

## Terms of Use HybridForms® Software

### 1) Preconditions

- a) These Terms of Use are a contract between the customer and icomedias GmbH, Entenplatz 1, 8020 Graz, Austria (hereinafter referred to as "icomedias") for the use of "HybridForms".
- b) HybridForms refers to the software offered by icomedias as well as applications and services for mobile data capture. All offers are aimed exclusively at commercial customers, public institutions, and non-profit organizations and not at private consumers.
- c) By commissioning and using HybridForms, the customer accepts these Terms of Use. The customer agrees to use HybridForms exclusively in accordance with these Terms of Use. Any (purchasing) conditions of the customer are excluded and do not apply in this business relationship, neither the terms nor conditions of icomedias.
- d) The customer is responsible for ensuring that these Terms of Use are applied to the entire use and all users of HybridForms.

### 2) Subject matter and scope

- a) icomedias is entitled to grant rights of use for HybridForms to customers and based on these Terms of Use, grants the customer as licensee the right of use ("the License") for HybridForms including possible extensions, adaptations, documentation, templates, designs, or similar content. The scope of services, packages, and fees for the use of HybridForms are agreed upon by icomedias with the customer and commissioned by the customer. If additional free or licensed software or third-party components are used, the respective license terms apply. These are not affected by the present Terms of Use.
- b) The license is valid for non-exclusive, commercial use exclusively by or in the direct area of the customer. It is personal and non-transferable. A source code of HybridForms is not handed over to the customer. Changes, extensions, updates, and additional components as well as possible online services, services and also documentation and other documents are subject to these Terms of Use.
- c) With HybridForms, icomedias provides a software consisting of mobile clients (Apps according to the current status for current versions of Android, iOS and Windows as well as a Web App for current PC/Mac browsers Chrome, Firefox, Safari and Edge – older versions and Internet Explorer are not supported) as well as a server application (according to the current status for Windows Server and Microsoft SQL database). There is no involvement of icomedias in terms of content.
- d) Systems, devices, and infrastructure required for use are not subject of the services of icomedias. HybridForms may only be used within the scope of the offered possibilities. All other uses require the prior written consent of icomedias.
- e) Depending on the agreement, the license refers to the installation and use on the customer's systems or on third-party infrastructure commissioned by the customer. The use is limited to the number of installations, servers, content, users and/or devices. For this purpose, the customer receives license keys to determine the number of licenses purchased. If the number of purchased licenses changes, license keys are changed or supplemented.
- f) Updates, fixes and new versions of HybridForms will be made available to the customer on the basis of a software maintenance agreement to be concluded separately. Installation and use are the responsibility of the customer. The customer must make sure that releases do not affect his systems. icomedias does not assume any liability for this.
- g) Any modification or distribution of the software is prohibited. Any use, even partial, outside of these Terms of Use and the usually intended purpose is not permitted. HybridForms is to be treated like any other copyrighted material. Other parts of HybridForms such as supplied designs, templates, etc. may only be used in conjunction with HybridForms and are also subject to these Terms of Use.

- h) Insofar as trade secrets of icomedias are disclosed to the customer during the use HybridForms, the customer undertakes to maintain these secrets for an unlimited period of time. In particular, the customer undertakes to keep the software, documentation, and other related material secret and not to disclose them in whole or in part to third parties or to pass them on to them. Copyright notices, serial numbers and other features used for identification may not be removed or changed under any circumstances.
- i) The customer may only use HybridForms for its own business purposes. In particular, he is not entitled to circumvent technical restrictions of HybridForms, to reverse engineer the software (reverse engineer, decompile or disassemble), to install HybridForms outside of his organization, to publish HybridForms, to leave HybridForms to third parties, to make HybridForms available or to grant sublicenses as well as to rent, lease or lend HybridForms. Any deviation from this requires the prior written consent of icomedias.
- j) HybridForms, all elements contained therein and all associated content and brands – with the exception of the customer's data and unless otherwise indicated – belong to icomedias or are licensed to icomedias. All copyrights and other industrial property rights, regardless of their form, remain at all times with icomedias and licensors of icomedias.
- k) icomedias reserves the right to take measures to detect, warn and prevent the use of HybridForms that contradict these Terms of Use.
- l) icomedias reserves the right to make adjustments, improvements and extensions to the services offered as well as the prices and to offer other services, provided that this is reasonable for the customer.

### 3) Use and Named User CALs

- a) The use of HybridForms with app and forms requires so-called named user CALs. These are strictly personal Client Access Licenses ("CAL"). This allows a user to use any number of forms on in a long term view any number of devices purely sequentially. Any simultaneous use is not allowed. Likewise, the transfer to and use by persons other than those assigned to the CAL is not allowed.
- b) A CAL that is no longer needed can be separated from the user (e.g., after a change of responsibility or after the departure of a user) and is thus available for reassignment to another person. Any other than occasional re-allocation of CALs, especially any systematic or automatic method, is not allowed.
- c) The use of non-personal CALs is limited to occasional purely administrative necessities – any simultaneous use is not allowed.
- d) The use of CALs by different persons that are actually assigned to specific devices rather than persons is not allowed.
- e) All other uses must be coordinated with icomedias on a case-by-case basis and must be approved by icomedias. This may be subject to changed conditions and adapted commercial regulations.

### 4) Self-service contract, registration, and billing

- a) icomedias may provide an automatic order function for certain products and services, for example via website. Upon conclusion, the customer makes an offer to conclude an agreement on the use of HybridForms. icomedias only accepts this offer by activating the user account. Through this acceptance, the contract between the customer and icomedias comes into effect. icomedias may transfer the contract and the provision of services to other service providers on the same terms.
- b) When registering, information on the person and company or institution must be provided truthfully. The customer is obliged to protect the access data for HybridForms against unauthorized knowledge by third parties.

- c) The current settlement takes place regularly (for instance monthly) in advance with immediate due date. icomedias can send invoices and payment reminders by e-mail. If the customer is in arrears with the payment, the customer bears all resulting costs. If no payment is made for more than three weeks, icomedias can immediately discontinue services and withdraw from the contract.

## 5) Liability and warranty

- a) A warranty period of currently six months applies. This begins with the delivery or making available to the customer. It does not start again through improvements.
- b) Defects are reproducible essential errors of the software in a reference infrastructure of icomedias. icomedias is not responsible for unexpected or incorrect behavior due to usage errors, incorrect data, errors or unavailability of necessary systems, services, connectivity or data, etc. outside of HybridForms.
- c) The customer confirms that he has satisfied himself on his own responsibility before the conclusion of the contract that HybridForms and the associated licensed materials meet his requirements, that he is aware of the essential functional features. icomedias is not liable if the software does not achieve goals desired by the customer or does not work together with existing systems. Furthermore, icomedias is not liable for the functionality of formulas, software or special solutions integrated on behalf of the customer.
- d) icomedias is only liable within the scope of legal regulations in the case of intent or gross negligence. Liability for slight negligence is – to the extent permitted by law – excluded. Compensation for consequential damages and financial losses, savings not achieved, loss of interest and damages from claims of third parties against icomedias is in any case – to the extent permitted by law – excluded. icomedias in particular is not liable for lack of economic success and force majeure. The customer is responsible for precautions against data loss, for example. icomedias does not assume any liability for this, even in the event of a defect.
- e) According to the recognized state of the art, it is not possible to develop software that is completely free of errors and works without errors at all times in all applications and combinations, in particular with various software and hardware components. The agreed quality of HybridForms is therefore not aimed at ensuring that no errors may occur or that HybridForms can be used for every conceivable application, but only that HybridForms does not have any errors that significantly impair the intended usability.
- f) The documentation provided indicates the intended use and conditions of use of HybridForms. For this reason, only those defects that significantly impair the usability of HybridForms for the specified purpose entitle the customer to warranty claims. Public statements, verbal descriptions, brochures, or samples will only become part of the contract if expressly agreed in writing.
- g) A defect will be remedied by icomedias after a complaint has been made by the customer, provided that HybridForms has been used as described in the documentation, the notified defect has been documented so well by the customer that it can be reproduced at icomedias, the customer meets the system requirements stated in the documentation and the customer has protected his systems against damage according to the state-of-the-art (e.g. by virus scanners, firewalls, intrusion detection systems, etc.).
- h) The customer must inspect the software within 14 days after delivery for obvious defects that should be readily apparent to an average user as well as an administrator. Defects that are found or can be detected must be reported to icomedias within a further 10 days in writing (e-mail, letter) with as detailed a description as possible. This deadline also applies to defects that cannot be detected in the course of proper inspection. In case of a violation of the duty to inspect and to give notice of defects, the customer can no longer assert claims for warranty and for damages due to the defect as well as due to mistakes about HybridForms' freedom from defects.
- i) If a notice of defect proves to be justified, the customer must grant icomedias a reasonable period of time to remedy the defect, but at least 30 days. The rectification may require the use of an update of HybridForms, for which the customer bears the responsibility. icomedias is entitled to refuse the rectification of insignificant defects that do not significantly affect the fulfillment of the functionality of HybridForms described in the documentation, if icomedias would thereby incur disproportionately high costs.
- j) If icomedias does not succeed – even in several attempts – in correcting the defect within the set period of time, the customer has the right to withdraw from the contract or, alternatively, the right to a reasonable reduction in the license fees. Withdrawal due to insignificant defects is excluded.
- k) If the customer has made a claim against icomedias for warranty and it turns out that either there is no defect or icomedias is not obliged to remedy the claimed defect, the customer must reimburse icomedias for the expenses incurred.
- l) icomedias is only liable in terms of amount for the compensation of typically foreseeable damages. Upon signing this agreement, the customer is obliged to inform icomedias in writing and demonstrably about special risks of the fulfillment of the contract, about atypical damage possibilities as well as about unusual amounts of damage. icomedias is liable at most with the simple license fee.
- m) icomedias is not liable for compatibility with third-party systems. Not even if icomedias has integrated them into the systems. Likewise, icomedias is only responsible for updates of components such as operating systems or infrastructure by the customer if these have been expressly confirmed as compatible by icomedias.
- n) Services such as scanning, OCR, image and speech recognition, etc.: In the event that HybridForms contains or uses third-party components, it is noted that these are statistical processes by their nature and that recognition errors are inherent in these processes. It is the customer's responsibility to ensure the handling of such errors and to monitor the process and correct any errors. icomedias cannot be held liable for damages caused by sub-components.

## 6) Duration and end option "Subscription" and "Software as a Service"

- a) The minimum term (usually 36 months) is agreed between icomedias and the customer. Prices and conditions are based on this term. Invoicing takes place 12 months in advance. In the "Subscription" variant, the associated update of the license key is extended validity up to 3 months after expiration. Within this time, the exchange must take place by the customer.
- b) A termination of use before the end of the minimum term can only take place by mutual agreement and usually requires an advance settlement.
- c) Up to at least three months before the end of the minimum term, both parties can terminate informally in writing (e-mail, letter). If no notice of termination is given, the term is extended by twelve months in each case.
- d) With the effective date of termination, HybridForms may no longer be used, or services will no longer be accessible.
- e) The "Subscription" option includes the right to access software updates via a Service Portal of icomedias. In the "Software as a Service" option, components are updated independently by icomedias. The customer may have to make adjustments to his usage.
- f) Both parties are entitled to terminate the agreement for good cause. This is particularly the case if the customer does not comply with legal regulations, violates points of this agreement, or harms other users or the platform. icomedias also reserves the right to warn the customer, delete content and block access.
- g) After termination, all content collected by the customer can be deleted by icomedias. This does not affect data stored due to an obligation to retain data.

## 7) Duration and end option "Purchase" (On-Premises)

- a) In the case of the "Purchase" variant, the right to use HybridForms in the version current at the time of purchase is transferred completely and indefinitely to the customer. There is no further contractual relationship.
- b) A fee-based license maintenance initially commissioned by the customer (usual price: 20% of the total license amount annually in advance) for access to software updates via a service portal of icomedias has a term of twelve months. Without this, the customer is not entitled to updates of servers and apps.
- c) Up to at least three months before the end of the term, both parties can terminate informally in writing (e-mail, letter). If no notice is given, the term shall be extended by twelve months. A once terminated maintenance agreement cannot be restarted on the same terms.
- d) If the license maintenance agreement is valid, the customer will receive an updated license key for upload to his HybridForms server in good time with the billing. This key unlocks access for all HybridForms apps that have a release date before the end of the current period.
- e) To ensure uninterrupted operation, a license key with extended validity is usually issued up to 3 months after expiry of the maintenance agreement. Until the license key expires, the update must be carried out by the customer.
- f) After the license key expires, all apps with release dates older than the end of validity of the license key can continue to operate normally. Newer apps (later updates) will no longer be able to connect to the server.

## 8) Final terms of use

- a) Changes to the Terms of Use and any other agreement with the customer, as well as sub-agreements, must be made in writing, this also applies to any deviation from the written form requirement.
- b) icomedias is entitled to adapt these Terms of Use at any time and is obliged to inform the customer of the change in a timely manner. If the customer does not object to the changed conditions within two weeks, the changed conditions shall be deemed accepted.
- c) The customer agrees that icomedias may send him messages by e-mail, letter or at the Service Portal, including such messages that are related to changes to the conditions.
- d) icomedias is permitted to name the customer appropriately in business discussions as well as to mention him as a customer on the website and in general company documents.
- e) All costs associated with the conclusion and processing of the business relationship (except for consulting, which are borne by the respective party itself), fees, taxes and duties, which are to be paid in the future by law or changed administrative practice in Austria or at the customer's registered office, shall be borne by the customer. If such fees or costs are imposed on icomedias, the customer is obliged to reimburse icomedias for these within fourteen days after request, subject to any legal remedies to be taken at the request of the customer, if these postpone the due date. In this case, the customer must pay the costs of the legal remedy to be taken.
- f) These Terms of Use are governed by Austrian law to the exclusion of International Private Law (IPRG) and the UN Convention on Contracts for the International Sale of Goods. Place of performance as well as place of jurisdiction is Graz.
- g) These Terms of Use represent all agreements between the customer and icomedias, there are no further, especially no verbal agreements.
- h) No further conditions, as of April 2022