



Terms and Conditions

E-SEC GmbH

1. GENERAL

- 1.1. These General Terms and Conditions, hereinafter referred to as GTC, apply to the use of all products, websites, and services, hereinafter referred to as applications, offered and operated by the company E-SEC Information Security Solutions GmbH, hereinafter referred to as E-SEC.
- 1.2. These GTC specifically cover the use of the products, websites, and services of the E-SEC applications (<https://e-sec.com>), the E-SEC e-learning courses (<https://e-sec.com>), the Explodo learning platform (<https://explodo.com>), other content, and all services offered.
- 1.3. By registering for the E-SEC applications or by using the E-SEC applications that do not require registration, you accept the following GTC.
- 1.4. The E-SEC offering is exclusively directed at companies, organizations, and public administration. The E-SEC offering is not directed at consumers.
- 1.5. Deviating GTC of the customer do not apply to the use of the E-SEC applications unless E-SEC expressly agrees to their application in writing.

2. CONTRACT OBJECT

- 2.1. E-SEC operates a Software-as-a-Service learning platform and a Software-as-a-Service authoring tool. Additionally, E-SEC offers standardized e-learning courses and customized e-learning courses as a service project. The

E-SEC offering is made available to customers via the internet or optionally as a download for e-learning courses and accompanying content.

- 2.2. The subject matter of the contract is the internet-based access to the E-SEC applications in their respective current version, with the implemented functionalities, as well as the use of the content provided by E-SEC for the duration of the contract by the customers. Usage may be restricted to individual courses or categories depending on the subscription plan or individual project.
- 2.3. The use of the e-learning courses included in the subscription plan ordered by the customer may occur in the respective current version and all available previous versions. If new course versions (updates) or new standalone e-learning courses are released during the contract term in the ordered subscription plan, their use is also included during the contract term.
- 2.4. The e-learning courses can be used with the E-SEC online learning platform or with a learning platform provided by the buyer. Parallel usage is permitted.
- 2.5. The delivery of the e-learning courses as a download variant is carried out in a supported e-learning exchange standard (for example, SCORM 1.2 or SCORM 2004). The customer's learning platform must fully support the corresponding exchange standard.
- 2.6. The e-learning courses are delivered in the languages or localizations specified on the E-SEC website. Additional languages or localizations must be purchased separately.
- 2.7. Customizations to the content of the e-learning courses by E-SEC at the request of the customer are not included in the price of the ordered subscription plan.
- 2.8. The use of the E-SEC authoring tool to independently modify the content of the e-learning courses is included only if the corresponding add-on has been purchased and the subscription is active.

3. LICENSES, PRICES, AND BILLING

- 3.1. Prices are listed on the pricing and ordering page in the respective currency excluding VAT.
- 3.2. All prices listed apply to the use of the defined service for the specified contract period.

- 3.3. The billing period corresponds to the contract period and is at least one (1) month. The billing period begins on the calendar day of contract conclusion and ends on the same calendar day of the last month of the contract period.
- 3.4. A valid license is required in advance for each active user (Named User License). This license is valid for the use of all e-learning courses and the entire contract period. Active users are users who have logged into the online learning platform at least once or have started at least one e-learning course.
- 3.5. The agreed prices apply to the respective contract period. Price increases during the respective contract period are excluded. E-SEC is entitled to increase the prices for the services by up to ten (10) percent upon automatic renewal of the contract if this is communicated to the customer in writing at least thirty (30) days before the end of the respective contract period.
- 3.6. The paid increase in the number of licenses (upgrades) is possible at any time during the contract period. The current price list applies at the time of the increase.
- 3.7. The reduction of the number of licenses (downgrades) is possible at the end of the respective contract period. Once again, the currently valid price list applies.
- 3.8. Payment for paid offers is made in advance for the entire contract period by the selected method of payment for each billing period.
- 3.9. For all services ordered by the customer from E-SEC, E-SEC is entitled to issue interim invoices after each work step. A work step includes, in particular, the creation of a short concept, the creation of a course script (storyboards), the creation of individual 3D scenes, and the delivery of each individual localized course version.
- 3.10. If the user qualifies for payment by invoice, the invoice provided by the provider (including VAT if specified on the invoice) must be paid without deduction and free of charge to the business account specified on the invoice by E-SEC no later than fourteen (14) days after receipt of the invoice.
- 3.11. In case of default in payment, the provider will inform the user via email to the email address provided by the user in the system and set a grace period of two (2) weeks. If payment for this period is still not received after the expiry of this grace period, the provider is entitled to block access to the user's account, deactivate all content, and delete it within four (4) weeks after blocking.

4. CONTRACT DURATION AND TERMINATION

- 4.1. The contract duration of applications purchased as a subscription is determined at the time of ordering.
- 4.2. E-learning courses can optionally be purchased as single licenses. The single license is valid for the lifetime of the course (Lifetime License).
- 4.3. A combination of single licenses for e-learning courses and subscriptions is possible.
- 4.4. The contract term automatically extends for the agreed duration unless terminated by either party with a notice period of 24 hours prior to the end of the respective contract term. Reasons for termination are not required.
- 4.5. Termination of individual selected paid options (for example, Authoring Add-On) does not affect the contractual relationship.
- 4.6. Upon termination of the contractual relationship, the customer is no longer entitled to use the E-SEC applications or any part thereof. In particular, downloaded content may no longer be used. Deletion of downloaded content by the customer is not required; it is only necessary to ensure that further use of the content is prevented (e.g., by disabling access).
- 4.7. After termination of the contractual relationship, E-SEC is no longer obligated to provide the contractual services. E-SEC may delete all customer data after a period of twelve (12) months. Therefore, timely backup of data is the responsibility of the customer.
- 4.8. E-SEC's right to terminate the contract for cause remains unaffected. E-SEC is particularly entitled to terminate the contract without notice if the customer fails to make due payments despite reminder and setting of a grace period, or violates the contractual provisions regarding the use of the E-SEC applications. In any case, termination without notice requires that the other party be warned in writing and requested to remedy the alleged grounds for termination within a reasonable period.

5. RIGHTS AND OBLIGATIONS OF THE CUSTOMER

- 5.1. The utilization of the E-SEC applications is possible through the E-SEC online learning platform and with downloaded courses in the customer's LMS (Learning Management System).

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- 5.2. Within the scope of Named User licenses for the contract duration, E-SEC grants the customer the non-exclusive, non-sub licensable, and non-transferable right to use the E-SEC applications in accordance with the contract and/or to permit their Named Users to use them. The right of use is limited to the purpose of training the Named Users.
 - 5.3. Each active Named User requires a license, regardless of whether the usage occurs in the customer's LMS or in the E-SEC learning platform. Upon user assignment to the course or upon user registration, the respective Named User license is considered allocated. The customer can reallocate the respective license only after deactivating the Named User.
 - 5.4. If the customer has licensed the E-SEC authoring tool, they may edit, translate, and voice the e-learning courses created by E-SEC. The modified courses may continue to be used even after the expiration of the authoring tool's contract period, as long as a valid Named User license for the e-learning course is available.
 - 5.5. All rights to the E-SEC applications, especially the E-SEC e-learning courses, remain with E-SEC.
 - 5.6. The necessary customer-side usage requirements, especially system requirements, firewall settings, proxy server settings, and internet connection, are the responsibility of the customer.
 - 5.7. If the customer becomes aware of any malfunctions, they must promptly inform E-SEC about the malfunctions of the applications and, as far as possible, assist E-SEC to a reasonable extent in determining and rectifying the malfunction and its causes.
 - 5.8. The customer is responsible for correctly licensing their Named Users and prohibits any circumvention attempts (such as password sharing, incorrect licensing of downloaded courses, etc.).
 - 5.9. The customer must take necessary precautions to prevent unauthorized use of the applications.
 - 5.10. The customer may not use the applications for unlawful purposes.
 - 5.11. The customer may not circumvent or disable licensing and security measures established by E-SEC.
 - 5.12. The customer may not distribute applications, e-learning courses, and other content from E-SEC to third parties (i.e., neither sell, rent, give away, nor
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loan) and may not make them accessible to third parties. This also applies to free content. Exceptions require a current E-SEC partner status.

6. AVAILABILITY OF APPLICATIONS, SLA

- 6.1. E-SEC provides the applications to the customer for use 24 hours a day, 365 days a year. E-SEC ensures an availability of the applications of an average of 99% per calendar year ("SLA, Service-Level Agreement").
- 6.2. Some system requirements are necessary for proper use. An overview of the current requirements can be found on the E-SEC website (<https://e-sec.com>). E-SEC is not responsible for network-related downtime and, in particular, for downtime during which the E-SEC applications cannot be accessed via the internet due to technical or other problems beyond E-SEC's control, such as force majeure, third-party fault, etc.
- 6.3. E-SEC is entitled to interrupt the applications for four (4) hours per month for update and maintenance work. The times of these maintenance work are not considered times of unavailability within the meaning of Section 6.1. of these GTC.
- 6.4. E-SEC will inform the customer in advance about maintenance work and disruptions via the E-SEC X-Account (https://twitter.com/esecl_elearning) and/or the E-SEC website (<https://e-sec.com>) whenever possible.
- 6.5. E-SEC is entitled to immediately block adjusted or uploaded content of the customer or, in special cases, access to the E-SEC applications if there is reasonable suspicion that the content stored by the customer is unlawful and/or infringes the rights of third parties. Reasonable suspicion of illegality and/or infringement of rights exists particularly if courts, authorities, and/or other third parties inform E-SEC of this. E-SEC must notify the customer promptly of the block and the reason for the blockage. The block is to be lifted as soon as the suspicion is refuted. The times of this block are not considered times of unavailability within the meaning of Section 6.1. of these GTC.

7. WARRANTY AND LIABILITY

- 7.1. E-SEC guarantees the functionality and operational readiness of the E-SEC applications according to the provisions of the contract.

- 7.2. E-SEC's liability for damages, regardless of the legal basis, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties in contract negotiations, and tort, to the extent that it is based on fault, is limited in accordance with Section 7 of these GTC.
- 7.3. E-SEC is not liable in cases of simple negligence by its organs, legal representatives, employees, or other agents, unless it involves a breach of essential contractual obligations. Contractually essential obligations include:
- the obligation to provide the applications,
 - their freedom from defects that significantly impair their functionality or usability,
 - and any advisory, protective, and custody duties intended to enable the customer's contractual use of the services or to protect the life or health of the customer's personnel or the protection of their property from substantial damage.
- 7.4. To the extent that E-SEC is liable for damages according to Section 7.2, this liability is limited to damages that E-SEC foresaw as a possible consequence of a breach of contract at the time of contract conclusion or that E-SEC should have foreseen when exercising ordinary care. Indirect damages and consequential damages resulting from defects in the services are only reimbursable to the extent that such damages are typically to be expected with proper use of the services. Compensation for consequential damages and pecuniary losses, loss of savings, loss of interest, and damages resulting from claims by third parties against E-SEC are excluded in any case, to the extent permitted by law. Liability for further damages, such as lost profits, data loss, or similar, is expressly excluded.
- 7.5. The above limitations of liability apply equally to the organs, legal representatives, employees, and other agents of E-SEC.
- 7.6. E-SEC is not liable in case of force majeure, i.e., events that could not be prevented by E-SEC or the customer with the necessary care, such as natural disasters of any kind, fire, traffic accidents, war, sabotage, strikes, and/or power outages.
- 7.7. E-SEC is not liable for data loss to the extent that the damage results from the customer's failure to perform data backups before data transmission and/or later, to the extent technically possible, and thus ensure that lost data can be restored with reasonable effort.
- 7.8. Due to the variety of different learning platforms on the market, specific support from E-SEC for the integration of E-SEC e-learning courses

(download version) into third-party learning platforms cannot be guaranteed. If this integration is not technically feasible, the customer can alternatively use the E-SEC online learning platform at no additional cost.

- 7.9. The amount of liability in accordance with Section 7 of these GTC is limited to the amount of the customer's total invoiced amount to date in the event of liability incurred by E-SEC.
- 7.10. The warranty period is limited to three (3) years from the first delivery for downloaded content (single licenses, lifetime licenses), and individually created courses. For subscriptions, the warranty period is limited to the contract period. Downloaded content must be updated to the latest version in order to avail the warranty.

8. PRIVACY POLICY

- 8.1. E-SEC processes personal data in accordance with the current privacy policy. The privacy policy is available on the E-SEC website (<https://e-sec.com>) under the "Privacy Policy" menu.
- 8.2. In providing its services, particularly in the fields of learning platform and authoring tool, E-SEC acts as a data processor for the customer in accordance with the separately agreed data processing agreement. The data processing agreement will be prepared upon written request (sent to the email address privacy@e-sec.com) of the customer within the scope of the EU General Data Protection Regulation (EU-GDPR).

9. CONFIDENTIALITY

- 9.1. The parties (E-SEC and the customer, and potentially partners) shall treat as confidential all confidential information disclosed by one party to the other party under the contract or received from the other party, and shall use such information solely for the purpose of performing the services.
- 9.2. The parties shall protect confidential information from any unauthorized access and treat it with the same degree of care as they apply to their own equally confidential information, but not less than the care of a prudent businessperson.
- 9.3. These confidentiality obligations do not apply to information that:

- was known to the receiving party before it received it from the other party under this contract, or
- the receiving party developed independently without recourse to the other party's confidential information, or
- the receiving party obtained from a third party who is not bound by restrictions on the use and disclosure of such information, or
- become or are generally known without fault or involvement of the receiving party, or
- a party has exempted from confidentiality through written declaration to the receiving party, or
- disclosure is ordered by a judicial or governmental order.

10. REFERENCE CUSTOMER MENTION

- 10.1.** E-SEC is entitled to mention the customer as a reference client in marketing materials and on the E-SEC website. The mention will include the customer's name and, if applicable, the customer's company logo. For this purpose, the customer grants E-SEC a simple, non-transferable right of use, unlimited in time and space, regarding the necessary name and trademark rights.
- 10.2.** The customer may object to being mentioned as a reference client in writing (for example, by emailing support@e-sec.com).

11. PARTNERS

- 11.1.** Partners are authorized to sell E-SEC applications to third parties (hereinafter referred to as end customers) while complying with these terms and conditions.
- 11.2.** The prerequisite for partnership is a written registration of the partner (for example, via online form or email). The partnership commences upon E-SEC's written confirmation of the partnership. E-SEC reserves the right to refuse confirmation and thus the partnership.
- 11.3.** Partners are also entitled to integrate E-SEC applications into their existing offerings, provided that the licensing of E-SEC applications is never bypassed under any circumstances. A technical integration of E-SEC applications into the partner's applications requires explicit written approval from E-SEC.
- 11.4.** Partners receive a commission deducted from the purchase price, serving as a discount on the list price of E-SEC applications. The amount of the commission depends on the partner's status. The classification or change of

classification to a partner status is solely determined by E-SEC and communicated to the partner in writing (for example, via email).

- 11.5. No exclusivity is agreed upon.
- 11.6. E-SEC grants the partner a simple, non-transferable right to use regarding the necessary name and trademark rights to market E-SEC products.
- 11.7. Any changes to E-SEC's list prices will be communicated to the partner two (2) months in advance. The fulfillment of existing written offers at the old list prices is permitted for up to six (6) months after the announcement of the new list prices.
- 11.8. The partnership may be terminated by both parties (E-SEC and the partner) with a notice period of one (1) month without specifying reasons. Upon termination, the authorization to sell E-SEC applications to third parties and to use E-SEC's name and trademark rights expires. Existing end customer accounts and sales opportunities managed by the partner may be directly handled by E-SEC after the partnership expires if necessary for the future use of E-SEC applications by the end customer (e.g., for new orders).

12. FINAL PROVISIONS

- 12.1. Should individual provisions of these terms and conditions be or become invalid, this shall not affect the remaining content of the terms and conditions.
- 12.2. Changes or additions to these terms and conditions require written form to be effective.
- 12.3. These terms and conditions as well as the agreements made under them are subject to the law of the Republic of Austria, excluding the UN Sales Convention. This also applies to customers from countries other than Austria. The exclusive place of jurisdiction is the registered office of E-SEC.

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