

# General Terms of Service

## A. Structure and scope of application

### 1. Parties and subject matter

- a) These General Terms of Service (GTS) govern the delivery of operational services (“Services”) from Janz Tec AG (“Janz Tec”) to the customer (“Customer”) (Customer and Janz Tec collectively “Parties”).
- b) Services are provided exclusively on the basis of these GTS, which are deemed to have been accepted upon the acceptance of any Service, at the latest. Janz Tec hereby objects to any Customer confirmation referencing the Customer’s own general terms and conditions or purchasing terms. Janz Tec’s General Terms and Conditions as well as its Software License Terms apply in addition to these GTS, with these GTS prevailing in cases of conflict.

### 2. Service models

- a) Janz Tec renders the Services on the basis of two models (“Service Models”):
  - Services rendered within contractual term, which are billed on basis of fixed fee (“Contractual Model”).
  - Services upon demand, which are billed depending from specific time expended (“Expenditure Model”); and
  - Services upon demand, which are billed depending from specific time expended based on a pre-ordered volume (“Contingent Model”).
- b) Irrespective of the Service Model selected, no Services can be ordered or provided until the Customer registers on Janz Tec’s support portal (“Support Portal”). To do so, the Customer must express its interest in Services by email or telephone using the contact point provided on the Janz Tec website (“Janz Tec Desk”). Once the Customer’s contact information (name, company name, email address) has been entered, the Customer receives its log-in data for the Support Portal from the Janz Tec Desk by email. Janz Tec determines in its sole discretion whether to register a customer for the Support Portal on a case-by-case basis.
- c) Along with the log-in data for the Support Portal, the Customer will again receive these GTS as well as information on the Service Models and their respective conditions; such information and conditions may be made available in the form of a link to a section of the Janz Tec website, and the same is true for any pricing information and service specifications related to the Expenditure or Contingent Model (“Specifications”), especially as regards Services in the area of Support. Specifications do not constitute a binding offer on the part of Janz Tec to enter into a contract (see item C.1 and D.1 on contracting under the Expenditure or Contingent Model). Janz Tec reserves the right to change the Specifications from time to time and will bring such changes to the Customer’s attention on the Support Portal or by email.
- d) These GTS do not give rise to a claim for the provision of Services. Insofar as these GTS do not specifically reference a Service Model, the GTS apply to Services irrespective of the Service Model selected in a given instance.

## **B. Provisions governing Services under Contractual Model**

### **1. Conclusion of contract and term**

- a) The Contractual Model primarily encompasses the Services (i) Support, (ii) Monitoring and (iii) Updates.
- b) To order Services, the following documents (“Order Documents (Contract)”) are needed: (i) Janz Tec’s offer containing the commercial conditions as well as the term of the Services; and (ii) the description(s) of the individual steps to be taken by Janz Tec as part of the Services (“Service Certificate(s)”). Before performance can commence, moreover, the mutual contacts (i.e., the individuals to whom declarations and notices regarding the Services are to be addressed) must be documented (“Communication Matrix”).
- c) Janz Tec’s offers of Services are non-binding and subject to change unless specifically agreed otherwise. Declarations of acceptance as well as any and all orders are not legally effective until confirmed by Janz Tec, and the same applies to amendments, changes or subsidiary agreements concerning the Order Documents (Contract) and/or these GTS.
- d) The order pursuant to the provisions set forth in the Order Documents (Contract) becomes binding in nature once it has been confirmed by Janz Tec. Unless the order provides otherwise, the Services are subject to a term of twelve (12) months, which automatically renews by another twelve-month period at a time unless and until one of the Parties terminates the Services one (1) month prior to the lapse of the then-current term.
- e) The right to terminate individual services for cause is not affected. Written notice of the intention to terminate for cause must precede actual termination, with a Party in breach of contract to be placed on written notice and allotted thirty (30) days from notice receipt to remedy the grievances constituting cause. No prior warning is required in the event that the Party in breach of contract seriously and finally refuses contractual performance, or if special prevailing circumstances justify termination with immediate effect when duly considering the Parties’ mutual interests.
- f) In cases of conflict between these GTS and the Order Documents (Contract), the Order Documents (Contract) prevail. In deviation from the foregoing, the terms of these GTS as set forth in items E.8, E.9 and E.10 prevail unless the Order Documents (Contract) expressly provide otherwise in reference to such terms.
- g) In the event of changes to the regulatory framework that amend existing requirements for the Services or introduce new requirements, the Parties will agree to modify the Services, including compensation, in accordance with the Change Request procedure pursuant to item B.3.

### **2. Compensation**

- a) The Offer underlying a given order will specify the amount of compensation that Janz Tec receives for providing the Services. Rates are stated exclusive of sales tax, as applicable.

- b) In the event that the Parties have not set a rate of compensation for Services that the Customer could only expect to receive against fair consideration, the Customer will pay such rate as Janz Tec's current rate sheet may specify.

### **3. Change Request procedure**

- a) The procedure described below applies whenever a Service specified in the Order Documents (Contract) is qualified, changed or expanded and these GTS call for the applicability of the Change Request procedure.
- b) Either Party may initiate the Change Request procedure by submitting a request for changes ("Change Request") at any time. The Change Request must contain enough information to enable the other Party to assess the Change Request. At a minimum, each Change Request must contain the following information:
- description of desired change;
  - meaning and purpose of desired change;
  - special circumstances and background to be considered with regard to desired change; and
  - urgency of desired change.
- c) The agreement to implement a Change Request takes the form of an addendum, to be continuously updated, to the order to be changed, and it must specify the date on which the change will take effect. All changes are subject to an agreement between the Parties.
- d) Upon request, Janz Tec will assist the Customer with defining a given Change Request. Insofar as such assistance exceeds 0.5 man-days in a given case, the Customer will offer compensation at the rate set forth in Janz Tec's rate sheet.
- e) In the event that the Customer submits a Change Request, Janz Tec will review it at its own expense and within a reasonable period of time following its receipt thereof before furnishing the Customer with a new Offer incorporating the change so requested. Insofar as the effort related to such review and the preparation of a new Offer consumes more than 0.5 man-days in a given case, the Customer will be charged for such effort at the rate set forth in Janz Tec's rate sheet. Janz Tec's new Offer is to contain the following information in cases of changed or added Services:
- description of Service change or addition desired by Customer from Janz Tec's viewpoint;
  - costs of implementing the Change Request,
  - plan in which Janz Tec specifies total period of time likely needed for implementation of Service change / addition in question; and
  - assistance and supplies needed from Customer or third parties for implementation of Service change / addition in question, including but not limited to information, data, etc. to be provided by Customer.
- f) Following Janz Tec's submission of a new Offer, the Customer will review the new Offer within a reasonable period of time. Janz Tec is not bound by the new Offer until the Customer's final review or until thirty (30) days have lapsed since the new Offer was submitted, whichever occurs sooner.
- g) If Janz Tec believes that a change is necessary, Janz Tec will provide the Customer with a new

Offer incorporating such change. In cases of Service changes or additions, Janz Tec's new Offer must contain the information listed in letter e) of this item B.3 above. If the Customer is not willing to accept Janz Tec's new Offer, Janz Tec may terminate any Service affected on three (3) months' notice, provided that the change is intended to implement a fundamental change of the Services in relations with the Customer that does not entail significant disadvantages for the Customer.

## **C. Provisions for Services under Expenditure Model**

### **1. Conclusion of contract**

- a) The Expenditure Model primarily encompasses the Service (i) Support.
- b) Services under the Expenditure Model are available to Customers that are not already Customers in reference to a given Service under the Contract Model.
- c) The following steps must be completed to order Services under the Expenditure Model: (i) In order to submit to Janz Tec a binding offer reflecting then-current Specifications and these GTS, the Customer opens a service ticket describing the subject of the Service requested in the Support Portal or with the Janz Tec Desk; (ii) Janz Tec accepts such offer by sending an email confirming the offer ("Order Confirmation") to the Customer, which renders the contract effective.
- d) The Customer may open multiple service tickets at the same time, in which case the mechanism giving effect to the contract as set forth in letter c) of this item C.1 applies.
- e) A contract in reference to a service ticket may be terminated for cause. No prior warning is required in the event that the Party in breach of contract seriously and finally refuses contractual performance or if special prevailing circumstances justify termination with immediate effect when duly considering the Parties' mutual interests.
- f) In cases of conflicts between these GTS, the Order Confirmation and the Specifications, the following order is observed: Order Confirmation prevails over Specifications, which prevail over these GTS. In deviation from the foregoing, the provisions of these GTS as set forth in items E.8, E.9 and E.10 prevail.

### **2. Compensation**

- a) Compensation is charged in accordance with the terms set forth in the then-current Specifications, which are provided to the Customer once more along with the Order Confirmation. Time expended in processing service tickets opened by Janz Tec is billed in – completed or commenced – intervals of fifteen (15) minutes. Initially, Janz Tec will not expend more than four (4) hours processing a given service ticket; additional expenditures of time are subject to the Customer's approval.
- b) Billing pursuant to item E.5 proceeds irrespective of the processing status or the service ticket and encompasses all service tickets processed in a given accounting period. Rates are stated exclusive of sales tax, as applicable.

## **D. Provisions for Services under Contingent Model**

### **1. Conclusion of contract**

- a) The Contingent Model primarily encompasses the Service Support.
- b) Services under the Contingent Model are available to Customers that are not already Customers in reference to a given Service under the Contract Model. Services under the Contingent Model are called-off according to orders under the Expenditure Model. In addition, order volume and remuneration are based on a pre-determined hourly contingent that can be called-off. The contingent shall be construed as a fixed order of Services to be specified at a later stage under the pre-determined order volume, not as a continuing obligation as under the Contract Model.
- c) To order Services under the Contingent Model, the following documents ("Order Documents (Contingent)") are needed: (i) The offer by Janz Tec including the contingent order volume ("Offer"), (ii) the Specifications with the pricing information and service specifications.
- d) Offers are non-binding and subject to change unless specifically agreed otherwise. Declarations of acceptance as well as any and all orders are not legally effective until confirmed by Janz Tec, and the same applies to amendments, changes or subsidiary agreements concerning the Order Documents (Contingent) and/or these GTS.
- e) The order pursuant to the provisions set forth in the Order Documents (Contingent) becomes binding in nature once it has been confirmed by Janz Tec. Order volume not called-off until the expiration of the statute of limitations (three years from the end of the year of the respective contingent order) expires and is not reimbursed.
- f) The following steps are required for the call-off of Services: (i) In order to call-off Services in accordance with the Specifications and these GTS, the Customer opens a service ticket in the Support Portal or with the Janz Support Desk, describing the object of the Services requested; (ii) Janz Tec confirms the call-off by sending a confirmation email ("Call-off Confirmation") to the Customer.
- g) The Customer may open multiple service tickets at the same time, in which case the mechanism giving effect to the call-off as set forth in letter f) of this item D.1 applies.
- h) An order or a call-off under a contingent may be terminated for cause. No prior warning is required in the event that the Party in breach of contract seriously and finally refuses contractual performance or if special prevailing circumstances justify termination with immediate effect when duly considering the Parties' mutual interests.
- i) In cases of conflicts between these GTS, the Call-off Confirmation and the Order Documents (Contingent), the following order is observed: Call-off Confirmation prevails over Order Documents (Contingent), which prevail over these GTS. In deviation from the foregoing, the provisions of these GTS as set forth in items E.8, E.9 and E.10 prevail.

### **2. Compensation**

- a) Compensation is charged in accordance with the terms set forth in the Order Documents (Contingent). Time expended in processing service tickets opened by Janz Tec is billed in – completed or commenced – intervals of fifteen (15) minutes. Initially, Janz Tec will not expend more than four (4) hours processing a given service ticket; additional expenditures of time are subject

to the Customer's approval. The time expended on any service ticket will be deducted from the contingent order volume.

- b) Billing pursuant to item E.5 proceeds directly upon ordering a contingent in accordance with the respective order volume. Rates are stated exclusive of sales tax, as applicable.

## **E. General provisions irrespective of Service Model**

### **1. Performance**

- a) Janz Tec will execute the Services properly, professionally and in accordance with the agreed specifications, and it must exercise the diligence customary in the industry when creating, adjusting and/or implementing software. In determining whether Janz Tec is culpable or the software meets the specifications, it is to be kept in mind that software cannot be created free from error.
- b) The Services refer to specific Janz Tec devices, which as a rule are attributed upon a given Service's initial completion or the devices' delivery.
- c) The Services do not extend to software and stand-alone hardware from third-party providers even if such are used in connection to Janz Tec devices. In reference to such third-party products, however, Janz Tec will, upon request, facilitate the handling in relation to such third-party providers for the Customer as regards correction of faults and service requests.
- d) Janz Tec' service hours are Mo-Th, 9 a.m. - 5 p.m., Fr 9 a.m – 3 p.m. (CET) save for national holidays and December 24 and 31.
- e) The Services, including any remedial performance, if applicable, are provided remotely unless specifically described as "on site." Insofar as personnel must be deployed on site, it will be dispatched subject to availability and within a response time to be agreed on a case-by-case basis.
- f) Janz Tec will bill the Customer separately for travel expenses (by rail, second class; or air, economy class) and other costs such as out-of-pocket expenses, hotel accommodations, taxi rides, parking fees, etc. Travel times are billed at 50% of the rate applicable to the work in question.
- g) The place of performance is the location of Janz Tec's registered offices for all obligations arising directly or indirectly from or in connection with these GTS, including the Customer's payment obligations and any Service performed remotely.

### **2. Standard scope of performance as part of Services**

#### **2.1 Standard scope of performance for Support**

- a) Subject to the specifications and any deviating provisions found in a given Service Certificate or the Specifications , Services falling under Support encompass the following service components:
- error diagnosis through telephone support to qualify hardware issues;
  - support with hardware and software configuration and installation;
  - operating instructions for handling devices;
  - support with delivery of included, directly related system software (or updates thereof);

- provision of general information; and
  - proposal of steps to remove errors.
- b) To request Services in the area of Support, the Customer asks for a service ticket in the Support Portal or with the Janz Support Desk, describing the object of the Services requested. The Customer can check the status of the service ticket using Janz Tec's Support Portal. Inquiries about Services and a given service ticket must be directed to the Janz Tec Desk only, so that Janz Tec may attribute the inquiries to a service ticket and document them.
- c) Subject to the specifications and any deviating provisions found in a given Service Certificate, Services in the area of Support are provided within the below response times. Confirmations in reference to response times are binding only in relations with Customers receiving Support Services under the Contractual Model. In relations with Customers that receive Support Services on a case-by-case basis under the Expenditure Model, such confirmations regarding response times do not bindingly apply. The response time for Support Services equals the maximum amount of time within service hours from Janz Tec's receipt of an error report from the Customer until Janz Tec proposes the first solution to the Customer. This point in time will be documented in the Support Portal. If an error report is received outside of service hours, the response time commences when service hours resume.

<b>Defect</b>	<b>Response time</b>
Significant error affecting operations – i.e., use of devices as part of productive application is severely limited or impossible (e.g., device does not start up or does not respond to commands for central functions).	Next business day according to service hours
Relevant error – i.e., use of devices as part of productive application is limited (e.g., device responds to commands for central functions only haltingly or does not respond to commands for auxiliary functions).	Within two (2) business days according to service hours
Slight error – i.e., devices can be used as part of productive application subject to some limitations (e.g., device responds to commands for auxiliary functions only haltingly or only when work-arounds are employed).	Within two (3) business days according to service hours
Other inquiries, especially where productive application is not limited or during the engineering phase ahead of productive application.	Within two (5) business days according to service hours

## 2.2 Standard scope of performance for Updates

- a) Subject to the specifications and any deviating provisions found in a given Service Certificate, Services in the area of Updates primarily encompass the following service components:
- providing updates for eligible devices (either per “update on request” – a specific image is cre-

ated or provided at Customer’s request, or per “Regular Update” – an agreed number of images is provided per contractual period; e.g., one image per year).

- b) Subject to the specifications and any deviating provisions found in a given Service Certificate, Services in the area of Updates are provided within the below response times. The response time in Updates equals up to the maximum amount of time within service hours after which the Customer is informed in the event of an error how and/or when an announced or necessary update may be installed on its device.

Error	Response time
Update cannot not be provided by deadline.	Notification until 4 p.m. (CET) of agreed date of provision; new date is announced.

Outside of agreed maintenance hours, the deployment server’s availability is restored as a rule within a 240-minute response time (within service hours only) following an error report. If an error report is received outside of service hours, the response time commences when service hours resume.

**2.3 Standard scope of performance for Monitoring (available only for Contractual Model)**

- a) Subject to the specifications and any deviating provisions found in a given Service Certificate, Services in the area of Monitoring primarily encompass the following service components:
  - monitoring technical parameters of Janz Tec devices; whenever irregularities are observed, Customer is notified and Support Services and/or process of replacing affected device are initiated.
- b) Services in the area of Monitoring are provided subject to the specifications and any deviating provisions set forth in the appropriate Service Certificate, and reflect the response times below:
  - Monitoring is done continuously (24 hours/day and seven days/week); and
  - additional Services (see above) are initiated within response time specified in 2.1 c).

**3. Use of subcontractors**

- a) Janz Tec may have subcontractors perform some or all of the Services unless the relevant Service Certificates specifically preclude the use of subcontractors. For purposes of this provision, Janz Tec affiliates as well as freelancers and temporary staff are not deemed subcontractors; likewise, they are not subject to any duty to notify or obtain consent even if and to the extent that the relevant Service Certificate provides for such duty.
- b) Janz Tec ensures that the duties of confidentiality under this GTS are incorporated by reference into any agreement into which Janz Tec enters with a given subcontractor, and the Parties stress in this regard that such requirement is deemed to have been met so long as the clause agreed with a given subcontractor essentially corresponds with the standards of duties of confidentiality hereunder.

**4. Customer duties of assistance and procurement**

- a) The Customer will furnish Janz Tec in a timely fashion with such information and documentation



in its possession as may be reasonably required and desired by Janz Tec. Insofar as Janz Tec depends on the Customer to procure and provide access to technical infrastructure and/or offices, the Customer must so procure and provide for Janz Tec's benefit.

- b) The Customer is further obligated to discharge such additional duties of assistance and procurement as may be (i) required for the proper performance of Services and (ii) reasonable for the Customer, including but not limited to the initiation and execution of self-tests or diagnostic programs as well as the provision of any and all needed information and the implementation of fundamental measures to remedy problems upon Janz Tec's request. Installing updates may require the Customer's participation via a web interface, console, etc. The device must be free from errors and defects. In the event that Services are requested at a time when no devices are purchased, the Customer warrants in relation with Janz Tec that the device is free from errors and defects.
- c) The Customer alone is responsible for satisfying the contractual, statutory, regulatory and industry-specific obligations vis-à-vis the individuals to whom it has entrusted the performance of the duties of assistance and procurement. Unless specifically provided otherwise, the Customer discharges its duties of assistance and procurement for Janz Tec free of charge.
- d) Insofar as Janz Tec is unable to perform Services because the Customer fails to properly discharge its duties of assistance and procurement, Janz Tec bears no responsibility for any improper performance that results and agreed deadlines are postponed accordingly, with the length of any postponement to be determined on the basis of the duration of such failure on the Customer's part, to which an adequate start-up period is added to account for the time it may take to resume performance.

## **5. Billing and maturity**

- a) Unless otherwise agreed, Janz Tec will, by the fifth (5th) business day of each month, provide the Customer with an invoice accounting for any Service rendered during the previous calendar month. In the Contingent Model, the invoice for the total order volume will be provided directly upon the respective order.
- b) Invoices are due and payable within fourteen (14) days from invoicing. Unless the Customer places Janz Tec on notice within seven (7) days from its receipt of a given invoice that it believes such invoice to be incorrect or not payable in full and states relevant reasons, the Customer is deemed to have accepted the invoice.
- c) In cases in which a deadline is culpably missed, default interest is charged at a rate of 8% above the applicable prime rate, and Janz Tec reserves the right to assert additional claims; the Customer must bear any cost incurred due to the reversal of a payment transaction for lack of funds or other reasons attributable to the Customer.

## **6. Set-off, retention and assignment**

- a) Set-off as well as retention is permitted only on account of undisputed and effectively established claims as well as those that have reached a stage appropriate for adjudication; a right of retention may be asserted only on account of counter-claims stemming from the same order.
- b) The assignment of any claim that is not a monetary claim is subject to the other Party's prior written consent, which must not be withheld unreasonably.

## **7. IP rights**

- a) The Customer hereby grants Janz Tec for the duration of the Services a non-exclusive, non-transferrable right to use the Customer's IP rights if and to the extent that doing so is necessary for the performance of Services for the Customer's benefit.
- b) Unless specifically agreed otherwise, Janz Tec's IP rights existing as of the time of the conclusion of the contract remain Janz Tec's property, along with any processed, changed or updated version thereof.
- c) Unless specifically agreed otherwise and, if applicable, subject to the terms of any Order Documents (Contract/Contingent) or the Specifications, Janz Tec grants the Customer a non-exclusive, non-transferrable right to make use of Janz Tec's IP rights in perpetuity if and to the extent that doing so is necessary for the use of Services.
- d) IP rights to work products that Janz Tec specifically creates for the Customer pass to the Customer upon payment in full of the compensation owed for such work products. Insofar as such transfer of rights is impossible for legal reasons, especially under copyright law, Janz Tec will, upon payment in full of any compensation owed, grant the Customer the exclusive and unlimited right to use and exploit any and all work products created specifically for the Customer in perpetuity and throughout the world.
- e) Janz Tec is entitled to use any know-how used or acquired while providing Services at its own discretion, in its own interest or for the benefit of third parties, provided that doing so does not result in the use or disclosure of the Customer's confidential business or financial data.
- f) Janz Tec reserves the right and/or is obligated in relation with suppliers to provide some Services only subject to separate licensing terms. Unless specifically agreed otherwise, a third party's licensing terms apply to such extent, and Janz Tec will share such terms with the Customer upon request.

## **8. Material defects**

- a) Janz Tec warrants that its Services exhibit such quality as may have been contractually agreed.
- b) In the event of improper performance, the following procedure applies unless the Ordering Documents (Contract/Contingent) or the Specifications provide otherwise:
  - The Parties will immediately notify one another of instances of improper performance.
  - Janz Tec will begin analyzing instances of improper performance and examine the underlying causes promptly upon their occurrence.
  - Unless the Ordering Documents (Contract/Contingent) or the Specifications provide otherwise, Janz Tec will remedy improper performance within a reasonable amount of time.
  - The Customer will assist the contractor with identifying and removing defects and promptly provide access to any document that may shed light on the specific circumstances of the defect's occurrence.
  - To examine and/or remove an instance of improper performance that does not in fact exist or one that owes to circumstances attributable to the Customer, such performance is subject to compensation at the appropriate rate specified in the offer or listed in Janz Tec's rate sheet.
- c) The Customer may demand remedial performance only in the event that the defect in question

was reported in writing within two weeks of its first occurrence and can be reproduced. No remedial performance is offered if the Customer modified the Services provided by Janz Tec in any way.

- d) Claims for remedial performance expire after twelve (12) months; in cases of intentional misconduct, the statutory period of limitation applies.

## **9. Legal defects**

- a) Janz Tec guarantees that, to its knowledge, Janz Tec work products do not infringe third-party copyrights opposing the intended use of work products created by Janz Tec by customers in Germany. However, in the event that third parties assert claims alleging copyright infringement, the following applies:
- The Customer will immediately notify Janz Tec in writing of such third-party claims, furnish Janz Tec with such information in its possession as may be needed for defense purposes and provide Janz Tec with any other reasonable support that may be appropriate.
  - Janz Tec will see to the defense against such claims both in and out of court at its own expense, and it reserves the right to settle claims out of court. Janz Tec will promptly instruct the Customer in how to defend against such claims, and insofar as it does not, the Customer must mount a defense in its own discretion and using its best efforts.
  - In the event that it is effectively established that the Services infringe third-party copyrights, Janz Tec will, at its own expense and option, either grant the Customer any necessary rights of use or modify the Services to the effect that they no longer violate third-party copyrights but continue to accord with contractual arrangements. Should Janz Tec be unable both to grant the required rights of use and modify the work products to the extent described above, the Customer may terminate for cause.
  - Janz Tec will indemnify and hold the Customer harmless from and against all claims for damages arising from or in connection with an effectively established violation of property rights. However, such duty of indemnification only applies in the event of a breach of one of Janz Tec's warranties according to letter a) of this item E.9 above and is subject to the limitations of liability according to item E.10.
- b) The Customer's indemnification claims expire twelve (12) months from the day of the grant of rights; in cases of intentional misconduct, the statutory period of limitation applies.

## **10. Liability**

- a) Janz Tec assumes no liability for damages arising from the following reasons:
- breakdown or functional limitations due to software or products from other manufacturers that have an impact on systems and impede Services;
  - improper use, improper preparation or poor operational or environmental conditions at the site or another instance of non-compliance with applicable additional documents;
  - modifications, insufficient system maintenance or settings that Janz Tec is not responsible for and did not authorize;
  - abuse, negligence, accident, fire or water damages, electrical disturbances, transport by someone other than Janz Tec and/or other causes outside of Janz Tec's sphere of influence; and
  - malicious software (such as viruses, worms, etc.) not introduced by Janz Tec.

- b) The Parties are liable to one another pursuant to general statutory regulations unless the below provisions of this item E.10 indicate otherwise. The provisions of this item E.10 apply to all claims for damages irrespective of legal grounds.
- c) For personal injury (injuries to life, body and health), in cases of intentional misconduct and gross negligence as well as with respect to liability under the Product Liability Act (*Produkthaftungsgesetz*), Janz Tec bears unlimited liability according to applicable law.
- d) In the absence of both intentional misconduct and gross negligence, Janz Tec's liability is limited to breaches of contractual duties that are required to facilitate the performance of Services and on which the Customer may regularly rely upon (cardinal obligation), and it is capped at the amount of foreseeable and typical damages, to the exclusion of indirect damages.
- e) Janz Tec bears liability for the loss of data missing from IT systems operated by the Customer only if and to the extent that the Customer, by means of customary security protocols, procured that data lost may be reconstructed at reasonable expense using data materials stored in machine-readable form. Furthermore, the loss of data, too, is subject to the limitations of liability set forth in this item E.10.

#### **11. Data protection**

- a) The Parties will process the personally identifiable data of the other Party in strict compliance with the General Data Protection Regulation and other applicable data protection law.
- b) Janz Tec will process such personally identifiable data as may be made accessible to or used by Janz Tec in connection with the Services with a view to rendering performance hereunder as well as in accordance with applicable data protection law and Janz Tec's privacy statement.
- c) For purposes of processing personally identifiable data as part of the Services, the parties will enter into a data processing agreement corresponding with the Janz Tec sample agreement as required by applicable data protection law.

#### **12. Confidentiality**

- a) The Parties must hold in strict confidence and use exclusively for performance purposes such confidential information as one Party may disclose to or receive from the other; they will protect confidential information against unauthorized access and treat it with the very care they would apply to their own, equally sensitive information, but at a minimum with the prudence of a diligent businessman.
- b) The receiving Party must not disclose confidential information to third parties without the other Party's prior written consent unless doing so is necessary under the applicable legal framework or directives issued by a court or regulatory agency, in which case the receiving Party must promptly notify the other Party in writing.
- c) The provisions of this item E.12 will survive the completion of all orders between the Parties for a period of five (5) years.

#### **13. Miscellaneous and definitions**

- a) Unless specifically agreed otherwise, declarations and notices must be communicated to the other Party in text form.

- b) In the event that individual provisions of these GTS and/or the Ordering Documents (Contract/Contingent) or the Specifications are or become ineffective or unenforceable, the remaining provisions hereof remain in full force and effect, and the ineffective or unenforceable provision is replaced by such provision as may best approximate the economic purpose of the ineffective or unenforceable one. The same applies in cases in which the Parties realize after the fact that the GTS and/or the Ordering Documents (Contract/Contingent) or the Specifications contain loopholes.
- c) These GTS as well as the Ordering Documents (Contract/Contingent) or the Specifications are subject to the law of the Federal Republic of Germany. The United Nations Conventions on Contracts for the International Sale of Goods (CISG) is excluded.
- d) The exclusive legal venue is the location of Janz Tec's registered offices unless applicable law stipulates otherwise. Janz Tec may file suit in any court with jurisdiction over the location of the Customer's registered offices or other permanent establishment.
- e) The definitions below apply to and in connection with the GTS:
- **“Work products”** refer to all services created by Janz Tec specifically for the Customer insofar as they may give rise to rights of their own, such as documentations, reports, charts, studies, concepts, individual software and their documentation as well as Customer-specific software adjustments.
  - **“IP rights”** encompass any and all industrial property rights and equivalent legal positions of any kind, such as patents, trademarks, utility models, registered designs, copyrights as well as rights of use and exploitation, be they registered or not, including the right to register the same.
  - A case of **“improper performance”** is present whenever the Services do not meet the requirements and specifications expressly agreed upon; minor deviations that do not, or do not significantly, affect the Services' suitability for the agreed contractual purpose are not considered improper performance.
  - **“Service hours”** refer to the hours during which error reports from the Customer or the systems are qualified and services are performed remotely or on site.
  - **“Confidential information”** refers to all information and documents, including contractual documents, which are either marked confidential or can readily be identified as such on the basis of their nature or circumstances. Confidential information includes but is not limited to technical, business and other information, such as information about technologies, research and development, products, services, product or service rates, customers, staff, subcontractors, marketing plans and financial matters. By contrast, information is not deemed confidential if such information:
    - was known to the receiving Party before it received the information from the other Party under these GTS;
    - was developed by the receiving Party on its own and without using confidential information of the other Party;
    - reaches the receiving Party by way of a third party not bound by restrictions regarding the use and disclosure thereof;
    - is or becomes widely known through no assistance or fault of the receiving Party's own; or
    - was exempted from the duty of confidentiality as a result of the receiving Party having been specifically released in writing.