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| **Landlord** | | Haag GmbH |
| **Tenant** | | DMT Solutions Germany GmbH |
| **Signature Date of the Lease** | | N/A (only draft agreement has been provided) |
| **Nature of the Lease[[1]](#footnote-2)** | | Commercial lease agreement. |
| **Description of the Leased Premises** | | The leased premises are located in the building with the postal address Steubenplatz 17 in 64293 Darmstadt and consist of a surface area of approx. 256.00 sqm on the 3rd upper floor (i.e. 4th floor from a US perspective) as highlighted in color in the floor plan attached to the lease agreement as annex 1.  **Comment:** Please note that the floor plan has not been provided. The leased premises have to be correctly highlighted in the floor plan in order to comply with the strict statutory form requirements for lease agreements having a term of more than one year. The compliance with this requirement should be confirmed once the respective annex has been prepared by the landlord. |
| **Use of the Rented Premises** | | Office use only. |
| **Term of the Lease** | | Commencement date: October 15, 2018.  Fixed term until October 14, 2022 in which ordinary termination is not possible. The tenant shall be entitled to renew the fixed term by further two (2) years by giving written notice no later than 12 months before the expiration of the initial fixed term.  After expiration of the initial or renewed fixed term, the lease shall be automatically renewed by periods of one year, unless a party terminates the lease with 6 months' prior notice. |
| **Monthly Rent** | | EUR 3,200.00 plus prepayments on service charges in the amount of EUR 512.00 and plus VAT; i.e. EUR 4,417.28 in total.  Rent-free periods have not been agreed.  The monthly rent is payable in advance no later than on the 3rd working day of each month. |
| **Tax Regime on Rent** | | Rent subject to VAT (currently 19 % in Germany). |
| **Rent Indexation** | | According to the draft agreement, the rent shall not be changed in the first five years of the lease. However, a comment has been included saying that this provision still needs to be updated by the landlord.  After this period, the rent shall be subject to CPI indexation and, therefore, shall be adjusted once the consumer price index for Germany has risen or fallen at least by 5 % in comparison to the commencement date of the lease agreement or the respective last adjustment. The rent shall be adjusted in the same amount as the index has changed.  **Comment:** Please note that indexation clauses according to which the rent will be automatically adjusted based on the changes of the consumer price index may only be agreed in lease agreements having a fixed term of at least 10 years. Given that this requirement is not met, we have suggested in our mark-up to delete the indexation clause. |
| **Rent Security** | | The tenant or the landlord shall open a new account with Volksbank Südhessen on which the tenant has to pay a security deposit amounting to three monthly net rents no later than two weeks after the execution of the lease agreement.  Alternatively, the tenant may provide a bank guarantee from a German major bank amounting to three monthly gross rents as rent security no later than two weeks after the execution of the lease agreement. The bank guarantee has to comply with the sample guarantee attached to the lease agreement as annex 3.  **Comment:** We have suggested in our mark-up that the bank guarantee can also be provided by a major European bank and that the rent security must only be provided to the landlord before handover. Furthermore, we would recommend to have the sample bank guarantee also reviewed by DMT Solutions Germany GmbH's bank in Germany once the respective annex has been provided by the landlord. |
| **Services Charges** | | The tenant shall bear all service charges which arise in connection with the leased premises. In particular, the service charges shall include:  All services charges mentioned in the German operating cost ordinance (*Betriebskostenverordnung*).  The costs for the management of the property in the lump-sum amount of 1 % of the annual net rent.  The costs for maintenance and repair works as well as cosmetic repairs for all common spaces of the property.  **Comment:** Please note that it is usually agreed in commercial lease agreements in Germany that the costs for maintenance and repairs for common spaces which shall be borne by the tenant as part of its services charges are capped at up to 10 % of the annual net rent. As the lease agreement does not provide for such a cap, we have suggested in our mark-up to cap these costs at 5 % (in order to have also some room for negotiations). |
| **Condition of the Leased Premises** | | At commencement date: The leased premises shall be handed over to the tenant in accordance with the building specification/description.  **Comment:** We have suggested that the applicable building specification/description shall be attached to the lease agreement as a further annex in order to have clarity about the condition of the premises owed by the landlord.  At the end of the lease: The tenant shall return the leased premises in cleaned and vacated condition. All outstanding cosmetic repairs have to be carried out and damages have to be repaired by the tenant. Furthermore, all construction works and alterations carried out by the tenant during the term of the lease agreement (if any) shall be reconstructed and the leased premises needs to be reinstated to its original condition, unless the landlord asks the tenant to assume these alterations at the end of the lease. |
| **Maintenance and Repairs** | | The tenant shall be obliged to carry out all maintenance and repair works of the leased premises including technical installations which are exclusively used by the tenant. To the extent that these works relate to damages which were not caused as a result of tenant's own use of the premises, the tenant shall be obliged to bear the costs for the respective works up to EUR 200.00 in each case, but no more that 5 % of the annual net rent.  **Comment:** Please note that it is rather unusual that the tenant shall also be responsible for maintenance and repair works which are not relating to its own use of the premises. Therefore, we have suggested in our mark-up that the tenant shall only be responsible for maintenance and repair works becoming necessary as a result of its own use of the premises.  The tenant shall be obliged to carry out cosmetic repairs in the leased premises.  The landlord remains responsible for all maintenance and repair works regarding roof and façade (i.e. all structural parts of the leased premises). |
| **Insurance** | | Landlord’s insurance:  The landlord shall be entitled to insure the building against fire, storm and water damages and may take out property and building liability insurances (including glass insurance) as well as an insurance covering the loss of rents. The aforementioned risks may also be insured by taking out an all risk insurance.  Costs of the insurance premiums may be allocated to the tenant as part of the services charges to be borne by the tenant.  Tenant’s insurance:  The tenant shall be obliged to insure its equipment, installations and inventory as well as to take out a business liability insurance.  **Comment:** Please note that we have clarified in our mark-up of the lease agreement that landlord's liability shall not be excluded or limited by the aforementioned insurances. |
| **Sub-letting / Assignment of the Lease Agreement** | | Sub-letting:  Sub-letting shall require landlord's prior written consent. Furthermore, the landlord shall be entitled to make its consent subject to the agreement of a surcharge of up to 10 % of the annual rent. If the rent to be paid by the subtenant is higher than the rent owed by the tenant under the lease agreement, the landlord may request 50 % of the excess amount has an additional rent to be paid by the tenant.  **Comment:** Please note that we have clarified in our mark-up that the landlord shall only be entitled to withhold its consent for cause. Furthermore, we have deleted landlord's right to request a surcharge of up to 10 % of the annual rent. We have also clarified that subleasing to affiliated companies shall not require landlord's consent.  Assignment of the lease:  Silent; i.e. assignment of the lease agreement to a third party requires landlord's prior consent. |
| **Miscellaneous** | | The annexes to the lease agreement have not been provided and should be reviewed once prepared by the landlord.  The lease agreement contains a change of control clause according to which also the inclusion of a partner in tenant's business/company (*Aufnahme eines Partners in das Geschäft/die Firma*), a change of the owner of tenant's business/company (*Wechsel des Inhabers*) as well as a change of tenant's legal form (*Änderung der Rechtsform*) shall require landlord's prior consent.  **Comment:** We have suggested in our mark-up of the lease agreement to delete the change of control. |
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1. *This lease summary is only to intended to provide a high level overview of the terms and conditions of the draft commercial lease agreement. In no situation whatsoever this lease summary shall substitute a comprehensive reading of the said draft commercial lease agreement.* [↑](#footnote-ref-2)