

General Terms and Conditions

of JAWA Management Software GmbH

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Version from 10.10.2025

1. Scope and Amendments of the General Terms and Conditions (GTC)

1.1

JAWA Management Software GmbH, headquartered in Graz, Austria (hereinafter referred to as "JAWA"), principally offers individual software solutions and related services via its website www.jawa.at (hereinafter referred to as the "Website").

1.2

The following General Terms and Conditions (hereinafter referred to as "GTC") apply to all usage, license, and consulting agreements, as well as comparable contracts (hereinafter collectively referred to as the "Contracts") concluded between JAWA, the client (hereinafter referred to as the "Customer"), and partners.

By entering into a contract, the Customer confirms their agreement with these GTC. The GTC apply exclusively unless expressly amended or supplemented by written individual agreements.

1.3

All orders and agreements are only legally binding if confirmed in writing and duly signed by JAWA and shall bind JAWA only to the extent specified in the order confirmation.

Any differing, conflicting, or supplementary terms and conditions of the Customer shall not form part of the contract or the business relationship, even if known, unless their validity has been expressly confirmed in writing by JAWA.

1.4

The GTC apply in their version valid at the time of the conclusion of the contract.

The current and valid version is published online at www.jawa.at.

They shall also apply to future contracts, even if not explicitly referenced therein.

1.5

JAWA shall inform the Customer of any amendments to the GTC.

The amended conditions become effective if the Customer does not object in writing within six weeks after notification.

Notification may be made using any communication method agreed upon between JAWA and the Customer.

The amended GTC apply to future contracts and existing continuing obligations from the effective date but shall not apply retroactively.

2. Services and Conclusion of Contract

2.1

The services offered on JAWA's website do not constitute a legally binding offer but merely an invitation for the Customer to submit an offer.

The contract between the Customer and JAWA is concluded by written order from the Customer and written order confirmation by JAWA.

2.2

The specific content and scope of the services to be provided by JAWA, as well as the remuneration payable, are determined by the agreement concluded between JAWA and the Customer.

2.3

All agreements made between the parties at the time of contract conclusion are fully documented in writing in the offer and contract.

Any prior verbal agreements or side arrangements become invalid unless they correspond to the written provisions of the contract and offer.

JAWA's employees are not authorized to make oral agreements deviating from or extending beyond the written contract.

2.4

Performance dates and deadlines are target dates unless expressly agreed as fixed.

If the Customer fails to provide the required cooperation in due time, deadlines shall be extended by the period of delay plus a reasonable preparation time.

2.5

It is expressly noted that an accessible design (of websites) within the meaning of the Federal Act on the Equal Treatment of Persons with Disabilities ("Federal Disability Equality Act") is not included in the offer unless separately and explicitly requested by the Customer.

If accessibility has not been expressly agreed, the Customer is responsible for verifying compliance with the Federal Disability Equality Act.

Likewise, the Customer must ensure that any content they provide complies with legal requirements, particularly competition, trademark, copyright, and administrative law.

JAWA shall not be liable, in cases of slight negligence, for the legal admissibility of Customer-provided content.

3. Remuneration and Payment Terms

3.1 General

All prices are quoted in euros, exclusive of value-added tax (VAT).

Travel, daily, and accommodation expenses shall be invoiced separately to the Customer according to applicable rates.

Travel time counts as working time.

3.2 Payment Terms

These payment terms apply to all agreements between JAWA and the Customer unless otherwise agreed in writing.

For the invoicing of license, maintenance, and support fees (due dates), the ordinary financial year (January 1 to December 31) shall apply unless otherwise agreed. Fees are payable in advance.

If a contract with an annual billing period is concluded during the year, the first invoice shall cover the period from the contract's start date until December 31 of that year.

The Customer is not entitled to withhold payments due to incomplete total delivery, warranty, or guarantee claims, or complaints.

3.3 Delivery Date

JAWA endeavors to meet the agreed fulfillment (completion) dates as accurately as possible.

These dates can only be met if the Customer provides all required materials and documents, in particular the accepted service specification, in due time and fulfills their cooperation obligations accordingly.

Delivery delays or cost increases caused by incorrect, incomplete, or subsequently changed information or documents provided by the Customer are not the responsibility of JAWA and shall not constitute default.

Any resulting additional costs shall be borne by the Customer.

For contracts involving several components or programs, JAWA is entitled to make partial deliveries and issue partial invoices.

3.4 Acceptance, Testing, and Notification of Defects

If JAWA provides software to the Customer, JAWA shall issue a written readiness notification for acceptance testing (hereinafter the "Readiness Notification").

The Customer is obliged to inspect all services provided by JAWA, particularly individual software adaptations, within four weeks after receipt of the Readiness Notification and to check for defects.

All apparent and hidden defects must be reported in writing immediately upon discovery.

In any case, JAWA is entitled to a written declaration of acceptance.

The service shall be deemed accepted once the Customer uses the software operationally or commercially, or allows a third party to use it.

Acceptance shall also be deemed to have occurred if no substantial defects are reported in writing within four weeks after the Readiness Notification.

A defect shall only be deemed substantial if it significantly impairs the contractual use of core functions and no reasonable workaround exists.

Change requests made by the Customer after acceptance shall be invoiced in full, regardless of the total order value.

3.5 Prices

JAWA reserves the right to adjust prices, in particular license fees, maintenance fees, and consulting service rates, annually.

Value stability is expressly agreed.

The Consumer Price Index 2020 published monthly by Statistics Austria or a successor index shall serve as the basis for value adjustments.

The reference index is the figure published at the time of contract conclusion (for that month).

Adjustments occur annually on January 1.

A decrease in the index does not result in a reduction of fees.

If this index is no longer published, it shall be replaced by a successor index that most closely reflects the purpose of maintaining the purchasing power of the originally agreed price.

Failure to make an adjustment does not constitute a waiver of the right to adjustment.

A waiver of the value adjustment mechanism must be expressly agreed upon.

3.6 Payment Default

All invoice amounts must be credited, free of deductions and bank charges, to the JAWA account specified in the invoice by the agreed payment date.

The same payment terms apply to partial invoices as to the total contract.

A longer payment period may be agreed upon in the offer.

The Customer may withhold or offset payments only if their claims have been legally established or expressly acknowledged by JAWA.

This restriction does not apply to claims arising from partial non-performance or defects based on the same contractual relationship.

If a defect exists, the Customer may only withhold a proportionate amount reasonable in relation to the defect, and only if the defect is undisputed.

In case of payment default, JAWA is entitled to charge default interest pursuant to § 456 UGB (Austrian Commercial Code) if the Customer qualifies as an entrepreneur under the UGB and may suspend further performance until payment is made.

If the Customer is in arrears for more than two months, JAWA may suspend access to the software after prior written notice.

JAWA expressly reserves the right to assert further claims for payment default.

4. Cooperation and Customer Responsibilities

4.1

The Customer shall support JAWA in fulfilling the contractual obligations owed by JAWA.

For this purpose, the Customer shall provide in due time all information, data, and other materials necessary for the performance of the agreed services by JAWA.

JAWA is obligated to inform the Customer clearly and in writing before

commencement of the services which specific information, data, or materials are required.

4.2

If delays occur due to late or incomplete cooperation by the Customer, the agreed deadlines and schedules shall be extended accordingly.

If tasks must be repeated because of the Customer's failure to cooperate or to do so on time, JAWA shall be entitled—after prior notice including an estimate of additional costs—to invoice these extra services separately.

5. Rights of Use and Intellectual Property in the Software

5.1

Upon acquisition of the usage license, the Customer shall receive a simple (non-exclusive), non-transferable, non-sublicensable right of use limited to the duration of the contract.

Use is restricted exclusively to the contractually agreed scope.

5.2

All intellectual property rights, copyrights, proprietary rights, trademarks, database rights, and all other rights in the software, source code, concepts, methods, designs, and documentation remain the exclusive property of JAWA.

No ownership or intellectual property rights are transferred upon conclusion of the contract; only rights of use are granted to the extent specified above.

All rights not expressly granted to the Customer remain with JAWA.

5.3

Any distribution, duplication, decompilation, reverse engineering, disassembly, modification, publication, or other exploitation of the software or its components is prohibited unless expressly permitted by mandatory statutory provisions (e.g. § 40e of the Austrian Copyright Act).

5.4

The Customer is solely responsible for all data entered into, processed within, or stored in the software by the Customer or its users.

JAWA assumes no responsibility or liability for this content or its legality.

The Customer undertakes to use the software exclusively in accordance with applicable law, in particular data-protection law, and in compliance with the contract.

The Customer shall take appropriate measures to maintain the confidentiality of its access data.

5.5

The Customer is solely responsible for the functional administration of the software (e.g. data maintenance, master-data and user management), even if JAWA has provided assistance with setup or configuration.

5.6

It is noted that JAWA is not responsible for establishing or maintaining the data connection between the Customer's IT system and the transfer point operated by JAWA.

5.7

JAWA shall determine which system environments, browsers, and operating systems are supported by the software.

The Customer will be informed prior to contract conclusion about the supported versions.

No entitlement exists to support for systems not explicitly guaranteed.

Changes or extensions of supported system environments by JAWA do not constitute a reduction in performance.

6. Security and Data Protection

6.1 Security Measures

The Customer shall ensure the confidentiality of all identification and authentication data assigned to its users, including, for example, the organizational and, where applicable, technical prohibition of password sharing and the use of so-called "shared accounts."

If, at the Customer's request, JAWA software is operated on the Customer's servers, responsibility for the security of the server, the surrounding network, and data-storage or backup locations lies solely with the Customer.

JAWA shall not be liable for security deficiencies arising from the Customer's infrastructure.

6.2 Data Protection and Data Collection

JAWA collects and uses the Customer's personal data only within the framework of the applicable legal provisions.

The contracting parties shall conclude a data-processing agreement (DPA) in accordance with the relevant statutory requirements to the extent necessary.

7. Liability and Warranty

7.1

No warranty claims against JAWA shall exist for only minor deviations of the services from the agreed quality or usability.

7.2

Liability for claims under tort or damages law shall be limited as described below.

In cases of slight negligence, JAWA shall be liable only:

(i) for damages resulting from injury to life, body, or health, and

(ii) for damages resulting from the non-trivial breach of a material contractual obligation (i.e. obligations whose fulfillment enables proper execution of the contract and on which the Customer regularly relies and may rely).

In such cases, liability is limited to compensation for foreseeable, typically occurring damage and shall in any event not exceed the annual license fee payable by the Customer, excluding additionally invoiced services.

7.3

Otherwise, JAWA shall be liable—regardless of the legal basis—only for intent or gross negligence.

In cases of gross negligence, liability shall likewise be limited to the foreseeable, typically occurring damage and shall in any event not exceed the annual license fee payable by the Customer, excluding additional services.

Multiple damage events within one calendar year shall be deemed a single event for the purpose of calculating the liability cap.

7.4

Liability for loss of profit, business interruption, data loss, indirect or consequential damages is, to the extent permitted by law, excluded.

This also applies to damages resulting from data loss unless caused by gross negligence or intent on the part of JAWA.

7.5

Events of force majeure and other circumstances unforeseeable for JAWA—such as supply disruptions, pandemics, epidemics, natural disasters, wars, strikes, lockouts, or hacker attacks—release JAWA from its performance obligations for the duration of the disruption and a reasonable recovery period, even if JAWA is already in delay.

If performance becomes impossible or economically unreasonable due to such circumstances, JAWA shall be released from its contractual obligations, and the

Customer shall have no claims for damages.

8. Term and Termination

8.1

Unless otherwise agreed (e.g. in the case of fixed-term contracts), contractual relationships may be terminated by either party without cause by giving written notice with a notice period of three months to the end of the calendar year.

The Customer must issue termination in writing and is responsible for proving receipt.

8.2

JAWA may terminate the contract with immediate effect for good cause if the Customer materially breaches contractual obligations and continues the breach despite a warning from JAWA or fails to remedy it.

The same applies if the Customer is in default of a due payment for more than two months despite a reminder.

8.3

Upon termination of the contract, JAWA shall, within 30 calendar days, provide the Customer with a one-time, free export of all Customer data in a common format.

Any further exports or related services shall be charged separately based on JAWA's applicable hourly rates.

9. Confidentiality, Copyright, and Trademark Protection

9.1

The software provided by JAWA to the Customer is protected by copyright.

JAWA remains the owner of the software and its underlying source code.

The provision of source code is not part of the contractual relationship, and the Customer has no claim to its delivery.

The Customer acquires no rights in the source code, algorithms, or technical procedures.

Any changes or manipulations made by the Customer without JAWA's express written consent constitute a material breach of the Customer's contractual obligations.

9.2

Intellectual property rights in Customer-specific configurations or extensions remain with JAWA.

JAWA grants the Customer a simple, time- and region-unlimited right of use for the contractual purpose in connection with JAWA software.

There is no entitlement to delivery of the source code; open-source obligations remain unaffected.

9.3

Neither contracting party is entitled to disclose the other party's confidential information to third parties without express consent (at least in text form).

Confidential information includes all information, whether written or oral, that

- (i) by its nature is considered confidential or requires secrecy, or
- (ii) is recognizable as confidential by the circumstances of its disclosure.

Confidential information particularly includes product descriptions and specifications, contract conditions, and pricing deviating from those published on JAWA's website.

9.4

Both parties undertake to use confidential information only for the purposes agreed in the contract.

Each party shall take at least the same precautions to protect the other's confidential information as it does to protect its own.

Such precautions must be adequate to prevent unauthorized disclosure to third parties.

Both parties shall ensure that their employees, subcontractors, or legal representatives do not disclose or misuse confidential information.

The parties shall inform each other in writing without delay of any unauthorized use or disclosure.

The obligation of confidentiality shall not apply to information that:

- (i) was demonstrably known to the receiving party before disclosure,
- (ii) was public or generally accessible before disclosure,
- (iii) becomes public or generally accessible after disclosure without fault of the receiving party, or
- (iv) corresponds substantially to information disclosed by a third party entitled to make such disclosure.

9.5

The Customer further undertakes to treat all business, technical, and scientific know-how obtained in connection with JAWA's performance as confidential and not to make it available to third parties without JAWA's express consent.

The Customer also agrees not to apply for intellectual property rights based on know-how obtained in the course of JAWA's performance.

9.6

The obligation of confidentiality ends seven years after termination of the contract, unless statutory or contractual provisions require a longer confidentiality period.

9.7

Both parties shall comply with the applicable data-protection regulations, in particular those valid in Austria, and shall ensure that their employees involved in the contract are bound to data secrecy under the Austrian Data Protection Act (DSG) and the GDPR, unless they are already generally bound by such obligations.

10. Final Provisions, Jurisdiction, and Applicable Law

10.1

No verbal side agreements exist for this contract.

Amendments or additions to this contract must be in writing (signed).

Notifications, statements, or coordination during ongoing operations may be made in text form (e-mail).

This written-form clause may itself only be amended in writing.

10.2

If any provision of the respective contracts (including these GTC) is or becomes invalid or unenforceable, or if a gap arises, the validity of the remaining provisions shall not be affected.

The invalid or unenforceable provision shall be interpreted or replaced so as to best achieve the intended purpose of the agreement.

The same applies in the event of a contractual gap.

10.3

For all disputes arising directly or indirectly from the contract, the court with local and subject-matter jurisdiction for JAWA's registered office (8041 Graz, Austria) shall have exclusive jurisdiction.

If JAWA initiates legal proceedings, it may do so either at this court or at any other legally permissible venue.

10.4

The contractual relationship between JAWA and the Customer shall be governed exclusively by Austrian law, even if the Customer is domiciled abroad or the contract is performed abroad.

The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

The conflict-of-law rules of private international law shall likewise not apply.

10.5

In the event of interpretation conflicts, the German version of these General Terms and Conditions shall prevail over the English translation.