

Service Specifications and Service-Specific Terms and Conditions

March 14th, 2024

1. Definitions

“**End user**” within these Service Specifications and Service-Specific Terms and Conditions shall have the meaning of an “**end customer**” (legal entity) as the Service is a B2B solution and consumers are excluded from subscribing the Service.

The term “**internet user**” refers to the individual (natural person) and personnel of the end customer.

The term “**company**”, which is used within the registration process on the Platform, shall have the meaning of the end customer’s firm.

“**User**” or “**named user**” refers to one or more individuals who use the Service on behalf of the end customer within the end user’s Service subscription(s).

“**End user subscriber**” refers to the user who subscribed for the Service on behalf of the end customer.

2. The Service

The TestBench Cloud Service (hereinafter referred to as the “**Service**”) is a specific B2B service developed and owned by imbus AG (“**imbus**”), running, and made available to end users via a cloud infrastructure. By the Service the end user is able to work in teams to design, manage and execute test cases and automated test procedures in order to manage, execute and document software testing.

The **Service** is subject to this “**Service Specifications**” which refer to Service Level Parameters, “**SL-Parameters**”. The SL-Parameters form an integral part of the Service Specifications.

3. Service Subscription

To subscribe to the “**Service**”, the end user (represented by the end user subscriber) registers on the proprietary technology e-commerce platform of imbus (the “**Platform**”) and places its subscription order in the shopping cart on the Platform.

For the use of the Platform by the end user, in particular the registration and the use of the content on the Platform the “**Terms of Use**” of imbus apply and are provided to the end user on the Platform at <https://www.testbench.com/legal>.

In accordance with the end user’s subscriptions, the end user is allowed and able to use the Service as a multi-team Service. When subscribing the corresponding “**team name**” has to be entered by the end user for each subscription. That means that for each subscription only one team can be entered by the end user, whereas the end user can make one or more subscriptions with regard to one team. The maximum number of users which are attributed to one team are defined by all subscriptions where the end user has entered the respective team name. For the sake of clarity, data attributed to one team and entered or uploaded by the end user within the Service or processed by the end user with the Service are separated on a data level logically from other teams.

Service Specifications and Service-Specific Terms and Conditions

4. Purchase and Payment

If the end user is subscribing for a paid subscription the end user will be redirected to the online-shop/payment-system of the third-party payment service **2Checkout**, made available and run by “**Verifone Payments BV dba 2Checkout**” (www.2checkout.com), hereinafter referred to as “the **Payment-Service-Provider**”).

The **Payment-Service-Provider** is the non-exclusive merchant-of-record of imbus and as such entitled for the distribution of the Service. The **Payment-Service-Provider** will be responsible for all order processing, payment processing, collection of applicable taxes and related matters. The **Payment-Service-Provider** therefore provides, hosts and will be solely responsible for the online-shop/payment-system, where end user's payment data are collected.

For the sake of clarity, the end user's contractual partner within these Service Specifications and the Service-Specific Terms and Conditions will be **Payment-Service-Provider**, not imbus.

Furthermore, for the purchase of the Service the separate Terms and Conditions of the **Payment-Service-Provider** apply to the extent not expressly otherwise agreed within these Service Specifications and Service-Specific Terms and Conditions. These Terms and Conditions are available at <https://www.2checkout.com/legal>.

Service Specifications

5. Service Functionalities and Documentation

A detailed description of the editions and functionalities of the Service including the service levels is available online at <https://www.testbench.com> and within the SL-Parameters, available under <https://www.testbench.com/legal>. The end user will receive specific documentation of the Service functionalities (the “**Documentation**”) online under <https://cloud01-eu.testbench.com/doc/onlineHelp.html>.

The Service can be the basis for further extended services or functionality (“**Extension**”). For using such Extension(s) the end user has to subscribe both the Service and the Extension(s).

6. System Requirements

The Service can be used by end user within different supported browsers and screen resolutions (“**System Requirements**”) as indicated in the SL-Parameters, available under <https://www.testbench.com/legal> and which will be automatically checked within login for the use of the Service by end user.

If the end user's browser doesn't match with the System Requirements the end user will be informed by a message and the login by end user may be rejected by the Service.

7. Service Availability

In accordance with the end user's applicable subscription the Service will be made available to the end user. The transfer point of the service to the end customer is the point where the cloud infrastructure of the subcontracted open telecom cloud is connected to the internet. For the sake of clarity, imbus is not responsible for any availability issues caused by the internet service provider of the end customer.

Minimum availability of the Service per quarter is defined within the corresponding SL-Parameters, available under <https://www.testbench.com/legal>, and calculated as follows:

$$((\text{Total service minutes}) - (\text{Total downtime minutes})) / (\text{Total service minutes})^*$$

Service Specifications and Service-Specific Terms and Conditions

*The individual items have the following meanings:

- **Total service minutes:** the total number of quarter minutes (calculation: 60 minutes multiplied by 24 hours multiplied by the number of calendar days in the quarter).
- **Total downtime minutes:** the number of minutes within a quarter during which the Service is not available, less the excused events in minutes.

Operating Times: Uptime (refers to the period in which Service is available), defined in the corresponding SL-Parameters, available under <https://www.testbench.com/legal>.

8. Maintenance and Support

a. Regular Maintenance Windows

Regular maintenance windows are defined within the SL-Parameters, available under <https://www.testbench.com/legal>.

In general impairments to end user caused by regular maintenance work are kept to a minimum. End user will be notified of substantial disruptions caused by regular maintenance work via email. Regular maintenance work is not considered downtime and is therefore not taken into account for calculating availability.

b. Events and Maintenance Service Parameters

Critical events are incidents that have an impact on the availability of the Service. Non-critical events are all other incidents (e.g. implementation of users and system support).

Critical or non-critical events will be processed according to their criticality as described in detail within the SL-Parameters, available under <https://www.testbench.com/legal>.

c. Support

Incidents can be reported by the end user in English or in the offered additional language as indicated in the SL-Parameters, available under <https://www.testbench.com/legal>.

For end user support in case of incidents or other technical problems, end user shall submit its support requests via the channel indicated in the SL-Parameters, available under <https://www.testbench.com/legal>. End user thereby is obliged to co-operate and to follow the instructions given to him online, e.g. send log files, answer questions, provide additional information.

9. Backups and Disaster Recovery Capability

All end user data entered by the end user is backed up on a regular basis and with a number and during a retention period as stipulated within the SL-Parameters, available under <https://www.testbench.com/en-us/legal>. In case of a disaster recovery the last version of the Service and the last data back-up will be restored. End user data which have been deleted by end user cannot be recovered by backups.

10. Data Retention in Case of Termination

After termination or expiration of the Service and on request by the end user, an export of data entered or uploaded by the end user within the Service will be available to end user for a period of time as defined in the SL-Parameters. After such period of time end user data will be deleted.

11. Notification Procedures

Important messages about the availability of the service (e.g. announcement of maintenance work), about information on data security (e.g. recommendations for updating end-user software), or about functional changes (e.g. information about new service features) are sent by email by the support team to the email address of the end-user's subscriber stored in the subscriber account. It is the responsibility of the end-user to ensure that such emails are read and that the recommendations or information contained therein are followed.

Service Specifications and Service-Specific Terms and Conditions

12. Third-Party Service-Providers

In addition to the Payment-Service-Provider mentioned in Chapter “4. Purchase and Payment”, also services of the following Third-Party Service-Providers are used to run and deliver the Service:

The Service is running, made available and hosted on a subcontracted cloud infrastructure by the third-party provider “**Deutsche Telekom**”. Further information about the third-party provider and cloud infrastructure is available at <https://open-telekom-cloud.com/>.

Service-specific Terms and Conditions

13. Rights of Access and Use of the Service

When the end user’s full payment of the license fee has been received the end user is granted the non-exclusive, non-transferable and non-sublicensable right to use the Service during the applicable subscription term as a Cloud Service/SaaS. The same shall apply for the use of the Service within any free-of-charges offerings. Further information about the applicable licensing models and the details of the license fees are available online at <https://www.testbench.com>. As the Service is a cloud-based software solution, the Service will not be provided physically to the end user for download on end user’s technical environment.

The granted right of use in this section can be exercised only by a maximum number of users in accordance with the applicable subscription. The end user will receive the necessary authorization codes for the subscribed amount of users via email after the applicable subscription and full payment of the license fee.

In each case, the end user shall use the Service solely for end user’s internal use with its ordinary business operations and in accordance with this section of this Service Specification and Service-Specific Terms and Conditions and the applicable Service Documentation.

The Service may be used exclusively for the purpose for which it is intended and as far as no risks e.g. to the security and availability are induced. Prohibited use includes but is not limited to: unauthorized access to the Service including non-confidential or unauthorized handling of authorization codes or any other authentication information, breach of any security or authentication measure, monitoring of data or traffic.

Furthermore, the end user is prohibited itself and shall not authorize or permit any third party to (i) license, assign, transfer, distribute or disclose the Service to any third party, in any form whatsoever, whether for valuable consideration or otherwise, if not stipulated explicitly otherwise; (ii) reverse engineer, decompile, decode, decrypt, disassemble, or attempt to derive any source code from the Service (except and only to the extent any foregoing restriction is prohibited by applicable law); (iii) use the Service in a manner, which leads to a violation of any applicable law; (iv) disturb or interrupt the Service or the system or cloud infrastructure of the third party provider of imbus or other networks and devices connected therewith; use any other interface than that authorized or provided by imbus or 2Checkout to make use of the Service; or (v) use the Documentation except for supporting end user’s authorized use of the Service.

14. Intellectual Property Rights

The end user acknowledges and agrees that with regard to the Service all property and non-property rights, in particular intellectual property rights, in whatever form, will remain solely vested in imbus and will not be assigned to the end user.

Intellectual property rights as granted in any jurisdiction are such as copyrights, data base rights, rights with regard to an ensemble of parameters, patent rights, trade name rights, trade mark rights, inventions, software, source codes, programming, symbols, names, images, designs, research and technical documents and materials, other intellectual and industrial property rights, utility model rights, and rights of action in relation to Confidential Information, and any rights of action in relation to trade names, trading styles and/or domain names.

Service Specifications and Service-Specific Terms and Conditions

15. Rights with regard to Data/Right of Anonymization and Use of End User's Data

Usage data is meta data which are click paths, server logfiles and processing queues of the application server. For the improvement and further development of the Service, imbus processes (in particular analyses and uses) this usage data.

The end user grants imbus the right to analyze and aggregate the entered end user stories, test cases, test data, test results including defects of the system/product under test in an anonymized way, to derive statistical data, which cannot be traced back neither to the end user nor to its tenant or an individual. Such anonymous statistical data are e.g. percentage of failed test cases per industry over time, or percentage of defects per user story per product category (e.g. mobile device app) over time.

For the sake of clarity, all property and non-property rights, in particular intellectual property rights with regard to usage data and anonymous statistical data will remain solely vested in imbus and will not be assigned to the end user. Under copy right law imbus constitutes the "manufacturer of the database" arriving from end user's usage data or anonymous statistical data. imbus is entitled in particular to publish and commercially exploit anonymous statistical data. Regarding data protection requirements see Data Processing Agreement <https://www.testbench.com/legal/privacy-policy>.

16. Obligations of End User

The end user is committed to confidentiality regarding all authentication license codes and to commit its personnel accordingly. For end user obligations in case of incidents, in particular end user's notification obligations regarding technical problems see section 8. Maintenance and Support c. Support.

17. Change of Service (Updates / Upgrades / Downgrade)

The Service and/or its functionalities may be optimized, extended and/or insignificantly altered at any time and in accordance with continuous technical progress (for example by application of new or different technologies, systems, methods and standards). In case such changes of the Service ("Updates" and/or "Upgrades") will be significant end user will receive a timely notification via email and by information published under <https://www.testbench.com>.

If the Service is updated, upgraded or downgraded, unless otherwise explicitly agreed, the Service Specifications and the Service-Specific Terms and Conditions apply to the Updated or Upgrade, in particular section 13. Rights of Access and Use of the Service.

18. Term and Termination of Service

In accordance with the applicable subscription the end user can choose between several terms (subscription periods) of the Service, e.g. month or year. The respective term ends automatically without obligation of notice to the end user, if end user did not subscribe for a prolongation of the term of the Service previously (automatic renewal) within the subscription.

The end user's right of extraordinary termination remains unaffected. Upon termination the end user's access to the Service will be disabled.

The term of the service also ends if the account is inactive and imbus deletes access on the basis of section 5.2 of the Terms of Use. imbus will inform the Internet users about this process at least 30 calendar days before the cancelation by email to the email address that the internet user has provided when registering on the platform.

19. Amendments of the Service Specifications and Service-Specific Terms and Conditions

These Service Specifications and the Service-Specific Terms and Conditions can be modified or amended at any time. The end user will be informed by 2Checkout about such modifications or amendments within an appropriate notification period in 2Checkout's online shop/payment system via shopping cart or by e-mail. Such modified or amended Service Specifications and Service-Specific Terms and Conditions apply for new

Service Specifications and Service-Specific Terms and Conditions

subscriptions of the end user. If the end users have subscribed for a prolongation of the term of the Service (automatic renewal), modified or amended Service Specifications and Service-Specific Terms and Conditions apply as soon as the prolongation starts.