

# CITUNIUS STANDARD TERMS AND CONDITIONS OF BUSINESS

1. These Standard Terms and Conditions of Business (“Terms and Conditions”) are a legal agreement between you individually, or if you are authorized to acquire Citunius products, software or access and/or use our services and any and all enhancements, modifications, revisions and/or new versions thereof (collectively, “Products,” “our Products” or “Product”) on behalf of your company or another organization between the whom you represent, and/or if you are a reseller of Citunius Products (in all instances, “you” or “yours”) and Citunius (“we,” “us,” “our,” or “Citunius”). Citunius means Citunius GmbH, Kapuzinerstrasse 50, 55116 Mainz, Germany. These Terms and Conditions govern your purchase or resale of our Products, directly from us, in any manner, including via our website ([www.citunius.de](http://www.citunius.de)). BY ACCEPTING THESE TERMS AND CONDITIONS, YOU CONFIRM THAT YOU ARE OVER 18 AND ARE LAWFULLY ABLE TO ENTER INTO AND FORM CONTRACTS. BY USING OUR PRODUCTS, CLICKING THE “I AGREE”, “ACCEPT” OR “YES” BUTTON, LOADING THE PRODUCTS OR OTHERWISE INDICATING ASSENT, YOU ARE AGREEING TO THESE TERMS AND CONDITIONS, AND ANY RELATED TERMS (AS EXPLAINED BELOW), WHICH WILL BECOME A LEGAL AND ENFORCEABLE CONTRACT BETWEEN YOU AND CITUNIUS. PLEASE READ THESE TERMS AND CONDITIONS AND ANY APPLICABLE TERMS CAREFULLY AND MAKE SURE YOU UNDERSTAND ALL RELEVANT AND APPLICABLE DOCUMENTS BEFORE YOU AGREE TO THEM. The “Citunius Product End User License Agreement and Terms of Use” (“Terms”) is available on <https://www.citunius.de/en/legal>, which may apply to our Products and apply in addition to, and supplement the provisions of, these Terms and Conditions. If the Terms apply to our Products, in the case of a conflict between these Terms and Conditions and the Terms, the provisions of the Terms shall govern. Some of our Products may come with additional product information (“Product Information Sheet”) and/or written materials, in printed or electronic form, describing the features of a particular Product (collectively, the “Documentation”).

## 2. YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS

Any presentation of Citunius Products on the internet, in prospectuses, catalogues and brochures is for informational purposes only and shall not provide an express or implied warranty, nor any binding offer from Citunius but, rather, shall constitute an opportunity for you to inform yourself and prepare to make a binding contractual offer in the form of an order. A legally binding agreement between you and Citunius will be concluded only if you place an order and Citunius accepts such order by way of a written (email shall be deemed sufficient) order confirmation or by providing one or more Products to you (e.g. per download or by provision of a login).

If you are entitled to withdraw from or terminate our agreement based on any applicable statutory withdrawal right and should you exercise this right within the relevant statutory period, the applicable Terms will terminate at the same time. In case of such withdrawal or termination, we will refund you any fee you paid for a respective license associated with a particular Product (“Fee”) pursuant to any applicable statutory provisions.

### 3. CHANGES TO THIS AGREEMENT

We may modify these Terms and Conditions at any time, for example, in order to reflect changes to the law or changes to our Products and the way in which they are sold and distributed. We will publish these revised Terms on <https://www.citunius.de/en/legal>, but will likely require you to accept the updated Terms. Such updated Terms and Conditions will control the relationship between you and us regarding the subject matter of these Terms and Conditions. If you do not agree with a material modification to these Terms and Conditions, you are obliged to inform Citunius without undue delay. In a case in which you do not agree with a unilateral material modification by us of these Terms and Conditions, you are advised of your right to rescind these Terms and Conditions or to terminate the contract. If you do decide to rescind these Terms and Conditions or terminate the contract, you must stop using our Products immediately and remove them from all of your Devices, and you may be eligible for a refund of the purchase price paid. You are prohibited from further use of our Web Shop and purchase of our Products directly from us.

### 4. PRIVACY AND COLLECTION OF PERSONAL INFORMATION

When you accept these Terms, you also agree that our privacy policy then-existing at <https://www.citunius.de/en/privacy> applies to you and that you allow us and, as applicable, our Product providers to collect, transfer, backup and store your Personal Data and other data pursuant to the terms of the privacy policy. **Please review our privacy policy on a regular basis as it will provide you with the most up to date information with respect to how we collect, store and use your data.**

### 5. REQUIRED DISCLOSURES OF INFORMATION

You acknowledge, consent and agree that we may access, preserve, and disclose your registration and any other information you provide if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary in our opinion to: (i) comply with legal process, including, but not limited to, civil and criminal subpoenas, court orders or other compulsory disclosures; (ii) enforce these Terms and Conditions; (iii) respond to claims of a violation of the rights of third parties, whether or not the third party is a registered user, individual, or government agency; (iv) respond to customer service inquiries; or (v) protect the rights, property or personal safety of Citunius, our users or the public.

### 6. UNAUTHORIZED USE

Citunius reserves all rights to bring an action to prohibit or stop any unauthorized use of our Web Shop.

## 7. THIRD PARTY LINKS

Linked third party websites are not under our control and, as such, we cannot assume responsibility for the content of such links. We review the contents of such external links before linking to the best of our abilities; however, we cannot reasonably ensure permanent control of third-party websites. As soon as we become aware of an infringement on the part of a linked website, we will remove the link without undue delay.

## 8. AUTOMATIC RENEWAL

When you purchase or obtain access to any of our Products, you are granted a license to each respective Product for a particular term (“License Term”) (please see the Terms at <https://www.citunius.de/en/legal/> for more information). Unless one of us terminates our relationship, at least 30 days prior to the end of a current License Term, the License Term will be renewed for an additional License Term, automatically, at the then-effective list price. The new License Term will have the same duration as the previous License Term. Don’t worry, if you see a charge for an automatic renewal and you did not wish to renew for an additional License Term, just contact us at [sales@citunius.de](mailto:sales@citunius.de) and we will refund you the price charged for such additional License Term.

## 9. PROVISIONS FOR RESELLERS

The following terms will apply if Citunius provides you its Products expressly for the purpose of resale and, as such, you become a reseller of our Products (“Reseller”).

As a Reseller, you may resell Product licenses Citunius grants you to a third party. In the event of a resale, you will report the serial numbers Citunius issues (e.g. License numbers, One-Time Codes or Logins) on the invoice you submit to Citunius.

As a Reseller, you shall not grant third parties any rights that are different from, or greater than, those permitted pursuant to these Terms and Conditions and the respective Product Terms.

You are responsible for obtaining and paying for any necessary official permits for the resale, transport, purchase and use of the Product(s) in your contractual territory.

## 10. PRODUCT DELIVERY

Citunius's delivery obligations, with respect to our Products, will be governed by (i) Citunius order confirmation, (ii) these Terms and Conditions and (iii) the respective Terms unless expressly

agreed to otherwise between the parties in writing. Citunius may render a partial delivery where such delivery is commercially reasonable and does not significantly impair your needs.

The actual delivered Product may differ from the Documentation associated with such product if such differences are commercially reasonable and do not adversely affect the performance of the respective Product. If you order a particular Product and we replace the Product you ordered with a new or upgraded Product in our overall Product line, we reserve the right to deliver the new Product if such new Product performs as well as or better than the Product you ordered.

If you request that a particular Product is shipped to you, the risk for damage and loss with respect to such Product will pass to you upon our release of such Product for shipment. For those Products for which delivery is completed via download, the risk for damage and loss will pass to you as soon as you receive access to the respective Product (for example, via a software key).

## 11. REMUNERATION AND PAYMENT TERMS

Unless expressly agreed otherwise, you will be responsible for all shipping costs, in particular, packaging, transport costs and transport insurance, as well as applicable statutory value added tax, if any.

### **Payment Terms**

Payment for our Products, at the agreed-upon or advertised price, is due immediately. We will accept bills of exchange or checks as a method of payment only pursuant to a special agreement between you and Citunius and only if these methods of payment do not subject us to any additional costs and fees. Otherwise the payment methods either explicitly referenced in our Web Shop or on the relevant invoice for your purchase shall apply.

### **Direct Debit**

You may be offered the option, regarding payment for our Products, of organizing a direct debit from your bank account and/or a bank account from which you are authorized to draw funds. You will be asked in such a case if you would like to authorize us to draw funds from your elected bank account within the scope of a direct debit arrangement.

If you have authorized us to undertake direct debits for your purchases, you will receive notification, via email (to the email address elected by you), of the pending debit (a “Direct Debit Notification”). Such Direct Debit Notification shall include information regarding the amount charged and the product ordered. Direct Debit Notifications will be delivered to you at least one business day before such payment becomes due and at all times at least one business day before the relevant funds are withdrawn from your elected bank account. You agree to the conditions of the aforementioned Direct Debit Notification, and are expressly advised that it is your sole responsibility to ensure that your contact details and bank account details are and remain current. It is also your sole responsibility to ensure that the bank account elected by you for direct debits has sufficient funds to ensure that charge backs do not occur. In the case that charge backs do occur,

you shall be responsible for the payment of any associated charges charged by your financial institution and also, as the case may be, for reimbursing us for any charges we incur from such charge backs. You are also explicitly advised that you are able to revoke the authority given by you to us to perform direct debits at any time.

The above also applies to amounts owed in conjunction with the automatic renewal process, referred to in Section 8 above.

## **Default**

If you default on paying Citunius for our Products, we may demand the agreed-upon or statutory default interest (statutory default interest shall be determined with reference to section 288 of the German Civil Code) for all outstanding sums without further notice.

In the event of default on monies owed to Citunius, Citunius may withhold delivery of our Product along with any respective updates and/or upgrades, and relevant connected services.

## 12. EXTENDED OWNERSHIP

Until payment for ordered Products is fully received, the ownership of the Products remains exclusively with us, in accordance with sections 158 and 449 of the German Civil Code. In the case that claims are brought against you and/or charges are made on your assets, and in the scope of such, the Products and the possession of such might be affected, you are obliged to inform us without delay. Furthermore you are obliged, in such a case to provide us with the necessary documents in order to object to such a claim or charge, and also to inform the individual making the charge, as soon as you become aware of such, that the Products to which this section 17 relates are not your property.

## 13. RIGHT OF WITHDRAWAL

For information regarding your legal right of withdrawal in the case that you are a consumer, please consult <https://www.citunius.de/en/legal>.

## 14. INDEMNITY

You agree to defend, indemnify and hold Citunius, its affiliates, subsidiaries, directors, officers, employees, agents, business partners and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by a third party, relating to or arising from: (a) your use of our Web Shop in violation of these Terms and Conditions; (b) your violation of any rights of a third party or (c) your violation of any and all applicable laws.

## 15. WARRANTIES AND DISCLAIMERS

EXCEPT FOR THE LIMITED WARRANTY THAT MAY APPLY TO SOME OF OUR PRODUCTS, AND/OR PARTICULAR PARTS THEREOF, OUR PRODUCTS AND WEB SHOP ARE PROVIDED “AS IS” AND WE MAKE NO WARRANTY OF ANY KIND AND EXPRESSLY DISCLAIM ALL OTHER WARRANTIES OF ANY KIND WHETHER EXPRESS, IMPLIED, OR STATUTORY INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. WE ALSO EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES RELATING TO NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY, SATISFACTORY QUALITY OR ABILITY TO INTEGRATE A PARTICULAR PRODUCT WITH OTHER WEB SERVICES. YOU ASSUME RESPONSIBILITY FOR SELECTING A PARTICULAR PRODUCT TO ACHIEVE YOUR INTENDED RESULTS AND FOR THE INSTALLATION, USE AND RESULTS OBTAINED FROM SUCH PRODUCT. WITHOUT LIMITING THE FOREGOING, WE MAKE NO WARRANTY THAT OUR PRODUCTS WILL PROTECT AGAINST ALL POSSIBLE THREATS, BE ERROR-FREE OR FREE FROM INTERRUPTIONS OR OTHER FAILURES, THAT OUR PRODUCTS OR WEB SERVICES WILL MEET YOUR SPECIFIC REQUIREMENTS OR THAT OUR PRODUCTS ARE FIT FOR USE IN SPECIAL RISK AREAS.

## 16. LIMITATION OF LIABILITY

**Notwithstanding the legal nature of the relevant claim, the following shall apply to your damage claims and claims for expenses incurred in vain (*Ersatz vergeblicher Aufwendungen*):**

- **We shall be liable for any of your damages resulting from our grossly negligent or intentional behaviour, which results in culpable injury to life, body and health and arise pursuant to the assumption of a guarantee or according to the German Product Liability Act (*Produkthaftungsgesetz*). In all other cases our liability for damages is limited to the infringement of the material obligations of these Terms. Material obligations are only such obligations which must be met for proper fulfilment of the agreement in the first place and where you may rely on the fulfilment of such obligations. Our liability for the loss of data is limited to the typical expenditures required for the restoration thereof, which are normal and typical if security copies have been made. Nothing contained in these Terms and Conditions shall release you from your obligations to conduct regular back-ups of your data.**
- **Our liability in case of our negligent infringement of material obligations of these Terms shall be limited to foreseeable damages which are typical for this type of contract.**
- **Our strict liability for defects existing at the time of entering into these Terms pursuant to Section 536 a para. 1, alternative 1 of the German Civil Code is hereby expressly excluded.**

- **The foregoing limitations of liability also apply with regard to all of our representatives, including but not limited to our directors, legal representatives, employees and other vicarious agents.**

## 17. NOTIFICATION OF INFRINGEMENT

You must notify Citunius immediately if a third party asserts claims against you based on a claim that our Web Shop infringes the intellectual property rights of such third party. Should there be any such notification, whether in written documents or correspondence or in other form, you must provide these to Citunius without undue delay.

## 18. MISCELLANEOUS

The Terms and Conditions do not create any third-party beneficiary rights. If you do not comply with the Terms and Conditions and we do not take action right away, this does not mean we are giving up any rights that we may have (for example, our right to take action in the future). If it turns out that a particular term within these Terms and Conditions is unenforceable, this will not have any impact on any of the other terms. The laws of the Federal Republic of Germany, without regard to its choice of law rules and under exclusion of the provisions of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG), will apply to any disputes arising out of or relating to these Terms and Conditions. All claims arising out of or relating to these Terms and Conditions will be litigated exclusively in the regional courts (*Landgericht*) of Mainz, Germany and you consent, and we consent, to personal jurisdiction in those courts.

A breach, whether threatened or actual, of these Terms and Conditions could cause us irreparable injury and such injury may not be quantifiable in monetary damages and we would not have adequate remedy at law. As such, we are entitled, in addition to all other available remedies, to seek and be awarded an injunction or other appropriate equitable relief for any breach of these Terms and Conditions, whether threatened or actual. You, as a consumer may also be entitled to seek equitable relief. Nothing in these Terms shall be deemed as repressing such rights.

These Terms and Conditions or your use of our Web Shop do not create a joint venture, partnership, employment or agency relationship with us.

The following sections shall survive the termination of these Terms and Conditions: 4, 5, and 11 through 18.

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