

February 2019

## Channel Partner General Terms and Conditions

**General:** These Channel Partner General Terms and Conditions (the "**Terms and Conditions**") apply between EURO PLUS d.o.o., a company organized and existing under the laws of Slovenia, with its registered address at Poslovna cona A 2, 4208 Sencur, Slovenia including its affiliates listed at [www.nicelabel.com/how-to-buy/contact-us](http://www.nicelabel.com/how-to-buy/contact-us) (collectively, "**NiceLabel**") on one hand and the Channel Partner which purchase the Products (as defined herein) either directly from NiceLabel or from NiceLabel's distributor (wholesaler) on the other hand. The "**Products**" shall encompass the complete range of products marketed under the brand NiceLabel. Products, among others, include NiceLabel labelling software, Professional Services, Software Maintenance Agreements ('SMA') and any other products as released by NiceLabel from time to time or an update thereto.

NiceLabel wishes to ensure the reputation of the Products and the NiceLabel trademarks. NiceLabel is further determined to ensure that the users of the Products received high quality Products, professional services and advice in relation to the Products. Sale, configuration and after sales services in relation to the Products require specific knowledge. Therefore, the all Channel Partners must be members of the NiceLabel Partner Program ("**Program**") and fulfill conditions contained therein at all times and are required to accept these Terms and Conditions.

The provisions of these Terms and Conditions apply to all the Channel Partners except from Section "Specific Terms and Conditions applicable to Channel Partners purchasing the Products directly from NiceLabel – Terms of Sale" (i.e. paragraph Orders, Delivery, Pricing and Payment) which shall apply only for transactions where Channel Partner purchases Products directly from NiceLabel.

**Appointment:** NiceLabel appoints Channel Partner as member of the Program to market and sell the Products on a non-exclusive basis within its region. The Channel Partner hereby accepts the above appointment and agrees to comply with the terms of the Program, details of which can be found at <https://www.nicelabel.com/partners-pages> and which may change from time to time. NiceLabel agrees to meet its obligations to Channel Partner under the Program.

The Channel Partner shall, under these Terms and Conditions, market and sell the Products solely to its customers (members of the Program or end users) that have accepted the NiceLabel End User License Agreement (EULA) (accessible at <https://www.nicelabel.com/legal/end-user-license-agreement>). EULA is defining the grant of License, scope of license, limitation of license for the software provided to end customers by NiceLabel, as well as warranties and liability of NiceLabel in relation to the software provided to end customers by NiceLabel.

The Channel Partner shall not be entitled to offer to end customers any licenses other than the EULA and with any other terms other than those stated in the EULA. In the event that the Channel Partner infringes this provision, NiceLabel shall have the right to terminate the agreement (relationship) with immediate effect so the Channel Partner will no longer be a member of the Program and/or cancel any pending order by the Channel Partner. For the purposes of reselling the Products to end customers, NiceLabel herewith grants to the Channel Partner a non-exclusive right to use the Products, but solely to the extent as is necessary for the achievement of the intentions of the business relationship hereunder and or under the separate agreement (as defined below) (if concluded). These rights and obligations are binding on the Channel Partner throughout the validity of the business relationship between NiceLabel and the Channel Partner pursuant to these Terms and Conditions or any separate agreements (as defined below).

The Channel Partner confirms that it understands and agrees to be bound by these Terms and Conditions. Should NiceLabel and Channel Partner enter into a separate agreement ("Agreement" or "Channel Partner

Agreement”) regulating their mutual rights and obligations with regard to the supply of the Products directly by NiceLabel to Channel Partner, provisions of separate Agreement shall prevail in case of any discrepancies between the Agreement and these Terms and Conditions.

**Demo or Trial Licenses:** The Channel Partner is entitled to use non-commercial NiceLabel licenses (demo or trial licenses) only for test, demonstration, quality assurance, backup or other similar non-productive and/or non-commercial environments. For the avoidance of doubt, the Channel Partner shall be prohibited from using the non-commercial NiceLabel licenses for any commercial purposes.

**Limitation of Liability:** To the maximum extent permitted by applicable law, in no event shall NiceLabel or its affiliates, or any of its or their respective officers, licensors or service providers, be liable to Channel Partner or any third party for any use, interruption, delay, or inability to use the Products; lost revenues or profits; delays, interruption, or loss of services, business, or goodwill; loss or corruption of data; loss resulting from system or system service failure, malfunction, or shutdown; failure to accurately transfer, read, or transmit information; failure to update or provide correct information; system incompatibility or provision of incorrect compatibility information; or breaches in system security; or for any consequential, incidental, indirect, exemplary, special, or punitive damages, whether arising out of or in connection with these Terms and Conditions and/or a separate Agreement, breach of contract, tort (including negligence), or otherwise, regardless of whether such damages were foreseeable and whether or not NiceLabel was advised of the possibility of such damages. In no event will NiceLabel' and its affiliates', including any of its or their respective licensors' and service providers', collective aggregate liability under or in connection with this agreement or its subject matter, under any legal or equitable theory, including breach of contract, tort (including negligence), strict liability, and otherwise, exceed (a) in the case of a one-time license fee, the total amount paid to NiceLabel by the Channel Partner, (b) in the case of a monthly subscription, the total amount paid to NiceLabel by Channel Partner over the twelve months prior the date of the event giving rise to the claim.

**Force Majeure:** Non-performance of either party will be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions or other action which prevents the manufacture or delivery of the Products, acts of terrorism, inability to obtain or interruption(s) with the supply of raw materials, energy, gas, telecommunications or similar, earthquakes, disasters, unexpected production problems of NiceLabel, or other similar reason where failure to perform is beyond the control and not caused by the gross negligence or intent of the non-performing party, provided that the non-performing party gives prompt notice of such conditions to the other party and makes all reasonable efforts to perform.

**Relationship:** The relationship of the parties with regard to the Products is that of independent contractors, and neither party is and shall not be deemed to be an employee, agent, partner or joint venture partner of the other. Neither party shall have the right to, directly or indirectly, make any (express or implied) obligations in the name of the other party. Neither party shall have the right to represent itself to have any power, right or authority to bind the other party or to create any obligation or responsibility for the other party. In particular, NiceLabel engineers shall remain the employees of NiceLabel or any of its affiliates and Channel Partner agrees to give and ensure such engineers the status of external workers. The relationship between the parties hereunder shall also not have any effect whatsoever on any and all legal relationships between the Channel Partner and its customers or suppliers with regard to the Products and these Terms and Conditions shall apply only for the relationship between the Channel Partner and NiceLabel.

**Lawful Use Only and Fulfillment of Legal requirements:** Products may be used only for lawful purposes. Channel Partner must comply with all applicable local and international laws, regulations or conventions, including without limitation those related to data privacy, international communications, and exportation of technical or personal data. Products may not be used for any criminal or illegal activities or any activities that might be legally actionable.

If any notification or approval of any governmental or other authority is required prior to, or following the execution of this Terms and Conditions and/or the Agreement, the Channel Partner agrees to notify NiceLabel promptly of such requirements and to make any and all required notifications, filings and similar and/or to obtain a relevant approvals.

The Channel Partner shall ensure that the distribution and export/re-export of the Products are in compliance with all laws, regulations, orders, or other restrictions of the countries, where the Products(s) is/are distributed and the Channel Partner shall strictly comply with all European Union, United States, federal, national, state, local or province laws, regulations and ordinances applicable for it and the sales of the Products(s). The Channel Partner further agrees to indemnify and hold NiceLabel harmless against any such liabilities.

**Warranty:**

Channel Partner consents and acknowledges that NiceLabel will not be responsible for any configuration, connection or communication failures, disruptions, errors, distortions or delays Channel Partner may experience when using or downloading the Products, howsoever caused.

The Products are being sold in an “AS IS” and “AS AVAILABLE” condition and WITH ALL FAULTS AND DEFECTS. Except as expressly set forth in these Terms and Conditions, no other representations or warranties have been made or are made and no responsibility has been or is assumed by NiceLabel or by any of its partners, members, officers, employees, agents, or representatives. Unless provided otherwise in these Terms and Conditions NiceLabel hereby disclaims all warranties and conditions with respect to the Products, either express, implied, or statutory, including, but not limited to, the implied warranties and/or conditions of merchantability, of satisfactory quality, of fitness for a particular purpose, of accuracy, of quiet enjoyment, and of non-infringement of third-party rights. No oral or written information or advice given by NiceLabel or its authorized representative shall create a warranty. The above exclusion and limitations apply to the maximum extent not prohibited by applicable law. Alleged defaults in the Products do not entitle the Channel Partner who purchases the Products directly from NiceLabel not to pay the full purchase price for the Products to NiceLabel. In no event shall Nice Label’s total liability for all damages (other than as may be required by applicable law in cases involving personal injury) exceed the purchase amount of the software.

**Specific Terms and Conditions applicable to Channel Partners purchasing the Products directly from NiceLabel - Terms of Sale:**

**Orders:** All orders placed by the Channel Partner to NiceLabel directly shall be in writing and shall be subject to these Terms and Conditions. All orders must also include the following information: purchase order number, NiceLabel part number, description, unit quantity, unit purchase price and total price. Channel Partner purchases software license key via order. Channel Partner agrees to provide end user details when ordering and purchasing the Software Maintenance Agreements (“SMA”). The order is only deemed accepted in case of order confirmation issued by NiceLabel. A contract for the sale and purchase of the Products (“**Contract**”) in accordance with these Terms and Conditions and the Agreement (if concluded) shall not become effective until a Channel Partner’s order has been accepted by NiceLabel in writing. NiceLabel will use commercially reasonable efforts to provide order confirmation within two days from receiving the order.

Product orders placed by the Channel Partner and accepted by NiceLabel shall be governed exclusively by the written order acceptance, the provisions of these Terms and Conditions and the Channel Partner Agreement (if concluded) and the provisions of any purchase order or other writing from the Channel Partner which conflict with, vary from or are in addition to the provisions of these Terms and Conditions and the Channel Partner Agreement (if concluded), shall be deemed objected to in advance and shall be of no effect nor binding upon NiceLabel in any circumstances. All due outstanding payments in relation to the Products must be cleared/made in full before the next purchase order is placed.

**Delivery:** Physical Products(s) will typically be shipped and non-physical Products(s) (keys, SMA’s etc) will be supplied electronically by NiceLabel to the Channel Partner in a way that the Channel Partner downloads the Products from the website [www.nicelabel.com](http://www.nicelabel.com). NiceLabel shall email license keys against specific orders. Time is not of the essence in these Terms and Conditions and the Agreement (if concluded), but commercially reasonable efforts will be used to meet the mutually agreed delivery date.

All deliveries are subject to, and NiceLabel shall have no liability for, delays or cancellations due to fires, accidents, strikes, riots, delays in or lack of proper transportation at, inability to obtain or interruption(s) with the supply of raw materials, energy, gas, telecommunications or similar, earthquakes, disasters, unexpected production problems of NiceLabel, force major, causes beyond NiceLabel's control, or any other cause which may affect NiceLabel in the delivery of the Products(s) and services. NiceLabel shall promptly notify the Channel Partner if any confirmed order, or any portion of any confirmed order, cannot be fulfilled or if there will be delays in delivery.

All risks in respect of any software or appertaining documentation shall pass to the Channel Partner upon downloading of the software by the Channel Partner and any and all risks in respect to the Products supplied on a tangible media shall pass to the Channel Partner when such media is delivered to the Channel Partner.

**Pricing and Payment:** Prices for Products shall be those specified in NiceLabel's price list valid at the date of submission of the order by the Channel Partner, less applicable (agreed) discounts. Unless indicated otherwise, all prices are stated in EUR and are exclusive of any taxes (such as VAT or WHT), duties and/or any other levies or taxes which might be chargeable in connection with such amount.

The Channel Partner agrees to pay, collect and remit all value-added, sales, use, excise, import, export, and other taxes, duties and charges (including any penalties and interest thereon) imposed in respect of the Products(s). The Channel Partner further agrees to indemnify and hold NiceLabel and its successors and assigns harmless from any and all such liability.

Channel Partner shall pay non-disputed invoices within the time indicated on the invoices. If no duration is otherwise indicated, the Channel Partner agrees to pay within thirty (30) days after the receipt of NiceLabel invoice. All payments shall be made by SWIFT transfer to NiceLabel bank account. All payments should be made in currency indicated on the invoice. Should Channel Partner not agree with the received invoice it shall dispute it within eight (8) days following issuance of such invoice otherwise the invoice is deemed to be accepted by the Channel Partner. The Channel Partner will receive a written notification by NiceLabel for all Invoices overdue for more than 30 days. NiceLabel may cease the provision of technical support and software delivery if invoices are overdue for more than 30 days, and will only recommence when overdue invoices are completely settled. Furthermore, NiceLabel may request a 100% prepayment for all further deliveries of the Products(s) in such case.

**Intellectual Property rights:** Products (software) and accompanying documentation and all intellectual property residing therein are and shall remain the property of NiceLabel and NiceLabel does not convey any proprietary interests in or to the Products other than the rights granted under these Terms and Conditions. Taking this in consideration, Channel Partner agrees and acknowledges that: (a) all rights, title and interest in the NiceLabel's intellectual property is owned by and shall remain vested in NiceLabel, (b) all use of the same shall inure to the benefit of NiceLabel, and (c) nothing contained in or undertaken pursuant to this Terms and Conditions shall give Channel Partner any right, title or interest in or to the same, other than those granted with these Terms and Conditions. The Channel Partner will not attempt to, apply for or register any intellectual property in its own name or solicit or give permission to any third party to do so and will further not use and/or register any intellectual property, as applicable, as a domain name. If the Channel Partner breaches this provision, it will or will procure that a third party transfers any applications, registrations, renewals or similar to NiceLabel without any costs for NiceLabel and will or will procure that a third party signs any and all documents needed for a successful transfer of such intellectual property to NiceLabel. The Channel Partner shall safeguard the Products (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access. The Channel Partner shall promptly notify NiceLabel if it becomes aware of any infringement of NiceLabel's Intellectual Property Rights in the Products and fully cooperate with NiceLabel, at NiceLabel' expense, in any legal action taken by NiceLabel to enforce its Intellectual Property Rights.

Channel Partner shall promptly notify NiceLabel of any claim that the Channel Partner's use of the Products violates or infringes any Intellectual Property Rights of a third party and in the event that NiceLabel believes that the Channel Partner's use of the Products is likely to be infringing, NiceLabel, at its option and expense, may

either (i) secure for the Channel Partner the rights necessary to continue to use the Products, (ii) modify the Products so that it becomes non-infringing, (iii) replace the potentially infringing portion of the Products with a functionally equivalent non-infringing product or service, or (iv) if NiceLabel determines that none of the foregoing options are reasonably practicable, immediately terminate the relationship hereunder (and under the Channel Partner Agreement, if concluded) and issue a refund of the price paid.

The Channel Partner shall indemnify and hold NiceLabel harmless from and against any and all claims, liabilities, costs and expenses (including legal fees) arising out of (i) faulty or improper incorporation, installation, integration or support of the Products(s) by the Channel Partner or its agents, (ii) any misrepresentations by the Channel Partner or its employees in respect of the Products(s), (iii) any violation by the Channel Partner of any of the material provisions of these General Terms and Conditions and/or Agreement, or (iv) any Channel Partner's violation of any rights of any third person or entity, or (v) any negligent, wrongful or intentional acts or omissions on the part of the Channel Partner or its employees or agents. If NiceLabel is obligated to respond to a third-party subpoena or other compulsory legal order or process described above, the Channel Partner shall also reimburse NiceLabel for reasonable attorney fees, as well as NiceLabel's employees' and contractors' time and materials spent responding to the third-party subpoena or other compulsory legal order or process at reasonable hourly rates.

**Confidentiality:** Either party (including its affiliates and subsidiaries) shall keep confidential any and all information of the other party, that are marked as confidential at the time of disclosure, as well as any information that is not marked as confidential but should be considered as such due to its nature as its disclosure would or could cause significant damage to the disclosing party, regardless if they relate to the subject of their mutual cooperation based on Terms and Conditions and/or a separate Agreement. Confidential information shall include, but is not limited to, any technical or business information, information regarding Products, intellectual property rights, product plans and strategies, promotions, clients, personal data and related non-technical business information which the disclosing party considers to be confidential ("Confidential Information"). Confidential information may be disclosed in tangible or intangible form. Any Confidential Information carriers shall also be considered as confidential.

**Term and termination:**

The relationship between the Channel Partner and NiceLabel hereunder shall remain in full force and effect for a period of 12 months after the acceptance of these Terms and Conditions by the Channel Partner. Agreement and the relationship hereunder shall be automatically prolonged for another one (1) calendar year, if agreement is not terminated before for reasons set forth in these Terms and Condition or for reasons set forth in a separate Agreement (if concluded). These Terms and Conditions shall apply in any event throughout the period the Channel Partner markets and sells the Products or throughout the period in which warranty claims in relation to the Products may be made/raised, whichever is latter.

NiceLabel shall have the right to terminate the relationship with the Channel Partner in cases provided under these Terms and Conditions and under the Agreement. In addition, business relationship between NiceLabel and the Channel Partner may be terminated (i) by either party, without cause, by giving the other party at least ninety (90) days prior written notice thereof or (ii) by mutual agreement of the parties, such agreement to be executed in writing.

**Termination for Cause:** Either party may terminate mutual cooperation (in addition to the reasons stated in the separate Agreement or in other clauses of these Terms and Conditions) with immediate effect by written notice to the other party (i) if the other party breaches any material provisions of this Terms and Conditions or the Agreement (which shall include, but not be limited to the non-payment of any sums due) and such breach is not cured within thirty (30) days after the receipt of written notice thereof from the terminating party or (ii) in case of commencement, entering into or filing by or against the other party of a petition, arrangement or proceeding seeking an order for relief under bankruptcy laws, a receivership for any of the assets of the other party, a composition with or assignment for the benefit of its creditors, a readjustment of debt, insolvency (bankruptcy



or compulsory settlement) or the dissolution or liquidation of the other party or any other equivalent proceeding to the foregoing under the applicable laws or (iii) in case of force majeure that the parties cannot overcome.

**Consequences of Termination, Actions following Termination:** NiceLabel shall not be liable to the Channel Partner for any compensation, indemnification, reimbursement, or damages on account of expenditures, investments, losses, goodwill, clients or commitments in connection with the business or goodwill created throughout the business relationship with NiceLabel (regardless the reasons for which the relationship was terminated) and the Channel Partner hereby expressly waives any and all such rights.

Any termination shall not release the Channel Partner from any debt or other liability which the Channel Partner may then have towards NiceLabel.

In the event of the termination of business relationship between NiceLabel and the Channel Partner for any reason all the rights and obligations of the Parties gained or obtained throughout the period of duration of business relationship shall remain valid, except if provided differently in these Terms and Conditions and/or the Agreement. The provision of this Clause shall in no way interfere with any other rights of a Party based on valid regulations, except if agreed otherwise hereunder.

Following the termination, the parties agree to act as follows:

- a. The Channel Partner who purchased the Products directly from NiceLabel agrees to promptly provide NiceLabel with all outstanding reports and payments due to NiceLabel pursuant to provisions of these Terms and Conditions and the Agreement.
- b. the Channel Partner shall no longer be a member of the Program and agrees to cease presenting itself out as having any authority to promote, market and sell the Products(s).
- c. All of the Channel Partner's rights hereunder and/or under the Agreement to promote, sell, license, and distribute the Products(s) shall automatically terminate. The Channel Partner agrees to return to NiceLabel all documentation and other information of NiceLabel (proprietary or otherwise), regardless of form, in the Channel Partner's possession or, with the prior written consent of NiceLabel, to destroy same, and in either case to certify in writing to NiceLabel that such actions have been taken.
- c. The termination of the relationship hereunder and under the Agreement will operate as a cancellation, as of the termination date, of all orders, which have not been shipped/delivered by NiceLabel to the Channel Partner or to third party designated by the Channel Partner. Thereafter, neither party will be under any obligation to the other with respect to orders so cancelled.
- d. The parties agree to cooperate fully with one another with respect to termination of the relationship and to provide promptly all information necessary in this regard.

**Notices:** All notices that shall be required or permitted under these Terms and Conditions shall be in writing and addressed to the authorized representatives of the other party whereby the communication sent by e-mail shall be considered to fulfill the written form requirement hereunder.

**Data Protection:** The Channel Partner and NiceLabel are for the purposes of these Terms and Conditions and/or the Agreement with respect to processing of personal data independent controllers. For the purposes of these Terms and Conditions and/or the Agreement words "processing", "personal data", "controller", "data breach" shall have the same meaning as in the GDPR (Regulation (EU) 2016/679 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)("GDPR"). The Channel Partner and NiceLabel shall individually each for itself ensure that any personal data in their possession that is exchanged or shared between them or under their processing shall have valid legal ground in accordance with applicable data protection and e privacy laws. The Channel Partner shall refrain from processing of personal data in violation of data protection and e privacy laws applicable to the Channel Partner and data subject(s). At the termination of business relationship hereunder and/or the Agreement the Channel Partner shall cease to process personal data obtained hereunder unless it has assured that continuation of processing is in accordance with relevant data protection and e privacy laws. The Channel Partner shall have sole responsibility for the accuracy, quality, and legality of personal data

and the means by which it has acquired personal data. The Channel Partner shall ensure appropriate technical and organization measures to prevent unauthorized access to personal data. In the event of data breach in relation to personal data that has been shared or exchanged both parties shall cooperate in good faith as well as in relation to any data subject request. Upon NiceLabel request, the Channel Partner shall immediately delete any personal data in its possession or under its processing that has been obtained from NiceLabel.

**General:** Except if provided otherwise in these Terms and Conditions and/or the Agreement, the Channel Partner shall not sell, assign, transfer, convey, delegate or encumber its duties and obligations hereunder, or any rights or interests hereunder to any third party without the prior written consent of NiceLabel. Any assignment in violation of the terms hereof shall be void and of no force or effect.

In no event will in case of termination of business relationship between the Channel Partner and NiceLabel (regardless the reasons for which the relationship was terminated) NiceLabel be liable to the Channel Partner or any third party, whether in contract, in tort (including negligence), in equity, or otherwise, for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused - whether arising for defects in the Products, breach of contract, in tort (including negligence) or otherwise).

If any provision stated herein, in whole or in part, is held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect, and the parties will negotiate in good-faith a substitute, valid and enforceable provision which most nearly reflects the parties' intent.

NiceLabel shall be entitled to modify these Terms and Conditions from time to time with prior notification to the Channel Partner. Should the Channel Partner not object to the amended Terms and Conditions within 8 days upon receipt of the notification on change, the amended Terms and Conditions shall be deemed accepted by the Channel Partner.

Neither party's failure to exercise any of its rights hereunder shall constitute or be deemed a waiver or forfeiture of any such rights.

The construction, performance and validity of these Terms and Conditions and all the disputes arising from the relationship between the parties hereunder and/or from these Terms and Conditions or in relation to these Terms and Conditions or in relation to the Products and all non-contractual obligations arising from or connected with these Terms and Conditions or the sale of the Products shall in all respects be governed by the laws of Slovenia, without its conflict rules.

In the event of disagreement with respect to any aspect of these provisions, the parties agree, prior to taking any unilateral action or instigating any legal proceedings, to discuss in good-faith to reach an amicable resolution, and to escalate such dispute resolution process to the appropriate members of their respective management organization who have the power and authority to achieve a successful resolution. In case this would not be possible, then any legal action with respect to the mutual cooperation (including non-contractual claims) shall be brought in the jurisdiction of the competent court in Ljubljana, Slovenia.