

## General Terms & Conditions

Metrilog Data Services GmbH (hereafter referred to in short as ("Metrilog"), delivers its products and services exclusively in accordance with these General Terms and Conditions. These General Terms and Conditions apply for contractual relationships with effect from January 1, 2019.

### 1. General Provisions

- 1.1. The purchaser accepts these conditions upon ordering or at the latest, upon receipt of hardware and/or services. They also apply for future business, even if no express reference is made to them at the time.
- 1.2. Goods and services offered by Metrilog are entirely subject to change. Orders by the purchaser are only accepted by way of a written order confirmation or delivery of the product or service. Metrilog also has the right to accept orders in part or to refuse them without announcing reasons.
- 1.3. Metrilog's services are those shown in the list of services in force at the time. Due to the increasing scope of services, Metrilog may agree supplementary service-specific agreements with the customer in addition to the General Terms and Conditions for the use of services. In the case of a contradiction of content between the supplementary agreement and the General Terms and Conditions, the provisions of the supplementary agreement take precedence. Otherwise, the provisions of these General Terms and Conditions shall remain unaffected.

### 2. Hardware Supplies

- 2.1. Hardware prices
  - 2.1.1. The prices are ex-works, exclusive of VAT and without transport costs and any ancillary service costs. The prices listed in the price list are subject to change. The price charged shall be in accordance with the price applicable on the day of delivery.
  - 2.2. Delivery, time of delivery
    - 2.2.1. Delivery dates specified are not binding. The delivery period will be at least 30 days. If a more specific delivery date has been agreed, the purchaser is only entitled to withdraw from the contract in the case of non-compliance with the date if Metrilog does not execute the delivery, having been given a written warning and a further period of at least four weeks for delivery.
    - 2.2.2. The delivery period shall be extended by the duration of any impediment caused by circumstances beyond the control of the parties, for example, late delivery by suppliers, force major, unforeseeable downtime, interventions by public authorities, delays caused by transport and customs, energy, material and raw material shortages and labour disputes.
    - 2.2.3. Partial-deliveries are permissible. Each partial-delivery counts as a separate transaction and may be invoiced by Metrilog separately.
  - 2.3. Performance and transfer of risk
    - 2.3.1. The transfer of risk to the purchaser takes place with handing over of the goods to the forwarder or haulier, at the latest however, when they leave the warehouse. This also applies when delivery by Metrilog is free to destination with a vehicle of its own or of a third party. In the absence of any special instructions from the purchaser, delivery shall be carried out subject to reasonable discretion and without guarantee of the quickest and cheapest form of dispatch being selected. Packaging material will not be taken back.

#### 2.4. Notice of defects and warranty

- 2.4.1. Metrilog gives a guarantee that the goods supplied are free from material and manufacturing defects which significantly reduce suitability for purpose of the product, and also guarantees all expressly warranted characteristics. Metrilog gives no guarantee that the product can be sold on or for its suitability for a specific purpose.
- 2.4.2. Upon receipt, the purchaser is to inspect the goods supplied for completeness, correctness and general freedom from defects and to notify any defects in writing within three working days of receipt of the goods or services. If goods are sent directly to third parties, the time periods for examination and notification commence when the goods are delivered to the third party.
- 2.4.3. Latent defects have to be reported as soon as they become apparent.
- 2.4.4. Warranty period is 12 months from transfer of risk. The duty of warranty is not accepted by Metrilog if the product supplied is improperly installed, maintained, repaired, used or adapted by the purchaser or a third party, unless the purchaser proves that these circumstances were not the cause of the defect notified. Metrilog's guarantee is confined, at its own discretion, to the delivery of replacement goods of the same kind and amount, or rectification. The warranty period does not recommence with the supply of replacement goods or rectification.

#### 2.5. Compensation

- 2.5.1. Compensation claims by the purchaser on whatever legal grounds, in particular on account of delay, impossibility of performance, positive violation of contractual duty, consequential harm caused by a defect, or defects due to incorrect advice and information, are excluded, provided they are not the consequence of intent or gross negligence by Metrilog.

#### 2.6. Payment conditions for hardware supplies

- 2.6.1. Invoices are due within 14 days of the invoice date without deduction irrespective of when the goods are received.
- 2.6.2. In the event of late payment and provided higher costs have not accrued, Metrilog shall charge interest at the rate calculated by banks for late payment in force at the time, but at a minimum of 10% p.a., commencing on the 15th day following the invoice date.
- 2.6.3. The purchaser shall bear the costs of reminders, notifications and other recovery-related costs.
- 2.6.4. For deliveries and services to purchasers based outside the European Union, unless otherwise agreed, payment shall be by way of advance payment, direct debit mandate or by confirmed and irrevocable LC.
- 2.6.5. Where the purchaser is behind with payment or other

performance, Metrilog is entitled, without prejudice to other rights, to withhold supply of the goods or services until the contractual consideration has been performed in keeping with the existing agreed delivery period or, following the lapse of a reasonable grace period, to withdraw from the contract and to claim compensation for non-performance. In the latter case, Metrilog is entitled to retain or demand the agreed down-payment, however with at least 15% of the price as a minimum contractual penalty.

#### 2.7. Retention of title

2.7.1. All goods supplied remain the property of Metrilog until full payment of the purchase price including ancillary expenses and, in the case of running accounts, payment of balances irrespective of the delivery to which they relate, is received. The purchaser does not have the right to sell or pass on goods supplied by Metrilog without Metrilog's express written agreement. If the purchaser is delayed with payments, if bankruptcy proceedings are applied for or initiated, or if the purchaser is in breach of any contractual duties, Metrilog is entitled – at its own discretion and whilst perpetuating the contract – to demand surrender of the goods supplied under reservation of title, to collect them and/or to redeem assignments put forward as security.

### 3. Services

#### 3.1. M2M Gateway use and data storage

3.1.1. For use of services on Metrilog's M2M Gateway, separate agreements for usage apply which are regulated in a separate service agreement. The purchaser of the hardware is not entitled to use the Gateway if he has not concluded a service agreement with Metrilog. Metrilog supplies the remote units inclusive the SIM card for the respective selected network provider. The contractual relationship comes into force through mutual written acceptance of the service agreement, but not before registration and activation of the SIM card on the Metrilog Gateway. The charging period commences with activation. Metrilog will make every effort to activate SIM cards within three working days of receipt of appropriate information from the customer.

3.1.2. Metrilog undertakes to maintain operation of the M2M Gateway server 24/7, although usage and availability of the databases accessible via or connected to the M2M Gateway or services by third party providers are regulated by the conditions and operating times of the third party providers.

3.1.3. Provided nothing to the contrary has been agreed, Metrilog is entitled to delete customer data after a period of one month.

#### 3.2. SIM cards, PIN codes, customer passwords, ownership of the SIM card

3.2.1. The SIM cards included in the remote units remain the property of the respective network operator and are given to Metrilog and subsequently to the customer for usage only. As soon as the contractual relationship ends, SIM cards are to be immediately returned to Metrilog. PIN codes, PUK codes and customer passwords are administered accordingly by Metrilog.

3.2.2. The customer commits to use the SIM card only for the intended purpose and to take care that passwords and codes are not passed on to third parties. Where passwords and codes are not administered properly, Metrilog accepts no liability for any costs incurred.

#### 3.3. Loss or theft of SIM card, deactivation

3.3.1. Loss or theft of the SIM card(s) is to be reported to Metrilog without delay (by telephone or in writing), quoting the customer number. Metrilog shall then arrange for this SIM card to be deactivated at the respective network operator. The customer is responsible for payment for relevant communication services incurred up to the time of notification, arising from use of this card or cards. If notification is by telephone, an appropriate written notification is to follow forthwith and in the case of theft, a theft report.

3.3.2. Where the SIM card has to be deactivated, Metrilog shall charge the customer a deactivation fee of € 20,-.

#### 3.4. Property rights and data protection

3.4.1. Through the use of the Gateway absolutely no rights with regards to the Gateway Software are transferred or shall arise to the customer, of whatever nature. All texts, images, graphs as well as software applications and contents made available by Metrilog are subject to copyright and intellectual property rights belonging to Metrilog or third parties. By using services, the customer is awarded a non-transferable and non-exclusive license to use the software for the duration of the contractual relationship. No other rights are acquired.

3.4.2. All data stored by the remote units on behalf of the customer on the Metrilog Gateway remain the property of the respective customer. Metrilog is purely a service provider within the meaning of § 11 DSG (German Data Protection Act) and is committed to ensure that customer-specific data recorded by the respective unit is not made accessible to third parties or cannot be seen by third parties without first obtaining the explicitly indicated, written approval of the customer.

3.4.3. The customer commits for his part to treat access data confidentially and not to make it accessible to third parties. Where the customer's password is passed on, Metrilog cannot guarantee confidentiality of data in any way whatsoever.

3.4.4. Usage and availability of the connected or accessible databases or services of third parties are regulated in accordance with conditions and operating times set by third party providers.

#### 3.5. Quality of communication services

3.5.1. Temporary network failures of the respective network operator and disturbances from other networks cannot be fully excluded. If any compensation claims are made as a result of such events, these are to be directed to the respective network provider. Metrilog herself cannot warrant and/or accept any liability for the services of third parties.

#### 3.6. Liability

3.6.1. Metrilog is not liable for any network failures or breakdowns of services occurring within the network of the provider that is used for rendering the service. Further exclusions of liability for lost profits, missed

savings, lost data, quality of data from connected sensors or actuators, indirect and consequential damages as well as damages from third party claims – unless in contradiction to mandatory rules.

### 3.7. Charges for services, payment conditions

- 3.7.1. Fees for the agreed services are listed in the effective service agreement. Where different services are used by the customer, Metrilog has the right to raise one total invoice per invoice period for all such services. Unless otherwise agreed, invoicing for services shall be for 12 months in advance on each occasion.
- 3.7.2. Charges which arise as a result of the customer using networks of diverse network operators shall be invoiced directly by Metrilog and are to be considered the same as services provided by Metrilog.
- 3.7.3. Periodic charges are due in advance. The customer does not have the right to have them allocated to a certain invoice cycle. Charges due for services provided are to be paid within 8 days of receipt of the invoice. Individual charges dependent upon delivery of a service may be invoiced immediately following delivery and are payable within 8 days of receipt of the invoice.
- 3.7.4. Payment of fees by the customer can be made by direct debit, use of a giro transfer form or an electronic transfer; these payments may only be made to accounts displayed on the invoice. Where there is doubt, payments shall be allocated to the oldest debt.

3.7.5. If the original slip is not used when using a giro transfer form or making electronic transfers and there is no invoice number, making allocation considerably more difficult or even impossible, the debt will only be offset with effect from the date the payment is allocated. Should the customer opt to pay by direct debit and this cannot be executed, for reasons beyond Metrilog's responsibility, Metrilog reserves the right to change this customer's method of payment to use of a giro transfer form until further notice and will inform the customer accordingly.

### 3.8. Reminders and recovery

- 3.8.1. Where there is late payment, Metrilog will send a reminder. Further, Metrilog reserves the right to charge interest of 10% per annum, becoming due with immediate effect.
- 3.8.2. Metrilog expressly reserves the right to hand over recovery of debts to a debt collection agency or a lawyer where a reminder has had no effect and payment has not been carried out. The customer in arrears is obliged to pay the necessary costs incurred in the pursuit of the debt (recovery agency costs, lawyer's costs etc.) in accordance with the applicable tariffs in force.
- 3.8.3. Metrilog is entitled to collect from the customer claims of third party service providers on their behalf and with their approval. Unless the customer expressly disputes the payment claims, claims by Metrilog will take precedence for payments by the customer in such cases. Objections and claims by the customer relating to services not provided by Metrilog may either be brought in at the third parties who provided the services or at Metrilog, who will forward these objections or claims to the provider of the services.

### 3.9. Duration of contract in respect of services, termination, disablement/deactivation

- 3.9.1. The contractual relationship is for an undetermined period, unless otherwise agreed. It may be terminated by both sides with three months' notice (receipt of notice by receiver) in writing (only mail or fax). Information on the duration and proper termination of the contract in question, as well as on disabling of the service or of individual services can be found in the respective service-specific conditions of the service agreement. If minimum contract duration is agreed, the customer may not properly terminate the contract before this period has elapsed.
- 3.9.2. Where a specific contract period has been agreed, the customer has the possibility to extend the duration automatically by payment of a sum payable in advance. If payment for extension of the period is not made within 10 days of its expiry, the contract is deemed to be ended.
- 3.9.3. Where a continuation of the contract would be impossible for good cause, both contractual partners have the right at any time to terminate the contract in writing (only by mail or fax) without any period of notice and Metrilog also has the right to disable the entire service or individual services, provided it has given appropriate notification in advance to the customer.
- 3.9.4. Metrilog reserves the right to dissolve the service agreement at any time provided that
- there are justifiable doubts concerning the identity of the customer;
  - there is justifiable suspicion of current or future abuse;
  - the customer has outstanding debts from an earlier or still current contract;
  - negative credit rating information;
  - the customer submitted wrong information when signing the service agreement;
  - following a proper reminder impending disconnection of the service, the customer is more than 2 further weeks delayed with the payment of communication costs and service provision charges;
  - an agreed payment in advance in accordance with the service agreement is not paid within a period of 2 weeks;
  - the customer breaches a fundamental provision of these terms and conditions;
  - the services made available by Metrilog are used by the customer for illegal activities;
  - the data volume according to the fair-use principle and specified in the service agreement are repeatedly exceeded;
  - despite requests for removal and offering a reasonable notice period, the customer continues to use an end device which causes disturbance or which is not recommended by Metrilog, thereby having a negative effect on services;
  - there is probable cause that the customer's connection is being used to bypass statutory provisions, in particular connections that are re-sold for money and/or commercially for use by third parties without Metrilog's agreement;
  - Insolvency proceedings against the customer are initiated and the liquidator has not joined the contract

as security or the insolvency proceedings are rejected on account of insufficiency of assets.

- 3.9.5. Furthermore, Metrilog has the right where there is late payment in relation to services of third party providers, to refuse further use of this payment facility with immediate effect. Should Metrilog terminate the contract for good cause or end the contract upon the explicit wish of the customer before expiry of an agreed minimum contract duration, Metrilog has the right to charge and set due any monthly charges still outstanding up to the expiry of the minimum contract duration. Annulment of a disablement of services may take place after omission of the original reason for disabling of the services, or through application by the customer, where customer is liable to pay for all costs incurred. Metrilog also reserves the right to charge the customer for expenses or damages incurred by the legitimate disablement of services..

#### 4. Final provisions

##### 4.1. Changes to the General Terms and Conditions

- 4.1.1. To be valid, amendments to these conditions or supplements to them must be confirmed in writing by Metrilog and only apply to the respective individual case. Customers' terms and conditions are expressly excluded. Also, submission of an order confirmation by Metrilog does not constitute acceptance of customer's contractual terms.

- 4.1.2. The current valid version of the General Terms and Conditions can be found on the Metrilog website. Metrilog reserves the right to change and modify these General Terms and Conditions. Where there are changes, Metrilog shall inform its customers of them separately. Should these changes fundamentally affect the substance of the General Terms and Conditions, the customer has the right to early termination of the contract within 10 days of notification of these changes. When changed General Terms and Conditions come into force, all previous General Terms and Conditions lose their effectiveness as far as they were still valid.

##### 4.2. Transfer of rights and duties, contractual exclusion of set-off

- 4.2.1. The customer may only transfer his rights and duties under this contract to third parties with the agreement of Metrilog. Benefits or other advantages awarded to a customer cannot be transferred to a third party or paid out in cash. The customer is not entitled to set off any claims against Metrilog with claims of the latter relating to deliveries and/or service provision.

##### 4.3. Applicable law, place of performance, court of jurisdiction

- 4.3.1. Exclusively Austrian law shall apply to legal relationship with the purchaser; UN Convention on Contracts for the International Sale of Goods shall be excluded.

- 4.3.2. Place of fulfillment for all obligations arising from this contract is Vienna.

- 4.3.3. Agreed court of jurisdiction for all legal disputes arising directly or indirectly from this contract is Vienna. Metrilog may however call upon another court responsible for jurisdiction of the purchaser.