

Standard Terms and Conditions for On-Premises Use of qbilon Software

by and between the “Customer”

and
qbilon GmbH, Hermanstraße 5, 86150 Augsburg
- hereinafter referred to as “qbilon” -

The Customer and qbilon are also referred to individually as the “Party” and jointly as the “Parties”.

Preamble

qbilon has developed a software solution (hereinafter: the “**qbilon Software**”) that enables enterprises to automatically capture, monitor and analyze their IT landscape. The Customer and qbilon have conducted a joint evaluation of the possibilities of using the qbilon software solution. Based on that evaluation the Customer intends to use the qbilon Software as an on-premises solution. Now, therefore, the Parties enter into this Agreement on the on-premises use of the qbilon Software (hereinafter: the “**Agreement**”).

1. Subject-Matter of Agreement

- 1.1. Having evaluated the possibilities of using the qbilon software solution, qbilon developed specific so-called “Connectors” for the Customer that serve to automatically capture and monitor the IT assets of the Customer using the qbilon Software. qbilon will also develop a further Connector under this Agreement within a timeframe of approximately 6 months after commencement hereof. Further details on the Connectors are set out in the relevant offer submitted by qbilon.
- 1.2. qbilon shall make such Connectors and the qbilon Software available to the Customer during the term of this Agreement for on-premises use against payment. The core functions of the qbilon Software are specified in Schedule 1. The Connectors and the core functions of the qbilon Software are together referred to as the “**Software**”. The Software is a browser-based on-premises solution that is installed on site at the customer’s. The Customer shall use the Software solely for internal purposes of the enterprise.
- 1.3. In addition to the core functions of the qbilon Software according to Schedule 1, the Software may be extended by additional modules as well as role management and user management. The individual modules available, their functional scope as well as role management and user management and the relevant additional annual license fee shall be notified to the Customer separately by qbilon when they are available, and the Customer may book corresponding modules, role management and user management in addition to the Software and use them in accordance with this Agreement during its term. In that case the additionally booked modules, the role

management and user management are likewise covered by this Agreement and by the term “Software”. The fee according to Clause 5 shall increase accordingly.

- 1.4. The Software and any updates, patches and any additionally booked modules made available during the term of this Agreement shall be made available to the Customer solely electronically by way of a download link provided, unless the Parties agree on a different method (e.g., by way of remote maintenance by qbilon). The Customer shall download and install the Software as well as any updates, patches and modules unless the Parties agree on installation thereof by qbilon by way of remote maintenance.
- 1.5. During the term of this Agreement qbilon shall make updates and patches for the Software available to the Customer where necessary - e.g., for the purpose of rectifying defects - and shall provide support to the extent specified in further detail in Schedule 2. Support shall be provided solely by way of remote maintenance.
- 1.6. During the term of this Agreement qbilon shall provide consulting services to the Customer. In this respect a certain quota of consultant days per contractual year is contained in the remuneration agreed in Clause 5. Further details are set out in the relevant offer. Insofar as the Customer requests additional consultant days, qbilon shall submit a corresponding offer to the Customer based on the then current daily rates for consultants. A consultant day consists of 8 hours. All consulting services shall be provided remotely (e.g., via web call), not on site.
- 1.7. qbilon is entitled to deploy sub-contractors for provision of the performance under this Agreement, without the Customer’s consent being required.

2. Customer’s Cooperation Obligations, System Requirements

- 2.1. The Customer shall comply with the system requirements regarding its IT infrastructure. These requirements can be viewed in their current version at any time at “<https://www.qbilon.io/faq/>”.
- 2.2. The Customer shall duly back-up all programs and data within its system environment immediately before installation of the Software commences and thereafter on a regular basis.
- 2.3. The Customer shall allow qbilon to access the Software remotely for support purposes (e.g., via “TeamViewer”), which enables qbilon to conduct remote maintenance and to access the analysis data collected by the Software. The Parties shall reach agreement on the detailed technical configuration of such access. Insofar as qbilon is to process and use personal data of the Customer within the context of remote maintenance upon the commission of and according to the Customer’s directives, the agreement on commissioned data-processing according to Schedule 3 shall apply.
- 2.4. The Customer shall cooperate with qbilon in a spirit of trust and shall provide regular feedback to qbilon about the functioning, quality and performance of the Software.

3. Acceptance of the Connectors

The Customer shall test the Connectors developed additionally by qbilon under this Agreement after it is made available, according to an acceptance procedure to be specified in further detail by the Parties and shall declare acceptance thereof within 14 calendar days after provision or shall reject it while indicating the defects preventing acceptance. Acceptance may not be refused on the basis of

non-material defects. Where the Customer does not issue a declaration to qbilon within this set period for acceptance, the Connector shall be deemed accepted.

4. Use Rights

- 4.1. qbilon is the proprietor of the copyright and all other intellectual property rights to the Software and reserves all rights to the Software unless they are expressly granted to the Customer in this Clause 4.
- 4.2. qbilon grants the Customer a non-exclusive, non-transferable, and non-sub-licensable use right that is limited to the term of this Agreement, to use the Software solely for internal purposes of and within the Customer's enterprise. To this end the Customer may install and use the Software as object code on one of its computers (on-premises use).
- 4.3. In particular, the Customer is not permitted to reproduce, disseminate, rent or lease the Software in whole or in part above and beyond the use right granted under Clause 4.2, or to translate, adapt or otherwise modify the Software, or to communicate the Software to the public by wired or wireless means, including making it publicly available such that it is accessible to members of the public from locations and at times of their choice. Nor is the Customer permitted to decompile, disassemble or reverse engineer the Software unless it is entitled to do so under the relevant mandatory provisions of copyright law.
- 4.4. All rights to the source code of the Software (including the Connectors) accrue to qbilon alone. The Customer has no claims or rights whatsoever to the source code, nor the right to access or surrender the source code of the Software (including the Connectors). Section 69e of the German Copyright Act (UrhG) shall remain unaffected.

5. Remuneration

- 5.1. During the term of this Agreement the Customer shall pay to qbilon an annual license fee for on-premises use of the Software in accordance with the specifications of the relevant offer.
- 5.2. The license fee according to Clause 5.1 shall be paid by the Customer to qbilon each year in advance against provision of an invoice.
- 5.3. Where the Customer adds modules, role management and user management in accordance with Clause 1.3, the annual license fee shall be increased by the fees for the additional modules, role management and user management booked. If the Customer adds modules, role management and user management after the Agreement commences, such items will then be charged pro rata temporis for the current contractual year.
- 5.4. Where the Customer requests additional consultant days according to Clause 1.6, qbilon shall invoice such consulting services retrospectively on a monthly basis.
- 5.5. All invoices are due for payment within 14 days of the invoice date.
- 5.6. All prices indicated are subject to statutory VAT as in force at any time.

5.7. A set-off by the Customer is excluded unless its counterclaim is undisputed or has been established with final force. The Customer has a right of retention only insofar as its counterclaim is based on the same contractual relationship.

6. Liability for Defects

- 6.1. qbilon warrants during the term of this Agreement that the Software essentially corresponds to the specifications according to the offer and Schedule 1 and, where appropriate, to the specifications of any additional modules, role management and user management booked.
- 6.2. qbilon does not warrant that the Software corresponds to the Customer's requirements and does not assume liability for technical details or the suitability of the Software for a certain purpose unless such requirements of the Customer, technical details or a certain purpose were expressly agreed by the Parties.
- 6.3. Specifications of the Connectors according to the offer, specifications of the qbilon Software (see Schedule 1) and specifications set out in other documentation do not constitute guarantees unless they are expressly designated as such.
- 6.4. The Customer shall notify qbilon promptly about any defects in the Software.
- 6.5. Any defects in the Software shall be rectified by qbilon during the term of the Agreement by way of defect rectification (patches) or updates, at qbilon's discretion. qbilon is entitled to at least 2 attempts to rectify defects. If qbilon is unable to rectify a defect within a reasonable period of time, the Customer shall be entitled to reduce the contractually agreed fee ("Reduction in Price"). Insofar there are material defects in the Software, instead of a Reduction in Price the Customer shall also be entitled to terminate the Agreement for good cause.
- 6.6. The Customer is not entitled to rectify a defect in the Software itself or by commissioning a third party and may not require qbilon to reimburse the expenses incurred.
- 6.7. Insofar as the Customer is entitled to damages or compensation for futile expenses owing to liability for defects, such claims are subject to the limitation of liability set out in the following Clause 7.

7. Limitation of Liability

- 7.1. qbilon is not liable for damage, delays or impediments to performance that lie outside qbilon's sphere of responsibility.
- 7.2. qbilon is not liable for damage caused by inappropriate, incorrect or unintended use of the Software.
- 7.3. No-fault liability of qbilon owing to defects in the Software that already existed when the Agreement commenced, is excluded.
- 7.4. qbilon is liable to the Customer for its own culpable, inferior performance only as follows:
 - 7.4.1. qbilon is liable without limitations for damage caused intentionally or through gross negligence and for damage caused culpably by qbilon due to injury to life, limb or health, where a warranty is not honored and if qbilon has fraudulently concealed a defect in the Software.
 - 7.4.2. qbilon is also liable for a breach of a material contractual obligation or material obligation in case of ordinary negligence, such liability is however limited to typical damage that is to be expected. A material obligation in the sense of this clause is an obligation of qbilon the

satisfaction of which enables the proper performance of the Agreement in the first place, a breach of which jeopardizes achievement of the purpose of the Agreement and on satisfaction of which the Customer generally relies.

7.4.3. qbilon's liability under this Agreement for financial losses based on qbilon's ordinary negligence is limited with regard to all claims, whether for a breach of contract, tort or on any other legal basis, to EUR 5,000.00 per event of loss and to EUR 25,000.00 in total for all claims under the present contractual relationship.

7.5. In case of a loss of programs or data, qbilon is only liable for the expense necessary in order to restore the programs or data if the Customer has duly backed-up data in accordance with Clause 2.2. If the Customer has failed to back-up data accordingly, the liability of qbilon (except in case of intent) for the loss of programs or data is excluded owing to the Customer's contributory negligence which supersedes liability.

7.6. Further liability of qbilon is excluded. Liability under the German Product Liability Act (*Produkthaftungsgesetz*) shall remain unaffected.

8. Confidentiality

8.1. Each Party agrees to keep secret all information of the other Party respectively that is received within the context of this contractual relationship, that is designated as being "confidential" or "secret" or bears an equivalent designation, or that is designated as being confidential in case of verbal communication, or that is evidently confidential due to its nature, in particular business and trade secrets, know-how and the source code of computer programs including the Software (referred to collectively as "**Confidential Information**"), and to protect such Information against access by unauthorized third parties and to use it solely for the purposes of this Agreement.

8.2. Excluded from the confidentiality obligation is information

- that was provenly known to the other Party at the time of conclusion of this Agreement;
- that is or subsequently became publicly accessible;
- that was disclosed to the other Party by a third party not subject to a confidentiality obligation, or
- that has to be disclosed under statutory provisions or official or court orders; in that case the other Party has to be notified promptly of such disclosure.

8.3. This confidentiality obligation applies during the term of this Agreement and for a period of 5 years after this Agreement ends.

8.4. Each Party agrees to surrender promptly to the other Party on request after this Agreement ends any and all Confidential Information and copies of the other Party and/or - where electronically stored - to erase such Information and to provide prompt confirmation of the erasure to the other Party in text form.

9. Term, Termination of Contract

9.1. This Agreement commences upon commissioning of the relevant offer by the Customer and has a fixed term of 2 years. For the sake of clarity, it is agreed that the booking of additional modules and

of role management and user management during the term of this Agreement shall not lead to an extension of its term. However, the Parties may agree to renew the Agreement - while adjusting the terms and the fees, if appropriate. To this end, qbilon shall submit a corresponding offer to the Customer approximately 3 months before the Agreement expires.

- 9.2. The right to terminate this Agreement with immediate effect for good cause shall remain unaffected. Notice of termination must be issued in writing.
- 9.3. When the Agreement ends, the Customer is no longer entitled to use the Software and shall promptly erase all program copies of the Software that are in its possession.

10. Mentioning Reference Customers

- 10.1. qbilon is entitled to mention the Customer as a reference customer together with its company name and logo, on qbilon's website and social media channels.
- 10.2. Furthermore, after the Agreement commences and the Connector has been accepted according to Clause 3, qbilon is entitled to write and publish a short success story about the contractual cooperation that mentions the Customer. qbilon shall provide the success story to the Customer in advance for its approval. Upon approval the Customer shall also provide a brief citation to qbilon for inclusion in the success story.

11. Final Provisions

- 11.1. The Customer is not entitled to assign or transfer in whole or in part claims and/or obligations arising under this Agreement or to transfer this Agreement in its entirety to a third party, without the prior written consent of qbilon.
- 11.2. This Agreement reflects the entire contractual relationship between the Parties with regard to its subject-matter. There are no oral covenants between the Parties. Terms of purchase and standard terms and conditions of the Customer that diverge from or conflict with this Agreement shall not apply, even where qbilon does not explicitly object to such terms of the Customer.
- 11.3. Amendments and supplements to as well as termination of this Agreement must be in writing. This also applies to the amendment or waiver of this clause on written form.
- 11.4. The contractual relationship between the Parties and any disputes arising from or in connection with this contractual relationship are governed by the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 11.5. The exclusive venue for all disputes arising from or in connection with the contractual relationship between the Parties is Augsburg, Germany.
- 11.6. Should one or more provisions of this Agreement be or become invalid, this shall not affect the validity of the remaining provisions hereof. The Parties shall work together in order to replace invalid provisions with valid provisions that come as close as possible to the invalid provisions. The same applies in case of a gap in this Agreement.

Schedules

- 1) Core functions of qbilon Software
- 2) Support
- 3) Agreement on Commissioned Data-Processing

Schedule 1

Core functions of qbilon Software

Views (flexible viewing mechanism)

- Display of graph-views and charts on consolidated data stock including pre-filter and analysis options
- Preparation of charts (diagrams) about certain features of elements and relations
- Individual preparation and configuration of graph-views, charts and tables on consolidated data stock
- Preparation of individual dashboards

Data Management (incorporation of third-party system data from cloud platforms)

- Creation of connectors for data retrieval from cloud platforms „Amazon Web Services“ (AWS) and „Microsoft Azure“ (Azure)
- Manual creation of additional or modification of existing features of captured elements and relations
- Setting of individual intervals and dependencies/sequences for data retrieval from connected third-party systems

User Management and Role Management

- Creation of new accounts for other users in the enterprise
- Administration of user rights with access rights based on multilevel role system

Schedule 2

Support

1. Notification of Faults

The Customer may provide notification of faults in the Software to qbilon using the following communication channels:

- by e-mail to: support@qbilon.io
- by telephone to: +49 821 71 04 09 70
- by online ticket system at: <https://www.qbilon.io/support/>

2. Service Hours

Service hours are Monday - Friday (except for public holidays in Bavaria) between 09:00 hrs and 17:00 hrs. During these service hours qbilon shall accept notifications of faults from the Customer relating to the Software.

3. Response Times

qbilon shall respond to notifications of faults within 48 hours during service hours and shall provide a status notification to the Customer.

Schedule 3

Agreement on Commissioned Data-Processing

Preamble

This Schedule sets out in detail the obligations of the contracting parties regarding data privacy protection that arise from the commissioned data-processing described in detail in the relevant main Agreement. This Schedule applies to all activities in connection with this Agreement, where employees of the Contractor or persons commissioned by the Contractor process personal data (“Data”) of the Principal.

Sec. 1 Subject-Matter, Duration and Specification of Commissioned Data-Processing

The subject-matter and duration of the commission as well as the nature and purpose of the data-processing are set out in the Agreement. In particular, the following data constitutes an integral part of the data-processing:

Type of data	Nature and purpose of data-processing	Categories of data subjects
Technical data and features of the “IT Landscape Assets” retrieved and/or captured by qbilon connectors (“Data Source Connectors”)	<ul style="list-style-type: none"> • Core functions of qbilon Software: Capture and analysis of hybrid IT landscapes • Anonymized access figures 	Technically responsible employees of assets
Data for identification of communications	<ul style="list-style-type: none"> • Log analysis • Anonymized access figures 	Communication partners
Employee master data	<ul style="list-style-type: none"> • Authentication • Authorization 	Solely employees and other persons who interact with the system

The term of this Schedule depends on the term of the Agreement unless further obligations arise from the provisions in this Schedule.

Sec. 2 Scope of Application and Responsibilities

- (1) The Contractor processes personal data having been commissioned by the Principal. This includes activities that are specified in the Agreement and in the specifications of performance. The Principal bears sole responsibility for compliance with the statutory provisions of data protection laws within the context of this Agreement, especially for the lawful nature of the transfer of data to the Contractor and for the lawful nature of the data-processing (“Controller” in the sense of Art. 4(7), GDPR).
- (2) The instructions shall initially be set out in the Agreement and may then be amended, supplemented or replaced by the Principal by individual instructions in written or electronic (text) form at the place indicated by the Contractor (Individual Instruction). Instructions not provided for in the Agreement shall be treated as a request for a modification of performance. Verbally issued instructions shall be confirmed promptly in writing or in text form.

Sec. 3 Obligations of the Contractor

- (1) The Contractor may process data relating to data subjects solely within the context of the commission and the instructions issued by the Principal, unless there is an exceptional case in the sense of Art. 28(3)(a), GDPR. The Contractor shall inform the Principal promptly if it believes that an instruction is in breach of applicable laws. The Contractor may suspend implementation of the instruction until the instruction has been confirmed or amended by the Principal.
- (2) Within its area of responsibility the Contractor shall organize its operations so that they are in accordance with the particular requirements of data protection law. The Contractor shall take technical and organizational measures for the appropriate protection of the Principal's data, that meet the requirements of the GDPR (Art. 32 GDPR). The Contractor shall take technical and organizational measures that ensure the long-term confidentiality, integrity, availability and reliability of the systems and services relating to the processing. The Principal is aware of such technical and organizational measures, and shall bear the responsibility for such measures providing an appropriate level of protection regarding the risks of the data to be processed. The Contractor is entitled to modify the security measures taken; however, the contractually agreed level of protection must be upheld.
- (3) The Contractor shall support the Principal, insofar as agreed and insofar as possible, in responding to the queries and in satisfying the claims of data subjects under Chapter III GDPR and in complying with the obligations set out in Arts. 33-36 GDPR.
- (4) The Contractor warrants that the employees involved in processing the Principal's data and other persons working for the Contractor are not permitted to process the data beyond the bounds of the instruction. The Contractor also warrants that the persons authorized to process the personal data are subject to a confidentiality obligation or an appropriate statutory duty of confidentiality. The confidentiality obligation shall survive beyond the end of the commission.
- (5) The Contractor shall notify the Principal promptly if it becomes aware of breaches of the protection of the Principal's personal data. The Contractor shall take the necessary measures to secure the data and to reduce potential detrimental consequences for data subjects, and to this end shall consult with the Principal promptly.
- (6) The Contractor shall notify the Principal of the contact person for data privacy issues arising within the context of the Agreement.
- (7) The Contractor shall ensure compliance with its obligations under Art. 32(1)(d) GDPR to set up a process for regularly verifying the effectiveness of technical and organizational measures for ensuring the security of the processing.
- (8) The Contractor shall correct or erase the data constituting the subject-matter hereof upon the instruction of the Principal, provided this is within the scope of the instructions. Where erasure or a corresponding restriction of data-processing under data protection law is not possible, the Contractor shall destroy data media and other material in accordance with data protection law on the basis of an individual commission awarded by the Principal or shall return such data media to the Principal, unless already set out in the Agreement. (Please note: the Parties may agree on a remuneration provision in the Agreement.) In certain cases to be determined by the Principal, data media shall be kept and/or handed over; the relevant remuneration and protective measures shall be separately agreed unless they are already set out in the Agreement.
- (9) Data, data media and all other material shall be either surrendered or erased at the Principal's request after the commission ends.
- (10) If claims are made against the Principal by a data subject regarding claims based on Art. 82 GDPR, insofar as possible the Contractor shall support the Principal in defending itself against the claim. (Please note: the Parties may agree on a remuneration provision in the Agreement.)

Sec. 4 Obligations of the Principal

- (1) The Principal shall inform the Contractor promptly and fully if it discovers errors or irregularities in the results of the commission that relate to the provisions on data privacy protection.
- (2) If recourse is had against the Principal by a data subject regarding claims based on Art. 82 GDPR, Sec. 3(10) hereof shall apply accordingly.
- (3) The Contractor shall inform the Principal of the contact person for data privacy issues arising within the context of the Agreement.

Sec. 5 Inquiries made by Data Subjects

- (1) If a data subject addresses the Contractor with claims for correction, erasure or information, the Contractor shall direct the data subject to the Principal insofar as the matter can be attributed to the Principal based on the information provided by the data subject. The Contractor shall promptly forward the inquiry made by the data subject to the Principal. The Contractor shall support the Principal to the extent possible if instructed to do so, insofar as agreed. The Contractor is not liable where the inquiry made by the data subject is not answered, not answered correctly or in due time by the Principal.

Sec. 6 Proof

- (1) The Contractor shall present appropriate proof of compliance with the obligations set out herein to the Principal.
- (2) Should inspections by the Principal or by an inspector it commissions be necessary in an individual case, such inspections shall be conducted upon prior appointment during normal business hours without disturbing operations, while providing reasonable advance notice. The Contractor may make such an inspection subject to an appointment with reasonable advance notice and on signing of a confidentiality declaration regarding the data of other customers as well as the technical and organizational measures established. If the inspector commissioned by the Principal is in competition against the Contractor, the latter is entitled to raise objections to the inspector. The Contractor may charge a fee for providing support during an inspection conducted, insofar as agreed in the Agreement. As a matter of principle the expense of an inspection for the Contractor is limited to one day per calendar year.
- (3) Should an authority supervising data privacy protection or another sovereign supervisory authority of the Principal conduct an inspection, as a matter of principle para. 2 above shall apply accordingly. It is not necessary to sign a confidentiality obligation if the supervisory authority is subject to professional or statutory confidentiality obligations a breach of which is punishable under the German Criminal Code (*Strafgesetzbuch*).

Sec. 7 Subcontractors (Other Processors)

- (1) The use of subcontractors as other processors is only permissible with the prior consent of the Principal.
- (2) Subcontracting subject to consent arises where the Contractor delegates to subcontractors, in whole or in part, the performance agreed in the Agreement. The Contractor shall enter into agreements with such third parties to the extent necessary in order to ensure appropriate data privacy protection and information security measures. The Principal agrees that the Contractor may avail itself of subcontractors. The Contractor shall inform the Principal before availing itself of or replacing subcontractors. The Principal may raise objections to the amendment for good cause within a reasonable set period - with the office designated by the Principal. If no objections are raised within the set period, consent to the amendment shall be deemed granted. If there is good cause under data privacy protection law and insofar as the Parties are unable to agree on a solution, the Principal shall be entitled to terminate the Agreement (as an option).
- (3) Where the Contractor commissions subcontractors, it shall transfer its data privacy protection obligations hereunder to the subcontractor.

Sec. 8 Obligations to Provide Information, Clause on Written Form, Choice of Law

- (1) Should data of the Principal be jeopardized at the Contractor's by attachment or seizure, by insolvency or settlement proceedings or by other occurrences or measures taken by third parties, the Contractor shall promptly notify the Principal accordingly. The Contractor shall promptly notify all persons responsible in this connection about the fact that data sovereignty and ownership lie solely with the Principal as the "Controller" in the sense of the GDPR.
- (2) Amendments and supplements to this Schedule and all its integral parts - including any assurances given by the Contractor - must be agreed in writing or in electronic form (text form), including an explicit reference to the fact that it is an amendment and/or supplement to these provisions. This also applies to a waiver of this clause requiring written form.
- (3) Should contradictions arise, the provisions of this Schedule on data privacy protection shall take precedence over the terms of the Agreement. Should individual provisions of this Schedule be invalid, this shall not affect the validity of the remaining provisions hereof.
- (4) German law applies.

Sec. 9 Liability and Damages

The Principal and the Contractor are liable in relation to data subjects in accordance with the provisions of Art. 82 GDPR.