

## GENERAL TERMS AND CONDITIONS of logi.cals GmbH (logi.cals)

(Status February 22<sup>nd</sup> 2023)

### 1. Subject matter and scope of the GTC

- 1.1 The following General Terms and Conditions (GTC) shall exclusively govern the legal relationship as well as all present and future business transactions between logi.cals GmbH (hereinafter referred to as “**logi.cals**”), and its clients (hereinafter referred to as “**Client**”), including all “products” provided by logi.cals within the scope of the contractual relationship and all amendments, supplements and other changes to the software delivered, including new programme versions, in addition to any other materials provided within the scope of maintenance services.
- 1.2 “**Products**” within the scope of these GTC shall in particular refer to the distribution, use and maintenance of logi.cals GmbH’s software as well as of any related hardware, such as control components, electronic licensees (dongles), etc. “**Software**” within the scope of these GTC shall refer to data processing programmes in a machine-readable format, including all related user documentation.
- 1.3 The GTC shall take precedence over all other contracts, particularly over the license agreement and the software maintenance agreement or individual agreements concluded between logi.cals and the Client and supplement these. A more detailed description, number, operational environment, conditions of use of the products and other conditions such as the type and scope of use shall either be specified in logi.cals’s license agreement or in an end user license agreement agreed to in the course of using the software. If no logi.cals license agreement has been concluded, the end user license agreement shall be applicable, which is displayed and must be accepted at time of installation of the software. Both the logi.cals license agreement as well as the end user license agreement are hereinafter referred to as “**license agreement**”. The type and scope of any additional services provided by logi.cals shall arise from separate agreements, e.g. from the “**Software Maintenance Agreement**” for additional services relating to software maintenance.
- 1.4 Any provisions that deviate from these GTC, including in particular any terms and conditions on the part of logi.cals’s Client or individual agreements concluded with Clients shall only be incorporated in the contract if explicitly agreed to by logi.cals in writing.

### 2. Conclusion of contract

- 2.1 Agreements between logi.cals and the Client shall enter into force with immediate effect once these have been signed by individuals authorized to represent logi.cals and the Client, unless explicitly agreed otherwise in the agreements.
- 2.2 The Client is responsible for selecting the products and the operational environment; he alone shall bear the risk whether the products meet his requirements and needs. logi.cals does not provide any consultation services on the selection of products, unless such services have been explicitly agreed to in writing with the Client. Declarations of contracts avoided claims of error in motive or challenges on the grounds of mistake are excluded.
- 2.3 logi.cals is entitled to use third parties to fulfil its contractual obligations.

### 3. Ownership of software or other products and updates

- 3.1 logi.cals remains the rightful owner of the software and of other products and updates. The software is a trade secret of logi.cals and is confidential.

### 4. Scope of use and data back up

- 4.1 The Client shall only use the programmes in the agreed operational environment (e.g. CPU, installation location, group) and within the distinctly agreed operational conditions (e.g. number of workstations). The operating environment and conditions of use as well as the precise scope of use arise from the respective license agreement. Unless otherwise explicitly agreed in writing,

the (non-exclusive) permission of use granted to the Client may neither be transferred nor sub-licensed.

- 4.2 The programmes may only be used in conjunction with and for the purpose of programming of the system specified in the license agreement (“Specific System”), unless otherwise expressly agreed in writing.
- 4.3 Whether the Client may only use the software at one workstation (single license) or simultaneously at several workstations (multiple licenses) is specified in the respective license agreement for the PC software product
- 4.4 The latest version of the software at the time of conclusion of the contract shall be delivered; the source code is not provided to the Client. If a software maintenance agreement has been concluded, the software’s latest version will, upon release, be delivered or made available for download upon release.
- 4.5 The decompilation of the software is excluded to the fullest extent permissible by law. Insofar as mandatory regulations allow for decompilation when it is indispensable for achieving interoperability, the following prerequisite shall apply: only if logi.cals has not provided all of the necessary information requested by the Client in writing for achieving interoperability within 14 days shall decompilation be considered indispensable to achieve interoperability. This period shall be reasonably extended if logi.cals provides a justified reason why compliance with this 14-day deadline is not possible or feasible.
- 4.6 The Client shall take reasonable precautions to regularly back up daily to ensure that data from the data stocks, which are retained in machine-readable format, can be reproduced with reasonable effort. logi.cals does not assume any liability for data loss that could have been prevented by appropriate and regular, daily back up of data.

## 5. Confidentiality

- 5.1 Both parties agree to keep any commercial or business information they obtain secret and shall undertake to treat all information related to the fulfilment of this contract strictly confidential, even beyond its expiry, and to not disclose such information to third parties.
- 5.2 The Client shall undertake not to disclose any confidential information related to the software to third parties. The same applies to personal data subject to the provisions of the General Data Protection Regulation (GDPR, Regulation (EU) 2016/679) or the Austrian Data Protection Act. Employees of the contractual partners or other persons to whom this information is made available for the contractual use of the software shall not be considered “**Third Parties**”, as long as they are present at the Client’s premises to use the software in accordance with the purposes established in the contract, that is, not end customers and their employees.
- 5.3 The Client shall undertake to transfer any of his obligations pursuant to sections 5.1 and 5.2 to his end customers. In case of breach by an end customer, the Client shall, upon logi.cals’s request, commit to either take legal action against the respective end customer or to support logi.cals in taking any necessary and appropriate action (also judicial) in response to such violations.

## 6. General provisions for delivery

- 6.1 logi.cals shall deliver one or more copies of the software within the scope of a workstation software license (data carrier or digital transmission, including the programme and user documentation) in accordance with the product description, as well as if explicitly agreed in writing, a digital or virtual license carrier or corresponding control components. logi.cals is not required to provide any further services, unless otherwise expressly agreed in writing.
- 6.2 The Client shall undertake to retain proprietary notices related to the software, such as copyright notices, and to incorporate them unchanged into all full or partial copies produced by the Client.
- 6.3 The Client shall receive one or more licenses for the workstations or servers to make the programme executable at the agreed number of workstations. Depending on the agreement, so-called dongles or license files created for a specific workstation can be licensed.
- 6.4 For software used on control components, the Client shall receive a distinct label (“**License Label**”) for each control component, corroborating that the relevant software has been appropriately

licensed and/or a license file that can be customised for the respective control device and allows for the execution of the software.

- 6.5 The Client shall attach the License Label to the control component and transfer the corresponding license file to the control component.

## 7. Export regulations

- 7.1 The Client understands that the export of the delivered products may be subject to obtaining a permit or may be excluded altogether pursuant to the respective export regulations of the Republic of Austria, the European Union and/or the United States of America—for example, due to their nature or intended use or final destination—and that any violations may be punishable under criminal law. The Client must therefore strictly observe all nationally and internationally applicable and relevant export regulations and obtain all necessary permits. In this respect, the Client specifically undertakes to check and ensure that:

- a. insofar as the products can only be delivered with approval from the respective national government agency for arms-relevant, nuclear or weapons-related use or to a military recipient, such approval is obtained in advance in case of resale
- b. no deliveries of goods, software and technology originating in the U.S. are made to businesses and persons registered in the Denied Persons List (DPL) of the U.S. Department of Commerce
- c. no deliveries are made to businesses and persons registered in the Specially Designated Nationals and Blocked Persons List of the U.S. Department of the Treasury or in the EU terrorist list.
- d. the relevant UN resolutions, EC regulations, Austrian laws as well as lists of the competent Austrian authorities are observed
- e. the Entity List of the U.S. Department of Commerce is observed
- f. no deliveries are made to persons registered in the U.S. Department of Commerce's Unverified List.

- 7.2 In the event of a breach of the above obligations by the Client, he shall immediately upon request indemnify logi.cals from any possible claims and compensate logi.cals for any claim for damages filed by suppliers or licensors, third parties or national and/or international authorities or organisations.

- 7.3 The deliveries and services (fulfilment of the contract) are subject to the condition that no obstacles to their fulfilment exist such as national or international regulations, specifically export control regulations as well as embargos or other sanctions. The contracting parties shall undertake to provide all information and documents required for export/transfer/import. Delays due to export inspections or approval procedures extend the deadlines and delivery times accordingly. If the mandatory approvals are not granted, the contract shall be deemed to not have been concluded for those components concerned. If mandatory approvals are not granted for reasons attributable to the Client or that fall within his sphere of influence, section 14.1 shall apply

- 7.4 Upon the Client's request, logi.cals will inform him of the relevant points of contact for further information.

## 8. General provisions on fees

- 8.1 The Client shall pay a fee to logi.cals for the agreed software use or for the licenses or for the control components. The fee is based on the corresponding price list of logi.cals. The amount of the fee may also be specified in the license agreement or in the software maintenance agreement or in an individual agreement. The transport and packaging costs will be charged separately by logi.cals.

- 8.2 In case value added tax is payable, the statutory value added tax shall be added to the fee.

- 8.3 The fee is due in full on the date specified in the invoice once it has been issued. Any bank transaction fees incurred for the payment shall be borne in full by the Client.

- 8.4 In the event of late payment, an interest rate of 9.2 percentage points annually above the prime rate will be charged. The prime rate published by the Austrian National Bank that is valid on the first calendar day of a half-year is applicable to the respective half-year. Insofar as the Client is

not responsible for the delay, he shall only be charged the interest stipulated in § 1000 para. 1 ABGB (Austrian Civil Code). An additional lump sum of EUR 40.00 will be charged as collection fees for each payment reminder issued by logi.cals in case of late payment. logi.cals may assign a legal representative at any time in case of late payment, to collect any amounts not paid. In that case, the Client is required to pay the relevant collection fees in accordance with the applicable tariff regulations.

- 8.5 The Client may only offset undisputed or legally established claims. He may not transfer his claims to third parties. The Client is not entitled to or shall waive any rights of retention involving the object of the contract or parts thereof.

## 9. Software maintenance

- 9.1 As an additional service to the software, logi.cals offers the following services within the scope of software maintenance:
- a. the Client shall have the right to use the latest programme versions released (e.g. updates) for the contractual software during the term of the contract.
  - b. technical support by phone or e-mail for troubleshooting and problem solving or prevention shall be provided to the Client during logi.cals's official business hours.
  - c. the Client shall be informed in advance of any planned or new programme versions.
- 9.2 The additional agreement on software maintenance shall come into effect when a logi.cals software maintenance and service agreement is concluded.
- 9.3 The software maintenance fee is primarily based on the corresponding price list of logi.cals. Different fees can be agreed in the logi.cals software maintenance and service agreement.

## 10. Trainings

- 10.1 These General Terms and Conditions also apply to all trainings offered by logi.cals.
- 10.2 Unless otherwise agreed, the trainings shall take place at the Client's premises.
- 10.3 The Client is responsible for ensuring that the training participants have the necessary technical knowledge. As the success of the training depends, among other things, on the participants' prior knowledge and personal commitment, logi.cals is not liable for the success of the training. logi.cals only commits itself to using qualified training staff.
- 10.4 Contractually specified travel expenses refer to trips to the Client's premises.
- 10.5 logi.cals reserves the right to cancel trainings due to too few participants. The registration or request for training is considered binding. The preparation time in designing the training is lengthy. logi.cals is therefore entitled to charge the following costs in case of non-participation of a participant in the training:
- a. Notification of non-participation 0 to 2 weeks prior to the training: 100% of the agreed fee
  - b. Notification of non-participation 2 to 4 weeks prior to the training: 50% of the agreed fee. During this period, substitutes can be selected at any time without any additional costs.
- 10.6 In case of cancellation of the training due to illness, accident or any other unforeseen event, no entitlement exists to the execution of the training. logi.cals shall not be liable in such cases for any costs incurred such as travel expenses, accommodation costs, loss of profit or third party claims
- 10.7 All training contents, teaching aids, handouts and the like are intellectual property of logi.cals. The fee only includes the execution of the training course with the aim of expanding the participants' knowledge. Full or partial publication of the training documents, sharing them with third parties and reproducing them is not permitted. Course participants are also prohibited from making recordings on tape, film or the like.

## 11. Warranty

- 11.1 logi.cals guarantees that at the time of delivery to the Client, the software (a) is free of any known viruses, (b) functions, in principle, in accordance with the corresponding documentation, and (c) is free of other material defects and defects of title. Minor deviations from the product description that do not affect the software's usability are not taken into consideration. The presumption period according to § 924 ABGB as well as the possibility of recourse against logi.cals according to § 933b ABGB are not applicable.
- 11.2 If defects arise within contractual use terms, the Client must immediately notify logi.cals about these defects in a comprehensible manner and provide practical information on the defects and to give logi.cals the possibility to eliminate them within a reasonable period of time. The Client shall, within a reasonable scope, assist logi.cals during its troubleshooting efforts. logi.cals does not provide any warranty for defects that are not reproducible at logi.cals.
- 11.3 logi.cals may choose to eliminate defects by delivering new software or by replacing physical media. logi.cals may, within the scope of elimination of defects, also provide an update, upgrade or a more recent version of the software as supplementary performance, if deemed reasonable for the Client.
- 11.4 The Client is not permitted to remedy defects of the software himself or assign a third party to remedy them (substitute performance) without logi.cals's explicit and written consent. A breach of this clause results in the loss of any warranty claims and releases logi.cals from any liability for the respective defects or consequences of the respective defects.
- 11.5 logi.cals is entitled to undertake three attempts to eliminate the defects. If the defect is classified as a "slight" software error but logi.cals does not succeed in remedying it or in by-passing the defect in such a way that the software can be used as initially agreed, the Client is entitled to demand a reduction of the agreed fee in accordance with the legal provisions. If the defect is classified as a substantial error (preventing or obstructing operation), the customer may also terminate the agreement extraordinarily.
- 11.6 logi.cals's warranty obligation is excluded if the software has been modified by the Client in violation of the contract or of the law, or if the software has been tampered with in any other way without permission. Warranty is furthermore excluded in case of use in breach of the agreement, use in a different operational environment than agreed (this also applies to use with operating systems or versions thereof that have not been approved by logi.cals in writing, as well as use in conjunction with incompatible hardware and software not approved by logi.cals), improper use, external influences, force majeure or similar circumstances.
- 11.7 Statutory provisions apply to all other services rendered and products delivered by logi.cals (hardware components or other products).
- 11.8 The warranty period is six months from the date of delivery.
- 11.9 The statutory warranty periods shall apply if the legal relationship established between logi.cals and the Client is transactional. The scope of the warranty obligation in that case shall be determined by the mandatory statutory provisions.

## 12. Liability

- 12.1 logi.cals shall assume liability for direct personal injuries for which logi.cals is responsible and which have been caused to the Client by intent, gross negligence or slight negligence in direct connection with the software's contractual use. In case of slight negligence, liability is limited to foreseeable damages.
- 12.2 In addition, logi.cals shall only pay damages in case of intent or gross negligence. logi.cals's liability is limited to twice the amount of the agreed fee for the software that has caused direct damage. logi.cals shall not assume any liability for lost profits, expected but unrealized savings or intended gains, indirect and consequential damages as well as damages to recorded data. logi.cals shall not assume any liability for damages resulting from third party claims, unless these damages are direct personal injuries that are directly connected with the software's contractual use.
- 12.3 Any liability by logi.cals is excluded if the cause of material damage, financial loss or personal injury results from the Client's use of the software in violation of the agreement with logi.cals.
- 12.4 The Client is bound by a contractual obligation to prevent and minimise damage, which in particular includes daily data backup. The Client shall furthermore be bound by the obligation to ensure that the occurrence of any damage caused by the direct or indirect use of the contractual software is prevented, also by means of detailed and comprehensive state-of-the-art tests, and that the

effects of any damage that may arise are contained to the greatest extent possible. logi.cals shall not assume any liability for damages resulting from any breaches of these obligations by the Client.

- 12.5 logi.cals shall, at its own expense, fend off third party claims against the Client for infringement of industrial property rights associated with logi.cals's deliveries and services. The Client shall not of his own accord respond to such claims. The Client shall undertake considerable efforts to support logi.cals in its defence against the alleged infringements of property rights. The Client shall authorize logi.cals to take over the dispute with the third party in and out of court; logi.cals indemnifies him against any claims, as far as these claims are not based on the Client's conduct. The Client shall immediately inform logi.cals in writing and in a comprehensible manner about any claims filed against him by third parties.

### 13. Termination of right of use

- 13.1 **Expiration.** The contractual relationship between logi.cals and the Client and thus the right of use by the Client automatically ends with the expiration of the contract period stipulated in either the license agreement, the software maintenance agreement or in an individual agreement.
- 13.2 **Extraordinary termination.** Either party is entitled to terminate the contractual relationship due to a material breach even before the expiration of the minimum contractual period by written notification, observing a period of notice of ten (10) calendar days, unless the other party remedies the breach prior to the expiration of that period. If the contractual relationship is terminated by logi.cals due to a substantial breach of contract by the Client, he shall lose the right to claim any payment already made.
- 13.3 **Regular termination.** In case of an indefinite term contract, the contractual relationship may be terminated in writing by either logi.cals or the Client by registered letter without stating any reason, observing a period of notice of three (3) months at the end of each year.
- 13.4 **Consequences of termination or expiration.** Following the termination of the license agreement's legal effect or after expiration of a fixed-term contract:
- a. all software licenses will terminate with immediate effect;
  - b. the Client shall immediately cease all software use;
  - c. the Client is bound by the obligation to either return to logi.cals or destroy any copies of logi.cals's software, documentation and confidential information in his possession or under his control. Within 15 calendar days from the termination or expiration of the contract, an authorized representative of the Client must confirm in writing that all copies have been returned to logi.cals or destroyed. Any of the conditions stipulated in these GTCs that continue to apply after the termination or expiration of the contractual relationship shall remain in force until they have been fulfilled. This applies in particular to the Client's obligation to maintain secrecy.
- 13.5 These termination modalities shall be verifiably transferred from the Client to the end customer in writing.

### 14. Contractual penalty

- 14.1 For each violation of a contractual obligation stipulated in sections 4.6, 5.3, 7.2, 7.3 and 10.7 of these GTCs or in the license agreement or in any other written agreement between logi.cals and the Client, the Client shall pay logi.cals a contractual penalty fee, which is independent of the fault and of the occurrence and amount of the damage, which shall amount to three times the maximum fee agreed between logi.cals and the Client within the scope of the contractual relationship subject to these GTCs. The contractual penalty fee is due within 14 days from the written request. Other claims, in particular those for omission and damages exceeding the contractual penalty fee, including loss of profit, which, in particular, includes any costs associated with public relations to avert any consequences of a breach of secrecy, shall remain unaffected.

## 15. Concluding provisions

- 15.1 Changes/additions to the General Terms and Conditions must be made in writing; this also applies to the cancellation of the written form.
- 15.2 Should a provision of these General Terms and Conditions be or become legally invalid or unenforceable in full or in part, it shall not affect the legal validity of all other rules and regulations. The contracting parties shall replace the legally invalid or unenforceable provision with a valid and enforceable provision which reflects the content and purpose of the legally invalid or unenforceable provision as closely as possible.
- 15.3 All disputes that arise in connection with a contract that is subject to these terms and conditions—including disputes about its existence or non-existence—shall fall into the exclusive jurisdiction of the competent court in St. Pölten, Austria. logi.cals reserves the right, however, to bring claims at any other competent jurisdiction
- 15.4 Any fees and charges associated with the formation of contracts shall be exclusively borne by the Client.
- 15.5 These GTCs as well as the contractual relationships that are subject to these GTCs are subject to substantive Austrian law, to the exclusion of the conflict of law rules (IPR) and the UN Sales Convention.