

## General Terms and Conditions - GTC

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These General Terms and Conditions (GTC) apply to deliveries of all kinds that DB Magnifier GmbH provides as a contractor ("CO") within the framework of the contractual relationship concluded with the client ("CL"). The contractual relationship is established by the signing of the offer by the CL or a separate order (offer purchase licenses) and an order confirmation by the CO (acceptance). The CO may reject offers from the CL at its own discretion until an order confirmation is submitted.

These GTC shall also apply in their currently valid version to all current and future deliveries made by the CO to the CL, even if they are not expressly referred to in individual cases when the contract is concluded. Separate terms and conditions of purchase of the CL shall only apply if they are expressly confirmed in writing by DB Magnifier GmbH.

Apart from this contract, there are no other verbal or written agreements between the contracting parties with regard to the object of performance. All amendments or additions to this contract must be made in writing.

## 1 Scope of delivery

The basis for the provision of services is the written service description and corresponding product specific Terms of Use (License Agreement). In general, unless specified differently in the offer, the service includes access to the software running on the CO's servers.

## 2 Date of fulfillment and term of service

Delivery shall take place after payment in full by transmission of the access data.

## 3 Terms of payment & invoicing

Invoices issued by the CO are due 30 days after the invoice date without deduction and free of charges. The granting of discounts is excluded.

Compliance with the agreed payment dates is an essential condition for the fulfillment of the contract by the CO. In the event of late payment, interest on arrears shall be charged at the usual bank rate. If two installments of partial payments are not paid on time, the CO shall have the right to enforce the loss of deadlines and to call in any acceptances handed over.

The CL shall not be entitled to withhold payments due to incomplete overall delivery, guarantee or warranty claims or complaints.

All services remain the property of DB Magnifier GmbH until payment has been made in full.

## 4 Right of withdrawal

In the event of default due to the sole fault of the CO, the CL shall be entitled to withdraw from the relevant order by registered letter if the agreed service is not rendered in essential parts even within the reasonable grace period, which must be 4 weeks minimum and the CL is not at fault.

Force majeure, labor disputes, natural disasters and transport blocks as well as other circumstances beyond the CO's control shall release the CO from the delivery obligation or allow it to reschedule the agreed performance dates.

Non-compliance with the agreed payments despite a reminder and a reasonable grace period, as well as non-compliance with the CL's obligation to cooperate, shall entitle the CO to cease ongoing work or withdraw from the contract at its own discretion. All associated costs and loss of profit shall be borne by the CL.

## 5 Cancellation

Orders by the CL are final. Cancellations are only possible with the written consent of the CO. If the CO agrees to a cancellation, it shall be entitled to charge a cancellation fee amounting to 30% of the unbilled order value of the overall project in addition to the services rendered and costs incurred.

## 6 Warranty

Warranty rules of the Terms of Use apply. In general, if there is no warranty regulation within the Terms of Use, the CO warrants that

- The performance of the services will be in accordance with the state of the art;
- An appropriate standard of care and quality will be applied in the performance of the contract;

The CO will not be responsible for successful performance of the Services in the sense of a contract for work and services. The services do not require acceptance unless this has been expressly agreed in writing.

A prerequisite for the elimination of errors is that

- the CL describes the error sufficiently in an error message and this can be determined for the CO;
- the CL provides the CO with all documents required for the elimination of the error;

- the CL or a third party attributable to it has not interfered with the software/configuration;
- the software is operated under the intended operating conditions in accordance with the documentation.

In case of warranty, improvement shall in any case have priority over price reduction or change. In case of a justified notice of defects, the defects shall be remedied within a reasonable period of time, whereby the CL shall enable the CO to take all measures necessary to examine and remedy the defects.

The presumption of defectiveness pursuant to § 924 ABGB is deemed excluded.

Costs for assistance, misdiagnosis as well as the elimination of errors and malfunctions for which the CL is responsible, as well as other corrections, changes and additions not covered by the warranty, shall be carried out by the CO against payment. This also applies to the elimination of defects if program changes, additions or other interventions have been made by the CL itself or by third parties. For programs which are subsequently changed by the CL's own programmers or by third parties, any warranty on the part of the CO lapses.

Furthermore, the CO does not assume any warranty for errors, malfunctions or damages which are due to

- improper operation
- changed operating system components
- interfaces and parameters
- use of unsuitable organization tools and data carriers, as far as such are prescribed
- abnormal operating conditions (in particular deviations from the installation and storage conditions)
- as well as transport damages

If the subject of the order is the modification or supplementation of already existing programs, the warranty refers to the modification or supplementation. The warranty for the original program shall not be revived thereby. Warranty claims become time-barred six (6) months after delivery. If the service owed is made available to the CL by electronic data transmission, the service is deemed to have been rendered at the time of the verifiable data transmission. The time of data transmission shall be decisive.

## 7 Liability

The CO is liable for damages caused intentionally or through gross negligence by its employees or vicarious agents, as well as for personal injury.

Any further liability as well as liability for consequential damages, indirect and collateral damages, incidental damages of any kind, loss of profit and loss of sales as well as loss of data shall be excluded for the CO in any case. In this context, the CL undertakes to comply with reasonable obligations to minimize damages.

Claims for damages shall become statute-barred in accordance with the statutory provisions, but no later than 3 months after knowledge of the damage and the damaging party. In any case, claims for damages shall become statute-barred (in absolute terms) 2 years after performance of the service.

If the CO provides the service with the assistance of third parties and warranty and/or liability claims against these third parties arise in this context, the CO shall assign these claims to the CL. In this case, the CL shall give priority to these third parties.

Claims for damages against the CO shall be limited to the amount of the agreed liability insurance sum from the underlying liability insurance contract of the CO. Compensation for damages in excess of this liability insurance sum is therefore expressly excluded.

## 8 Loyalty

The contracting parties undertake to be in Good Faith to each other. They will refrain from any enticement and employment, also through third parties, of employees who have worked on the realization of the orders, of the other contracting party for the duration of the contract and 12 months after the termination of the contract. The contracting party violating this provision shall be obliged to pay to the other contracting party liquidated damages in the amount of one gross annual salary of the poached employee.

## 9 Data protection and confidentiality

Employees of the CO have to keep personal data from data processing entrusted to them or which have become accessible to them exclusively on the basis of their professional employment secret, irrespective of other statutory obligations to maintain secrecy, unless there is a legally permissible reason for transferring the personal data entrusted or which have become accessible to them (data secrecy). Employees have been familiarized with the data protection regulations relevant to them.

The CL is informed that in the course of the contract handling, personal data of the CL (necessary contact persons & responsible persons - in this case name, company address, company e-mail, web address and telephone number) may be forwarded to third parties necessary for the provision of services.

This contract and its enclosures constitute confidential information. Both contracting parties agree that this information may not be disclosed to third parties.

## 10 Right of use

The CL undertakes to use software produced by the CO only in accordance with the Terms of Use applicable to the product in each case. The CL holds the CO harmless and indemnifies to claims of third parties, in case Terms of Use or statutory laws are breached by CL.

## 11 Agreement on customer reference

The CO is permitted to name the CL as official customer reference. This also includes subject areas of individual projects - project contents are subject to the confidentiality agreement and may only be disclosed to third parties if the CL releases the CO from the confidentiality agreement in the specific case.

## 12 Place of jurisdiction

For all disputes arising from or in connection with the contracts concluded between the CL and the CO, Austrian law is agreed to the exclusion of conflict-of-law rules and the UN Convention on Contracts for the International Sale of Goods. The competent Court for 1010 Vienna is exclusively agreed as the competent court.

## 13 Final provision

Should individual provisions of this contract be or become invalid, this shall not affect the remaining content of this contract. The contracting parties shall cooperate in partnership to find a provision that comes as close as possible to the invalid provisions.

The CL may not derive any waiver of claims from an act or omission of/by the CO, unless the CO expressly declares such waiver in writing.

Important notifications shall be made in writing by e-mail and shall be addressed to the contact person named in the CO's offer. Notifications by the CL, which are directed towards notices of defects, setting of a grace period due to delay, the amendment or termination of the contractual relationship concluded with the CO, are furthermore only legally effective if they are signed by the CL in accordance with the company's name.