

GENERAL TERMS AND CONDITIONS

for the purchase and maintenance of software solutions

of

Planforge GmbH

Dietrich-Keller-Strasse 24/6, A-8074 Raaba-Grambach, Austria

(hereinafter referred to as "Licensor")



1. SCOPE OF APPLICATION AND VALIDITY OF THE GENERAL TERMS AND CONDITIONS

- 1.1. These General Terms and Conditions ("GTC") are binding for all current and future business transactions between the licensor and each licensee, even if not explicitly referred to. Furthermore, the GTC apply to companies affiliated with the licensee, as far as they are entitled to use the contract products in accordance with the license agreement.
- 1.2. Upon the conclusion of the contract, the current GTC, available on the licensor's website (<https://www.planforge.io/en/files/documents/planforge-terms.pdf>), always apply.
- 1.3. Any provisions deviating from or supplementing these GTC - in particular, the licensee's general terms and conditions of business or purchase - shall only be incorporated into the contract if they are expressly confirmed in writing by the licensor. Terms and conditions of the licensee shall not be accepted even if the licensor does not expressly object to them upon receipt.
- 1.4. The licensee and the licensor are jointly referred to as "contracting parties".
- 1.5. All agreements between the contracting parties are legally binding only if they are confirmed in writing by the licensor. Correspondence in email form shall be considered sufficient and legally binding.

2. SUBJECT MATTER OF THE CONTRACT, SCOPE OF SERVICES

- 2.1. The licensor offers software solutions in the field of hybrid project and portfolio management. The licensee may license the software solutions offered, including optional modules, within the scope of these GTC (hereinafter referred to as "software products" or "contract products").
- 2.2. In accordance with the provisions of the offer and these GTC, the licensor grants the respective licensee a non-exclusive license to use the Contract Products, which may only be used in accordance with the provisions of these Terms and Conditions, subject to the following conditions:
 - (1) Software purchase: The licensee acquires a one-time and unlimited right to use the software products on premises in the functional scope of the current major releases at the time of purchase (hereinafter referred to as "on premises purchase").
 - (2) Software rental: The licensee receives the time-limited right to use the software products on premises (hereinafter referred to as "on premises rental"), including maintenance and support as well as access to new major releases.
 - (3) Cloud version/Software as a Service ("SaaS"): The licensee receives the time-limited right to use the functionalities and cloud resources of the licensed software products (hereinafter "cloud variant"), including maintenance and support.
- 2.3. The number of authorized users on the part of the licensee ("user") and the type of user are determined by the respective offer or order by the licensee:
 - (1) "Full users" have access to the full licensed functionality.
 - (2) "Time users" have full read access as well as write access for time and progress recording.
 - (3) "Observer Users" are free of charge and have read-only access to information.
- 2.4. For an introduction to the software products, an introductory workshop can be booked, which is conducted by employees or partner companies of the licensor. This must be booked separately and is not included in the software product.

3. TEST LICENSE

- 3.1. Interested parties have the opportunity to test all software products in a free version for 30 days (so-called "test license"). The test license is set up via the cloud.
- 3.2. Interested parties are obliged to comply with the provisions of these GTC in full - as far as they are applicable to the test license.

4. FREE VERSION

- 4.1. Interested parties also have the option of using a free version of a software product. The free version can be used free of charge for up to 4 full users.

- 4.2. Interested parties are obliged to comply with the provisions of these GTC in full - as far as they are applicable to the free version.
- 4.3. If a free version is not used for at least 90 consecutive days, we reserve the right to delete it, including all data, after having given prior notice.

5. CONCLUSION OF CONTRACT, DELIVERY, TERM

- 5.1. Offers made by the licensor are subject to change unless they are expressly designated as binding.
- 5.2. The contract between the licensor and the licensee for the software products is concluded through the acceptance of offers by the licensee and the transmission of an order confirmation by the licensor.
- 5.3. In the event of contradictory formulations or provisions in other documents that deviate from these GTC, the documents formulated for the specific business case, such as offers, order confirmations or contracts, etc., shall take precedence.
- 5.4. Promises, assurances and guarantees granted to a licensee or agreements deviating from these GTC in connection with the conclusion of the contract shall only become binding upon written confirmation by the licensor.
- 5.5. Contract amendments, including order cancellations, are only binding for the licensor if they are confirmed in writing by the licensor.
- 5.6. Delivery is made by enabling the software products to be downloaded and activated by means of a license key. In the on premises version, the licensee receives the license key electronically; the license key may not be passed on to third parties. With the cloud variant, the license key is imported directly by the licensor.
- 5.7. The terms of contracts are agreed upon separately in the offer. Unless otherwise agreed, the term is automatically extended if the contract is not terminated on time.

6. MAINTENANCE AND SUPPORT

The licensor offers the licensee maintenance and support services, which are set out and regulated in more detail in a separate appendix to these GTC.

7. LEASING TO THIRD PARTIES, TRANSFER FOR USE

Any leasing (including subleasing) or transfer of use of the software products to third parties, whether for payment or free of charge or any commercial resale of the contract products acquired on the basis of this agreement is only possible with the prior written consent of the licensor. Similarly, the software products may not be copied, modified or integrated into other programs in such a way that the software products are modified without express consent.

8. OBLIGATIONS TO COOPERATE AND RIGHTS OF USE OF THE LICENSEE

- 8.1. The software products may only be installed in accordance with the licensor's instructions or the corresponding instructions for use.
- 8.2. The licensee must name a contact person for maintenance/service issues to the licensor.
- 8.3. The licensee is entitled to use the software products both when purchasing and when renting the software exclusively in accordance with the number of user licenses purchased.
- 8.4. The following applies to software purchases: The licensee alone is responsible for the availability of sufficient resources for the installation of the contract products, trouble-free operation and stable data lines and interfaces.
- 8.5. If the licensee fails to comply with these obligations to cooperate or conditions of use, or fails to do so properly, the licensor shall be entitled to withdraw from the contract after issuing a reminder to the licensee and setting a deadline of 14 days.

9. INTELLECTUAL PROPERTY, COPYRIGHT

- 9.1. All contract products and related implementation documents, plans, sketches, cost estimates and other documents provided by the licensor remain the intellectual property of the licensor.
- 9.2. The use, in particular the passing on, duplication, publication and making available including copying, as well as the imitation, processing or exploitation requires the express consent of the licensor.

10. CONDITIONS, PRICES, TERMS OF PAYMENT

- 10.1. In the case of on premises rental and the cloud variant, the licensee pays the agreed annual usage fee (license fee) to the licensor. In the case of on premises purchase, the licensee pays a one-off fee as well as an additional annual support and maintenance fee.
- 10.2. Prices and payment terms are individually agreed upon with each licensee during the offer process.
- 10.3. All prices in the offer are net prices in the respective currency specified there plus value-added tax (VAT) at the statutory rate. Bonuses and discounts are not granted.
- 10.4. Invoices are issued after delivery or provision of the contract product and sent to the licensee. Unless otherwise individually agreed, a payment period of 14 days from the date of the invoice is granted.
- 10.5. The usage fee for on premises rental and the cloud variant can be increased by the licensor with a written notice of at least 60 days before the end of a contract year with effect from the start of the new contract year. However, the increase may not exceed 5 percent of the last agreed usage fee per contract year. The licensee may terminate this agreement within 30 days of receiving notice of the increase.
- 10.6. For maintenance and support services, the licensee pays a maintenance and support fee to the licensor according to the following calculation model:

- (1) The annual maintenance and support fee is 19%, based on the applicable general reference price for the ordered contract products when calculating the maintenance and support fee. The annual maintenance and support fee is calculated on the first day of each contract year and invoiced in advance for the contract year. The formula for the annual calculation is

$$\text{License price} \times \text{maintenance \& support fee percentage}$$

- (2) The maintenance and support fee for usage licenses that are additionally ordered for the already acquired contract products is calculated proportionally for the remaining duration of the respective contract year in which the additional order is fulfilled, in accordance with lit. (a). The remaining duration begins with the first full month after the respective order and ends at the conclusion of the contract year. The calculated maintenance and support fee is invoiced in advance in addition to the license price and is calculated using the following formula:

$$(\text{License price} \times \text{maintenance and support fee percentage} \times \text{remaining term in months}) / 12$$

At the beginning of the following contract year, the subsequent fee is then charged annually in accordance with the preceding point (1) above.

- (3) The percentage rate for the calculation of the maintenance and support fee specified in the above section may be increased by the licensor with written notice of at least 60 days before the end of a contract year with effect from the beginning of the new contract year. However, the increase may not exceed 2 percent per contract year in relation to the subscription price in accordance with paragraph a) above (e.g., increase from 19% to 21%). The licensee may terminate the maintenance and support contract without notice within 30 days of receiving notification of the increase.

11. DEFAULT IN PAYMENT, DEFAULT IN DELIVERY

- 11.1. If the payment deadline is not met, the licensor shall be entitled to charge interest on arrears at a rate of 9.2% (nine point two percent) above the current prime rate (ECB-linked prime rate of the Austrian National Bank).
- 11.2. In addition, the licensee will be charged € 10 (EURO ten) per required reminder letter.
- 11.3. If the licensee is in default with an agreed payment or other performance arising from a legal transaction with the licensor, the licensor may, without prejudice to its other rights
 - (1) postpone the fulfillment of its own obligations until such payment or other performance has been effected and claim a reasonable extension of the delivery period, declare all outstanding claims from this or other legal transactions due and payable and claim damages,
 - (2) provide contractual services only against prepayment,
 - (3) withdraw from the contract after issuing a reminder and setting a grace period of fourteen days.
- 11.4. The licensor retains title to all software products or services supplied by it until full payment of the invoice amounts plus default interest and costs.
- 11.5. Withdrawal from the contract by the licensee due to default in delivery or performance is only possible after setting a reasonable - at least four-week - grace period.
- 11.6. Withdrawal must be asserted by registered letter. The right of withdrawal shall only apply to the part of the delivery or service in respect of which there is a delay.

12. THIRD-PARTY PROPERTY RIGHTS

- 12.1. The licensor assures that the software products licensed by it are free from third-party property rights (including industrial property rights and copyrights) that restrict or exclude contractual use by the licensee at the contractually intended installation location.
- 12.2. In the event of third-party intellectual property rights existing or being asserted against the software products, the licensor is entitled to modify the software products to the extent reasonable for the licensee, ensuring no infringement of intellectual property rights, or to legally obtain the authorization in a form that allows the contract products to be used without limitations and without additional costs.
- 12.3. The licensor indemnifies the respective licensee from all valid claims by third parties due to the infringement of industrial property rights through the use of the contract products, along with associated reasonable costs. The licensor assumes primary liability towards those who assert an infringement of their industrial property rights. In particular, the licensor is entitled and obliged to conduct the legal defense against claims of third parties at its own expense. The licensee may support the licensor in the defense against claims asserted by third parties to a reasonable extent at the expense of the licensor. With the licensor's consent, the licensee is entitled to conduct the legal defense themselves. In this case, the licensor shall be obliged to bear any reasonable costs incurred, provided that there has been an infringement of property rights within the meaning of this clause.
- 12.4. The licensor shall indemnify the licensee against all claims asserted against the licensee by authors involved in the creation of the software products.

13. WARRANTY

- 13.1. The warranty period is six months from installation of the respective contract product.
- 13.2. The warranty claim requires that the licensee promptly reports any defects to the licensor in writing upon receipt of the delivery. In this respect, reference is made to §§ 377 UGB.
- 13.3. Primarily, the licensor shall first attempt to rectify the error or have it rectified, either itself or via third parties commissioned by it, and if necessary offer reasonable workaround solutions to rectify the error. If the rectification is not conducted successfully within a reasonable period of time, the licensee may withdraw from the contract or claim a reduction in the license fee.
- 13.4. If a defect can be remedied by installing a new or improved version of the software products, the licensee is obliged to accept the remedy of the defect by such a new installation, unless

the licensee can assert significant reasons to the contrary.

- 13.5. The scope of the warranty does not include the elimination of errors and additional expenses caused by external influences, operating errors and changes and updates not conducted by the licensor (e.g., using the software in a defective or incompatible hardware or software environment).
- 13.6. If the licensee's claims of defects are unfounded, the licensor shall be entitled to invoice the deliveries and services provided to the licensee on a cost basis.
- 13.7. The licensor's warranty obligation is conclusively regulated in these GTC. Further claims are expressly excluded, unless required by law.

14. COMPENSATION, LIMITATION OF LIABILITY

- 14.1. The licensor is not liable for damage caused by the failure of technical equipment or incorrect user actions. Furthermore, liability for delayed use of software due to maintenance work is excluded. Liability for loss of data is also excluded.
- 14.2. The licensor shall only be liable for damages in the event of intent or gross negligence. In cases of slight or gross negligence, the licensor shall only be liable for personal injury. Liability expires six months after the licensee becomes aware of the damage and the party causing the damage.
- 14.3. The amount of any potential compensation claim against the licensor is, except in cases of intent, limited to the amount agreed upon between the licensor and the licensee for the fulfillment of the contract, unless mandatory legal provisions oppose this.
- 14.4. The licensor is not liable in any case for indirect damages, lost profits, interest losses, unrealized savings, consequential and pecuniary damages, as well as damages resulting from third-party claims.
- 14.5. If, in any case, a penalty at the expense of the licensor has been agreed upon, this is subject to the judicial right of moderation. The assertion of claims for damages in excess of the penalty against the licensor is excluded.
- 14.6. Liability for damages of any kind is excluded if damages have been caused by improper use of the contract objects and non-compliance with operating and installation instructions, maintenance and servicing (in particular program and data backups) by the licensee.
- 14.7. Furthermore, any liability of the licensor for service providers called in by the licensee for the provision of services (for example: other IT service providers, electricians or consultants etc.) who are not contractually bound vicarious agents of the licensor is excluded.
- 14.8. The licensor's liability in the event of force majeure is also excluded.

15. TERMINATION OF CONTRACT

- 15.1. Premature termination of the license or maintenance agreements by the licensee is only possible with the consent of the licensor. In the event of premature termination, the licensor reserves the right to compensation of 90% of the contractually agreed services for the agreed minimum term.
- 15.2. Without a separate agreement, the following applies: License and maintenance contracts can be terminated by either party in writing by email with a three-month notice period to the end of the contract year. If a contract is not terminated, the term automatically extends for another 12 months.
- 15.3. Both contracting parties have the right to terminate contracts immediately and exceptionally upon the existence of significant grounds through written notice to the other contracting party. Significant grounds include, in particular:
 - (1) Default in payment by more than 45 days despite a reminder and setting a grace period;
 - (2) Gross breaches of contract, such as failure to fulfill contractual obligations despite reminders and grace periods;
 - (3) Violation of essential provisions of the contract or these GTC;
 - (4) Commencement of insolvency proceedings against one of the contracting parties or rejection of such proceedings due to lack of sufficient assets;

- (5) Disruptions to performance, unforeseeable events and obstacles, operational disruptions or mandatory requirements of all kinds (so-called force majeure), occurrences that significantly impede or make the performance of the licensor significantly more difficult or substantially impossible, provided they were not demonstrably caused intentionally or grossly negligently by the licensor.

16. PLACE OF JURISDICTION AND CHOICE OF LAW

- 16.1. For the resolution of all disputes arising from a contract, including those concerning its existence or non-existence, the exclusive jurisdiction of the competent courts at the registered office of the licensor is agreed upon.
- 16.2. Each contract shall be governed exclusively by the laws of the Republic of Austria, excluding the UN Convention on Contracts for the International Sale of Goods and any conflict of laws rules.

17. GENERAL PROVISIONS

- 17.1. Amendments or additions to these contractually agreed GTC as well as all contracts and agreements concluded between the licensee and licensor must be made in writing. This also applies to changes to the written form requirement. Verbal agreements are not permitted and have no legal effect.
- 17.2. Offsetting against claims of the licensor with counterclaims of any kind whatsoever is excluded.
- 17.3. A contract concluded between the contracting parties is not transferable to third parties without the prior consent of the licensor.
- 17.4. The licensor is entitled to amend these GTC at any time. The licensee will be notified in writing 15 days before the changes take effect.
- 17.5. The licensee is prohibited from enticing away employees of the licensor or having them enticed away or employed via or for third parties. This prohibition applies for the duration of the cooperation and ends one year after termination of the contract. In the event of non-compliance with this prohibition, the licensee is obligated to pay a contractual penalty equal to the gross annual salary of the affected person upon the first request of the licensor. This contractual penalty is not subject to judicial mitigation.

18. SEVERABILITY CLAUSE

Should any provision of these GTC be or become legally invalid for any reason whatsoever, this shall not affect the validity of the remaining provisions. Any invalid provisions shall be replaced by provisions that come closest to the intended economic purpose.

19. CONFIDENTIALITY

The contracting parties are mutually obliged to keep secret all operational, business and technical business and trade secrets of the other contracting party that are not publicly known for five years after termination of the business relationship.

20. DATA PROTECTION

All information on data processing and data protection can be found on the Planforge GmbH website at: <https://www.planforge.io/en/privacy>.

APPENDIX: MAINTENANCE AGREEMENT

- A) The licensor provides maintenance and support services for the respective software products. In addition to maintenance, these include version upgrade authorizations and support (collectively referred to as "maintenance and support services").
- B) The services are provided by the licensor itself or by third parties during the general service hours **Monday-Friday 09:00-17:00 CET**, excluding Austrian public holidays.
- C) The public holidays in Austria as of January 1, 2007, include New Year's Day (January 1), Epiphany (January 6), Easter Monday, Labor Day (May 1), Ascension Day, Whit Monday, Corpus Christi, Assumption of Mary (August 15), National Day (October 26), All Saints' Day (November 1), Conception Day (December 8), Christmas Day (December 25) and St. Stephen's Day (December 26). General public holidays in this context also include December 24 and December 31.
- D) Support and maintenance are included in the license fee for on premises rental or the cloud variant.
- E) The following applies to on premises purchases:
- The licensee acquires the right to maintenance and support for the first contractual year upon acceptance of the offer by submitting their order. If the licensee does not terminate maintenance and support in due time, their entitlement to these fee-based services automatically extends for an additional year. If the licensee terminates the "Maintenance and Support" service, it is still possible to use the software, but without the right to maintenance, support, assistance or upgrades.
 - The right to maintenance and support acquired in this way becomes effective on the day the license key is sent. The validity period is one year from the effective date and is extended annually unless one of the contracting parties provides written notice of termination three months prior to the end of the contract year. The right to extraordinary termination of the contract (as in the cases of point 15.3.) remains unaffected.
 - As long as the licensee has a valid maintenance and support contract, they may use the license key for an additional (non-production) test system.
- F) Not included in the above-mentioned services:
- (1) Maintenance and support services outside the specified service hours;
 - (2) Maintenance and support services for users of a trial license;
 - (3) Maintenance and support services for users of a free version;
 - (4) Maintenance and support services for contract products purchased by the licensee that are not used under the conditions of use specified by the licensor or on data processing systems other than those recommended by the licensor as a prerequisite for the use of contract products purchased by the licensee;
 - (5) Maintenance and support services for delivered contract products that have been modified by licensee-side programming or other interventions;
 - (6) Maintenance and support services for program components that are not part of the original version of the contract products purchased by the licensee;
 - (7) Maintenance and support services for programs and program parts whose function depends directly and/or indirectly on other contract products, unless there is a separate written agreement between the licensee and the licensor for these other programs;
 - (8) Installation of contract products on premises or their components/sub-programs (in particular patches) including upgrades;
 - (9) Excessive maintenance and support services that go beyond the usual scope. Additional services, in particular regarding the services mentioned in (4) and (5), require a prior,

separate and written agreement between the parties.

- G) The licensor is released from any liability if the licensee conducts independent maintenance services on the software products. Furthermore, the licensee forfeits any warranty claims with unauthorized interventions (see also section 11)
- H) The licensee has an obligation to cooperate regarding the detection, containment and reporting of errors and other defects. This includes the preparation of a defect report, system logs and memory extracts, the provision of the affected files, input and output data, interim and test results and other documents suitable for illustrating the errors or other defects.
- I) Upon conclusion of this agreement, the licensee shall designate one of its employees as the binding contact person for the licensor's service personnel. If this contact person changes, the licensee is obligated to promptly, at least one week before the change, provide written notice to the licensor and specify the new contact person.