

**General Terms and Conditions  
for the Provision of Software-as-a-Service  
(GTC SaaS)**

**§ 1 Scope and Subject Matter of the Contract**

1.1. The following General Terms and Conditions (GTC-SaaS) apply to the use and operational support of standard software programs (software) produced by REALTECH AG (hereinafter REALTECH) and made available as Software-as-a-Service (SaaS).

1.2. The subject matter of the contract shall be

- the provision of the software programs made available on the REALTECH SaaS platform for use via the Internet, and
- the storage of customer data in a computer centre used by REALTECH.

1.3 Individually developed software programs are not subject to this contract.

**§ 2 Type and Scope of Benefits**

2.1. The nature and scope of the services shall be governed by the contractual agreements. The scope of services defined in the contract shall be deemed to be the agreed quality. The performance scope of the software listed in the contract, which corresponds to the current software version of the REALTECH SaaS platform, is decisive for this.

2.2. In the event of contradictions, the customer-specific provisions in the contract shall take precedence over these GTC.

2.3. Further terms and conditions, in particular the contracting party's general terms and conditions, shall not apply, even if REALTECH does not expressly object to them. REALTECH's SaaS General Terms and Conditions shall apply exclusively.

**§ 3 Terms of Use**

3.1. For the duration of the contract, REALTECH shall grant the customer a non-exclusive, non-transferable and non-sublicensable right to use the software specified in the contract and the associated user documentation.

3.2. The software shall be made available via the Internet. The transfer point for the SaaS services is the router output of the data centre commissioned by REALTECH.

3.3. The customer undertakes to use the software exclusively in accordance with the contract and neither to pass it on to third parties nor to make it accessible to third parties in any other way. Customer shall not be entitled to reverse engineer, decompile or reproduce all or any part of the Software.

3.4. The customer hereby acknowledges REALTECH as the sole licensor of the software and the associated copyrights. REALTECH's rights as the sole licensor also apply to extensions to the software provided to the customer by REALTECH.

3.5. The customer hereby acknowledges REALTECH's trademarks, names and patent rights with regard to the software and the associated documentation. The customer may not remove, change or otherwise modify any copyright information or other similar proprietary notices contained in the programs and related documentation.

3.6. The data collected, processed and generated by the Software shall be stored on the servers of the Data Centre. In any case, the customer remains the sole owner of the data and can therefore demand that REALTECH surrender individual or all data at any time, in particular after termination of the contract, without REALTECH having a right of retention. The publication of the data takes place by electronic transmission over a data network or after separate agreement by delivery of data media.

3.7. The customer has no right to receive software suitable for the use of the data. The responsibility for the permissibility of the collection, processing and use of the data as well as for the protection of the rights of the data subjects (information, use, correction, blocking, deletion) lies with the customer.

3.8. If personal data is collected, processed or used by REALTECH for the customer within the scope of the provision of services in accordance with applicable data protection law, the customer shall be obligated to sign an agreement on order data processing and to leave this to REALTECH. The agreement applies accordingly to the (remote) inspection and maintenance of automated procedures or data processing systems, if access to personal data cannot be excluded.

3.9. REALTECH shall inform the customer if, in REALTECH's opinion, data processing violates data protection regulations. REALTECH is entitled to suspend the execution of the corresponding data processing until it has been confirmed or changed by the customer.

3.10. In the event of violations of the aforementioned terms of use, REALTECH shall be entitled to terminate the contract in whole or in part without notice. In this case, REALTECH additionally reserves the right to assert claims for damages against the customer resulting from the action in breach of contract.

3.11. The minimum duration for the provision of the SaaS is regulated in the contract. Unless a minimum contract term has been agreed for the respective contractual relationship, the contractual relationship may be terminated by either party at the end of each month. Notice of termination must be received by REALTECH at least four weeks before the day on which it is to take effect.

3.12. Contractual relationships for services for which a minimum contract term has been agreed, which begins on the day of the operational provision, can be terminated by both parties with a notice period of 3 months at the earliest at the end of the minimum contract term.

3.13. REALTECH shall be entitled to terminate the contract for good cause, in particular in the event of

payment arrears or, for example, persistent inactivity in the case of free services, which leads REALTECH to the conclusion that the service is no longer being used.

#### **§ 4 Maintenance Conditions and Service Level**

4.1. REALTECH reserves the right to further developments and performance changes (e.g. by using newer or other technologies, systems, processes or standards) in the course of technical progress and performance optimization after conclusion of the contract. In order to optimize its software and services, REALTECH intends, among other things, to collect usage data in anonymous form. This can be contradicted by the customer in writing.

4.2. REALTECH shall notify the customer in good time of any significant changes in services. If the customer suffers significant disadvantages as a result of the changes in performance, he shall be entitled to terminate the contract for good cause as of the date of the change. The cancellation must be made by the customer within two weeks of receipt of the notification of the change in performance.

4.3. If new versions of the software are made available, REALTECH shall grant the customer the rights listed in § 3.1 for the respective new version.

4.4. REALTECH shall ensure that the software provided is suitable for the customer's requirements. The environment and hardware shall be suitable for the customer's intended use.

4.5. The client-side connection to the Internet is the responsibility of the customer. This is therefore not part of the SaaS scope of services. REALTECH may optimise the solution during maintenance windows. The SaaS service will not be available during this time. REALTECH will take measures to minimise downtime and the impact on the service.

4.6. Any faults in the system availability must be reported by the customer immediately after they become known. Before reporting a malfunction, the customer must check his area of responsibility. In the case of fault reports received during support hours, the fault clearance begins within two hours. In the case of fault reports received outside support hours, the fault clearance begins within support hours on the following working day, within two hours. Delays in fault clearance for which the customer is responsible (e.g. due to unavailability of a contact person on the customer side) shall not be credited against the fault clearance time.

#### **§ 5 Warranty**

5.1. According to the state of the art, it is not possible to exclude errors in software under all application conditions. However, REALTECH warrants that the REALTECH SaaS platform is basically usable. The limitation period is one year.

5.2. Errors in the software and the associated documentation shall be rectified by REALTECH free of charge within a reasonable period of time. The prerequisite for this claim to elimination is that the defect is reproducible. REALTECH may, at its own discretion, either repair or replace the goods in order to fulfil its

warranty obligations. REALTECH may release a new version of the software to the customer to fulfil the warranty obligation. It is equivalent to eliminating an error if REALTECH provides an alternative solution to the faulty function that allows the customer to use the system in accordance with the contract.

5.3. Warranty claims are excluded if the software is not used in accordance with the contract. Furthermore, warranty claims are excluded if the customer makes changes or enhancements to the software specified in the contract.

5.4. REALTECH does not guarantee that the software specified in the contract will meet the customer's individual requirements. This applies in particular to the failure to achieve the desired economic success. Warranty claims against REALTECH are only due to the direct customer and cannot be assigned.

#### **§ 6 Liability**

6.1. If REALTECH provides the customer with software without incurring any remuneration, REALTECH shall only be liable in this respect for intentional and grossly negligent breaches of duty.

6.2. Otherwise, REALTECH shall only pay compensation for material damage and financial loss as well as for futile expenses, regardless of the legal basis, to the following extent:

- in case of intent and gross negligence as well as in case of assumption of a guarantee in full amount;
- in all other cases only in the event of a breach of a material contractual obligation, without which the achievement of the purpose of the contract would be endangered and on the fulfilment of which the Customer may therefore regularly rely (so-called cardinal obligation), namely compensation for the typical and foreseeable damage, but limited in amount to a maximum of one SaaS annual rent of the procurement contract concerned. In the case of an annual rent of the supply contract of more than EUR 250,000.00, liability is limited to EUR 250,000.00 as the maximum upper limit.

6.3. The above limitations of liability shall also apply to the benefit of REALTECH's legal representatives, vicarious agents and employees. Liability for damages resulting from injury to life, limb or health and under the Product Liability Act shall remain unaffected by the above provisions.

6.4. REALTECH assumes no liability for disruptions to telecommunication connections, for disruptions to lines within the Internet, in the event of force majeure, in the event of fault on the part of third parties not contractually connected to REALTECH, or on the part of the customer itself. REALTECH assumes no liability for damages incurred if the customer passes on passwords or user IDs to unauthorized persons.

## **§ 7 Remuneration and Payment Terms**

7.1. Unless otherwise agreed in the supply contract or in REALTECH's offer, the amount and due date of the remuneration shall be determined by the REALTECH price list valid at the time the supply contract is concluded.

7.2. Unless otherwise agreed, payment for supplementary services shall be made on a time and material basis at the agreed daily or hourly rates. If no provision is made in the supply contract or in REALTECH's offer regarding the amount of remuneration, the REALTECH price list valid at the time the supply contract is concluded shall apply.

7.3. All prices are exclusive of the applicable statutory value added tax.

7.4. Payments are to be made by the customer within 14 calendar days of the invoice date without deduction.

7.5. The customer shall only be entitled to set-off if his counterclaim is undisputed or has been legally established. The customer shall only be entitled to exercise a right of retention to the extent that his counterclaim is undisputed or legally established and is based on the same contractual relationship.

## **§ 8 Confidentiality, Data Protection**

8.1. The contracting parties undertake to keep secret the knowledge gained within the scope of the subject matter of the contract - technical or economic data and other knowledge - and to use it exclusively for the purposes of the subject matter of the contract.

8.2. This shall not apply to information which is publicly accessible, or which becomes publicly accessible without the unjustified intervention or omission of the contracting parties or which must be made accessible by virtue of a court order or a law.

8.3. In the event of support for problems of the customer, it may be necessary to access data records of the customer. Access can take place via a web meeting with the customer or via database analysis. This access is limited to the period of the respective support measure.

8.4. If personal data must be processed as part of the subject matter of the contract, REALTECH and the customer shall comply with the statutory data protection provisions.

8.5. REALTECH shall inform the customer in accordance with the Federal Data Protection Act (BDSG) that customer data will be stored.

## **§ 9 Final Provisions**

9.1. An assignment or transfer of contractual rights and obligations by the customer to third parties - including affiliated companies of the customer - requires the prior written consent of REALTECH.

9.2. All amendments and supplements to the contract must be made in writing in order to be effective. The written form requirement itself can only be waived in writing.

9.3. The law of the Federal Republic of Germany shall apply to the exclusion of the conflict of laws rules of international private law and to the exclusion of the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction for all disputes arising in connection with the contract shall be the court responsible for the registered office of REALTECH. REALTECH also has the right to institute legal proceedings at any other court with national or international jurisdiction.

9.4. The Software may be subject to the export control laws of various countries, in particular the laws of the USA and the Federal Republic of Germany. The Customer is responsible for compliance with all applicable export control regulations in relation to its use of the Software.