, insignificant graphical errors or design deviations, and similar

Maximum response time: 2 days

Target rectification time: 1 week

2.2. Response time is defined as the period during business hours that elapses after all required information, particularly error description, error behavior, affected product component, and already initiated steps, has been sent to alert@ethinking.de, or from the time the email log from the call center was received after a call to the on-call line, given such a service having been separately commissioned from ethinking by the client. The target rectification time describes the time that ethinking aims to take to rectify the fault during their business hours. For this, the client shall ensure that contact persons are available and reachable through agreed channels at the time of the fault for systems that are not maintained or managed by ethinking (e.g. EPaper, CMS, Paywall, etc.).

2.3. Fault rectification services may also include, at ethinking's discretion, a workaround, delivery of an update or upgrade, and/or delivery of a new version.

3. Service Credit Model

3.1. ethinking undertakes to provide a monthly availability of 99% after the operational provision of the subjects of performance to the client. If this availability rate is not met for a given calendar month, the client must inform ethinking of this in writing no later than 15 days after the end of the calendar month in question. ethinking provides access to a dashboard at <https://.de>, allowing the client to check the availability of the respective subjects of performance for the last 30 days.

- 3.2. If ethinking fails to meet the specified monthly availability rate, the client may demand the following credit, excluding any other form of compensation:

If ethinking fails to meet the availability rate, the client may demand the following credit, excluding any other form of compensation: The agreed remuneration may be reduced proportionally for the period during which the service was not available to the client to the agreed extent.

If no monthly billing is agreed, the agreed remuneration for the month in question shall be used for this calculation.

- 3.3. Total compensation shall never exceed the paid total of the monthly remuneration. Compensation may only be claimed for a fault caused by an error for which ethinking is responsible. For example, failure of the data center/cloud provider. Within the meaning of this provision, failure of parts not supplied and maintained by ethinking, and force majeure, for example, does not constitute a fault entitling the client to compensation.

4. Granting of rights

- 4.1. ethinking grants the client a simple, non-exclusive, non-transferable right of use, limited to the contract term, to use the agreed subjects of performance for their intended purpose.
- 4.2. The client shall not be granted access to the source code of the subjects of performance, and the client undertakes not to themselves engage in, initiate, or enable reverse engineering, disassembly, decompilation, translation, or unauthorized disclosure.
- 4.3. If necessary for the contractual use, the client shall grant ethinking the right to copy the data stored by ethinking for the client and to store this data in a backup data center. If necessary to eliminate faults, ethinking has the right to change the structure and the format of the data.
- 4.4. The granting of rights of use shall take place upon acceptance and, subject to a condition precedent, upon full payment of the agreed remuneration.

5. Storage space

- 5.1. Within the scope of use of the agreed subject of performance, the customer will be provided with storage space on a data server to an extent appropriate for the specific product. The customer may use this storage space to store, view, and edit certain data that is necessary for the use of the subject of performance.
- 5.2. The customer undertakes not to store any content on the storage space provided whose provision, publication, or use violates applicable law, official requirements, or the rights of third parties. The client further undertakes to check their data and information for viruses or other harmful components before storing it on the data server and to use state-of-the-art measures (e.g. antivirus programs) for this purpose.

6. Warranty

- 6.1. The following shall apply in addition to the provisions in the general part: Regarding the paid provision of the subject of performance and the storage space, ethinking shall be liable for defect in accordance with the general provisions for leases (sec. 536 et seq. German Civil Code (BGB)), but with the stipulation that, contrary to sec. 536a (1) BGB, liability for damages shall only exist in the event of fault in accordance with the general terms of these GTC.
- 6.2. If it is impossible or unsuccessful to remedy the defect, in case of a culpable or unreasonable delay or a serious and final refusal by ethinking to remedy the defect, or if any other remedy of the defect is unreasonable for the client, the client shall be entitled in particular to reduce the remuneration owed in accordance with the extent of the impairment (reduction). The client is not entitled to assert a claim for reduction by independently deducting the reduction amount from the currently payable remuneration; the client's claim under the law of unjust enrichment to reclaim the excess portion of the remuneration paid remaining unaffected.

7. Currentness, correctness, and completeness of the analytical data

- 7.1. ethinking is not responsible for the currentness and correctness of the characteristics, as this depends on third-party systems that ethinking cannot influence.
- 7.2. If the client becomes aware of an error in the characteristics, they shall notify ethinking immediately. ethinking then can determine the facts and correct the analytical data. Otherwise, ethinking has the right to exclude unverified information from the analytical data.

8. Backup and recovery of data

- 8.1. If agreed in the offer, ethinking shall periodically create backup copies of the respective subject of performance. Data backup is performed on a rolling basis, meaning that the data backed up for one weekday is overwritten by the data backed up for the same weekday of the following week. The same principle applies to weekly data backup, where data is also overwritten on a rolling basis after four weeks.
- 8.2. If ethinking detects a data loss, ethinking shall restore lost data from a data backup to the time of the last data backup. ethinking shall inform the contact persons as agreed by the parties via email of the loss and the point in time that the data has been restored to.