

Terms of use
Labforward On-Premises Software Products
of
21 Jan 2022

1. Scope

1.1 These General Terms and Conditions of Use ("**GTC**") apply to user agreements concluded between Labforward GmbH ("**Labforward**"/"**we**"/"**us**") and you ("**you/your/you**", Labforward and you also together the "**Parties**", individually the "**Party**") regarding the uses of the following Labforward software products ("**Labforward Products**"):

- Labfolder Advanced (on-premises);
- Labregister Basic (on-premises);
- Laboperator Advanced (on-premises)

("User Agreement").

1.2 The provisions of these GTC apply to all User Agreements for the use of the Labforward Products. Unless otherwise regulated in the User Agreement, in the event of contradictions the provisions of the respective User Agreement take precedence over the provisions of these GTC.

1.3 Labforward does not offer the Labforward Products to consumers (§ 13 German Civil Code, "**BGB**"), but exclusively to entrepreneurs (§ 14 BGB). You are considered a consumer if you use the Labforward Products for purposes that can neither be predominantly attributed to your commercial nor predominantly to your independent professional activity. An entrepreneur is a natural or legal person or a partnership with legal capacity that acts in the exercise of its commercial or independent professional activity when concluding the User Agreement.

1.4 Your own general terms and conditions and/or terms of use are not valid. They do not apply even if Labforward does not expressly object to them.

1.5 These GTC can be viewed and saved as a PDF. You are also entitled to print them out.

2. Labforward Products

2.1 Labforward has developed and distributes the software Labfolder ("**Labfolder**"), Labregister ("**Labregister**") and Laboperator ("**Laboperator**").

- 2.1.1 Labfolder is an intuitive and powerful electronic lab notebook (ELN) that can streamline life in the lab by simplifying data documentation. Scientists can record and store their research on a central platform accessible from anywhere and benefit from extensive features that facilitate collaboration, compliance and the standardization of common procedures in the lab.
 - 2.1.2 Labregister is an effective and comprehensive laboratory inventory management system (LIMS) that facilitates oversight of a lab's entire inventory. Researchers can list materials with their properties to ensure a central organization. The system allows scientists to track each inventory item and enables a direct connection to laboratory notes.
 - 2.1.3 Laboperator is a smart and agile laboratory execution system (LES) that connects laboratory equipment to a central platform, enabling scientists to automate and monitor existing laboratory devices. With this system, researchers can manage their laboratory remotely, whilst collecting and analyzing instrument data in real-time, significantly improving productivity and precision of research.
- 2.2 Labforward provides you with the respective Labforward Product as an on-premises version (with or without test phase).
 - 2.3 The Labforward Products are provided to you with the associated documentation (online). The documentation can be accessed at the following URL:

<https://support.labforward.io>

3. Conclusion of contract

The User Agreement comes into effect when you sign and return to us the Order Form pre-filled by us according to your specifications within the acceptance period stated in the Order Form. If you have already concluded a User Agreement with us before these GTC come into force, we will inform you in the next invoice that we will send you after these GTC come into force that these GTC now apply to the User Agreement. By paying the invoice amount, you then agree to the validity of these GTC. This is not the case if you expressly object to the validity of these GTC before or with payment of the invoice. In this case, the previously applicable GTC shall continue to apply.

4. Installation of the software

- 4.1 Labforward provides you with a digital copy of the respective Labforward Product for installation on your servers via web browsers (cross-operating system). The software supports the following browsers (in their current version): Google Chrome, Mozilla Firefox, Safari and Microsoft Edge.
- 4.2 You are required to provide the hardware and software infrastructure as described at the [Labforward Support Portal](#).

- 4.3 If you require technical assistance with the installation, Labforward will provide assistance by telephone in accordance with the Order Form. Support services that exceed the hours provided for in the Order Form are to be compensated at EUR 150 per hour.
- 4.4 You are responsible for updates to the server environment. Labforward provides support services only for the three (3) most recent on-premises versions.

5. Authorized Users

- 5.1 The User Agreement is valid for the number of users specified in the Order Form ("**Authorized Users**").
- 5.2 You manage the Authorized Users. Access to the respective Labforward Product is not transferable to other than the Authorized Users, unless the originally Authorized User no longer has access and authorization to access the respective Labforward Product.
- 5.3 You may increase the number of Authorized Users during the term of the User Agreement at the remuneration provided for in the User Agreement. To do so, you must notify us in writing (e-mail suffices) of the number of additional users before the additional users start using the service.
- 5.4 A reduction in the number of Authorized Users is only possible at the end of the respective term of the User Agreement in accordance with the applicable termination period and only with effect for the respective following contract term.

6. Maintenance, Support

- 6.1 Labforward is obligated to maintain the contractually agreed condition of the respective Labforward Product during the term of the User Agreement ("**Maintenance**"). To fulfil its obligation of Maintenance, Labforward will carry out the maintenance and servicing measures required according to the state of the art.
- 6.2 For this purpose, Labforward ensures the processing of your requests by e-mail support, remote maintenance, and the possibility of telephone contact in accordance with the standard [SLA](#).

7. Intellectual Property

- 7.1 For the respective Labforward Product, Labforward grants you a non-exclusive, non-transferable, and non-sublicensable license, limited in time to the term of the User Agreement, to use the respective Labforward Product to the extent granted in the User Agreement, in particular for the Authorized Users authorised according to these GTC and/or the User Agreement. The contractual use includes the download, the installation, the loading into the main memory, the display, and the running of the respective Labforward Product.

- 7.2 Furthermore, you are only entitled to reproduce, edit, or decompile the respective Labforward product if this is legally permissible and only if the information necessary for this is not made available by Labforward upon your request. Beyond this, you are not entitled to reproduce the respective Labforward Product.
- 7.3 You are not entitled to provide the respective Labforward Product to third parties. You are not permitted to sell, lend, rent, or otherwise sublicense the respective Labforward Product or to publicly reproduce or make accessible the respective Labforward Product.
- 7.4 The granting of rights is subject to the full payment of the fees to be paid by you under the User Agreement.

8. Your Obligations

- 8.1 You are obliged to take appropriate measures to ensure that unauthorized third parties cannot access the software provided to you, any backup copies, the documentation, and any other accompanying materials.
- 8.2 You are obligated to use the Labforward Products in accordance with these GTC exclusively for your own internal scientific research and/or training purposes and/or for quality control and exclusively for lawful purposes.
- 8.3 You are responsible for regularly making appropriate backups of your data.

9. Remuneration

- 9.1 The amount of the fee depends on the respective User Agreement. All invoices and remuneration according to the User Agreement including any appendices and annexes and/or these GTC are exclusive of any applicable value added tax, which will be shown separately on the invoice.
- 9.2 The fees provided for in the respective User Agreements and/or these GTC are due at the beginning of each contractual year fifteen (15) days after invoicing unless the User Agreement states otherwise. If you increase the number of Authorized Users within the year for which you have already paid the usage fee, we will charge you the monthly pro rata increased usage fee at the time of activation of the additional Authorized Users.
- 9.3 Labforward may increase the fees for the Labforward Products provided for in the respective User Agreement at the earliest after the expiration of the Initial Term provided for in the respective User Agreement at the beginning of the respective new contractual term if there are justified interests according to equitable discretion. Labforward will notify you in writing (e-mail is sufficient) at least sixty (60) days prior to the end of the respective current contractual term, stating the last possible termination date, that the User Agreement will be extended under this changed pricing if you do not terminate the User Agreement by this date in accordance with Sec. 13 of these GTC. If Labforward does not notify you of the price adjustment within the sixty (60) day period, the User Agreement will be renewed at the previously applicable fees.

10. Warranty

- 10.1 About the provision with the respective Labforward Product and, if applicable, the provision of storage space in accordance with these GTC and the User Agreement, the warranty provisions of German tenancy law (§ 535 ff. BGB) apply.
- 10.2 You must notify Labforward of any defects without delay.
- 10.3 The warranty for only insignificant reductions in the suitability of the service is excluded. The strict liability according to § 536a para. 1 BGB for defects that already existed at the time of conclusion of the User Agreement is excluded

11. Liability

- 11.1 Labforward is liable to you for damages without limitation, insofar as the cause of the damage is based on an intentional or grossly negligent breach of duty by Labforward, a legal representative or vicarious agent. Labforward is only liable for negligent conduct in the event of a breach of an obligation whose fulfilment is essential for the achievement of the User Agreement and on whose compliance you may regularly rely [*Kardinalpflichten*], insofar as Labforward could typically expect the damages caused according to the circumstances known at the time of the conclusion of the User Agreement. In all other respects, the liability of Labforward – also for vicarious agents and assistants – is excluded.
- 11.2 The limitation of liability pursuant to Sec. 11.1 shall not apply to claims for damages arising from injury to life, limb or health, the assumption of a guarantee of quality or fraudulent concealment of defects by Labforward.
- 11.3 In the event of a loss of data caused by simple negligence, Labforward shall only be liable for the damage that would have been incurred even if you had properly and regularly backed up the data in a manner commensurate with the importance of the data. This limitation shall not apply if the data backup was hindered or impossible for reasons for which Labforward is responsible.
- 11.4 The liability according to the German product liability law [*Produkthaftungsgesetz*] remains unaffected.
- 11.5 Any statutory liability privileges in favour of Labforward remain unaffected.

12. Indemnification

- 12.1 You shall indemnify Labforward against justified claims of third parties which are based on an unlawful use of Labforward Products by you unless you are not responsible for this use. This includes in particular, but is not limited to, claims of third parties arising from patents, copyrights or other industrial property rights as well as from other legal positions, such as the use of personal data, as well as claims arising from the handling of your access data in violation of these GTC. In this case, you will also reimburse

Labforward for all expenses necessarily incurred by Labforward in connection with the claims of third parties, including any legal fees for procedural and pre-trial defence.

12.2 You will promptly notify Labforward if any third party asserts such claims against you and grant Labforward all powers of attorney and authority necessary to defend itself.

13. Term; Termination

13.1 The User Agreement shall come into force on the date specified in the User Agreement and shall initially apply for the Initial Term specified therein.

13.2 The User Agreement shall be automatically renewed for a further year after expiry of the Initial Term or any subsequent term, unless a) the User Agreement is terminated by one of the Parties with thirty (30) days' notice to the end of the respective term, or b) it is stated otherwise in the User Agreement.

13.3 Either Party may terminate the User Agreement extraordinarily for good cause. In particular, such good cause is present in the following cases:

13.3.1 if you are more than two (2) months overdue with the payment due under the User Agreement;

13.3.2 if you exceed the rights of use granted to you in accordance with Sec. 7 of these GTC and do not cease your infringing actions within a reasonable period of time, if we have previously warned you to cease these infringing actions;

13.3.3 if a Party violates essential contents of the User Agreement including any attachments and appendices and/or these GTC and fails to remedy the situation despite a warning.

13.4 Your notices of termination should be sent in writing (e-mail will suffice) to:

Labforward GmbH, Elsenstr. 106, 12435 Berlin, Germany or contact@labforward.io

13.5 Upon termination of the User Agreement, all rights of use granted under these GTC and/or the individual User Agreements shall expire. After termination of the User Agreement, you are obligated to discontinue the use of the Labforward Product and to completely and finally delete the Labforward Product as well as all program copies (including any backup copies) from all your servers and to destroy the supplied documentation. Legal claims of Labforward remain otherwise unaffected. Data that you have created with the respective Labforward Product during the term of the User Agreement may also be used detached from the respective Labforward Product after the term of the User Agreement.

13.6 You shall delete all your stored data at the end of the User Agreement.

13.7 The regulation of § 545 BGB (tacit extension of the tenancy) shall not apply.

14. Confidentiality

- 14.1 Both Parties undertake to use all knowledge of trade and/or business secrets of the respective other Party obtained within the framework of the contractual relationship only for the purpose of implementing the User Agreement and to treat such knowledge confidentially for an unlimited period of time.
- 14.2 In particular, the duty of confidentiality refers to the content of the User Agreement, including any annexes.
- 14.3 Such confidential information shall be exempt from this obligation,
- 14.3.1 which was demonstrably already known to the recipient at the time the User Agreement was concluded or subsequently become known to it from a third party, without this violating a confidentiality agreement, statutory regulations or official orders;
 - 14.3.2 which is public knowledge at the time of conclusion of the User Agreement or is made public thereafter, insofar as this is not due to a breach of this User Agreement;
 - 14.3.3 which must be disclosed due to legal obligations or by order of a court or authority. To the extent permissible and possible, the recipient obliged to disclose shall inform the other Party in advance and give it the opportunity to oppose the disclosure.
- 14.4 Both Parties shall also oblige their employees to maintain confidentiality to the extent permitted by employment law.
- 14.5 Any culpable breach of the above confidentiality obligations shall result in a contractual penalty in the amount of one annual fee of the respective User Agreement.

15. Reference customer

- 15.1 Labforward is entitled to name you as a reference customer and to use your name and/or trademarks for this purpose, e.g. on our website, in brochures, presentations and publications.
- 15.2 You can object to this use at any time.

16. Force majeure

- 16.1 "Force Majeure" means the occurrence of an event or circumstance that prevents a Party from performing one or more of its contractual obligations under the User Agreement if and to the extent that the Party affected by the impediment demonstrates that:
- 16.1.1 that obstacle is beyond its reasonable control; and

- 16.1.2 it was not reasonably foreseeable at the time the User Agreement was concluded; and
- 16.1.3 the effects of the obstacle could not reasonably have been avoided or overcome by the Party concerned.
- 16.2 In the absence of proof to the contrary, the following events affecting a Party shall be presumed to meet the requirements of Sec. 16.1.1 and 16.1.2: (i) war (declared or undeclared), large-scale military mobilisation; (ii) civil war, revolution, acts of terrorism or sabotage; (iii) lawful or unlawful official acts, compliance with laws or government orders, expropriation; (iv) plague, epidemic, pandemic or natural disaster (v) destruction of equipment, telecommunications, information systems or energy; (vii) general labour unrest such as boycotts and strikes.
- 16.3 A Party who successfully invokes this clause shall be released from the respective Party's obligation to perform the respective Party's contractual obligations and from any liability for damages or any other contractual remedy for breach of contract from the time when the impediment makes it impossible for the respective Party to perform provided that this is notified without delay. If such notice is not given promptly, the release shall take effect from the time the notice reaches the other Party. If the effect of the obstacle relied upon is temporary, the consequences just set forth shall apply only so long as the obstacle relied upon prevents performance of the User Agreement by the Party affected. Unless otherwise agreed, the Parties expressly agree that the User Agreement may be terminated by either Party if the duration of the impediment exceeds 120 days.

17. Data protection

- 17.1 The Parties undertake to comply with the applicable provisions of data protection law. They shall, if necessary, obtain the consent required for the transfer of the data from the data subjects.
- 17.2 The handling of your personal data is in accordance with the legal regulations. You can find more information in the privacy policy of Labforward:

<https://www.labforward.io/privacy>

18. Miscellaneous

- 18.1 The provisions of the User Agreement and these GTC constitute the entire agreement of the Parties and supersede all prior written or oral agreements and understandings of the Parties with respect to the subject matter of the User Agreement.
- 18.2 You may only assign rights and obligations arising from the User Agreement and/or these GTC with the prior written consent of Labforward. Labforward is entitled to entrust third parties with the fulfilment of the contractual obligations from the User Agreement and/or these GTC.

- 18.3 In the event of a partial or complete transfer of the operation of the software to a third party, Labforward is entitled to transfer the User Agreement to the legal successor. You may only refuse your consent to the transfer of the User Agreement if there are serious doubts about the technical and/or economic performance of the successor. Your consent to the transfer of the User Agreement is not required if the transfer is made to affiliated companies of Labforward.
- 18.4 Amendments and supplements to the User Agreement must be made in writing. This also applies to the amendment, supplementation, or cancellation of the written form requirement. The priority of the individual agreement (§ 305b BGB) remains unaffected. Labforward is entitled to make adjustments or additions to these GTC, insofar as this appears necessary and you are not disadvantaged by this contrary to good faith. You will be notified of the amended GTC in text form (e-mail is sufficient) at least six (6) weeks before they come into effect. The amendments shall be deemed accepted unless you object to them within six (6) weeks after receipt of the notification. If you object to the changes, the changes will not become part of the User Agreement and the User Agreement will continue unchanged. Labforward will inform you separately about the possibility of objection and compliance with the deadline. The right of termination of the Parties remains unaffected.
- 18.5 Should individual clauses of the User Agreement or these GTC be invalid, this shall not affect the validity of the remaining provisions. Should a clause be ineffective or should the Parties have overlooked a point in the contractual regulation that requires regulation, such regulation shall be deemed to have been agreed upon by the Parties that the Parties would have agreed upon, taking into account the interests of both Parties, had they known of the loophole in the User Agreement and/or these GTC.
- 18.6 The User Agreement and these GTC shall be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods. Insofar as these GTC refer to provisions of the German Civil Code (BGB), these provisions are available in the German and an English version at <https://www.gesetze-im-internet.de/bgb/>. Labforward does not guarantee the retrievability and up-to-dateness of the linked contents.
- 18.7 The exclusive place of jurisdiction for all disputes in connection with the User Agreement and/or these GTC is Berlin if the User Agreement or claims arising from the User Agreement and/or these GTC can be attributed to your professional or commercial activity.