

GENERAL TERMS AND CONDITIONS

ALLGEMEINE GESCHÄFTSBEDINGUNGEN

§1 Definition of Terms

- (1) GERFIN.NET means the name of the brand owned by Netsh UG (haftungsbeschränkt), a limited liability company incorporated and existing under the laws of Germany, having its registered office at Hermann-Löns-Strasse 13A, 78234 Engen, Germany, and registered with the commercial registry under number HRB 728075, with German taxpayer number DE358009838 as the owner, producer, developer, and licensor of the SOFTWARE and the provider of the SERVICES delivered (if any) under this agreement.
- (2) ORDER is the document or electronic equivalent (e.g. web shop, e-mail), under which the CUSTOMER orders from GERFIN.NET the SOFTWARE licenses and/or SERVICES, including commercial data.
- (3) SOFTWARE is one of GERFIN.NET'S software products (e.g. "Gerfin.net Explorer") including templates and documentation.
- (4) SERVICE means the specific activities performed by GERFIN.NET pursuant to the ORDER to create added value for the CUSTOMER. These activities include, but are not limited to, customization and deployment services and trainings.
- (5) USER is the person using the SOFTWARE. The USER is uniquely identified by email-address or Token (or hash values thereof).
- (6) CUSTOMER is the entity or person who is named in the ORDER and has agreed to these GENERAL TERMS AND CONDITIONS. CUSTOMER can also be a USER.
- (7) PERSONAL DATA are personal details that identify a person, for example name, address, e-mail address or telephone number, accounting data (e.g. bank account number, credit card information), as well as other unpublished data used in this context.
- (8) ANONYMOUS DATA refers to information that is not connected to PERSONAL DATA and which cannot be used to identify individual persons.
- (9) CONFIDENTIAL INFORMATION includes data and information that are not public knowledge, in particular user passwords and the know-how and trade secrets involved in the SOFTWARE and SERVICES.
- (10) IN WRITTEN FORM also includes electronic communication.

§2 License

- (1) GERFIN.NET authorizes the use of the SOFTWARE by the CUSTOMER, exclusively on the basis of these GENERAL TERMS AND CONDITIONS and the ORDER placed by the CUSTOMER to GERFIN.NET.

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- (2) In return for the agreed license fee GERFIN.NET grants the CUSTOMER and its USERS the temporary, non-exclusive right to use the SOFTWARE to such an extent as is necessary for loading, displaying, running, transferring, or storing the SOFTWARE under the following conditions and in full compliance with the purpose of the SOFTWARE as marketed by GERFIN.NET (hereinafter USE AS INTENDED).
- (A) A SINGLE USER LICENSE entitles the customer to allow the SOFTWARE to be used by one USER.
 - (B) A CORPORATE LICENSE entitles the CUSTOMER to allow the SOFTWARE to be used by the number of employees of CUSTOMER, as specifically provided under the ORDER (each of them individually, a USER).
 - (C) CUSTOMER and USER hereby expressly undertake to GERFIN.NET to ensure at all times that any license keys, access tokens, or access data for the SOFTWARE granted by GERFIN.NET is held confidential and not disclosed to any third party, without the express written consent by GERFIN.NET.
 - (D) The CUSTOMER and USER shall not be permitted to compile, adapt, change the arrangement or make other alterations including error correction to the SOFTWARE either in whole or in part, directly or indirectly, nor shall disassemble the SOFTWARE, subject it to reverse engineering or decompile it, nor systematically retrieve data or other content through the SOFTWARE or its API to create or compile, directly or indirectly, a collection, compilation, database, or directory without express written consent from GERFIN.NET, unless (I) this is absolutely necessary in order to obtain information to permit interoperability with an independently developed computer program and (II) GERFIN.NET has not made available this information to the USER within a commercially reasonable period of time despite request IN WRITTEN FORM. Information obtained by such a measure may not be used for other purposes than to achieve interoperability and shall not be communicated to third parties unless this is necessary to establish interoperability.
 - (E) The CUSTOMER and USER shall be entitled to make identical backup copies of all SOFTWARE licensed under this agreement on a data carrier.
 - (F) The ownership and all intellectual property rights to the SOFTWARE are not subject to any transfer or assignment by GERFIN.NET and/or its licensee(s). With the exception of the USER rights granted in this agreement, the USER is not granted any additional rights.
 - (G) Under no circumstances shall the CUSTOMER and/or USER be entitled to transfer, rent, or lease the SOFTWARE permanently or temporarily to third parties.

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- (3) The CUSTOMER is obliged to inform any USER about these GENERAL TERMS AND CONDITIONS and is responsible for the compliance of any USER with these GENERAL TERMS AND CONDITIONS.

§3 Warranty

- (1) As long as the ORDER is in force, GERFIN.NET warrants that the SOFTWARE, if USED AS INTENDED shall essentially satisfy the purpose, function and performance features described on the GERFIN.NET website, at the time when the ORDER was placed. Insignificant deviations are deemed irrelevant.
- (2) Before placing an ORDER before GERFIN.NET, the CUSTOMER shall itself determine that the SOFTWARE sufficiently satisfies its requirements.
- (3) If, within the warranty period, the CUSTOMER submits evidence of a defect/error in the SOFTWARE, GERFIN.NET shall at its discretion be entitled to remedy or replace, within a reasonable period of time. The CUSTOMER shall only be entitled to terminate the ORDER if the remedy or delivery of a replacement has definitively proven unsuccessful. If the CUSTOMER exercises its right of termination, it shall terminate the use of the SOFTWARE and completely delete the SOFTWARE from all data carriers and data memories, including the hard disc of its machine, and notify GERFIN.NET thereof IN WRITTEN FORM.
- (4) The warranty does not cover defects caused – directly or indirectly –
 - (A) by intentional or negligent use contrary to purpose by the USER for which GERFIN.NET is not responsible, and
 - (B) by repairs or modifications by the USER or third parties.

§4 Technical Requirements

- (1) All technical requirements for using the SOFTWARE are made available to the USER on the GERFIN.NET website.
- (2) The USER must adhere to the requirements set out on the GERFIN.NET website for the full duration of the ORDER in order to be able to use the SOFTWARE. If the CUSTOMER and/or USER does not fulfil the technical requirements and therefore is not able to use the SOFTWARE, GERFIN.NET shall not be liable for any damages resulting from the inability to use the SOFTWARE and will not refund any fees or price paid to it by the CUSTOMER. Should the technical requirements change with the development of a new version of the SOFTWARE, the changed requirements shall be informed by GERFIN.NET by delivering a 90 (ninety) days written notice, prior to release of the new version, to the CUSTOMER.

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- (3) To make use of the main functionality of the SOFTWARE, an internet connection is required; the cost of the internet connection will be borne by the CUSTOMER or USER.
- (4) Depending on the version and deployment of the SOFTWARE, administrative privileges may be required in order to install the SOFTWARE.
- (5) When using the SOFTWARE, the installed SOFTWARE will store information both temporarily and permanently on the respective machine. SOFTWARE settings will be saved to the machine and may be entered in the registry.
- (6) The CUSTOMER and USER shall cooperate and provide all reasonable assistance to GERFIN.NET in the correction of errors in the SOFTWARE. This includes the delivery of an error description/screenshots/sample files to GERFIN.NET (including the information, whether or not and how the error can be reproduced) and remote and/or live access to the relevant machine(s). If the CUSTOMER and/or USER do not cooperate according to the terms set forth in these TERMS AND CONDITIONS, GERFIN.NET shall have no obligation to correct such errors and shall not be liable in respect of such errors.
- (7) The CUSTOMER shall name individuals responsible for operating, administrating, and maintaining the software on a day-to-day basis on behalf of the CUSTOMER and shall ensure that such list of named individuals remains current and up to date. The CUSTOMER shall make sure that these individuals are reasonably well trained in accordance with GERFIN.NET recommendations (if any).

§5 ORDER Duration and Cancellation

- (1) The contract enters into force on the date of acceptance of the ORDER by GERFIN.NET and delivery of the license key(s) or token(s) to the CUSTOMER. The contract is valid for the duration specified in the ORDER (CONTRACTUAL PERIOD).
- (2) If no duration is explicitly specified in the ORDER, the CONTRACTUAL PERIOD for SOFTWARE ORDERS will be one month, starting with the date of acceptance of the ORDER by GERFIN.NET.
- (3) Before the end of the relevant CONTRACTUAL PERIOD of a SOFTWARE ORDER, GERFIN.NET may remind the CUSTOMER and/or USER to obtain a new license, either through the user interface of the SOFTWARE or a reminder e-mail. CUSTOMER declares the explicit consent to such reminders.
- (4) Both GERFIN.NET and the CUSTOMER may terminate the ORDER at any time with sufficient reason. A sufficient reason exists
 - (A) for GERFIN.NET when the CUSTOMER is more than 30 days behind on payment, as defined in this contract, or

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- (B) for each party when the other party is in breach of its fundamental obligations under the ORDER or these TERMS AND CONDITIONS.
- (5) In order to be effective, any termination must be IN WRITTEN FORM.
- (6) After cancellation of the contract on which basis the SOFTWARE was used, the USER must end the use of the SOFTWARE and uninstall the SOFTWARE.

§6 Fees and Conditions of Payment

- (1) The fees for the use of the SOFTWARE and / or SERVICES outlined in the contract shall be defined in the ORDER. If the fees are not explicitly stated in the ORDER, the regular price list for the SOFTWARE and/or SERVICES applies as published on the GERFIN.NET website at the time the order is placed. The fees will be calculated including whatever value-added tax is legally defined at the time the invoice is issued. Payment is to be made in advance for the CONTRACTUAL PERIOD when the contract becomes binding, unless otherwise specified in the ORDER. Usage-based fees of the SOFTWARE shall be invoiced at the end of the CONTRACTUAL PERIOD.
- (2) Any payments have to be made
 - (A) within 30 calendar days after issue of the relevant invoice through bank transfer or offered e-payment methods,
 - (B) directly when purchased through the web shop on the GERFIN.NET website via the offered e-payment methods.
- (3) Transactional fees, withholding tax and costs of conversion to invoice currency (if applicable) are to be borne by the CUSTOMER. In case a chargeback should become necessary (e.g. because of an erroneous order quantity) through negligence of the CUSTOMER, GERFIN.NET reserves the right to reduce the chargeback amount by 35 EUR plus 3.5% of the original amount to cover transaction cost.
- (4) If the CUSTOMER/USER has been using the SOFTWARE on a trial basis, trial usage can only be extended with the express approval of GERFIN.NET; if the CUSTOMER / USER contravenes this regulation, GERFIN.NET has the right to demand payment for the use of the SOFTWARE according to its regular price list.

§7 Personal Data of CUSTOMER

- (1) When the CUSTOMER places an ORDER at GERFIN.NET directly or through the web shop, it is necessary for the conclusion of the contract that CUSTOMER enters PERSONAL DATA which is required for the completion of the ORDER. Required information for the execution of the contract is:

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(A) CUSTOMER company, address, name and e-mail of the person(s) responsible

(B) Payment data including additional information for payment processing

The legal basis for this data processing is Art. 6 Para. 1 S. 1 lit. b GDPR.

- (2) GERFIN.NET processes the data provided by the CUSTOMER to execute the ORDER placed. For this purpose, GERFIN.NET can pass on CUSTOMER'S payment data to third party payment service providers. The legal basis for this is Art. 6 Para. 1 S. 1 lit. b GDPR. Where GERFIN.NET utilizes third party payment service providers, the CUSTOMER'S PAYMENT INFORMATION will be disclosed to such third parties for card validation and transaction processing. GERFIN.NET will securely store PAYMENT INFORMATION where necessary to process ORDERS.
- (3) Depending on the version and deployment of the SOFTWARE, GERFIN.NET may collect data for license validation as follows (together named as "ACTIVATION INFORMATION") upon activation of the SOFTWARE and periodically while the SOFTWARE is installed: license key or token, e-mail – as filled in by the USER in the activation form or pre-filled in agreement with the CUSTOMER, license type, timestamp, SOFTWARE version.
- (4) If the CUSTOMER / USER uses the "automatic updates" feature of the SOFTWARE (if available), SOFTWARE will check for updates in regular intervals and may thereby transmit and store the ACTIVATION INFORMATION as stated in § 7 (3).
- (5) For the use of the GERFIN.NET website and/or other services provided through the website, additional privacy terms may apply, which are accessible through the relevant website or service.
- (6) Other services or websites that are linked or redirected to from the GERFIN.NET website may have implemented different guidelines as regards data collection and processing; for this reason, the data protection notices on the respective websites, or the data protection notices for the use of respective services are effective.
- (7) CUSTOMER / USER needs to be at least 18 years old. Persons under the age of 18 are not permitted to place an ORDER.

§8 Use of Data

- (1) If PERSONAL DATA is passed on to GERFIN.NET, the CUSTOMER and the USER declares itself in agreement with GERFIN.NET passing on, using, and storing this information in all countries in which GERFIN.NET is established, or in which GERFIN.NET avails of technical services from a third party.

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- (2) The data processing centers used by GERFIN.NET are located within a member state of the European Union (EU) or within a member state of the European Economic Area (EEA) or, if a transfer of data to a state which is not a member state of either the EU or the EEA will take place, GERFIN.NET will secure, that the specific conditions of Article 44 et seq. GDPR have been fulfilled. The data processing in such territories will only take place in countries, where the adequate level of protection
 - (A) has been decided by the European Commission (Article 45 Paragraph 3 GDPR),
 - (B) is the result of binding corporate rules (Article 46 Paragraph 2 Point b in conjunction with Article 47 GDPR),
 - (C) is the result of Standard Data Protection Clauses (Article 46 Paragraph 2 Points c and d GDPR),
 - (D) is the result of approved Codes of Conduct (Article 46 Paragraph 2 Point e in conjunction with Article 40 GDPR).
- (3) GERFIN.NET will only use PERSONAL DATA for the specific reason for which this data was conveyed. PERSONAL DATA will only be passed on to a third party with the express agreement of the USER, or in cases that are allowed by law. Unless otherwise stated, PERSONAL DATA the USER has passed on to GERFIN.NET is only for internal GERFIN.NET use, and for use described in the data protection directive. PERSONAL DATA can, however, be passed on to third party organizations that provide services for GERFIN.NET in the areas of execution of orders, payment processing or administration, or other services described in this document.
- (4) GERFIN.NET can pass on PERSONAL DATA and other information if this is required by virtue of a law, or because of a citation or court ruling, or if it is required to answer a query, request, or complaint from the USER or from a third party on behalf of the USER.

§9 General Principles on Data Protection

- (1) Due to commercial and tax regulations, GERFIN.NET is obliged to store CUSTOMERS address, payment, and ORDER data for a period of ten years. However, two years after the contract has been completed, GERFIN.NET will restrict processing, i.e. this data will only be used to comply with legal obligations.
- (2) To prevent unauthorized access to CUSTOMERS personal data, especially financial data, the ORDER process is encrypted using SSL/TLS technology.
- (3) The person responsible in the meaning of Art. 4 Para. 7 General Data Protection Regulation (GDPR) is Dr. Sebastian Kraska, IITR Datenschutz GmbH,

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Marienplatz 2, 80331 München, Germany. CUSTOMER/USER can contact the person responsible for data protection at email@iitr.de, through mail at the above-mentioned address, or via phone at +49 089 189 173 60.

- (4) If CUSTOMER/USER sends e-mail messages or other messages, in particular comments, or enters them directly via a form provided by GERFIN.NET, GERFIN.NET will retain such messages in order to process the request, respond to questions and improve the products and services provided. GERFIN.NET deletes the data arising in this context after the storage is no longer necessary or limits the processing if statutory retention obligations exist.
- (5) CUSTOMER/USER has the right to ask about its personal data free of charge at any time. Furthermore, CUSTOMER/USER has the right at any time to revoke their consent to the use of their personal data with effect for the future and to request correction or deletion of the data stored by GERFIN.NET.
- (6) In particular, CUSTOMER/USER has the following rights towards GERFIN.NET with regard to the personal data related to them:
 - (A) Right to access information
 - (B) Right to correction or erasure
 - (C) Right to limitation of processing
 - (D) Right of withdrawal of the consent to processing
 - (E) Right to data transferability
- (7) CUSTOMER/USER also has the right to complain to a data protection supervisory authority about the processing of personal data by GERFIN.NET.
- (8) Please contact the person responsible for data protection at email@iitr.de to request information, to withdraw the consent to processing, and to request deletion; the person responsible for data protection will then provide the information immediately or confirm the withdrawal or the execution of the request for deletion. A deletion requested by CUSTOMER / USER will then be carried out subject to statutory retention obligations. If a deletion cannot take place completely due to legal storage obligations, GERFIN.NET limits the processing of the data concerned and informs CUSTOMER / USER accordingly.

§10 Limitation of Liability

- (1) The following limitations of liability are valid with regard to all claims presented by the CUSTOMER and USER against GERFIN.NET.
- (2) GERFIN.NET shall not be liable for any damages to the CUSTOMER / USER resulting from reliance on any publicly available information rendered or processed through the usage of the SOFTWARE, by the CUSTOMER/USER

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- (3) GERFIN.NET shall be liable in accordance with the regulatory requirements in case of any culpable infringement of a material contractual obligation, even in case of ordinary negligence, whereby GERFIN.NET liability shall be limited to foreseeable, typically occurring damages. For all other claims and if neither intent nor gross negligence can be shown, GERFIN.NET is only liable to the CUSTOMER / USER for an amount not higher than 300% of the yearly LICENSE FEE as defined in the relevant ORDER.
- (4) The previously mentioned limitations of liability do not restrict any legal entitlements according to Product Liability Act. The liability for claims on injury to life, body or health is not affected by previously mentioned limitations, insofar as the claims are based on intent or gross negligence by GERFIN.NET or by any legal representative or assistant of GERFIN.NET. The liability for given guarantees is not limited, insofar as the given guarantee is expected to protect the USER from the occurred damages.
- (5) It is the USER'S duty to make backup copies of its data at appropriate intervals and in an appropriate way. A violation of this duty is to be considered as contributory negligence.

§11 Intellectual Property, Confidentiality

- (1) Software and other material provided in the scope of this contract, which is protected by proprietary law, including but not limited to images, text, graphics, audio files and video files, as well as the selection, coordination, and arrangement of these materials, including, among others, the programme of the SOFTWARE (henceforth "INTELLECTUAL PROPERTY"), are protected under copyright law, trademarks, service marks and other property laws. These copyrights, trademarks etc. are the property either of GERFIN.NET or of third parties that have licensed their INTELLECTUAL PROPERTY to GERFIN.NET. All other trademarks, service marks and trade names used are the property of their owners.
- (2) GERFIN.NET allows the CUSTOMER / USER to make temporary copies of all or part of its INTELLECTUAL PROPERTY and to download this for the purpose of using, viewing, and browsing the INTELLECTUAL PROPERTY, insofar as nothing to the contrary is stated. The INTELLECTUAL PROPERTY can only be copied, reproduced, newly published, uploaded, posted, transferred or in any other way distributed if this is expressly permitted in the conditions of use. Using or modifying GERFIN.NET'S INTELLECTUAL PROPERTY in any way represents a breach of copyright and other proprietary laws and is strictly forbidden.
- (3) The USER may not use, copy or make known to a third party any CONFIDENTIAL INFORMATION, unless this is expressly permitted in this contract, or the CUSTOMER is required to do so based on legal requirements or a legally binding decision.

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- (4) The USER commits to protect CONFIDENTIAL INFORMATION sufficiently according to common data protection standards against disclosure or misuse. If the USER should find out that CONFIDENTIAL INFORMATION has been disclosed or misused, the USER will immediately inform GERFIN.NET and cooperate with GERFIN.NET to avoid further disclosure or misuse of the CONFIDENTIAL INFORMATION.

§12 General Conditions

- (1) Any general terms and conditions and/or any similar rules of the CUSTOMER are expressly excluded and under no circumstance shall apply to the ORDER, which shall be regulated exclusively by these GENERAL TERMS AND CONDITIONS and by the ORDER. For the avoidance of doubt, GERFIN.NET renders all SERVICES and licensing of SOFTWARE exclusively on the basis of these GENERAL TERMS AND CONDITIONS.
- (2) In the event of any contradiction between these GENERAL TERMS AND CONDITIONS and the ORDER, the ORDER shall prevail.
- (3) The CUSTOMER grants GERFIN.NET the right to display the CUSTOMER'S company name and logo on the references page of the GERFIN.NET website and on any of GERFIN.NET'S marketing materials. The CUSTOMER may request GERFIN.NET not to display the CUSTOMER'S company name and logo by delivering a 90 (ninety) days' notice IN WRITTEN FORM to GERFIN.NET, which shall not be unjustifiable denied by GERFIN.NET.
- (4) These GENERAL TERMS AND CONDITIONS, and any non-contractual obligations arising out of or in connection with it are governed by German law.
- (5) Unless otherwise established in the ORDER, any non-contractual obligations arising out of or in connection with it are governed by German law.
- (6) The courts of Freiburg (Germany) shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with these GENERAL TERMS AND CONDITIONS and/or the ORDER, and any non-contractual obligations arising out of or in connection with them, and accordingly any legal action or proceedings arising out of or in connection with the GENERAL TERMS AND CONDITIONS and/or the ORDER may be brought in such courts.
- (7) These GENERAL TERMS AND CONDITIONS and the ORDER constitute the entire agreement between the CUSTOMER and GERFIN.NET and supersede any previous agreement, whether express or implied. Any changes, amendments, and additions to these GENERAL TERMS AND CONDITIONS are only effective if they are mutually agreed on between the CUSTOMER and GERFIN.NET IN WRITTEN FORM. Waiving the WRITTEN FORM requirement of this point must also be agreed by GERFIN.NET and the CUSTOMER IN WRITTEN FORM.

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- (8) If at any time, any or more of the provisions hereof is or becomes invalid, illegal, or unenforceable in any respect under the law of any relevant jurisdiction, such provision shall be ineffective to the extent necessary without affecting or impairing the validity, legality, and enforceability of the remaining provisions or of such provisions in any other jurisdiction.
- (9) The invalid or unenforceable provision shall be deemed replaced by such valid, legal, or enforceable provision which comes as close as possible to the original intent of GERFIN.NET and the invalid, illegal, or unenforceable provision.
- (10) In the place of an ineffective regulation or to fill any potential loopholes in these conditions, an effective and appropriate regulation should come into effect, which most closely resembles what the parties wanted to achieve based on their commercial aims.

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