

## **General Terms and Conditions of Delivery of LOGICDATA Electronic & Software Entwicklungs GmbH**

### **1. General Information**

**1.1** These “General Terms and Conditions of Delivery” (hereinafter referred to as: “GTCD”) of LOGICDATA Electronic & Software Entwicklungs GmbH, Wirtschaftspark 18, 8530 Deutschlandsberg (hereinafter referred to as: “LOGICDATA”) shall be applicable for all orders of LOGICDATA.

**1.2** For future orders, these GTCD shall be deemed included even if they are not referred to.

**1.3** LOGICDATA is only willing to contract based on these GTCD. Should the General Terms and Conditions of the Buyer include regulations, which are contrary to these GTCD, or contain additional regulations, which are not taken into account here and which deviate from the legal regulations, then these regulations shall not be included in the content of the contract. Acceptance of the delivery and service of LOGICDATA by Buyer or a payment by Buyer shall imply agreement with the GTCD of LOGICDATA. On the other hand, LOGICDATA does not acknowledge the applicability of the terms and conditions of the Buyer through the delivery or service.

### **2. Submission of Offers**

**2.1** LOGICDATA’s offers shall be deemed offers without engagement.

**2.2** Unless otherwise agreed upon without doubt, the content of our order confirmation will delineate the content of the agreement.

### **3. Conclusion of Contract**

**3.1** The contract shall be deemed concluded upon written confirmation by LOGICDATA of an order received or upon dispatch of a delivery.

**3.2** Subsequent amendments of, or additions, to the contract shall be subject to written confirmation.

**3.3.** Notifications transmitted by telefax or E-Mail shall be accepted. The parties agree that, unless otherwise required, legally significant statements or declarations of either party may also be transmitted electronically. However, should any such statements arrive at LOGICDATA’s premises outside of the official hours of business, they shall not be deemed received until the start of the official hours of business on the following working day. LOGICDATA’s official hours of business are 9 a.m. to 3 p.m. from Monday to Friday with the exception of public Austrian holidays.

#### **4. Prices, Offsetting and Assignment**

**4.1** Prices shall be quoted ex works or ex LOGICDATA's warehouse without VAT, packing and packaging, loading. Buyer shall be liable for any and all charges, taxes or other duties levied in respect of delivery. If the terms of delivery include transport to a destination designated by Buyer, transport costs as well as the cost of any transport insurance desired by Buyer shall be borne by the latter. Delivery does not, however, include unloading and subsequent handling.

**4.2** Prices are based on costs obtaining at the time of the first quotation. In the event that the costs have increased by the time of delivery, LOGICDATA shall have the right but not be obligated to adjust prices accordingly. In particular, this right shall apply regarding currency exchange rates fluctuation between the date of the order confirmation on the one hand and the issuing of the invoice on the other. In particular, LOGICDATA shall have the right but not be obligated to adjust prices in accordance with its costs (materials, wages, currency exchange rates energy, etc) on annually with effect for subsequent orders of the Buyer, with the annuality computed starting with the first quotation.

**4.3** If LOGICDATA fails to make timely payment of any sums, except those contested in good faith or those in a good faith dispute, interests will accrue at an annual rate equal to three percent (3%). If LOGICDATA fails to make timely payment contested in good faith or those in a good faith dispute LOGICDATA has not to pay any interests.

**4.4** Offsetting against the claims of LOGICDATA shall be permissible only with legally determined or acknowledged claims.

**4.5** Without a written consent, the Buyer shall not be authorised to assign the claims against LOGICDATA.

#### **5. Delivery**

**5.1** The period allowed for delivery shall commence at the latest of the following dates:

- a) the date of order confirmation by LOGICDATA,
- b) the date of fulfilment by Buyer of all the conditions, technical, commercial and other, for which he is responsible,
- c) the date of receipt by LOGICDATA of a deposit or security due before delivery of the goods in question.

**5.2** Buyer shall obtain whatever licences or approvals may be required from authorities or third parties for the construction of plant and equipment.

**5.3** LOGICDATA may carry out, and charge Buyer for partial or advance deliveries. If delivery on call is agreed upon, the commodity shall be deemed called off at the latest one year after the order was placed.

**5.4** In case of unforeseeable circumstances or circumstances beyond the parties control, such as all cases of force majeure, which impede compliance with the agreed period of delivery, the latter shall be extended in any case for the duration of such

circumstances; these include in particular armed conflicts, official interventions and prohibitions, delays in transport or customs clearance, damages in transit, energy shortage and raw materials scarcity, labour disputes, and default on performance by a major component supplier who is difficult to replace. The aforesaid circumstances shall be deemed to prevail irrespective of whether they affect LOGICDATA or his subcontractor(s).

**5.5** If a contractual penalty for default of delivery was agreed upon by contracting parties when the contract was concluded, it only shall be executed as follows, and any deviations concerning individual items shall not affect the remaining provisions: Where delay in performance can be shown to have occurred solely through the fault of LOGICDATA, Buyer may claim for each completed week of delay an indemnity of at most 0.5%, a total of no more than 5%, however, of the value of the goods to be delivered late. Assertion of rights of damages exceeding this extent is precluded.

**5.6** With blanket orders with an individual forecast, delivery time is 6 weeks, in case of blanket orders without a forecast, it is 14 weeks. Outline agreements are valid for 12 months at the most. If there is no blanket order, delivery time is 20 weeks. 8 months after receipt of the order there must be a fixed schedule for the number of remaining quantities. The technical customer release has to be considered as binding for the entire blanket order.

## **6. Passage of Risk and Place of Performance**

**6.1** Unless otherwise agreed, the delivery of goods is considered sold EXW in accordance with INCOTERMS® 2010.

**6.2** The seat of LOGICDATA, unless any other place has been expressly specified, is the place of performance as well as the transfer of risk.

## **7. Payment**

**7.1** If Buyer has a sufficient credit insurance or provides a bank guarantee, one third of the purchase price shall fall due at the time of receipt by Buyer of the order confirmation of LOGICDATA, one third after half the delivery period has elapsed and the balance at the time of delivery. Otherwise advance payment shall be deemed to be agreed upon. Invoices shall become due within 30 days after the date of issuance. If bankruptcy proceedings are instituted against the assets of Buyer or if an application for bankruptcy proceedings is not granted for insufficiency of assets, or should any doubts arise concerning the Buyer's solvency or his willingness to pay, particularly because he fails to meet his payments resulting from this contract, or from any other contract with LOGICDATA or with a company affiliated to LOGICDATA, or due to a subsequent deterioration of his economic situation, deliveries shall only be made against cash in advance.

**7.2** In the case of part settlements the individual part payments shall fall due upon receipt of the respective invoices.

**7.3** All interest, fees and charges shall be borne by Buyer.

**7.4** Buyer shall not be entitled to withhold or offset payment on the grounds of any warranty claims or other counterclaims.

**7.5** Payment shall be deemed to have been effected on the date at which the amount in question is at LOGICDATA's disposal.

**7.6** If Buyer fails to meet the terms of payment or any other obligation arising from this or other legal transactions, LOGICDATA may without prejudice to his other rights

a) suspend performance of his own obligations until payments have been made or other obligations fulfilled,

b) call in debts arisen from this or any other legal transactions and charge default interest amounting to 1.25 % per month plus turnover tax for these amounts beginning with the due dates,

c) only perform transactions against cash in advance in the case of two delays in payment.

In any case LOGICDATA has the right to invoice all expenses arising prior to or in the course of a lawsuit, especially reminder charges and lawyer's fees.

**7.7** Discounts or bonuses are subject to complete payment in due time.

**7.8** LOGICDATA retains title to all goods delivered by him until receipt of all amounts invoiced including interests and charges. Buyer herewith assigns his claim out of a resale of conditional commodities, even if they are processed, transformed or combined with other commodities, to LOGICDATA to secure the latter's purchase money claim. In the case of resale granting respite Buyer shall have the power of disposal of the product under retention of ownership only with the proviso that upon reselling Buyer notifies the secondary Buyer of the assignment for security or enters the assignment in his account books.

## **8. Warranty and Acceptance of Obligation to Repair Defects**

**8.1** If the agreed terms of payment have been complied by Buyer, LOGICDATA shall, subject to the conditions hereunder, remedy any defect existing at the time of acceptance of the article in question that impairs the functioning of said article. From particulars appearing in catalogues, folders, promotional literature as well as written or oral statements which have not been included in the agreement, no warranty obligations may be deduced.

**8.2** Unless special warranty periods operate for individual items the warranty period shall be 6 months. These conditions shall also apply to any goods supplied, or services rendered in respect of goods supplied, that are firmly attached to buildings or the ground. The warranty period begins at the point of passage of risk acc. to paragraph 6.

**8.3** For improved or exchanged parts, the warranty period shall start again, but shall end in any case 6 months after the original warranty period has expired.

**8.4** If delivery or the performance of services is delayed for reasons outside the control of LOGICDATA, the warranty period shall begin 2 weeks after LOGICDATA is ready to deliver or perform services.

**8.5** Buyer shall prove within a reasonable period the presence of a defect. Upon receipt of such notice LOGICDATA shall have the option to replace the defective

goods or defective parts thereof or else to repair them on Buyer's premises or have them returned for repair, or to grant a fair and reasonable price reduction.

**8.6** Any expenses incurred in connection with rectifying defects (e. g. expenses for assembly and disassembly, transport, waste disposal, travel and site-to-quarters time) shall be borne by Buyer. Replaced parts shall become the property of LOGICDATA.

**8.7** If an article is manufactured by LOGICDATA on the basis of design data, design drawings, models or other specifications supplied by Buyer, LOGICDATA's warranty shall be restricted to non-compliance with Buyers specifications.

**8.8** LOGICDATA's warranty obligation shall not extend to any defects attributable to material supplied by Buyer. Nor shall LOGICDATA be liable for damage due to acts of third parties, atmospheric discharges, excess voltage and chemical influences. The warranty does not cover the replacement of parts subject to natural wear and tear. LOGICDATA accepts no warranty for the sale of used goods.

**8.9** Claims acc. to § 933b ABGB are struck by the statute of limitation with lapse of the period mentioned under point 8.2.

**8.10** The provisions of sub-paragraphs 8.1 to 8.10 shall apply, mutatis mutandis, to all cases where the obligation to repair defects has to be accepted for other reasons laid down by law.

## **9. Withdrawal from the Contract, Termination of the Contract**

**9.1** Buyer may withdraw from the contract only in the event of delays caused by gross negligence on the part of LOGICDATA and only after a period of grace of at least one month has elapsed.

**9.2** Irrespective of his other rights LOGICDATA shall be entitled to withdraw from the contract

a) if the execution of delivery or the inception or continuation of services to be rendered under the contract is made impossible for reasons within the responsibility of Buyer and if the delay is extended beyond a reasonable period of grace allowed;

b) if doubts have arisen as to Buyer's creditworthiness and if same fails, on LOGICDATA'S request, to make an advance payment or to provide adequate security prior to delivery,

c) if, for reasons mentioned in 5.4, the period allowed for delivery is extended by more than half of the period originally agreed or by at least 6 months, or

d) if Buyer does not or does not properly meet the obligations imposed as per paragraph 13.

**9.3** For the reasons given above withdrawal from the contract shall also be possible in respect of any outstanding part of the delivery or service contracted for.

**9.4** If bankruptcy proceedings are instituted against Buyer or an application for bankruptcy proceedings is not granted for insufficiency of assets, LOGICDATA may withdraw from the contract without allowing a period of grace. If this withdrawal is

taken, it shall take effect immediately upon the decision that the business will not be continued. If the business will be continued, a withdrawal shall not take effect until 6 months after the institution of bankruptcy proceedings or after an application for bankruptcy proceedings has not been granted for insufficiency of assets. In any case, the contract shall be terminated immediately unless the bankruptcy law to which Buyer is subject conflicts with this or if termination of the contract is necessary to prevent significant damages to LOGICDATA.

**9.5** Without prejudice to LOGICDATA's claim for damages including expenses arising prior to a lawsuit and legal expenses, upon withdrawal from contract any open accounts in respect of deliveries made or services rendered in whole or in part shall be settled according to contract. This provision also covers deliveries or services not yet accepted by Buyer as well as any preparatory acts performed by LOGICDATA. LOGICDATA shall, however, have the option alternatively to require the restitution of articles already delivered.

**9.6** If LOGICDATA is required to purchase Buyer-specific third party products in order to fulfill blanket orders and forecasts, Buyer is obliged to buy these products, which have been purchased by LOGICDATA in reliance on the validity of the contract and the fulfillment of the forecast, at cost price in the case of the termination of the contract. This purchase obligation in particular applies to ordered products, even if these products have not yet been delivered, that may following a termination of the contract not be used for the manufacture of the contractual products.

**9.7** Orders already confirmed remain untouched by a termination of the agreement (unless the termination is due to an insolvency reason or a default in payment by Buyer) and both parties must fulfill the respective obligations.

**9.8** Withdrawal from contract shall have no consequences other than those stipulated above.

**9.9** The assertion of claims on the ground of laesio enormis, error, or lapse of purpose by the Buyer is excluded.

## **10. Disposal of Waste Electrical and Electronic Equipment, Consumer Protection**

**10.1** The Buyer of electrical/electronic equipment for commercial purposes, incorporated in Austria, is responsible for the financing of the collection and treatment of waste electrical and electronic equipment as defined by the Ordinance Regulating the Handling of Waste Electrical Equipment, if he is himself the user of the electrical/electronic equipment. If the Buyer is not the end user, he shall transfer the full financial commitment to his customer by agreement and furnish proof thereof to LOGICDATA.

**10.2** The Buyer incorporated in Austria shall ensure that LOGICDATA is provided with all information necessary to meet LOGICDATA's obligations as manufacturer/importer, particularly according to §§ 11 and 24 of the Ordinance Regulating the Handling of Waste Electrical Equipment and the Waste Management Act.

**10.3** The Buyer incorporated in Austria is liable vis-à-vis LOGICDATA for any damage and other financial disadvantages incurred by LOGICDATA due to Buyer's



failure to meet or fully meet his financing commitment or any other obligations according to Article 10. The Buyer shall bear the burden of proof of performance of this obligation.

**10.4** The Buyer is obliged to provide the end-consumer with all security relevant information contained in data-sheets and/or manuals, be it by means of specific manuals or by way of passing on LOGICDATA-documents, in particular by publishing such documents publicly available on its website.

## **11. LOGICDATA's Liability**

**11.1** LOGICDATA shall be liable only if the damage in question is proved to be due to intentional acts or acts of gross negligence. Any liability, including liability for consequential damages (including recall of products) is limited with a compensation in the amount of 10% of the net turn-over of Buyer paid in the calendar year, in which the objected shipment was delivered to Buyer. This limitation does not apply, if the respective claims are satisfied by Seller's third party liability insurance, in which case any liability is limited with the limit of indemnity granted and actually paid by the insurance company.

**11.2** LOGICDATA shall neither be liable for damage due to acts of ordinary negligence nor for consequential damages or damages for pure economic loss, indirect damages, loss of production, financing costs, costs for replacement energy, loss of energy, data or information, loss of profits, loss of savings or interest, or damage resulting from third-party claims against Buyer.

**11.3** If contractual penalties have been agreed upon, Buyer is precluded from claim any compensation exceeding such contractual penalties.

**11.4** The provisions of paragraph 11 apply exclusively for all claims of Buyer against LOGICDATA, regardless of the legal basis or entitlement, and also apply to all employees, subcontractors and subsuppliers of LOGICDATA.

**11.5** Unless contradictory to mandatory provisions, LOGICDATA shall not be liable to Buyer for its subcontractors (servicetakers, suppliers etc), be it on the ground of tort, product liability or warranty provisions.

**11.6** LOGICDATA is not obliged to hold Buyer harmless for claims based on the grounds of product liability provisions satisfied by Buyer, if LOGICDATA discloses the identity of the manufacturer of the component presumably being defective.

**11.7** Any and all claims arising from tort must be enforced by legal action before the competent court within 6 months.

**11.8** When the Buyer uses or resells the goods of LOGICDATA, the buyer is responsible for the compliance with all relevant technical, legal and regulatory provisions. If damage occurs due to violation of this regulation, the Buyer undertakes to indemnify and hold LOGICDATA harmless.

## **12. Industrial Property Rights and Copyrights**

**12.1** Buyer shall regardless of fault indemnify LOGICDATA and hold him harmless against any claims for any infringement of industrial property rights raised against him if LOGICDATA manufactures an article pursuant to any design data, design

drawings, models or other specifications made available to him by Buyer.

**12.2** Design documents such as plans and drawings and other technical specifications as well as samples, catalogues, prospectuses, pictures and the like shall remain the intellectual property of LOGICDATA and are subject to the relevant statutory provisions governing reproduction, imitation, competition etc.

**12.3** Without LOGICDATA'S previous consent in writing, they may neither be copied nor published, or be disclosed to another person or be used for any other purpose than agreed. A violation entitles LOGICDATA to claim a penalty in the amount of 100% of the total order sum of the order in question, regardless of whether or not the Buyer has acted negligently.

**12.4** The Buyer must observe confidentiality about all the information, which becomes known to it through LOGICDATA in the course of the order execution.

**12.5** The Buyer may disclose confidential information exclusively to such employees, external advisers such as lawyers, tax advisers, and auditors, who must get access to this information for achieving the contractual purpose. The Buyer must make sure that this confidentiality obligation is imposed in writing on all persons, whom confidential information within the meaning of this regulation is forwarded to. For employees, the confidentiality obligation must be designed such that the obligation is applicable for the employee to the legally permissible extent even after the end of the employment relationship.

**12.6** Confidential information shall not include information, which was generally known at the time of signing of this contract, which subsequently became generally known or which was already known by the recipient before the conclusion of this contract.

**12.7** Regardless of fault, the Buyer must pay LOGICDATA a contractual penalty of EUR 10,000.00 for every individual violation of this confidentiality agreement and of the provisions regarding intellectual property. The right to assert a damage going beyond the contractual penalty shall remain unaffected by this.

### **13. Compliance with Export Provisions**

**13.1** When passing on goods delivered by LOGICDATA to third parties (as well as any related documentation, regardless of the method of provision or the services performed by LOGICDATA [including technical support of any kind]), Buyer must comply with the applicable regulations of national and international (re-)export provisions. In any case, Buyer must observe the (re-)export provisions of LOGICDATA 's country of residence, the European Union and the United States of America.

**13.2** If necessary for export controls, Buyer must provide LOGICDATA with all necessary information immediately after being requested to do so, for example, information about the final recipient, final destination and purpose of the goods or services.

**13.3** The Buyer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council



Regulation (EU) No 833/2014.

The Buyer shall undertake its best efforts to ensure that the purpose of section 13.3, first paragraph, is not frustrated by any third parties further down the commercial chain, including by possible resellers.

The Buyer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of section 13.3, first paragraph.

Any violation of section 13.3, first, second and third paragraph shall constitute a material breach of this GTCD, and LOGICDATA shall be entitled to seek appropriate remedies, including, but not limited to: (i) termination of this GTCD; and (ii) a penalty of 30% of the total sales value of the respective preceding calendar year of under this GTCD or the price of the goods exported, whichever is higher.

The Buyer shall immediately inform LOGICDATA about any problems in applying paragraphs 12.1, 12.2. and 12.3, including any relevant activities by third parties that could frustrate the purpose of paragraph 12.1. The Buyer shall make available to LOGICDATA information concerning compliance with the obligations under paragraph 13.3 within two weeks of the simple request of such information.

#### **14. Applicable Law and Jurisdiction**

**14.1** All disputes from and in connection with this contract, including the question of its valid establishment and its pre-effects and consequences, shall be subject to Austrian law. The applicability of all bi- and multilateral agreements regarding the purchase of movable objects as well as the private international law (IPRG) and particularly the applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be explicitly ruled out.

**14.2** The exclusive competence of the court that is objectively competent for Graz is agreed upon for all disputes from and in connection with this contract. LOGICDATA shall however be authorised at its own discretion to also file a suit at the general legal domicile of the supplier.

#### **15. Final regulations**

**15.1** There shall be no verbal collateral agreements. All agreements, subsequent changes, additions and collateral agreements must be in written form for them to be valid. This shall also be applicable for the renouncement of the written form requirement. Declarations via e-mail and fax shall meet the written form requirement.

**15.2** If some regulations of these GTCD are fully or partially ineffective, this shall not affect the validity of the remaining regulations. An invalid regulation shall be replaced with a valid regulation, which comes closest to the content and purpose of the invalid regulation.

**15.3** Buyer has to obey the Statement of Commitment for suppliers and subcontractors issued on the homepage of LOGICDATA ([www.logicdata.net](http://www.logicdata.net)) and shall ensure its implementation.

**15.4** The Parties expressly declare their intent to use their best efforts to comply with the following principles with respect to their services of their subcontractors: The

parties respect and accept the cultural and social diversity of all nations and societies, support the fundamental right to freedom of association and the right to negotiations for collective bargaining agreements, stand up for the prohibition of any form of forced labour, human trafficking, and slavery, and for the abolition of any exploitation by child labour, they respect the right to adequate salaries, guarantee compliance with the applicable national regulations on working hours, and ensure a safe and healthy working environment for their staff (based on the Universal Declaration of Human Rights). The parties further undertake to take the required measures to avoid actions detrimental to the economy such as bribery and corruption.

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