Terms and conditions - Cloud

These Terms and conditions (“**Terms**“) govern the rules for the provision of software for the monitoring and control of technical equipment collectively known under the brand name Mervis, e.g., Mervis SCADA, Mervis DB, Mervis IDE (“**Software**“) and related services (“**Services**“) provided by the company **ENERGOCENTRUM PLUS, s.r.o.**, with its registered office at Prague 6, Technická 1902/2, Czech Republic, Postal Code 16627, ID No: 26781026, VAT No.: CZ26781026, File No. C 93305 kept by the Municipal Court in Prague (“**Provider**“) to you, as their Client (“**Client**“).

1. Agreement and Provision of Software

1.1. The Provider agrees to provide the Client with Services, the specific scope of which is determined by the Agreement or by the Client’s order confirmed by the Provider. The Agreement may be concluded via the order form on the Provider’s website, based on a written Agreement, or by any other verifiable means (“**Agreement**”). The text of the Agreement or the confirmed purchase order takes precedence over the text of these Terms.

1.2. The Provider may also provide the Client with services outside the agreed scope of Services. In such cases, these Terms shall always apply, as well as the specific terms under which the contractual relationship between the Provider and the Client was established.

1.3. The Provider hereby (i) grants the Client a temporary and non-exclusive right to use the Software to the extent and under the terms described in these Terms and the Agreement, and (ii) agrees to provide additional services related to its use.

1.4. The Client uses the Software by means of remote access through the Client's mobile or fixed terminal devices. The Software is not installed on the Client's devices, with the possible exception of accompanying software applications or hardware, if required and if so agreed between the parties.

1.5. If the Parties have agreed that the Software will be operated by the Provider for the Client on the Client’s hardware, which is owned or managed by the Client or a third party designated by the Client (“**Client’s Operating Environment**”), the following additional terms and conditions shall apply in addition to the Terms:

(i) The Client shall bear the costs of the Client's Operating Environment for the Software provided;

(ii) The Client is responsible for ensuring that the Client’s operating environment meets the minimum requirements for installing the Software in accordance with the provided documentation;

(iii) Unless agreed otherwise, the administration and maintenance of the Client's Operating Environment are not part of the Services;

(iv) Client acknowledges that the availability of an Internet connection is required for the proper operation of all functionalities of the Software. The Client shall bear all costs of remote access, including device and connection fees, and is exclusively responsible for ensuring the availability of the Internet connection for the Client's Operating Environment;

(v) The Provider is entitled to specify minimum technical requirements for the Client’s Operating Environment; if these requirements are not met, the Provider may, as appropriate, postpone, restrict, or suspend the deployment or operation of the Software or the provision of the Services until the requirements are met;

(vi) The Client acknowledges and agrees to the Provider's remote access to the Client's Operating Environment for the purpose of providing the Services and to any further extent necessary for the performance of the Agreement;

(vii) The Client is responsible for ensuring the operational readiness, backup, and regular updates of the system components of the Client's Operating Environment;

(viii) Limitations or outages caused by the Client's Operating Environment, its up-to-date status, or its connectivity do not constitute a defect in the Provider's performance and do not fall within the scope of the Provider's liability under Articles 11 and 12; and

(ix) The Client's data, as specified in Article 9, is stored in the Client's Operating Environment.

1.6. The above-stated conditions in Clause 1.5 shall prevail over the text of these Terms and shall replace them to the extent of any conflict therewith.

2. Rights of Use

2.1. The Provider grants the Client a temporary, non-exclusive, non-transferable, and fee-bearing right to use the Software for the Client's own internal purposes for the duration of the Agreement. The remuneration for granting this authorization is already included in the Price pursuant to Article 5 of these Terms. Unless agreed otherwise in the Agreement or these Terms, the above-stated authorization is non-transferable and the Client is not entitled to grant a sublicense to the Software.

2.2. The Software may be used exclusively by the Client and persons to whom the Client grants access and authorization to use the Software („**Authorized User**"). The Client shall be liable for any act or omission of an Authorized User as if it were an act or omission of the Client.

2.3. Use of the Software by Authorized Users is governed by the End User License Agreement ("**EULA**") available at https://kb.mervis.info/doku.php/en:mervis-scada:100-license. The Client undertakes to make the Software accessible only to a reasonable and foreseeable number of Authorized Users, corresponding to the agreed purpose of using the Software under the Agreement.

2.4. The Client shall bear all costs for remote access, including equipment and connection fees, and shall be solely responsible for ensuring the availability of its Internet connection.

2.5. The Client does not acquire any rights to the Software's source code.

2.6. The Provider hereby grants the Client a non-exclusive and unrestricted right to extract and utilize databases consisting exclusively of the Client Data as defined below in Article 9 of these Terms ("**Client's Database**"**).** The Client may use and extract the Client's Database only to the extent corresponding to the authorization to use the Software under these Terms. This is without prejudice to the Client's right to dispose of the Client Data and the Client's Databases outside of the Software at its own discretion, including the right to export and further process them.

2.7. The Client is not entitled to extract or utilize in any way the databases forming part of the Service or the Software (i.e., the database of which the Provider is the maker) or a substantial part thereof (e.g., in connection with the Client's own software or third-party software). This is without prejudice to the Client's right to access the database to the extent necessary for the proper use of the Service and to export its Client Data in accordance with these Terms.

2.8. The Client shall prevent third parties from accessing the Software and is required to immediately notify the Provider in the event of unauthorized access to its data within the Software.

2.9. The Client shall immediately notify the Provider of any suspicion of unauthorized access to user accounts or data in the Software and will cooperate in resolving the issue.

2.10. The Client is obliged to use the Software and Services in a reasonable manner corresponding to their nature, documentation, and usual operating parameters.

2.11. For the purposes of these Terms, reasonable and usual operating parameters are considered to be such use of the Software and Services that corresponds to common deployment methods and does not cause a disproportionate load on the Provider's infrastructure, in particular:

(i) reasonable frequency of requests and file sizes;

(ii) storage of Client Data in accordance with Article 9 proportionate to the purpose of the Client's use of the Software;

(iii) use of Mailing in accordance with Article 7;

(iv) use of the API in accordance with Article 3.10; and

(v) creation of user script data points in accordance with Article 3.9.

3. Use of the Software

3.1. The Client uses the Software via an administrator access interface, which consists of the web portal https://portal.mervis.info ("Access Portal") and further through other individual web applications forming the Software available, for example, via https://scada.mervis.info, https://db.mervis.info/, etc. ("User Interface").

3.2. For the Client's access to the Access Portal, the assignment of an individual access authorization is required. The creation of the Client's access authorization takes place either (i) through the Provider based on the Client's instruction, or (ii) independently by the Client through the Access Portal interface.

3.3. Authorized users use the Software via the User Interface. The Client is entitled to set up and manage user accounts ("**User Account**") in the Access Portal for Authorized Users as needed. The creation of a User Account takes place either (i) through the Provider based on the Client's instruction, or (ii) independently by the Client or an Authorized User according to their user rights through the Access Portal.

3.4. The Client shall (i) ensure that Authorized Users comply with the Agreement, these Terms, and the EULA, and (ii) ensure the management and security of access data to User Accounts, in particular, they are obliged to protect access data to User Accounts from misuse and not to make them accessible to third parties.

3.5. The Provider will publish the specific procedures and requirements for setting up access authorization and/or a User Account in the Access Portal or communicate them to the Client in another usual manner.

3.6. The Software is organized into individual administrative parts ("**Domain**"), which allow management and configuration within a defined scope. A Domain may be further divided into subordinate administrative units ("Subdomain"). User permissions can be set in relation to the entire Domain, or only to a Subdomain.

3.7. When using the Software, it is prohibited to:

(i) engage in activities that could disable, overload, or impair the proper functioning of the Access Portal or the Software;

(ii) use any automated means to access or interact, unless expressly permitted by the Provider;

(iii) use the API in a manner disproportionate to the usual use of the Software;

(iv) reverse engineer, decompile, disassemble, translate, reconstruct, or extract parts of the Software, except in cases expressly permitted by law or these Terms;

(v) alter, bypass security measures, or otherwise interfere with the Software outside the scope of the Provider's express authorization;

(vi) upload, transmit, or otherwise distribute materials that are unlawful, harmful, misleading, or may expose the Provider or other persons to harm or liability.

3.8. The Client shall further ensure that no content is uploaded or stored in the Software that:

(i) in any way violates the rights of third parties;
(ii) is illegal, offensive, inciting hatred or discrimination, violent, harassing, obscene, or otherwise inappropriate;
(iii) contains pornography or depictions of child abuse;
(iv) constitutes unsolicited advertising, spam, phishing, or any other form of unauthorized solicitation;
(v) contains malicious code, viruses, scripts, or other components capable of damaging or limiting software or hardware.

3.9. Within the use of the Software, it is possible to create user script data points. The Provider is entitled to check, analyze, and evaluate the script data points created in this way. The Provider is also entitled to limit, change, or completely disable these script data points, especially for reasons of security, stability, integrity, or compliance with the Agreement, these Terms, or legal regulations. The Client is responsible for the content, correctness, and effects of the script data points created by an Authorized User.

3.10. Within the use of the Software, it is possible to use the application programming interface ("API"). The specific scope and method of using the API are governed by the documentation available in the Access Portal; the Provider is not responsible for its completeness and timeliness. The Provider may continuously update the API documentation at its discretion. The Provider is entitled to monitor, evaluate, and apply restrictions on the use of the API, especially to ensure the security, stability, and integrity of the Services. The Provider is entitled to limit or completely cancel access to the API if it is used in violation of the Agreement, these Terms, or legal regulations. When using the API, the Client is obliged to choose intervals that do not cause a disproportionate load on the Provider's infrastructure.

3.11. The Software must not be used by persons under 18 years of age. Persons under 18 years of age may use the Software only with the consent of a legal representative and to the extent permitted by applicable legal regulations.

3.12. If the Client or an Authorized User violates this article, the Provider is entitled to intervene appropriately to protect the operation and security of the Services, in particular to temporarily restrict or block access to the relevant User Account, restrict or suspend access authorizations, remove objectionable content, apply technical restrictions, and inform the Client of the measures taken. This does not affect other rights of the Provider under these Terms or any liability claims.

4. Communication Devices

4.1. The Provider may allocate a mobile data connection to the Client as part of the Services for communication with the Software via SIM cards intended for end devices ("**SIM**").

4.2. The Client acknowledges that the Provider uses a partner mobile operator of the Provider's choice to provide the SIM.

4.3. SIMs are provided to the Client in the form of a physical SIM card or in the form of an eSIM, depending on the technical capability of the end device and the availability of the service from the partner mobile operator.

4.4. SIMs are intended exclusively to ensure the connectivity of devices used with the Software and for the transmission of data necessary for the provision of the Services. SIMs are not intended for personal use for end mobile devices.

4.5. The Client undertakes not to misuse the SIM and to use it only for the purpose according to Article 4.4, in particular: (i) to communicate only with the Provider's interfaces and systems or with technical endpoints expressly approved by the Provider; (ii) not to perform activities that bypass security measures, disrupt network integrity, or violate legal regulations; (iii) not to burden the network beyond the extent usual for the given purpose.

4.6. Sending voice calls and SMS messages from numbers assigned to the SIM is prohibited unless expressly agreed otherwise in the Agreement. Roaming is strictly prohibited.

4.7. SIMs remain the property of the Provider or its suppliers for the entire duration of the Agreement and are provided to the Client for temporary use. The Client must not alienate them, use them outside approved devices, or modify their settings outside the Provider's instructions.

4.8. Upon termination of the Agreement, SIMs are deactivated by the Provider within 5 working days.

4.9. The Client acknowledges that the Provider does not guarantee the availability of the mobile network and coverage in specific locations. The functionality of the connection may be affected by third parties and circumstances beyond the Provider's reasonable control. The Provider is not responsible for facts on the part of the mobile operator, as a result of which there may be, in particular, a restriction, suspension, or termination of the provision of mobile services and/or deactivation of the SIM. The Provider is entitled to change the operator, technology, or tariff if necessary to ensure the Services; the Provider informs the Client of significant changes in providers in the usual manner.

5. Price

5.1. The Services are provided for a fee ("**Price**"). The specific amount and structure of the Price are governed by the price list of the provided services, or are expressly agreed upon in the Agreement.

5.2. The Price List is available at https://kb.mervis.info/doku.php/en:licensing:00-start (the "Price List").

6. Payment Terms

6.1. The Price is payable in arrears for the past billing period, as agreed in the Agreement. If the billing period is not expressly agreed, the billing period is a calendar month.

6.2. The Provider offers two methods of paying the Price:

6.2.1. Invoicing: The Provider shall issue a tax document for the past billing period. Invoices are due within 14 calendar days of issue, unless stated otherwise on the document.

6.2.2. Automatic payment by credit card: The Client saves a credit card in the Access Portal. After the end of each billing period, the billed Price is automatically paid. A payment confirmation is sent to the Client electronically. For automatic payments, the Provider uses a payment service provider. The Provider is entitled to change the payment service provider at its discretion.

6.3. Unless stated otherwise, payments are made in CZK or EUR. For payments in another currency, the exchange rate according to the terms of the payment service provider or as agreed by the Parties shall apply.

6.4. Invoices and payment confirmations are delivered electronically to the Client's contact details or made available to the Client in the Access Portal interface. The Client agrees to electronic delivery.

6.5. In the event of (i) an unsuccessful automatic payment, or (ii) the Client's delay in paying an overdue invoice, the Provider shall call upon the Client to remedy the situation and set a reasonable additional period for payment. If the payment is not made even within the period specified in the call, the Provider is entitled to:

6.5.1. charge statutory default interest;

6.5.2. limit or suspend the provision of Services to the necessary extent until the full payment of the amount due; and

6.5.3. demand compensation for purposefully incurred costs associated with recovery.

6.6. The Client is obliged to raise objections to the billing without undue delay, no later than 15 days from the delivery of the billing; raising objections does not have a suspensive effect on the obligation to pay the undisputed part of the Price.

6.7. A change between invoicing and automatic card payment can be agreed upon at any time by agreement of the Parties; the change will apply from the following billing period, unless the Parties agree otherwise.

7. Limitation of Provided Services

7.1. The Client undertakes not to abuse the Services and to use them in accordance with the Agreement and these Terms. Abuse means in particular the use of the Services and Software that

7.1.1. is clearly outside the usual traffic patterns of similar solutions;

7.1.2. causes a disproportionate burden on the Provider's infrastructure;

7.1.3. exceeds the technical and operational limits set by the Provider;

7.1.4. circumvents or disrupts security measures; or

7.1.5. is contrary to the purposes for which the Software is intended.

7.2. The Services are provided without predetermined quotas for sending notifications from the Software via e-mail, SMS, and push notifications, both automated and user-initiated ("Mailing").

7.3. Mailing in the form of SMS messages to foreign mobile networks outside the Czech Republic is not permitted, unless expressly agreed otherwise between the Provider and the Client in the Agreement.

7.4. Mailing serves exclusively to inform about relevant events within the Software. The Client is responsible for the correct setting of the Mailing so that excessive or duplicate sending does not occur. The Client undertakes not to use the Mailing for marketing or other mass communications unrelated to the Software, nor for so-called bullying purposes, i.e., conduct having the nature of harassment, unjustified pressure, or abuse of rights to the detriment of the addressees. Such use is considered a clear abuse of the Services and Software.

7.5. The Provider may apply and specify technical and operational limits for the Services within the Domain. Subdomains are governed by the settings of the parent Domain; in particular, they share its technical and operational limits, and these limits cannot be exceeded in the Subdomain.

7.6. The Provider is entitled to apply reasonable technical measures to protect the stability and security of the Services, in particular:

(i) temporary limitation of traffic frequency (rate-limiting), especially for API and Mailing;

(ii) suspension of specific Software functions;

(iii) application of selective limits to selected parts of the Services and Software (e.g., at the level of the User Account, Domain/Subdomain, API);

(iv) or require adjustment of the Software settings by the Client.

7.7. The Provider shall notify the Client of the applied technical measures in the Access Portal or by email; in urgent cases, measures may be taken even without prior notice.

7.8. If the actual use of the Services by the Client substantially exceeds normal industry expectations or the assumptions on which the parties based the conclusion of the Agreement, the Provider is entitled to propose in writing a reasonable adjustment of the Price, independently of the Price List. If an amendment to the Agreement is not concluded within 30 days from the date of delivery of such a proposal, the Provider is entitled to (i) apply reasonable technical measures according to Article 7.4, or (ii) terminate the Agreement in accordance with the procedure under Article 15.

7.9. The Provider is entitled to reasonably monitor Service usage metrics (e.g., query frequency, Mailing volume, API, transferred data) to ensure compliance with this Article; this does not affect the Provider's obligations under Article 13 (confidentiality) and Article 14 (personal data protection).

8. Maintenance and Other Services

8.1. The Software is provided "as is", and the Client acknowledges that the Provider makes no warranties regarding the functionality, availability, or suitability of the Software for the Client's specific purpose, except for the obligations expressly stated in these Terms or the Agreement or arising from generally binding legal regulations.

8.2. The Provider is not obliged to perform any non-standard modifications, service interventions, individual configurations, or maintenance of the Software for the Client, unless expressly agreed otherwise in the Agreement. To ensure the best possible availability of the Software and Services, the Provider standardly provides:

(i) Help line for solving problems with the use of the Software;
(ii) receipt and checking of error reports during working hours in the Czech Republic;
(iii) troubleshooting of Software and Services within the scope of standard technical support;

8.3. All other maintenance services beyond standard maintenance services will be invoiced to the Client in accordance with the Agreement.

8.4. The Provider is entitled to develop and adapt the Software and Services depending on technical developments and legal changes.

8.5. The Provider is not obliged to provide updates, improvements, modifications, or further development of the Software. However, the Provider reserves the right to update and/or modify the Software at any time and, if reasonably possible, informs the Client in advance of substantial changes.

8.6. The Client agrees that the Provider may temporarily suspend the Services for substantial reasons e.g., preventing a cyber-attack or solving serious Software failures. The Provider will immediately inform the Client of any interruption of the Services and take appropriate measures to minimize outages or limited availability of the Services.

8.7. The Client acknowledges that force majeure events under Article 16 may affect the functionality or availability of the Services and Software.

9. Data Storage and Protection

9.1. The Provider shall allocate the storage capacity of its servers for data, information, and content (including measured values, configurations, event logs, attachments, and related metadata) that the Client or Authorized Users enter into the Software, generate within its use, or that arise from its operation in connection with the Client's devices ("**Client Data**").

9.2. Client Data is considered Confidential Information under Article 13. The Provider shall maintain confidentiality and take reasonable technical and organizational measures to protect it.

9.3. Client Data is stored to an extent appropriate to the usual method of use and technical settings of the Services, as long as its volume and frequency of processing fit within the limits of reasonable use under Article 2.11. The Provider is entitled to set limits for the retention period of individual types of data, including different conditions depending on the nature of the data or the extent of use of the Services. The Provider shall inform the Client of the setting or change of these limits in an appropriate manner through the Access Portal or in another usual manner. Specific parameters may be further adjusted in the Agreement or according to the Price List.

9.4. For the Client's needs, the Provider may reasonably analyse Client Data (e.g., overviews, anomaly detection, setting recommendations) and provide outputs to it within the Software or Services.

9.5. The Provider may use technical operational data (telemetry, logs, metrics) and Client Data in the form of aggregated and anonymized data to monitor traffic, increase security, and improve the Software and Services.

9.6. The Provider shall allow the Client access to Client Data and its export in a machine-readable format through the Access Portal or User Interface.

9.7. The Client is responsible for regular backup of Client Data at reasonable intervals, independently of the Provider's infrastructure.

9.8. The Parties acknowledge that during the conclusion and performance of the Agreement, personal data concerning the Client, Authorized Users, etc., may be processed. Detailed information on the processing of personal data by the Provider is described in the Privacy Policy and Annex No. 1 - Data Processing Addendum, which form an integral part of these Terms.

10. Intellectual Property

10.1. All intellectual property rights granted to the Client remain the property of the Provider or the manufacturer of the relevant part of the Software. The Client hereby does not acquire any rights to the Software (including documentation), know-how, trademarks, or any other intellectual property of the Provider, unless agreed otherwise.

11. Rights from Defective Performance

11.1. The Provider guarantees that the Software will meet the agreed specifications for the duration of the Agreement. The Provider shall take appropriate measures to remedy defects within a reasonable time after immediate notification of defects by the Client.

11.2. The Client acknowledges and agrees that the Software may contain some errors, for which, however, the Provider is not responsible. The Client is obliged to prevent any potential damages, including making regular backups of its data and ensuring a backup solution in case of Software malfunction.

11.3. The Provider does not guarantee that the Software or Service outputs are defect-free or uninterrupted. The Provider may suspend access to the Software due to urgent maintenance. No guarantee is provided for the flawless operation of the Software in conjunction with third-party systems, regardless of the method of connection to third-party systems, e.g., in cases of unavailability of data and information from third parties regarding weather forecasts, spot electricity prices, electricity consumption data from electricity distributors.

11.4. The Provider is obliged to provide its Services properly and with reasonable professional care.

11.5. If a third party challenges the ownership or rights to use the Software granted by the Provider, the Client is obliged to immediately inform the Provider of the claim made by the third party. The Client authorizes the Provider to manage and resolve the lawsuit itself, including through a settlement.

11.6. This section fully defines the warranties on the part of the Provider, and any other liability for defects is, to the extent permitted by law, expressly excluded.

12. Liability

12.1. The Provider is not liable for any harm caused by incorrect use of the Software in violation of the Agreement or these Terms. To the extent permitted by law, the Provider's liability for actual damage caused by the Provider in connection with this Agreement is limited to the amount paid by the Client for six (6) months prior to the occurrence of the last asserted claim. This limitation of liability applies regardless of the legal basis, with the exception of (i) statutory (non-excludable) liability, such as liability for damages caused by gross negligence or intentionally; (ii) damages arising as a result of a breach of the Provider's obligations regarding any provisions of this Agreement regarding intellectual property; and (iii) damages arising as a result of a breach of the Provider's obligations regarding any provisions of this Agreement regarding personal data processing and information security.

12.2. The Provider is not liable for any other claims and damages, including indirect or consequential damages, lost profits, loss of use, unrealized savings, loss of earnings, or business interruption.

12.3. The Provider is not liable for illegal content stored by the Client or its abuse by the Client or third parties on the Client's side.

12.4. The Client is solely responsible for complying with the limits and restrictions set by these Terms for the Services and Software (especially for User Accounts, Domains/Subdomains, API, Mailing).

13. Confidentiality

13.1. Both the Client and the Provider are obliged to maintain confidentiality about all information they learn in connection with the provision of Services or the use of the Software. Confidentiality applies primarily to such information that is subject to protection as a trade secret or that is subject to protection under regulations governing the field of intellectual property, as well as information relating to technical infrastructure and Software or that is protected against disclosure to unauthorized persons by generally binding legal regulations ("Confidential Information").

13.2. Confidential Information is therefore considered in particular:
- (i) technical information about the functioning, architecture, configuration, infrastructure, or security of the Software and Services;
- (ii) access data of the Client and User Accounts;
- (iii) layout of the computer network and its components;
- (iv) configuration parameters of the used devices;
- (v) information about incidents, vulnerabilities, testing, monitoring, or audits;
- (vi) information that is subject to protection under regulations governing the field of intellectual property and that has not been made available to the public;
- (vii) trade secrets;
- (viii) any other non-public information whose confidentiality arises from the nature of the matter or the circumstances of its disclosure.

13.3. Trade secrets are considered in particular:
- (i) commercial, operational, and financial information;
- (ii) customer lists, lists of business suppliers and partners;
- (iii) unpublished business offers;
- (iv) conditions of concluded Agreements;
- (v) research and development results.

13.4. The Parties undertake not to disclose, make available, or otherwise provide Confidential Information to any third party without the prior written consent of the other party, not to use it for any purpose other than in connection with the provision of Services or the use of the Software, and to take all reasonable measures to ensure that Confidential Information is not made available to unauthorized persons.

13.5. The confidentiality obligation under this article does not apply to information that a) is or becomes publicly available otherwise than by a breach of these Terms or the Agreement; b) was demonstrably known to the party prior to its disclosure by the other party; c) was obtained from a third party legitimately and without a confidentiality obligation; d) must be provided on the basis of a law, a court decision or another public authority; in such a case, however, the party is obliged, unless prevented by law, to inform the other party of such a request without undue delay and provide it with reasonable cooperation in protecting its rights.

13.6. The Parties are entitled to disclose Confidential Information to their employees, collaborators or subcontractors only to the extent necessary for the performance of their obligations under the Agreement or these Terms and provided that these persons will be bound by a confidentiality obligation at least to the extent corresponding to this article.

13.7. The confidentiality obligation under this article lasts for the duration of the Agreement and further without time limitation after its termination, for the period when maintaining confidentiality is reasonable given the nature of the information or required by legal regulations. Obligations arising from the protection of trade secrets continue even after this period, for the period when the information will have the nature of a trade secret.

14. Personal Data Protection

14.1. The Provider processes certain personal data of the Client. Further information on the purpose, scope, method and duration of personal data processing is provided in the Privacy Policy available on the Provider's website here https://kb.mervis.info/doku.php/en:help:85-privacy-policy:00-start.

14.2. Detailed information on how the Provider will process the Client Data is provided in Annex No. 1 - Data Processing Addendum.

15. Duration and Termination of the Agreement

15.1. Unless agreed otherwise, the Agreement is concluded for an indefinite period.

15.2. Unless agreed otherwise, either party is entitled to terminate the Agreement at any time without giving a reason, by a written notice (electronic form is sufficient).

15.3. In the case of a notice given by the Client, the notice period runs until the end of the calendar month in which the notice was delivered to the Provider. The Agreement will thus be terminated on the last day of the month in which the Provider received the notice.

15.4. In the case of a notice given by the Provider, the notice period runs until the end of the calendar month following the delivery of the notice to the Client. The Agreement will thus be terminated on the last day of the month following the month in which the Client received the notice.

15.5. Termination of this agreement due to a change of service provider is regulated in Annex No. 2 – Data Transfer.

15.6. The Provider is entitled to terminate the Agreement with immediate effect if the Client's breach is incurable or immediately threatens the security, integrity or availability of the Software or Services, or if required by legal regulations or a decision of a public authority.

15.7. On the day of termination of the Agreement: (i) the Client's right to use the Software ceases and the possibility of access to the Services ends; (ii) the Provider deactivates the assigned SIMs; (iii) the authorizations of Authorized Users cease. Any other services can be claimed only if expressly agreed between the Parties.

15.8. Termination of the Agreement does not affect the Provider's claim for payment of the Price of the Services provided until the day of termination.

15.9. After the termination of the Agreement, the Provider will, upon the express request of the Client, make the Client Data available for download in a machine-readable format, for a maximum period of 30 days.

16. Force Majeure

16.1. Both Parties are exempt from the obligation to perform under this Agreement to the extent that the impossibility of performance is caused by force majeure events, such as war, strikes, riots, expropriation, natural disasters, unavailability of the mobile service provider or other uncontrollable circumstances. Each party is obliged to immediately inform the other party in writing of any force majeure event.

17. Final Provisions

17.1. These Terms are prepared in accordance with Czech law, in particular in accordance with the provisions of Act No. 89/2012 Coll., the Civil Code ("Civil Code"). Matters not mentioned in these Terms are governed by Czech law, in particular the Civil Code.

17.2. Disputes arising between the parties shall be resolved by the competent general court of the Czech Republic according to the Code of Civil Procedure, unless mandatory rules of private international law provide otherwise. The parties will preferentially seek alternative dispute resolution.

17.3. If any provision of these Terms is or becomes invalid or ineffective, this does not affect the other provisions of these Terms, which remain valid and effective.

18. Contact Information

18.1. In case of any questions or comments regarding these Terms, you can contact the Provider by email: support@mervis.info

18.2. Postal address: Technická 1902/2, 166 27, Prague 6

19. Change of Terms

19.1. The Provider is entitled to change these Terms from time to time. The Provider shall inform about any material change affecting the rights or obligations of the Client at least 15 days before it takes effect by publishing it in the Access Portal and simultaneously sending a notification to the Client's contact e-mail, if available.

19.2. If the Client does not reject the change in writing within 15 days from the date of notification, it is considered accepted. In case of rejection, the Client is entitled to terminate the Agreement without penalty in accordance with Article 15.

ANNEX NO.1
Data Processing Addendum

1. DEFINITIONS

1.1. In this Annex No. 1, the terms below have the following meanings:

1.1.1. "GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

1.1.2. "Personal Data" means any personal data within the meaning of the GDPR and Act No. 110/2019 Coll. on personal data processing, processed by the Provider on behalf of the Client in accordance with or in connection with the Agreement.

1.1.3. "Applicable Data Protection Regulations" means all legal regulations and rules concerning personal data protection applicable to the processing of personal data, in particular the GDPR and Act No. 110/2019 Coll. on personal data processing.

1.1.4. "Service" means the Software and related services provided by the Provider to the Client under the Agreement.

1.1.5. "Party" means the Provider or the Client, together also as the "Parties".

1.1.6. "Data Subject" means an identified or identifiable natural person to whom the Personal Data relates.

1.1.7. "Sub-processor" means a third party engaged by the Provider in the Processing of Personal Data on behalf of the Client.

1.1.8. "Controller" means the Client as the entity that determines the purposes for which and the means by which Personal Data are processed.

1.1.9. "Processing" means any operation or set of operations with Personal Data within the meaning of Art. 4 of the GDPR (e.g. collection, storage, disclosure, use, transfer, restriction, erasure).

1.1.10. "Processor" means the Provider as the entity that acts on the instructions of the Controller and processes Personal Data on behalf of the Controller.

1.2. Terms defined in the Terms have the same meaning in this Annex No. 1 as in the Terms.

2. OBLIGATIONS RELATED TO PROCESSING

2.1. If the Provider Processes Personal Data on behalf of the Client in the performance of the Agreement, the Client acts as the Controller and the Provider as the Processor. In the event that the Client acts as a processor towards a third party, the Provider acts as a Sub-processor.

2.2. The Provider will Process Personal Data only on the basis of documented instructions from the Client (including instructions regarding transfers to third countries or international organizations), unless it is obliged to do other Processing under applicable legal regulations. In such a case, the Provider shall inform the Client of this fact in advance, unless prohibited by law.

2.3. The Provider is entitled to refuse an instruction from the Client that would be contrary to applicable law, and shall notify the Client of such a conflict.

3. PURPOSE, NATURE AND SCOPE OF PROCESSING

3.1. **Subject matter and duration of Processing:** Processing takes place to the extent necessary to provide the Services under the Agreement for the duration of the Agreement.

3.2. **Nature and purposes of Processing:** Processing takes place for the purposes of providing the Services and purposes compatible therewith, in particular storage and hosting in a cloud service, structuring, disclosure, restriction, backup.

3.3. **Types of Personal Data:** to the extent determined by the Client's use of the Services, typically identification, contact, user, operational and authentication data; special categories under Art. 9 of the GDPR are not transferred unless expressly agreed.

3.4. **Categories of Data Subjects:** Authorized users and other persons whose data the Client enters into the Services.

4. PLACE OF PROCESSING AND TRANSFERS TO THIRD COUNTRIES

4.1. Personal data are Processed in the territory of the Member States of the European Economic Area and are not transferred outside the territory of the Member States of the European Economic Area.

4.2. The Provider will not process Personal Data outside the territory of the Member States of the European Economic Area without the prior consent of the Client. If such consent is obtained, the Provider is obliged to adopt sufficient security guarantees required by the relevant regulations when transferring personal data outside the territory of the Member States of the European Economic Area (if the country to which the Personal Data is transferred has not been granted a valid adequacy decision, the Provider is obliged to use standard contractual clauses or binding corporate rules).

5. TECHNICAL AND ORGANIZATIONAL SECURITY MEASURES

5.1. The Provider is obliged to maintain reasonable security standards for personal data protection given the nature of the Personal Data processed.

5.2. The Parties undertake to ensure reasonable standards of technical and organizational security against unauthorized processing of Personal Data, in particular their accidental loss, alteration, destruction or damage.

5.3. The Provider shall ensure that persons authorized to Process are bound by a contractual or statutory confidentiality obligation and are regularly trained in information security.

6. RIGHTS OF DATA SUBJECTS AND MUTUAL COOPERATION

6.1. If a Data Subject contacts the Provider with a request to exercise their rights, the Provider (unless agreed otherwise) will forward such request without undue delay to the Client to the contact email that the Provider has available for such purpose or that the Client communicates to it for this purpose, and will refrain from direct action unless expressly authorized to do so by the Client or required by law.

6.2. Given the nature of the Processing, the Provider will, upon the Client's written request, provide reasonable cooperation and technical and organizational measures to fulfil the Client's obligations under Chapter III of the GDPR (rights of Data Subjects), and further under Art. 32–36 of the GDPR (security, notification, impact assessment, prior consultation), to the extent of the information available to the Provider.

6.3. If the Provider's cooperation significantly exceeds the scope of the normal provision of Services, the Client is obliged to reimburse the Provider for the corresponding costs.

7. NOTIFICATION OF PERSONAL DATA BREACH

7.1. The Provider is obliged to immediately inform the Client of any Personal Data breach. A security breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed. As part of this information, the Provider will provide the Client with a description of the nature of the case, including, where possible, the approximate number of data subjects concerned and the approximate number of records concerned. The Provider also undertakes to provide all cooperation reasonably required by the Client in investigating the given Personal Data breach. The Provider is further obliged to take appropriate steps to minimize the harm caused by the given security breach and to discuss these steps with the Client.

8. Audit

8.1. The Client is entitled, either itself or through an authorized third party, to inspect the performance and compliance with any of the Provider's obligations regarding the processing and security of Personal Data, after prior notice sent at least 10 working days in advance.

8.2. The Provider is obliged to provide the Client at its own expense with all reasonably requested cooperation necessary to carry out the inspection. The Client is obliged to carry out the inspection in a manner that will not burden the Provider beyond what is necessary.

8.3. The inspection under Art. 8.1 may also take place at the Provider's registered office or in other places where the processing of Personal Data under the Agreement takes place.

9. Sub-processors

9.1. The Client expressly agrees to the engagement of Sub-processors. The current list of Sub-processors is available within the Provider's Privacy Policy here: https://kb.mervis.info/doku.php/en:help:85-privacy-policy:00-start .

9.2. The Provider shall ensure that Sub-processors are contractually bound by the same or equivalent data protection obligations as the Provider under Annex No. 1.

10. Confidentiality

10.1. Information regarding the content of Annex No. 1, the Service and/or the business of the other Party, which is marked as confidential or can be considered confidential given its nature, will be considered confidential information and each Party will protect it at least to the same extent as its own confidential information. Data including Personal Data are always confidential information.

10.2. The confidentiality obligation does not apply to information that a) is or becomes publicly available otherwise than by a breach of this Agreement; b) was demonstrably known to the Party prior to its disclosure by the other Party; c) was obtained from a third party legitimately and without a confidentiality obligation; d) must be provided on the basis of a law, a court decision or another public authority; in such a case, however, the Party is obliged, unless prevented by law, to inform the other Party of such a request without undue delay and provide it with reasonable cooperation in protecting its rights.

11. Duration

11.1. This Annex No. 1 is effective for the duration of the Agreement.

11.2. After the termination of the provision of Services (or upon the Client's instruction at any time during the term of the Agreement), the Provider will, within 14 days, provide the Client with the opportunity to download the Personal Data or return them to the Client and subsequently, unless agreed otherwise, delete all copies of the Personal Data; this does not affect the retention obligation under legal regulations.

11.3. If a legal regulation requires retention, the Provider will keep the Personal Data only to the extent and for the time strictly necessary and will ensure the restriction of their processing.

12. Miscellaneous

12.1. In the event of a conflict between this Annex No. 1 and other provisions of the Agreement, this Annex No. 1 shall prevail in matters of Personal Data.

ANNEX NO.2

Data Transfer

(1) The Client is also entitled to terminate this Agreement or a part thereof by written notice with a notice period of 2 months from the date of delivery of the Client's notice to the Provider, due to: a) a change of service provider or transfer of the Client Data to its own information and communication technology infrastructure ("**Transfer Request**"); or b) a request for the deletion of all Client Data contained in the Software ("**Deletion Request**").

(a) Request for transfer. In the notice of termination, the Client shall state whether they request support in transitioning to the service of another provider, whom they shall identify, or support in transferring the Client Data contained in the Software to their own information and communication technology infrastructure. At the same time, the Client shall state which Client Data they request to transfer.

Upon the expiration of the notice period, a transition period of 30 days intended for the execution of the Client Data transfer shall commence ("Transition Period").

The Provider shall inform the Client within 14 working days of receiving the Request for transfer that the Transition Period is not technically feasible, provide a justification for these technical limitations, and determine an alternative length of the Transition Period, which, however, shall not exceed 7 months.

The Client has the right to extend the Transition Period once by a period they consider more suitable for their purposes, but this period shall not exceed 7 months. The Client shall deliver a written notice of the extension of the Transition Period before the expiration of the original length of the Transition Period.

The details of the Client Data transfer process shall be agreed upon by the Parties separately with regard to the nature of the data whose transfer the Client requests in the Request for transfer.

As part of the change of provider, the following categories of data and digital assets may be transferred:

- Historical data from Mervis DB;
- Mervis SCADA projects;
- Information about user accounts;
- Mervis SCADA event log.

with the exception of the following categories of data specific to the internal functioning of the Software, the export of which could compromise the Provider's trade secrets: Mervis Analytics data models.

The current online register maintained by the Provider with details on data structures and data formats, as well as the relevant standards and open specifications for Interoperability, in which Exportable Data is available, is set out in the table below.

Data processing service	**Data that can be exported**	**Data formats**	**Standard and open specifications for Interoperability**
Software	Historical data from Mervis DB	CSV	N/A
	Mervis SCADA projects	XML	

	Information about user accounts	XLSX	
	Mervis SCADA event log	XLSX	

The Client undertakes to provide the necessary cooperation for the successful completion of the Client Data transfer.

The rights and obligations of the Parties under this Agreement shall remain in force until the end of the Transition Period, in particular, the Provider shall continue to provide the Software and Services to the Client and the Client shall pay the Price to the Provider. This is without prejudice to the Provider's right to terminate the Agreement in accordance with Article 15.5 of this Agreement.

After the end of the Transition Period, the Provider shall make the Client Data available for download for a maximum period of 30 days. After the expiration of this period, the Provider shall delete all Client Data created by the Client or directly related to them, unless they are obliged to retain it under legal regulations. If the procedure concerns only a part of the Agreement, the Provider shall delete the Client Data to the extent that it does not disrupt the provision of the Software or the integrity of the data contained therein.

The obligation to delete Client Data does not apply to operational, security, and audit logs, metadata, and similar records created automatically by the Software or the Provider's systems, provided they are necessary to ensure security, integrity, operation, incident resolution, proof of compliance with obligations, or protection of the Provider's rights. The Provider shall retain these records for the period determined by internal retention rules, legal regulations, or for a period reasonably necessary for the stated purposes.

After deletion from the production environment, Client Data may remain contained in backup copies, archives, or disaster recovery systems for a limited period. The Provider is not obliged to individually remove this data from backups if it would not be technically feasible or would compromise the integrity of the backups. Such data will not be further actively processed, except for recovery from backup, ensuring security, fulfilling legal obligations, or protecting the Provider's rights, and will be deleted or overwritten as part of the normal backup management cycle.

The Client shall notify the Provider of the completion of the download of the Client Data to the address communicated to them by the Provider for this purpose.

(b) Request for deletion. In the notice of termination, the Client shall state that they request the deletion of their exportable data and digital assets contained in the Software and the extent to which they wish to carry out the deletion.

If the deletion concerns only a part of the exportable data and digital assets contained in the Software, the Provider shall carry out the deletion to the extent that it does not disrupt the provision of the remaining part of the Software and Services.

(2) Termination of the Agreement. The Agreement shall be terminated: i) in the case of a Request for transfer, at the moment the Client notifies the Provider in writing of the successful download of the Client Data in accordance with Article 1(a) above; if the Client fails to make such a notification, the Data transfer shall be deemed successfully completed upon the expiration of the Transition Period; or ii) in the case of a Request for deletion, upon the expiration of the notice period (Termination Date).

For the avoidance of doubt, termination of the Agreement in accordance with Article 1 does not relieve the Client of the obligation to pay the Price and any other fees payable to the Provider for the period prior to the Termination Date of the Agreement. If, in connection with the transfer, an agreement concluded for a fixed term is terminated prematurely, the Provider is entitled to demand from the Client payment of the Price up to the end of the originally agreed period as a lump-sum compensation for the premature termination of the Agreement. The Provider will not charge any other fees or penalties.

The Provider will provide the Software and Services in accordance with the Agreement until the Termination Date or until the end of the billing period.

(3) Indemnification. Multiple persons may be authorized to use the Software under this Agreement (in particular Authorized Users) ("Affected Persons"). The Client bears exclusive responsibility for ensuring that they have all necessary rights and authorizations regarding the Request for transfer or Request for deletion of Client Data before exercising rights under this section.

The Client undertakes to defend the Provider against any claim, action, proceeding, or dispute brought against the Provider by Affected Persons alleging that the Request for transfer or Request for deletion violates the rights of the Affected Person, and further undertakes to indemnify the Provider for any damages, legal representation costs, and reimbursement of costs finally awarded against the Provider, or for any amounts paid by the Provider.

(4) Liability. The Provider shall not be liable for any damage, loss, cost, or expense arising from or in connection with any request under Article 1, to the maximum extent permitted by legal regulations.

This exclusion of liability includes, in particular, any other problems related to the integrity or loss of Client Data, unavailability of the Software, compatibility, or other disruptions or failures that may occur during or as a result of requests under Article 1.

The Client acknowledges that they bear full responsibility for the successful execution of the process of transferring or deleting Client Data.

(5) Fees. Until January 12, 2027, the Provider is entitled to charge fees for support during the process of changing the provider in accordance with Article 1(a) of these Terms **in the amount set out in the document "Information regarding data transfer" available here: https://kb.mervis.info/doku.php/en:help:89-data-transfer:00-start**