



Ergonomics AG: General Terms and Conditions (GTC)

January 2025

1 Classification of the General Terms and Conditions (GTC)

Agreements of Ergonomics AG (Ergonomics) with its customers consist of a contract document and the present GTC. The contract document may be a contract in the strict sense, an offer or an order confirmation (hereinafter contract). The contract document contains the main commercial and technical specifications of the delivery items. The General Terms and Conditions also apply to subsequent orders, without always having to refer to them in individual cases.

The General Terms and Conditions contain "General Provisions", which generally apply, as well as special provisions for the individual types of contracts.

2 Bespoke Software Development Contract

2.1 Subject Matter of the Contract

Ergonomics develops bespoke software on behalf of the customer or integrates existing software components into customer environments. The latter shall be governed by the provisions of the service contract referred to in paragraph 3.

Unless otherwise stated in the contract, the customer shall not be entitled to receive the source code, subject to section 2.4.

2.2 Remuneration

The customer undertakes to pay the remuneration indicated in the contract on the payment dates mentioned in the contract. The remuneration may be based on time and materials or on a fixed price.

2.3 Maintenance and Support of Bespoke Software

Maintenance and support services are provided for bespoke software. The maintenance of software includes the correction of errors as well as minor adjustments to the programs due to changed operating systems (new minor releases). Customer-requested functional enhancements are usually payable.

The support services include a telephone and/or e-mail contact point and/or access to the Ergonomics trouble ticketing system. Ergonomics is available during office hours for telephone information. The trouble ticketing system is available 7x24 hours.

To compensate Ergonomics for the provided maintenance and support services, the customer pays an annual maintenance and support fee as specified in the contract.

If the customer also needs additional support services such as analysis, consulting, support via remote access or on-site troubleshooting, these services shall be invoiced at current rates of Ergonomics.

2.4 Access to the Source Code

If Ergonomics ceases the maintenance and support services for bespoke software, the customer may demand access to the source code and related documentation. The customer shall use the source code based on the granted license only. The customer may not use the source code commercially or make it known to third parties.

Additional agreements in this context may be made within the framework of a separate software escrow contract.

3 Service Contract

3.1 Subject Matter of the Contract

Ergonomics provides IT services such as hardware and software installation, software customization, customizing and parameterization, rollouts, data

transfer, project implementation, project launch and start of operation, testing services, consulting services, training and customer support. The services to be provided by Ergonomics are outlined in the contract.

3.2 Systems Integration

Ergonomics assumes responsibility for system integration only if explicitly mentioned in the contract. This requires that the customer specifies this service and the requirements in advance.

If Ergonomics does not accept any responsibility for system integration, Ergonomics shall provide appropriate services on a time and materials basis at the then current rates. The sale of hardware, the licensing of software and the provision of services are considered to be independent legal transactions.

3.3 Place of Performance

Services are provided either in an office of Ergonomics or at the customer's premises.

3.4 Prices

Services will be invoiced by Ergonomics at the conditions specified in the contract. In the absence of a special agreement, Ergonomics shall charge on a time and materials basis at the current rates.

3.5 Warranty

Ergonomics provides all services with the necessary care.

Ergonomics warrants that the work results at the time of delivery substantially correspond to the specifications defined in the contract. Deficiencies or defects shall be notified in writing by the customer without delay. The warranty period is 3 months and begins with acceptance or the start of operation by the customer. The warranty is limited to the correction of errors by Ergonomics. Other warranty claims shall be waived.

4 Hard- and Software Sourced from Partners/Third Parties – Purchase or License Agreement

4.1 Subject Matter of the Contract

Ergonomics sells hardware components to customers according to the contract. The hardware may be assembled by third parties or by Ergonomics. In addition, Ergonomics may license or sub-license own software or software from third parties to customers, in particular IT security software or software for electronic payment solutions.

The scope and content of the software license shall be defined by the licensing terms of the software manufacturer.

In case that the licensing terms have not been conclusively agreed upon, the licensing terms according to paragraph 7.1 shall apply.

The customer acknowledges the proprietary rights of the manufacturers regarding software and documentation and shall refrain from making changes to the corresponding proprietary notices. Software or documentation shall not be made available to third parties and shall not be made public.

4.2 Delivery

As a rule, Ergonomics delivers to the customers' place of business or to a location agreed in the contract.

Ergonomics provides the third party software to the customer on the data storage medium received from the manufacturer, or by electronic download. Documentation will be provided only if it is provided by the manufacturer.

The installation of software may be a chargeable service.

4.3 Prices

The customer shall pay the hardware purchase prices and license fees specified in the contract. These will be invoiced by Ergonomics after delivery.

4.4 Limited Warranty for Third-Party Hardware and Software

In order to safeguard the rights for warranty claims, the customer has to check the hardware and software delivered to him immediately after delivery. Deficiencies or defects shall be notified in writing by the customer without delay.

For third-party products, the warranty rights arise exclusively from the manufacturer's conditions.

The warranty rights for third-party products consist exclusively in the fact that Ergonomics requests the warranty from the manufacturer/supplier on behalf of the customer. If the manufacturer/supplier does not comply with his warranty obligation, Ergonomics shall assign the warranty rights for the legal enforcement to the customer.

4.5 Limited Warranty for Ergonomics Hardware

Hardware assembled by Ergonomics carries a bring-in warranty of one year. Ergonomics warrants that the hardware is free from defects in materials and workmanship under normal use and the hardware substantially conforms to its published specifications.

Customer's exclusive remedy and the entire liability of Ergonomics under this limited warranty will be, at Ergonomics' option, repair, replacement, or refund of the price of the hardware if returned to Ergonomics. Other warranty claims shall be waived. Additional services will be invoiced at the then current rates of Ergonomics.

4.6 Customer Provided Hardware

Hardware provided by the customer has to be configured and prepared according to the prerequisites of Ergonomics. Configuration review, any required preparation and/or installation shall be charged to the customer at the then current rates. Ergonomics reserves the right to decide whether the hardware provided by the customer is compatible and therefore fit for purpose.

5 Third Party Hard- and Software – Support Contract

5.1 Subject Matter of the Contract

Ergonomics provides support services for third party hard- and software after the warranty period expired, if a current maintenance contract is in effect. The support services are provided during normal business hours (section **Error! Reference source not found.**).

The service level of the support services is defined in the respective service level agreement (SLA).

5.2 Prices

The support services are paid for by a fixed fee specified in the contract/SLA. Ergonomics invoices the support services in advance, either on an annual or on a quarterly basis.

Additional services shall be billed at the then current rates.

5.3 Warranty

Ergonomics provides all services with the necessary care. In no event does Ergonomics warrant that the customer will be able to operate the supported hard- and software without problems or interruptions.

5.4 Duration of Support Contracts

Support contracts are concluded for an indefinite period. They shall enter into force on the date specified in the contract and shall be terminable in writing at the end of each calendar year with a notice period of three months.

6 Cloud Services – Provisioning Contract

6.1 Ergonomics Services

Ergonomics operates software on a server environment that is accessible via the Internet (cloud). Customers can process, operate, manage and store own applications and data on these server systems. Data may be shared by the customers with third parties, if the customers provide access to the third parties.

Ergonomics services include:

- Operation of software on a server environment that is accessible via the Internet (private or public cloud);
- Granting or provisioning of user rights for the customer on the server environment from the date the contract becomes effective and for the duration of the contract;
- Maintenance of the software according to paragraph 8, if the software is Ergonomics software;
- Support of the software according to paragraph 3, if the software is Ergonomics or third party software.

Ergonomics can provide own cloud services or can purchase such services from third parties.

6.2 Cloud Service Fee

The customer pays the agreed periodic fixed service fee in advance.

Additional services, such as setup, special configurations etc. shall be invoiced according to the then current rates.

6.3 Data Management

The customer is proprietor of its data and is responsible for the correctness as well as to comply with the relevant data protection regulations. The customer shall not process or store illegal content with the cloud services.

6.4 Data Backup

Ergonomics may perform periodic data backups with a state-of-the-art backup system, if specified in the contract. Backup of local systems is the responsibility of the customer.

Data will be restored based on the last backup, if the data loss is caused by a system failure.

If customers request a data restore for data lost within their area of responsibility (user errors, local system malfunctions), Ergonomics will charge for the necessary data restore services at the then current rates.

6.5 Access Control

The customers assign user names and passwords to their authorized personnel. The customers are responsible that these identification credentials as well as the user IDs are used according to the current security standards.

Ergonomics will accept users with a valid user name and a valid password as authorized for system access.

Ergonomics can disable user accounts anytime without justification, if misuse is suspected.

6.6 Commissioning

At startup the following services generally need to be provided

- Customer specific configuration of the software;
- Preparation of the hardware systems of the customers and third party systems on request;
- Data migration;
- Systems tests and approval.

These services may not be included in the fixed fee and may be charged on a time and materials basis according to the then current rates or at a predetermined fixed fee.

30 days after supplying user name and password to the customer, the software in the cloud is deemed accepted and approved, as long as the customer does not claim substantial errors in writing. Malfunctions that are classified as less significant cannot be used to reject the acceptance, but are to be corrected according to paragraph 6.8.

6.7 Additional Services

Customers can request additional services with separate contracts, such as purchase hardware and installation services from Ergonomics.

6.8 Warranty

If defects are detected, the customers can exclusively demand repairs according to paragraph 8.4.

Ergonomics provides all cloud services with the necessary care. In no event does Ergonomics warrant that the customer will be able to operate the cloud software without problems or interruptions.

6.9 Contract Terms

Cloud service contract have a minimum term of 36 months. Subsequently, the contracts can be terminated in writing with 12 months' notice to a year's end.

If payments are past due or the usage rights are compromised, Ergonomics may terminate the contract any time after a short notice period.

6.10 Consequences of the Contract Termination

At contract termination, Ergonomics provides the customers the data of their cloud partition in a format predetermined by Ergonomics, on request. Ergonomics will invoice the necessary services on a time and materials basis at the then current rates.

7 Ergonomics Software License Agreement

7.1 License

Ergonomics grants the customer a license to use the software specified in the contract (Ergonomics Software). This license includes the right to use the software in object code on its own systems and for its own purposes.

The customer may have the software operated by an external outsourcing service provider. The latter may use the software for the customer only and must commit in writing to the adherence to the conditions imposed on the customer by the contract and the general terms and conditions at hand.

The right of use is limited to the number of concurrent users, instances and / or transactions specified in the contract.

Prohibited uses: The use of the software on a system other than the customer's system, on more workstations, end-user or mobile devices than permitted by the license, operating the software in a data center intended for third party users, creating copies of the software exceeding normal quantities, lending or distributing the software to third parties, editing, modifying or extending the software, or reverse engineering the software.

7.2 Handover and Installation

Ergonomics transfers the software to the customer on an adequate data storage device or provides instructions for electronic download. The installation of the software may be charged additionally as a service.

7.3 License Fees

The customer is obligated to pay the license fees according to the contract. The license fees shall be invoiced after delivery.

7.4 Warranty

In order to protect the warranty rights, the customer must check the software immediately after receipt and notify any defects in writing and in a comprehensible form.

The warranty period is 3 months and begins with the delivery. During this time, reproducible bugs will be fixed or workarounds will be offered free of charge to the customer if the software does not substantially conform to the contractual specifications. Other warranty claims are waived. In particular, under warranty, Ergonomics will not provide any maintenance services in accordance with Section 8, provided that this exceeds the mere correction of faults.

The customer is obliged to conclude a maintenance contract for the software from the time of delivery.

8 Ergonomics Software Maintenance Agreement

8.1 Subject Matter of the Contract

Ergonomics provides the following maintenance services for the software listed in the agreement, which are further specified in separate Service Level Agreements (SLA).

8.2 Hotline / Trouble ticket system

Ergonomics may maintain a hotline and / or a ticket system through which support requests can be made and will be answered. The customer designates a support manager. He collects the support requests internally and forwards them to the hotline or the ticket system. Simple user issues or questions that are covered in the manuals or by basic training (first level support) should be handled by the customer's support organization.

8.3 Troubleshooting

Ergonomics analyzes occurring malfunctions, assigns these to a responsibility area and, if the malfunction is caused by Ergonomics software, proposes a suitable solution.

8.4 Error Corrections

Errors in the software will be resolved by Ergonomics according to their urgency by developing correction code or workarounds, by adjusting the customer's operations or by providing a new release of the software.

In the case of significant business disruptions, the customer is entitled to obtain a corrected software version. In all other cases, the errors are usually corrected with the next release.

8.5 Releases

New releases of the software will be made available to the customer free of charge if a valid maintenance contract is in place. A release (update) is a new version of the software or an additional package (patch, bug fix, hotfix) to the software. A release fixes bugs, includes technical improvements or extends the scope of the software.

The installation of releases on the customer system may be charged separately.

Ergonomics is entitled to provide maintenance services only if a particular release is installed. As a general rule, a new software version should be installed within 90 days of release.

8.6 Maintenance of Bespoke Software

The maintenance services refer to the Ergonomics software mentioned in the contract. The maintenance of programs or program parts developed individually for the customer is not part of these maintenance services. Please refer to section 2.3.

8.7 Delivery of New Versions/Upgrades

An upgrade is a new version of the software which, in contrast to the original release in accordance with the product description of Ergonomics, contains a substantial enhancement of the functionality and/or fundamental technical improvements. Ergonomics may charge for the purchase of new versions.

8.8 Operating and Response Times

Ergonomics provides its maintenance services during regular business hours at the offices of Ergonomics.

The scope of support services is specified in the corresponding SLA. In the event of significant business disruptions, Ergonomics will attempt a response

time of one business day, provided that a valid maintenance contract is in place.

8.9 Maintenance Fees

As compensation for the maintenance services, the customer Ergonomics pays the flat-rate remuneration specified in the contract. Ergonomics invoices these in advance each year from the beginning of the contract. Additional services will be charged at the applicable rates.

8.10 Warranty

Ergonomics provides maintenance services with due care. However, Ergonomics can not guarantee that the software will run uninterrupted and error-free.

8.11 Contract Duration

Maintenance contracts are concluded indefinitely. They come into force on the date stated in the contract and can be terminated in writing at the end of each calendar year with a notice period of 3 months.

9 Ergonomics Software - Rental Agreement

9.1 Subject Matter of the Contract

The customer can rent Ergonomics software instead of purchasing it. In this case, the customer will be granted a right to use the rented products in accordance with Section 7.1 for the duration of the contract. He is also entitled to maintenance services in accordance with Section 8.

9.2 Prices

As compensation for the rental agreement, the customer shall pay Ergonomics the flat-rate remuneration specified in the contract. Depending on the contract, this is invoiced annually, quarterly or monthly in advance.

9.3 Warranty

The warranty rights were determined in accordance with Sections 7.4 and 8.10.

9.4 Contract Duration

Rental agreements come into force on the date stated in the contract and have a minimum duration of 60 months. Subsequently, they can be terminated in writing at the end of a calendar year with a notice period of 3 months.

10 General Provisions

10.1 Deadlines

Dates for delivery, installation and implementing are estimates and are not binding without express confirmation in the contract.

10.2 Delivery, Acceptance and Approval

Ergonomics fulfills its obligations by handing over the product or the work result.

Acceptance cannot be refused by the customer due to defects that do not significantly preclude the intended use of the work result.

A formal acceptance test, which tests compliance with the predefined acceptance criteria, will only take place if expressly provided for in the contract. If, in this case, the formal acceptance does not take place within 30 days after the agreed acceptance date, the acceptance is deemed to have taken place.

In all other cases the acceptance shall be deemed to have taken place if the customer does not indicate a refusal of acceptance in writing within 30 days from delivery.

Products and work results are always considered accepted and approved if the customer uses them productively.

10.3 Default of Acceptance by the Customer

If the customer does not accept the duly offered service or work result, Ergonomics may assert the statutory default rights after setting a reasonable grace period.

10.4 Delay of Ergonomics

If a bindingly agreed date is not adhered to and if this delay is caused by Ergonomics, the customer must set a reasonable grace period of at least 30 days in writing. If this deadline is not met, then Ergonomics is in default and the customer can assert the statutory default rights.

10.5 Prices and Expenses

All prices are exclusive of VAT and any other charges.

Ergonomics may require advance payment in individual cases.

Ergonomics is entitled to compensation of expenses in the amount actually incurred. Ergonomics may charge an all-inclusive fee.

Ergonomics is entitled to change their prices at any time. In any case, the prices and expense rates according to the current price list of Ergonomics are valid.

10.6 Payment and Payment Terms

Ergonomics invoices are considered accepted if they are not rejected in writing within 10 business days. They are to be paid within 30 days without deduction. After this period, the customer will be considered in default of payment.

10.7 Travel Time, Expenses

Travel time is considered working time. Ergonomics may offer fixed fee packages for travel time and/or expenses.

10.8 Additional Expenses

Ergonomics may invoice the following services in addition to a contractually agreed compensation at current rates:

- Services that are not included in the defined scope of services;
- Services for the analysis and correction of faults that are not caused by delivered or maintained components or that are not reproducible (incorrect operation, incorrect manipulation, unauthorized intervention, effects of third-party products, errors in data provided by the customer or third parties, changes to the datasets that are not made through the licensed programs of Ergonomics);
- Services for the repair of malfunctions caused by physical action or force majeure (physical damage by the customer or third parties, power failure, overvoltage, lightning, elemental damage, animal rage, influences due to unusual physical, chemical or electrical loads);
- Cost incurred because the customer has not conformed to his obligation to cooperate;
- Effort caused by software / virus attacks.

10.9 Late Payment by the Customer

If the customer is in default of payment of an invoice from Ergonomics, Ergonomics may demand a default interest of 5% and, after setting a reasonable period of grace, assert the statutory default rights, respectively terminate a contract concluded for a specific period without notice.

10.10 Obligations to Cooperate

The customer is responsible for providing the necessary prerequisites so that Ergonomics can provide the services owed in an efficient manner. The customer is responsible in particular for the following areas:

- Contact: Designation of competent and decision-making contact persons in the customer's company;
- Training: training employees in relation to the procured products and services; Providing general user knowledge and, if necessary, training super-users;
- Fault and error message: Immediate information in the event of defects and errors by the system manager in the form prescribed by Ergonomics; documenting the faults that occur most accurately;

- Data responsibility: provision of the data to be processed; input of the data; data transfer and data recovery; responsibility for data integrity and compliance with data protection legislation;
- Data backup: Creation and verification of data backups on a regular basis and secure storage of backups, unless these tasks are explicitly and contractually outsourced to Ergonomics;
- Infrastructure: provision of suitable premises for the installation of contract products; responsibility for compliance with room temperature and cleanliness requirements for premises in which the components are located; ensuring the power supply; providing access for Ergonomics employees to the premises of the customer; securing the contracted products against unintentional loss, damage, theft and natural hazards;
- Usage instructions: Compliance with the operation guidelines specified by Ergonomics or the manufacturers; careful treatment and external cleaning of the contract products;
- Support of Ergonomics' employees: Assistance of Ergonomics personnel while working on the customer's premises, execution of the tasks assigned by Ergonomics to the customer;
- Interfaces: Definition and implementation of the interfaces to be provided by the customer;
- Components of the customer: On-time provision, operation and maintenance of the components to be procured by the customer;
- Contractors: Coordination and ensuring the performance of directly engaged contractors;
- Communication: Providing and ensuring data communication, internet connection and telephony; management of the interface with the corresponding telco providers;
- Remote Maintenance: Set up and maintain the customer-installed remote maintenance equipment for each product serviced;
- Responsibility for product selection: The customer is responsible for ensuring that the products he operates fulfill their intended purpose;
- Consumables: Obtaining supplies such as toner, paper, and floppy disks and replacing consumables.

10.11 Rights to the Work Result

Unless otherwise specified in the contract, all rights to Ergonomics' work results created by Ergonomics or its subcontractors remain with Ergonomics. The customer receives a non-exclusive, non-transferable right of use for an indefinite period of time, unless specified otherwise in the contract.

10.12 Exclusion of Warranty for Self-Inflicted Problems

Any unauthorized change or correction by the customer or by unauthorized third parties is excluded from the warranty. If the customer improperly handles hardware or software products, modifies or repairs them himself or has such actions carried out by third parties not authorized by Ergonomics, he loses all warranty and liability claims. In addition, Ergonomics can charge for the additional costs caused by the current conditions.

10.13 Liability

The aggregate liability related to this agreement will be limited to direct damages not to exceed an amount equal to the total amount paid by the customer to Ergonomics for the specific product or service causing the claim for damages. In the case of recurring services (maintenance, etc.), one annual rate is considered the price of the service.

To the extent permissible by law, Ergonomics shall not be liable for incidental, punitive, exemplary, aggravated, indirect, special or consequential damages (including but not limited to lost business revenue, lost profits, economic loss, pecuniary loss, failure to realize expected savings or loss of business opportunity), loss of data or procurement costs, even if that party has been advised of the possibility of such damages.

10.14 No Offsetting

Outstanding debits of Ergonomics can only be offset by the customer's counter claims if acknowledged by Ergonomics in writing.

10.15 Collateral

Ergonomics retains title to the hardware products sold until the customer has fully paid for the hardware products. The customer shall notify the reservation of ownership to third parties, in particular any landlords, as well as not to dispose of hardware products subject to retention of title and to treat them with care.

The granting of a license for use is subject to the full payment of the license fees. If the customer fails to pay the license fees, he loses all rights of use of the unpaid software after a one-time written reminder and is obliged to delete all copies of the software and to return data media and documentation to Ergonomics.

10.16 Intellectual Property Rights

Ergonomics warrants that the services it provides, when used as directed, are free from third party intellectual property rights (such as patents, copyrights, patent applications, registered trademarks, and utility models) that materially limit or exclude their use. This warranty applies exclusively to Switzerland or the jurisdiction in which Ergonomics provided the services.

If a third party asserts claims against the customer for the infringement of property rights by the products supplied by Ergonomics and if the use is thereby impaired or prohibited, Ergonomics has the right, at its option, either to modify the respective contractual services so that they fall outside the scope of the protection, but nevertheless comply with the contractual provisions or to negotiate the terms so that usage according to the contract without restrictions or at no additional cost to the customer is allowed.

The prerequisite for the above liability, however, is that the customer immediately informs Ergonomics in writing of any third-party claims for infringement of intellectual property rights, does not acknowledge the alleged infringement, and conducts any dispute, including any out-of-court regulations, only in agreement with Ergonomics. Ergonomics may at its own expense conduct or transfer to third parties (such as suppliers) all disputes arising out of third party claims against the customer.

The customer is obligated to act in disputes with third parties in the agreement with Ergonomics and to provide reasonable support. If the customer suspends the use of the products for reasons of mitigation or other important reasons, he is obliged to inform the third party that the cessation of use does not entail an acknowledgment of the infringement of property rights.

Insofar as the customer himself is responsible for an infringement of property rights, claims against Ergonomics under the preceding paragraph are excluded. The same applies insofar as the infringement of property rights is caused by an application not foreseeable by the manufacturer or by the fact that the product is modified by the customer or used together with products not supplied by Ergonomics. Insofar as there is no obligation on the part of Ergonomics with respect to the customer with regard to an infringement of industrial property rights, the latter will indemnify Ergonomics against claims of third parties for such alleged infringement of industrial property rights.

10.17 Export Regulations

The customer is advised that any re-export of the delivered products may be prohibited and/or subject to approval according to the relevant export regulations of the United States of America, the European Union and/or Switzerland. The customer is responsible that all relevant national or international export regulations are observed and if required the necessary permits are obtained in case on any re-export of contract-related products.

10.18 Non-Disclosure Agreement

The customer and Ergonomics mutually agree to keep all information and documents related to the business transactions confidential. This obligation does not apply to information that is demonstrably known to the public or that becomes public knowledge without the recipient disclosing this information.

The obligation to confidentiality continues after termination of the contractual relationship.



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10.19 Final Provisions

Any changes and additions to the contract must be in writing.

If individual provisions of these General Terms and Conditions and the contracts based thereon are ineffective, the remaining provisions shall nevertheless apply and the contract shall be interpreted and supplemented in such a way that the purpose intended by the ineffective provisions can be achieved to the extent possible.

This agreement shall be governed by and construed in accordance with Swiss law. The exclusive place of jurisdiction is Zurich.

10.20 Binding Version

This English translation is for reference purposes only and not a legally definitive translation of the original German text. In the event a difference arises regarding the meaning herein, the original German version shall prevail as the official authoritative version.