
General Terms and Conditions of Q-DAS GmbH

Leasing of standard software

1) Scope of Applicability

- 1.1 For any contracts of Q-DAS GmbH (hereinafter referred to as: "**Q-DAS**") entered into with its contractual partner (hereinafter referred to as: "**Customer**") regarding the leasing of standard software (hereinafter referred to as: "**Software Lease Agreement**") these General Terms and Conditions shall apply exclusively (hereinafter referred to as: "**General Terms of Lease**"), unless otherwise agreed upon.
- 1.2 Q-DAS shall not accept any conflicting conditions or conditions of the customer that deviate from these General Terms of Lease unless Q-DAS has expressly agreed to such in writing. These General Terms of Lease also apply if Q-DAS, being aware of conflicting conditions or conditions of the customer that deviate from these General Terms of Lease, renders the services towards the customer without reservation or accepts payments.
- 1.3 Q-DAS shall communicate to the customer any amendments or additions to these General Terms of Lease. They are deemed accepted if the customer does not object to them within 30 days in writing. If the customer objects within the 30-day period, the amend-ed and supplemented General Terms of Lease are still deemed accepted if the customer continues to use the contractual services. Q-DAS will in particular point out such a con-quence to the customer when announcing the amendments or additions.
- 1.4 Q-DAS[®] software is only for commercial use. These General Terms of Lease only apply towards companies in the sense of Section 14 BGB [German Civil Code], legal persons or separate legal entities under public law and to special funds under public law.

2) Entering into a Contract

- 2.1 Unless otherwise indicated by us, offers of Q-DAS are non-binding and subject to change.
- 2.2 A legal bond only comes into effect with the written order confirmation by Q-DAS, as well as by the fact that Q-DAS starts rendering its services after having received an order. The customer accepts applicability of these terms of use at the latest by accepting the first service rendered by Q-DAS in line with the entered into Software Lease Agreement.

3) Subject Matter of the Contract, Scope of Services

- 3.1 Subject matter of the Software Lease Agreement or these General Terms of Lease is the temporary licensing of the computer program indicated in the Software Lease Agreement or the respective license certificate as executable program including user documentation available online at <http://www.q-das.de> (hereinafter referred to as: "**Q-DAS[®] Software**") and the granting of the rights of use as described in section 5. The hardware and software environment within which Q-DAS[®] software is to be use is also set forth in the license certificate. The customer shall receive the respective license certificate at the latest together with the Q-DAS[®] software.

- 3.2 Before entering into the contract, the customer shall ensure that the specifications of the Q-DAS® software meets the customer's wishes and requirements. He is aware of the essential features and conditions for operating the software.
- 3.3 Q-DAS provides the customer with a copy of the Q-DAS® software on a data carrier or via download as well as with an online version of the associated user documentation for reasons of updating. If the Q-DAS® software is delivered by way of download, Q-DAS shall provide to the customer the Q-DAS® software on its online website (<http://www.q-das.de>) as well as the associated license key. The customer receives the license key only for the use of the Q-DAS® software as defined in more detail in the terms of use, the license certificate and the user documentation on hand. For a login in-to the protected area of its website, Q-DAS may communicate to the customer a user name as well as the associated password (hereinafter referred to as: "**Login Data**").
- 3.4 The owed quality and functionality of the Q-DAS® software results ultimately from the license certificate and the user documentation. Information contained therein is to be seen as specifications of services and not as guarantees. A guarantee is only granted if it was designated as such expressly.
- 3.5 Deliveries and services of any other kind (e.g. installation, parametrization and configuration of the software; training; hardware delivery) are not subject matter of this Soft-ware Lease Agreement but may be agreed upon separately between the parties.

4) Delivery Time and Time of Performance

- 4.1 Information regarding delivery time and time of performance of service are is non-binding, unless these are designated as binding by Q-DAS in writing. Q-DAS may render partial services to the extent that the delivered components may be used by the customer in a reasonable fashion.
- 4.2 To the extent that delivery time and time of performance of service were agreed upon in writing, such shall be extended by the period in which the customer is in default from the contract, and by the period in which Q-DAS through circumstances Q-DAS is not responsible for is prevented from delivery or performance of service and by a reasonable preparatory period after the end of the reason for impediment. These circum-stances also include force majeure and labor disputes. Periods are also deemed extend-ed by the period in which the customer fails to cooperate, e.g. does not provide information, does not grant access, does not deliver supplies nor make its employees available.
- 4.3 If the parties to the contract agree upon other or additional services at a later point in time that have an impact on such periods, such periods are extended by an appropriate period.
- 4.4 Reminders and setting deadlines by the customer must be made in writing to be effective. A grace period must be reasonable. A period of less than two weeks is only ap-propriate in the event of extreme urgency.

5) Granting of Rights

- 5.1 After full payment of the fee according to the Software Lease Agreement, the customer is granted the non-exclusive, non-transferable, non-sublicensable right, limited to the term of the lease agreement, for the use of the Q-DAS® software in the scope granted via these General Terms of Lease and the license certificate. Prior to full payment of the fee, all data carriers as well as potentially delivered user documentation are under reservation of proprietary rights. The permissible use comprises the installation of the Q-DAS® software, the loading into the main memory as well as the use by the customer according to the terms of the contract. The number of licenses as well as type and scope of use are determined according to the license certificate. Unless otherwise specified in the license certificate, only one license is leased.

- 5.2 The customer is authorized to produce a backup copy if such is required to secure future use. A backup copy is a copy of the computer program that is reserved for cases in which the actual program copy is accidentally damaged or destroyed, is lost or cannot be used any longer for other reasons. The backup copy must not be used as an additional productive system. The customer must label the backup copy with the words "backup copy" and must affix a copyright notice of the manufacturer in a clearly visible fashion.
- 5.3 Furthermore, the customer is only authorized to copy, process or to decompile the Q-DAS® software if this is in principle legally permissible and only if Q-DAS did not grant information required for such to the customer within a reasonable period. For all know-how and information the customer receives in this context about the Q-DAS® software, section 15 applies. Anytime a third party is included, the customer will provide to Q-DAS a written declaration of the third party that such third party commits directly towards Q-DAS to comply with the rules as determined in section 5 and section 15.
- 5.4 Beyond the cases cited in sections 5.1 to 5.3 the customer is not authorized to copy or reproduce the software.
- 5.5 The customer is not authorized to forward to third parties the copy of the software provided to the customer or the potentially created backup copy. In particular, the customer is not authorized to sell, further lease or sublicense in any way the Q-DAS® software, to publicly reproduce the software or give access to such or to provide the software to third parties free of charge or against payment, e.g. by way of application service providing or as "software as a service."
- 5.6 If the customer violates one of the aforementioned provisions, all rights of use granted in line with the Software Lease Agreement are immediately made null and void and are automatically returned to Q-DAS. In such a case, the customer must immediately and completely stop any use of the Q-DAS® software, delete any and all copies of the Q-DAS® software installed on his systems as well as delete the potentially created backup copy or surrender such to the licensor.
- 5.7 Copyright notices, serial numbers as well as any other features serving to identify the program must not be removed from the Q-DAS® software nor altered.

6) Remuneration; Payment Terms; Default

- 6.1 For the services according to the Software Lease Agreement, the customer shall pay an annual fee. Q-DAS invoices such a fee on an annual basis and in advance.
- 6.2 Unless expressly otherwise agreed upon, the invoice amount is due without deduction immediately after delivery of the software and receipt of the invoice by the customer.
- 6.3 All fees and other amounts cited or collected by Q-DAS are in principle without sales tax.
- 6.4 The amount of the fee is based on the currently applicable general price list of Q-DAS. The fee is a fixed fee for at least a period of one year. Q-DAS reserves the right to increase the fee, in particular in adjustment regarding increased labor and material costs. The price change is carried out at reasonable discretion (Section 315 BGB [German Civil Code]); however, Q-DAS shall take into consideration industry-specific price increases. Such price changes will be communicated to the customer in writing by Q-DAS. A price change starting at the beginning of the next contract year is deemed agreed upon if the customer does not terminate the contract within four weeks after receipt of the notice towards the end of the current contract year.
- 6.5 If the customer is in default regarding payment obligations, Q-DAS is authorized to apply default interest in the amount of 9 percent above the currently applicable base interest rate of the European Central Bank for the portion of receivables still outstanding.

- 6.6 For work performed outside of the premises of Q-DAS, Q-DAS reserves the right to invoice any expenditure of time as well as travel and lodging expenses incurred for such work to the customer as a whole or in part. The costs are based on the currently applicable price list.

7) Customer's Obligation to Cooperate

- 7.1 It is the responsibility of the customer to ensure the functionality of the working environment of the program. The customer shall also take precautions in the event that the program does not work properly in whole or in part (e.g. by data backup, documentation of software use, fault diagnosis, regular checking of results, emergency planning).
- 7.2 The customer is obligated to follow the operating instructions and other instructions of Q-DAS.
- 7.3 The customer undertakes to inform Q-DAS immediately in writing of any errors that may occur in the Q-DAS® software. In this context, the error and its circumstances shall be described in an understandable way and as accurately as possible. In addition, existing documents suitable for illustrating the error must be enclosed, in particular - as far as this is possible - a screen printout or a printout of the document containing the error. If necessary, the error-causing data shall be made available on data carriers or by email for testing purposes.
- 7.4 The customer is obligated to take appropriate measures to protect the Q-DAS® software as well as the license key and, if applicable, the access data for online access from un-authorized third parties. In particular, all copies of the Q-DAS® software as well as the license key and any existing access data must be kept in a protected place.

8) Term of the Contract and Termination

- 8.1 Unless otherwise agreed in the Software Lease Agreement or the respective license certificate, the minimum term of the Software Lease Agreement shall initially run until the end of the year in which the Q-DAS® software is installed.
- 8.2 After expiration of the minimum term, the Software Lease Agreement shall be extended by a further 12 months in each case, unless it is terminated by Q-DAS or the customer with three (3) months' notice to the end of the minimum term or to the end of the respective extension period.
- 8.3 In addition, Q-DAS has the right to terminate the Software Lease Agreement with regard to individual or all license certificates in the event that the respective Q-DAS® software is discontinued by giving three (3) months' notice to the end of the month.
- 8.4 The right of each contractual partner to extraordinary termination of the Software Lease Agreement for good cause remains unaffected. Good cause authorizing Q-DAS to terminate the contract is given in particular if
- (a) fees due are not paid within 30 days after expiration of a grace period set in writing by Q-DAS,
 - (b) the customer infringes rights of use by using the Q-DAS® software beyond the extent permitted under the Software Lease Agreement and does not remedy the infringement within a reasonable period of time following a warning by Q-DAS
 - (c) a direct competitor of Hexagon AB (publ) group of companies with its registered office in Stockholm, Sweden, organization no. 556190-4771, as ultimate parent company acquires 50% or more of the customer's shares; or

- d) the customer or its legal representatives or vicarious agents culpably violate their duty to cooperate despite a warning and a deadline set by Q-DAS to remedy the situation.

8.5 Any termination must be made in writing.

8.6 At the end of the contract, the customer must cease using the Q-DAS® software and remove all installed copies of the Q-DAS® software from his computers and return immediately to Q-DAS the data carrier with the Q-DAS® software, if provided, as well as the backup copy made, if any, or destroy it at his discretion.

9) Contractual Penalty

In the event of violation of sections 5 or 15 Q-DAS is authorized to assert a contractual penalty for each violation in the amount of up to three times the agreed upon fee for the Q-DAS® software. The right to prove greater damage is reserved. The right of Q-DAS to demand an injunction against the infringement remains unaffected.

10) Maintenance

- 10.1 Q-DAS regularly works on changes and improvements of the functions and the process of the Q-DAS® software. The changes and improvements made in the course of error correction will be implemented in new versions. During the term of the Software Lease Agreement, Q-DAS will provide the customer with the latest version of the leased Q-DAS® software via download. Included are updates and upgrades in the form of minor or major releases ("**Releases**"), the usage rights of which correspond to the usage rights of the leased Q-DAS® software. If a new release is delivered to the customer, the versions of Q-DAS required for this in the software and hardware environment will be communicated to the customer if these differ from the current one. Maintenance of the Q-DAS® software can only be guaranteed if the customer uses one of the most recent versions, which is not older than 36 months at the time of its first publication by Q-DAS.
- 10.2 Q-DAS guarantees maintenance of the agreed quality of the Q-DAS® software - or, in the absence of an agreement, guarantees for its normal use - during the term of the contract and that no rights of third parties conflict with the use of the Q-DAS® software in accordance with the contract. Q-DAS shall remedy any material defects and defects of title in the Q-DAS® software within a reasonable period of time.
- 10.3 In the event of a material defect, Q-DAS shall initially be entitled to subsequent performance, i.e. at its own discretion to remedy the defect ("**subsequent improvement**") or to make a replacement delivery. Within the scope of the replacement delivery, the customer shall, if necessary, adopt a new version of the software, unless this leads to unreasonable impairments. In the event of defects in title, Q-DAS shall, at its own discretion, provide the customer with a legally flawless opportunity to use the Q-DAS® software or modify it in such a way that no rights of third parties are infringed.
- 10.4 Q-DAS is entitled to perform maintenance at the customer's premises. Q-DAS also fulfills its obligation to remedy defects by making releases with an automatic installation routine available for download on its website and by offering the customer phone support to solve any installation problems that may arise.
- 10.5 The warranty for material defects does not apply to defects which are based on the fact that the Q-DAS® software is used in a hardware and software environment which does not meet the requirements stated in the license certificate or for changes and modifications which the customer has made to the Q-DAS® software without being entitled to do so by law, the Software Purchase Contract or these terms of use or on the basis of prior written consent by Q-DAS.

- 10.6 The customer is obligated to notify Q-DAS in writing of defects in the Q-DAS® software immediately after their discovery. In the case of material defects, this is done by describing the time of occurrence of the defects and the detailed circumstances.

11) Liability

- 11.1 Q-DAS assumes no liability for the correctness and completeness of the customer's data. Any liability for the technical or economic suitability of the Q-DAS® software for the needs of the customer is excluded.
- 11.2 In all cases, Q-DAS's liability for damages - regardless of whether they arise from contractual or non-contractual claims - shall be governed exclusively by the following provisions.
- 11.3 In the event of fraudulent concealment of defects in a service and assumption of a guarantee for the success of a service, in the event of intent or gross negligence, in the event of injury to life, limb or health and in the event of culpable breach of essential contractual obligations, Q-DAS shall be liable in accordance with the statutory provisions. The same shall apply insofar as the mandatory provisions of the Product Liability Act apply.
- 11.4 However, in the event of a non-intentional or grossly negligent breach of material contractual obligations, Q-DAS's liability for damages shall be limited in amount to foreseeable, typically occurring damage. In any case, the liability per contract year is limited to the amount of the fee paid by the customer for the Q-DAS® software affected by the damage for the contract year in which the damage occurs.
- 11.5 In the event of loss of data, Q-DAS's liability under the foregoing provisions shall be limited to that expenditure which is necessary and reasonable for the recovery of the data in the case of proper data backup by the customer.
- 11.6 Otherwise, the liability of Q-DAS for damages is excluded. The strict liability of Q-DAS for initial defects of the Q-DAS® software is thus also excluded.
- 11.7 Unless otherwise provided for in the above provisions, Q-DAS shall therefore not be liable for damages that have not occurred to the Q-DAS® software itself (e.g. loss of profit or other pure financial losses of the customer), nor for claims for damages arising from the violation of ancillary obligations arising from an obligation or the law (e.g. incorrect advice or clarification, instructions regarding handling) and for claims arising from non-contractual liability.
- 11.8 Insofar as the liability of Q-DAS is excluded or limited, this shall also apply to the personal liability of the employees, representatives and vicarious agents of Q-DAS.
- 11.9 Claims for damages according to section 11 lapse in 12 months. The limitation period begins at the point in time at which the claim has arisen and the customer has become aware or could have become aware of the circumstances giving rise to the claim and the fact that Q-DAS is the debtor of the claim. It ends at the latest with expiration of the statutory maximum periods of Section 199 Subsections 2 and 3 BGB [German Civil Code]. However, the statutory limitation provisions shall apply to all claims based on gross negligence, warranty, fraudulent intent as well as personal injury and claims under the Product Liability Act.

12) Force Majeure

- 12.1 Events of force majeure which make it significantly more difficult or temporarily im-possible for Q-DAS to provide services under the contract shall extend the time for performance of the respective obligations by the duration of the impairment and by the time required for normal working conditions to be established. This shall also apply if Q-DAS is already in default with its performance.
- 12.2 Force majeure shall be deemed to exist if external, unforeseen and unavoidable circumstances occur for which Q-DAS is not responsible, such as labor disputes, operational disruptions, natural disasters, scarcity of raw materials or energy, failure of transmission services, means of transport or energy supply, currency restrictions, official measures, fire, war and riots or other events that occur through no fault of Q-DAS, irrespective of whether they occur at Q-DAS's place of business or at an external place of business on which the respective contractual performance depends.
- 12.3 Q-DAS is obligated to inform the customer immediately of the occurrence and end of such impairment.

13) Offsetting; Right of Retention

- 13.1 The customer shall only be entitled to the right to offset if his counterclaims have been legally established, are undisputed or acknowledged by Q-DAS. In these cases, the customer is also entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

14) Vicarious Agents; Transfer to third Parties

- 14.1 Q-DAS shall be entitled to engage vicarious agents at any time to execute the Software Lease Agreement in whole or in part.
- 14.2 Q-DAS shall also be entitled to transfer the rights and obligations arising from the Software Lease Agreement in whole or in part to third parties at any time. All rights and obligations of the customer remain unaffected by this. The customer agrees to such a transfer already when entering into the Software Lease Agreement. In the event of the transfer of the contract, Q-DAS shall inform the customer of this circumstance and of his right to terminate the Software Lease Agreement by written notice given to Q-DAS within one month of receipt of the notice.
- 14.3 The customer may transfer claims against Q-DAS to third parties only with the written consent of Q-DAS.
- 14.4 The customer shall immediately notify Q-DAS in writing of any sale of company shares or other changes of ownership as well as of any sale or lease of his business operations. The same applies to any change in the legal form, company or address of the customer. Costs and damage incurred by Q-DAS due to a breach of this duty to notify shall be borne by the customer.

15) Confidentiality

- 15.1 The contracting parties undertake to treat as confidential all items (e.g. software, documents, information) that are legally protected or contain company or trade secrets or are designated as confidential, and which are received or become known to one party by the other contracting party before or during the execution of the contract, even after the end of the contract. Items exempt from this obligation are items,
- (a) which were demonstrably already known to the recipient when the contract was entered into or which subsequently become known to third parties, without such infringing any confidentiality agreement, statutory provisions or official orders;

- (b) which are publicly known at the time the contract was entered into or are subsequently made publicly known, unless this is based on a breach of this contract;
- (c) which are required to be disclosed by law or by order of a court or authority. To the extent permitted and possible, the recipient subject to the disclosure obligation will give the other party prior notice and the opportunity to take action against the disclosure.

15.2 The contracting parties shall keep and secure these items in such a way that access by third parties is excluded.

16) Data Protection; Compliance with License Terms

16.1 Q-DAS will handle personal data that has become known to Q-DAS or will become known to Q-DAS in connection with the performance of the contract in accordance with all applicable data protection regulations. The customer undertakes to observe all applicable data protection regulations.

16.2 Q-DAS has a legitimate interest in preventing software piracy. At Q-DAS's request, the customer shall enable Q-DAS to verify the proper use of the Q-DAS® software and compliance with the license terms ("**Audit**"). To this end, the customer shall provide Q-DAS with information, grant access to relevant documents and records and enable Q-DAS to check the software environment used. Q-DAS may carry out the inspection at the customer's premises during the customer's regular business hours or have it carried out by third parties who are bound to secrecy. Q-DAS will ensure that the customer's business operations are disturbed as little as possible by the on-site inspection. Q-DAS also reserves the right to check electronically whether the software used by the customer is an original version of the Q-DAS® software ("**Check**"). Such an inspection can take place, for example, by automatic transmission of suitable system data triggered by the Q-DAS® software or by Q-DAS requesting the customer to transmit a specific system file to it. Q-DAS shall not charge the customer any costs for the audit or inspection; however, claims of Q-DAS due to a violation of the license terms determined by the audit or inspection shall remain unaffected.

16.3 The parties declare that the processing of personal and other data ("**Data**") in connection with the audit is necessary to safeguard the legitimate interests of Q-DAS and does not outweigh the interests or fundamental rights and freedoms of third parties. As a precaution, the customer declares his consent with the collection and processing of data required for the audit. If, in connection with the audit, the consent of a natural person (in particular the customer's employees) to the processing of their personal data should become necessary, the customer shall support Q-DAS in obtaining such consent.

17) Miscellaneous

17.1 Amendments of and additions to this contract must be made in writing to be effective. The written form requirement may only be waived in writing. In order to comply with the written form, transmission in text form, in particular by fax or email, is also sufficient, unless otherwise stipulated in these General Terms and Conditions.

17.2 The parties are aware that the software under this contract may be subject to export and import restrictions. In particular, there may be obligations to obtain permits, or the use of the software or associated technologies abroad may be subject to restrictions. The customer shall comply with the applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America as well as all other relevant regulations. Performance of the contract by Q-DAS is subject to the proviso that there are no obstacles to performance due to national and international regulations of export and import law or any other statutory regulations.



- 17.3 The laws of the Federal Republic of Germany apply exclusively while excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 17.4 Place of fulfillment and exclusive place of jurisdiction for all disputes arising from this contract and its execution shall be Weinheim/Bergstraße, Germany. However, Q-DAS is authorized to bring an action against the customer before the court responsible for the customer's place of business.
- 17.5 Should a provision of this Software Lease Agreement including these General Terms of Lease be or become invalid as a whole or in part, both parties to the contract are obligated to replace the invalid provision with a valid one that comes closest to the purpose of the contract intended by both parties in a permissible fashion.