

Standard Terms of Business

of the mesonic datenverarbeitungs gmbh

I. General Terms

1. These standard terms and conditions shall be applicable for all deliveries, services and offers from mesonic datenverarbeitung GmbH (hereafter "mesonic"). They are also in force for all following business transactions, without further explicit statement thereof. All terms and conditions of purchase of the contractual partner are herewith declared null and void. No further explicit notice thereof is required.
2. Side agreements or verbal promises shall not be concluded orally between mesonic and other contracting parties. All changes or alterations shall be agreed upon in writing. This also applies to this written form clause itself.
3. The subject of software deliveries by mesonic is the granting of non-exclusive rights of usage of data processing programs (software). These rights of usage are applicable solely for the software licensee. Rights of usage are not transferable by the licensee upon sale of hardware to another party.

II. Copyright

1. Software programs distributed by mesonic are the sole intellectual property of mesonic. This is mutually recognized regardless of future or existing jurisdiction.
2. The one-time license fee payable at sale grants the right of usage of exactly one copy of the software. All rights derived therefrom are non-transferable. The license fee for software delivered by mesonic grants the end user the right to use the software on exactly one server instance (including virtual instances).
3. Every natural person who has read or write access to WinLine databases in whatever form (e.g., direct or indirect, replicated or copied, synchronous or asynchronous) represents one licensed WinLine user. This applies regardless of the device, software (be it mesonic software or third-party software) or other method through which with said access is generally accomplished.

The user licenses for the program packages WinLine business, WinLine corporate, WinLine compact, and WinLine cloud series are named user licenses. The number of acquired user licenses shall thus represent the maximum number of users who are allowed to access the software with a registered, named user account. The usage of one user license for the program packages WinLine business, WinLine corporate, WinLine compact and WinLine cloud series by more than one natural person is not allowed.

4. Above and beyond the aforesaid rights of usage, the supplied software may be copied in machine-readable or printed form only when the copy serves the purpose of backing up data and/or software. Any further usage is not allowed.

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5. In all cases in which the contracting party is proven to have purposely or negligently used more than one paid copy, or allowed usage thereof by a third-party, the contracting party agrees to pay mesonic a penalty for breach of contract amounting to the tenfold amount of the license fee. This penalty is independent of any other claims of compensation.

III. Offers and Conclusion of Contract

1. All offers from mesonic are non-binding and subject to change.
2. Orders shall be considered as confirmed by mesonic solely upon express written confirmation or performance of said order.

IV. Delivery and Scope of Services

1. Software (WinLine standard software)
 - a. Software is delivered on commercially available data mediums or by download link from the mesonic website.
 - b. Software modules are activated for use based on the purchased licenses.
 - c. mesonic has the right to supply its services or parts thereof through third-parties, and reserves the right to perform partial delivery.
 - d. The contracting party is responsible for the proper installation of the delivered software. Installation of the software by mesonic, as well as training and instruction of the contracting party, or their corresponding end users, in the usage of the delivered software is not part of the scope of services, unless expressly arranged and billed under separate agreement. In such case, the contracting party is responsible for providing the appropriate environment for software installation, and, in particular for ensuring that the required hardware configuration is available for installation of the software.
2. Software (customized software, customer-specific add-ons to WinLine)

In supplement to the suitable application of the stipulations in section IV, item 1, all development is performed solely on the basis of written specifications supplied by the customer in advance of the conclusion of contract, and which has furthermore been confirmed and accepted by mesonic in writing. Incomplete specifications or unclear formulations are the sole liability of the customer, who has supplied the specifications. Changes or additions to the specifications must be agreed upon in writing and will be billed separately. Mesonic reserves the right to decline such change or addition requests by the customer and to continue with development as originally ordered.

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3. Services

Services performed beyond the scope of an existing contract, such as analyses, consulting, installation, software updates, customizing, support or training, will be billed on a separate basis. The remuneration for services also applies in particular when the services are provided by telephone or remote session/internet. In the event that a mesonic employee visits on-site, the corresponding travel expenses will also be charged. A service day consists of 8 hours. The basis for performance of said services shall require the documentation by the customer of requirements and specifications to be supplied before conclusion of the services contract and subsequent confirmation in writing by mesonic.

V. Prices & Terms of Payment

1. Unless otherwise agreed, all prices are net prices and do not include sales tax applicable at time of delivery. The mesonic price list is in effect at the time of the order.
2. Unless otherwise agreed, payment is due upon invoicing, without any deductions.
3. Upon acquisition by mesonic of unfavorable information concerning the economic situation or liquidity of the contractual partner subsequent to the conclusion of contract, mesonic is entitled to demand advance payments or security deposits to provide a basis for commencement of activities preceding delivery. Application for insolvency, or the opening or rejection of such proceedings, or restructuring procedures, in-court or out-of-court, shall entitle mesonic to withdraw from the contract at any time.

VI. Delivery Periods

1. Delivery periods specified by mesonic are in general approximately stated and non-binding, except when explicitly confirmed otherwise.
2. Change orders result in voidance of agreed upon dates and deadlines, except when otherwise agreed upon.
3. Delivery and / or service deadlines are extended appropriately in the event of force majeure or other circumstances, which are outside the sphere of control of mesonic, and which have a significant influence on the delivery and/or service. This applies in particular to strikes and/or lockouts at mesonic, its suppliers and/or associated sub-suppliers.

VII. Obligations of the contract partner

1. The contract partner is obliged to provide suitable technical and organizational measures for themselves and/or third parties in order to allow mesonic to fulfill its contractually agreed obligations.

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2. If the contractual partner is in default of acceptance or if he violates other obligations to cooperate, mesonic is entitled to claim resulting damages including any additional expenses. Any other claims remain unaffected.
3. A default in acceptance by the contractual partner does not entitle the contractual partner to withhold payment.
4. The exclusive responsibility of the customer for supplying requirement analysis and specifications and other requirement descriptions, which form the basis of services defined in section IV, is not materially altered in case mesonic has supported the contractual partner in the creation of said specifications. If a specification turns out to be faulty, incomplete, contradictory, impracticable or possess other defects, the contractual partner must ensure for changes or adaptations. The contractual partner alone has to bear the negative consequences of changes in specifications. If the contractual partner does not meet this obligation or does so in an insufficient manner, mesonic is entitled to withdraw from the contract and claim damages, at least to the amount of the agreed upon price.
5. Appropriate data backup is the sole responsibility of the contractual partner.

VIII. Warranty/Liability

1. mesonic assumes liability for the program features described in the documentation, upon condition of sufficient training of the end user. The period of warranty commences with the date of receipt by mesonic of the licence registration, signed by the user.
2. The contractual partner recognizes that at the current state-of-the-art it is not possible to produce software that is fault-free in all applications and combinations. In case of errors in program logic that lead to processing errors in spite of correct application of the operating instructions, which substantially impair the useability of the programs for the end user, the respective program can be exchanged within an appropriate period against an error free version, or returned with refund of the license fee, upon the discretion of mesonic.

In particular, mesonic assumes no warranty that the program functions fulfill specific customer requirements, or that they are integrated with each other in the configuration selected by the customer. Furthermore, it is solely the responsibility of the end user to ensure the correctness and accuracy of data transmitted to third parties.

3. mesonic is released from the stipulation to remediate errors at no cost when the affected software has been altered by the mesonic reselling partner, another reselling partner, end user or another third party, without previous express permission by mesonic and/or, when the most current version as declared by mesonic is not in use, providing the mesonic reselling partner or end user cannot demonstrate that said defect is not caused by said alterations.
4. mesonic assumes no liability for negative effects of services of any kind, which are comply with the underlying

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specifications and are based on the collaborative obligations of the contractual partner.

5. All liability or further legal hazard of mesonic beyond the scope of the conditions above, regardless of legal jurisdiction, is excluded in all cases. In particular, mesonic excludes all claims for damages, direct or consequential.

IX. Special conditions for software rental (WinLine compact/compact+/compact WEB/ cloud/cloud+ product lines)

1. When the contractual partner has not purchased the software pursuant to this contract in accordance with his/her order, but rather rented the software, the usage rights named in section 1, item 3 of these General Terms of Business are not granted in perpetuity, but rather are granted for a limited period of time. The contract can be cancelled in writing at the end of each month with one month's notice. The right to extraordinary termination subject to material reason is not affected in this regard.
2. All usage rights of the contractual partner are voided upon expiration of the period of cancellation.
3. Liability
 - a) mesonic assumes (upon rental from a mesonic reselling partner solely through the mesonic reselling partner) liability for the correct functioning of the program functions described in the documentation, under condition of sufficient training of the end users.
 - b) The choice of method of error remediation (cost-free alteration or replacement version) lies solely with mesonic. Mesonic does not assume liability for claims for initial software defects. Retroactive claims due to unresolved defects are thus excluded. The end user may not achieve a reduction of rental amount by deduction of an agreed upon compensation.
 - c) In case of errors in program logic that lead to processing errors in spite of correct application of the operating instructions, which substantially impair the useability of the programs for the end user, the respective program can be exchanged within an appropriate period against an error free version. The end user shall assume responsibility for the correctness and accuracy of data transmitted to third parties
 - d) mesonic is released from the stipulation to remediate errors at no cost when the affected software has been altered by the mesonic reselling partner, another reselling partner, end user or another third party, without previous express permission by mesonic and/or, when the most current version as declared by mesonic is not in use, providing the mesonic reselling partner or end user cannot demonstrate that said defect is not caused by said alterations.
 - e) All liability or further legal hazard of mesonic beyond the scope of the conditions above, regardless of legal jurisdiction, is excluded in all cases. In particular, mesonic excludes all claims for damages, direct or consequential.
4. Duration of Contract/Prices

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- a) The usage prices for the WinLine compact/compact+/compact WEB/cloud/cloud+ product lines correspond to the usage prices published in the most current mesonic price list. Pricing for modified standard or customized programs shall be arranged expressly by separate agreement.
- b) The rental and maintenance fees are on a fixed basis and are to be paid in advance monthly. When the consumer price index of the Austrian Bureau of Statistics rises or falls, mesonic reserves the right to adjust the rental and maintenance fees accordingly. The end user will be informed by mesonic in writing of any such changes.
- c) The usage maintenance fee will be invoiced monthly. Payment shall be made by bank direct debit.
- d) Unless otherwise agreed, the contract begins upon delivery of the WinLine compact/compact+/compact WEB/cloud/cloud+ software. This agreement is concluded for an indefinite period. It can be terminated by either contract party in writing upon one month's notice by the end of a calendar month.
- e) The following special stipulations apply additionally for the WinLine cloud/WinLine cloud+ product lines:
 - aa. The WinLine cloud/WinLine cloud+ solution is released exclusively for use in a data center, i.e., not for use at the on-site installation of the user.
 - bb. Usage is billed based on usage moments. Billing procedures can be obtained from the current mesonic price list.
 - cc. The user must obtain the IP range from the data center to be used by the WinLine cloud/WinLine cloud+ installation. The user will then state this range to the mesonic reselling partner or mesonic before the first use of the software, to allow mesonic to assign the installation to the end user for the purposes of billing and licensing. WinLine cloud/WinLine cloud+ transmits to mesonic the number of usage moments according to named user logins in a 24 hour period. This is used by mesonic to calculate and bill the accrued user login moments according to the current mesonic price list (so-called "pay-per-use").

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X. Data protection

Parties to this contract are expressly informed that mesonic may electronically process, save and report on data related to the business relationship (e.g., name, company, address, telephone/fax number, email address and the basic data of said contract), when required for the orderly handling of the corresponding contractual services.

XI. Final Provisions

1. All litigation shall take place in the jurisdiction of Vienna, Austria.
2. The jurisdiction of the Republic of Austria shall be exclusively applied.
3. Should individual provisions of these Standard Terms of Business be or become invalid, the validity of the remaining provisions remains unaffected. In the event of such invalidity, the invalid provision will be replaced by a provision that corresponds to the furthest extent to the commercial intent of the invalid provision.

Valid from: December 2016