

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

### **1. General Information**

**1.1** These “General Terms and Conditions of Purchase” (hereinafter referred to as: “GTCP”) 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 GTCP shall be deemed included even if they are not referred to.

**1.3** LOGICDATA is only willing to contract based on these GTCP. Should the General Terms and Conditions of the supplier include regulations, which are contrary to these GTCP, 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 the supplier by LOGICDATA or a payment by LOGICDATA shall not imply agreement with the supplier’s conditions. On the other hand, the supplier shall acknowledge the exclusive applicability of these GTCP through the delivery or service.

### **2. Offers and Orders**

**2.1** The supplier must send a written order confirmation to LOGICDATA, which must be received within 3 working days from the order. The order confirmation must correspond to the order and particularly contain the delivery period (project plan), order number, delivery date and prices. Deviations shall become a part of the contract only if they are confirmed by LOGICDATA in writing. If LOGICDATA does not receive an order confirmation within this period, this shall be considered as unconditional acceptance of the order.

**2.2** Orders shall only be deemed legally binding if they have been duly signed and issued by LOGICDATA in writing. Orders transmitted by telefax shall be accepted.

**2.3** 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.

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

**2.5** Any and all documents, and particularly commercial invoices, issued by supplier in reference to an order placed by LOGICDATA shall bear the official order number. In case of non-compliance LOGICDATA reserves the right to refuse processing such documents and may return them.

### **3. Subcontracting**

The supplier shall be authorised to use subcontractors for the fulfilment of the contract only with prior written consent by LOGICDATA. A sub entrustment does not free supplier from suppliers' contractual obligations vis-à-vis LOGICDATA, and supplier shall be responsible and liable without limitation for any defect and any damages.

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

**4.1** Any offers submitted by supplier shall be entirely free of charges to LOGICDATA.

**4.2** Prices are fixed prices plus legal turnover tax, and exclude additional claims of any kind. Costs for packaging and transport to the shipping address as well as for customs clearance and customs duty are included.

**4.3** 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, supplier shall not have the right to adjust prices.

**4.4** 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.

**4.5** Offsetting against the claims of LOGICDATA shall be permissible only with legally determined or acknowledged claims. The supplier waives the commercial right of retention (§ 369 UGB [Austrian Commercial Code]) as well as related legal institutions vis-à-vis LOGICDATA. Advance payments made by LOGICDATA must be credited to a guarantee pursuant to § 1170b ABGB [General Civil Code] that is permissibly demanded by the supplier.

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

## **5. Delivery**

**5.1** Goods must be – if not otherwise agreed in writing – delivered “delivery duty paid (DDP)”. The risk of loss or damage to the goods passes to LOGICDATA only upon delivery at the agreed place of proper and complete delivery, free of defects. Immediately after the dispatch LOGICDATA shall have become owner of these goods, notwithstanding that the price for such Products may not have yet been paid. The supplier guarantees that delivered goods are not subject to any rights from third parties and that the delivery of the goods does not violate any rights of third parties, in particular intellectual property rights.

**5.2** All necessary delivery documents with complete information (in particular quantities, part/material descriptions, purchase order numbers, etc) are to be sent to LOGICDATA with each delivery. In case of non-compliance LOGICDATA shall reserve the right to refuse acceptance.

**5.3** The contractual scope of supplies and services is to be delivered to the stipulated place of destination on the date stated in the order(s), and to be presented to the incoming goods department during the official hours of business mentioned in 2.2. In case of delivery being effected prior to the stipulated delivery date, LOGICDATA shall reserve the right to refuse acceptance or to charge supplier with any additional costs and expenses LOGICDATA might incur due to storage and handling costs and such.

**5.4** Supplier waives any right he may have to reserve ownership in a consignment after delivery has been effected.

**5.5** The period allowed for delivery shall commence at the earliest of the following dates:

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

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

**5.7** Supplier is not allowed, if it is not otherwise explicitly stipulated in written form, to carry out und charge LOGICDATA for partial or advanced deliveries.

**5.8** The place of performance is the registered seat of LOGICDATA.

## **6. Payment**

**6.1** The payment term shall commence at the time that the invoice has been duly presented to LOGICDATA, or the goods have been received, or the contractual scope of supplies and services has been completed, whichever comes last. However, should delivery have been effected prior to the stipulated date, the payment terms shall start on the stipulated delivery date at the earliest.

**6.2** Payments are due within 10 days with 3 % discount or after 30 days net.

## **7. Delays**

**7.1** Should supplier fail to meet the stipulated delivery time for the contractual scope of supplies and services, LOGICDATA shall be entitled to terminate the contract with immediate effect, i.e. without any further period of grace, no matter what the reason for such a delay might have been.

**7.2** Supplier shall be obliged to notify LOGICDATA immediately should he notice that a delay in delivery of the contractual scope of supplies and services (partially or in full) might occur. In this case supplier shall state the reasons for the delay as well as a suggested time schedule for completion. LOGICDATA shall reserve the right, however, to still terminate the contract with immediate effect, i.e. without any further period of grace.

**7.3** LOGICDATA shall be entitled to claim damages at its option instead of specific performance and/or obtain substitute performance from a third party or declare withdrawal. If supplier fails to deliver in a timely manner, supplier is obliged to pay LOGICDATA a contractual penalty of 1,5 % of the order volume for each week commenced after the delivery date. This obligation does not depend on a negligent action by supplier. This contractual penalty does not exclude any further claims based on (consequential) damages.

**7.4** If due to unforeseeable circumstances or circumstances beyond LOGICDATA's control, such as all cases of force majeure or strike, it becomes impossible or significantly more difficult for LOGICDATA to fulfil the contractual obligations, LOGICDATA may cancel the contract wholly or in part or has the right to postpone performance, and supplier is not entitled to any claims arising from the amendment to the agreement by LOGICDATA.

## **8. Warranty**

**8.1** Supplier warrants at least for a period of 36 months from unconditional acceptance, that the supplies shall be free from any defects in materials or workmanship and shall conform with the provisions of the order as well as any other statutory requirements or official industrial standards such as ÖNORM or similar. Above all, supplier shall warrant for any contractual and implied

properties of the scope of supplies and that the quality of the supplies shall conform with the samples, if samples have been provided.

**8.2** The contractual warranty time shall commence with the date of the unconditional acceptance of the supplies by LOGICDATA.

**8.3** The regulations about notice of defects pursuant to §§ 377 and 378 UGB shall not be applicable for this contract. LOGICDATA shall not be obligated to carry out an incoming goods inspection.

**8.4** In the event of a warranty claim, LOGICDATA may demand at its option that the goods be returned or repaired at the costs of supplier, or have the goods repaired by third parties at the costs of supplier, or may resent from the agreement or may demand a reduction of the purchase price.

**8.5** After correction of the defect, through supplier the period of warranty restarts anew with the LOGICDATA's acceptance of the repaired good.

## **9. Supplier's Liability**

**9.1** Supplier is liable for any and all damages that may result from non-conform delivery, irrespective of negligence.

**9.2** Supplier is obliged to maintain a third party liability insurance, that must cover at least those damages, that were foreseeing or ought to have foreseen at the time of the conclusion of the contract, also covering all risks arising from product liability, and will hand over the respective insurance policies at LOGICDATA's request.

**9.3** Supplier shall indemnify and hold LOGICDATA harmless from all claims of third parties or customers of Purchaser, regardless on which legal basis, including national and international product liability regulations, which are brought against LOGICDATA with the assertion that LOGICDATA's product, where the Product is included, is defective or does not comply with any applicable legal or technical requirement, in particular regarding product liability.

## **10. Withdrawal from the Contract**

**10.1** LOGICDATA shall be authorised to withdraw from the contract up to the acceptance of the contractual service any time and without giving reasons. In this case, LOGICDATA shall compensate to the supplier for the work performed until then according to the share in the purchase price. Further remuneration claims of the supplier shall be ruled out. Preliminary work or research and development work by the supplier shall not be compensated, unless these are incurred solely on the basis of the specific contract.

**10.2** LOGICDATA shall also be authorised to withdraw from the contract for material reasons, particularly if the supplier stops its deliveries or payments, interrupts its work or does not adhere to contractual periods or deadlines. In this case, the supplier shall not have an entitlement to remuneration.

**10.3** If insolvency proceedings are opened about the assets of the supplier or if the opening of such proceedings is rejected for the lack of assets, LOGICDATA shall be authorised to withdraw from the contract fully or partially unless this contradicts with the applicable regulations of the insolvency law.

## **11. Intellectual Property Rights and Confidentiality**

**11.1** Samples, tools, models, drawings, stereotypes and other means provided by LOGICDATA to the supplier for the fulfilment of its contractual obligations shall remain material and intellectual property of LOGICDATA and LOGICDATA may use these as desired. These means may only be used for the execution of LOGICDATA's orders and may neither be made accessible nor ceded to external third parties without the consent of LOGICDATA. After the order execution, these must be returned to LOGICDATA free of cost.

**11.2** The supplier shall be liable to ensure that the samples, trademarks, models, drawings, descriptions and documentations provided by it as well as the delivered machines/systems are free from third-party rights and particularly, that these do not violate industrial property rights of third parties. The delivered product must correspond to legal provisions and official requirements. The supplier shall, in any case, indemnify and hold LOGICDATA harmless from compensation claims of third parties in the event of violations of these rights and provisions.

**11.3** Unless agreed otherwise in the individual contract, the supplier shall grant LOGICDATA a non-exclusive, transferable and temporally and spatially unlimited right of use in relation to software and hardware products and the relevant documentation. The right of use shall also include forwarding of the products to customers of LOGICDATA and making of copies, particularly for the purpose of data back-up.

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

**11.5** The supplier 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 supplier 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.

**11.6** 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.

**11.7** Regardless of fault, the supplier 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.

## **12. Applicable Law and Jurisdiction**

**12.1** 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. This applicable law shall be deemed agreed upon even if the deliveries take place directly from the supplier to foreign countries.

**12.2** 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.

## **13. Insurance**

The supplier shall maintain third party liability insurance, insuring personal injuries, material damage and/or financial losses covering all risks, and in any case with an amount of at least EUR 5 million per insured event. These insured amounts must be exclusively reserved for the performance obligations of the supplier vis-à-vis LOGICDATA and may not be impaired through other loss events, which fall within the sphere of responsibility of the supplier. The supplier shall furnish a proof of this insurance at the commencement of the contract by submitting an up-to-date insurance certificate and it shall maintain this insurance in this form and amount during the term of this contract as well as during the legal limitation periods.

## **14. Final Provisions**

**14.1** 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.

**14.2** If some regulations of these GTCP 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.

**14.3** Supplier 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.

**14.4** 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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