

End User License Agreement

IMPORTANT NOTICE

Please read this End User License Agreement (the “**Agreement**”) carefully before agreeing to use, install or copy the software. This Agreement is a binding legal contract by and between you (the “**User**” or “**You**”) and Gantner Electronic GmbH (hereinafter, “**Gantner**”) (each a “**Party**”, and jointly referred to as the “**Parties**”) for the use of this web or mobile application (the “**App**”).

This Agreement allows the User to access or install, as the case may be, and use the App in connection with specific hardware developed by Gantner. The User acknowledges that the App is only functional when and to the extent that it is connected with the specific Gantner hardware.

This Agreement explains the User’s rights and obligations related to the usage of the App, including any services the User accesses or any purchases made by the User through the App. The right to use the App is conditional on the acceptance of the terms of this Agreement. By accessing, installing, copying, and/or otherwise using the App, You acknowledge that You have read the Agreement, understood the terms contained herein and agree to be bound by them.

If You do not agree to the terms set forth in this Agreement, You must uninstall or refrain from accessing the App.

1. Definitions

For the purposes of the Agreement, the following terms shall have the following meanings:

- > **Agreement:** Means the agreement entered herein between Gantner and the User regarding the use and access to the Services.
- > **App:** Means this mobile application, which must be downloaded from an authorized mobile app store, or the web application, which you may access through your web browser.
- > **Consumer:** Means a User that might be considered also a consumer as provided by the applicable local, state or federal regulations.
- > **Intellectual Property Rights:** Means all intellectual property rights in the meaning of Austrian or international treaties on intellectual property, including other property rights and potential license rights, source codes, software, database rights and other rights vested in Gantner or its affiliates and subsidiary companies with the broadest legal extension, in accordance with the applicable regulations.
- > **Parties:** Means Gantner and the User, individually referred to as the “Party”.
- > **Personal Data:** Means all personal data relating to an identified or identifiable natural person that is introduced, collected or gathered through the App.
- > **Gantner:** Gantner Electronic GmbH is an Austrian company, with its corporate registered address located at Bundesstrasse 12, 6714 Nüziders, Austria, with the VAT No. ATU49378007, telephone number [+43 5552 33944](tel:+43555233944) and e-mail address info@gantner.com. Registered at the Commercial Registry of the Regional Court of Feldkirch, Austria under the registration No. FN 193360 d.
- > **Service(s):** The functionalities made available to the User through the App depending on the specific mobile or web application and User’s profile permissions.
- > **User:** A natural person who accesses and uses the Services by downloading and using the App.

2. License grant

Gantner grants the User a non-exclusive, non-transferable right to use the App, for the User’s personal, non-commercial use.

The User shall be entitled to use the App solely in accordance with the terms of this Agreement.

This license expressly excludes any right to rent, sublicense, lease, assign, transfer, display or otherwise distribute or make the App available to any third party. The User shall not alter, modify, manipulate or adapt the App, including but not limited to, translating, decompiling, disassembling, creating derivative works, or reverse engineering the App and its associated materials or parts of the same. The above prohibitions are extensive to any documentation or information that is made available to the User or to which the User has access during the User's use of the App.

The User agrees that the App and any proprietary information contained therein are the sole and exclusive property of the respective owners or developers and constitute, equally, confidential information.

The license does not transfer any right or title over the App to the User unless expressly set in this Agreement. Any rights not expressly granted to the User under this Agreement are reserved and shall remain vested in Gantner.

3. Ownership

The User acknowledges that Gantner is the exclusive owner of the App and all its materials and/or has obtained the required licenses and consents from their respective owners, including without limitation, all copyright, patents, trademarks, trade names, trade secrets and any other Intellectual Property Rights, including all copies of the App and all of its elements, regardless of the format in which they are presented or the media on which they are recorded.

The User's access to and use of the App and/or any of its contents, regardless of their type or form, shall in no case involve any waiver, transmission, license or transfer, whether in whole or in part, of the Intellectual Property Rights, with the sole exception of those expressly granted by virtue of this Agreement and described in the license grant above.

References to brands or trade names or other distinguishing signs in the App, related documentation and/or Services carry the implicit prohibition regarding their use without Gantner's consent or that of their lawful holder. Access to or use of the App does not grant the User any right over such brands or trade names, including logos. The User agrees not to alter any copyright notices contained in the App and/or related documentation.

4. Gantner Insights Data

The User hereby expressly agrees that Gantner will have the right to generate patterns, trends, knowledge, metadata and other insights (i) by anonymizing personal data of the User or processed as the User's Processor (hereinafter, "**User Data**"); (ii) aggregating User Data with other data; and/or (iii) based on anonymous learnings, logs and data regarding use of Gantner products and/or services (collectively, "**Gantner Insights Data**"). Gantner Insights Data shall only consist of anonymized data that does not identify nor make identifiable the User or any other third parties.

Anonymized data means that any information that can identify the User or a natural person is removed, and the remaining data is data from which one cannot identify an individual, whether by Gantner or by any other person (i.e., all likely means of re-identification are not possible). The Parties agree that Gantner Insights Data shall belong to Gantner and that Gantner may use such data for any business purpose during or after the term determined in Section 6 (including without limitation to develop, provide, operate, maintain and improve Gantner products and services and to create and distribute reports and other materials).

In this sense, to the extent necessary, the User grants Gantner a worldwide, royalty-free, perpetual, irrevocable license over the User Data to allow its use by Gantner for the purposes stated above, in

accordance with the Data Protection Section (Section 11) and the regulations applicable in the User's jurisdiction.

5. Use Restrictions

It is expressly forbidden to use the App for any illegal or non-authorized purposes. In particular but without limitation, the following actions are not allowed:

1. Use the App in any manner that may cause damage, interruptions, interferences, inefficiencies or defective functioning of the App, the hardware, any related platform or the device of a third party.
2. Use the App for the transmission, installation or publication of any virus, malicious code or any other harmful file or component.
3. Use the App in any unlawful manner, including, in particular, entering personal data of another User without the appropriate consent or without complying with the applicable legal requirements.
4. Use the App to harm, threaten, harass, abuse, stalk, defame or otherwise infringe or violate the rights of any person or organization.
5. Unauthorized access to or use of any section, component or element of the App or the servers connected to the same through any illegitimate means, in particular with the intention to interconnect the locking elements or related hardware with other systems, platforms and/or services.
6. Modification of the App, related documentation or any of their elements thereof, including the prohibition to create derivative works based on the App, and/or decompilation of the same.
7. Use the App in any manner that contravenes the terms of this Agreement, the law, morality, generally accepted customs and social standards, or public order.
8. Use the App in any manner that may constitute an infringement of any Intellectual Property Rights of Gantner or any third party with rights and/or interests thereto.
9. Develop software applications or computer programs, or any invention that integrate software applications or computer programs, of similar functionalities to those of the App.
10. Register trademarks, trade names or any other distinctive signs associated to the App and/or Gantner.

The User acknowledges that failure to comply with the restrictions described in this Agreement shall imply, at Gantner's sole discretion, termination of this Agreement and, consequently, termination of the license granted under the same.

In order to allow Gantner to effectively control and defend its Intellectual Property Rights, the User expressly authorizes Gantner to compile information regarding the User's use of the App, including the device(s) used to access the App, connection times and parameters, and any other data that Gantner may deem reasonably adequate for these purposes.

6. Term and Termination

This Agreement shall be effective on the date the User accepts it, and shall remain in force and be fully binding between the Parties until the account of the User is deleted – unless the use of the App does not require the creation of an account, in such case, this Agreement shall remain in force until the User uninstalls the App.

This Agreement may also be terminated subject to the following:

Termination for breach. Gantner may terminate this Agreement if the User is in breach of any of the provisions set herein, subject to a prior notice in writing of no less than fifteen (15) days, either through the App, via e-mail or other written means.

Termination for App discontinuation. In the event that Gantner discontinues the App, whatever the cause may be, Gantner may terminate this Agreement. In this event, Gantner shall notify the User as soon as reasonably possible.

The User's right to use the App and the license granted herein shall automatically terminate on the termination date and Gantner shall be entitled to discontinue the User's access to the App.

7. Limited Warranty and Disclaimer

To the maximum extent permitted by the applicable law, Gantner expressly waives any warranty in the use of the App, specifically but not limiting to the integration of third-party software in the App.

The App is provided and licensed "as is" and Gantner hereby disclaims all other warranties and conditions, whether express, implied or statutory, including but not limited to (if any) implied warranties, duties or conditions of merchantability, fitness for a particular purpose, quality, performance, reliability or availability, continuance, accuracy or completeness of responses, results, lack of viruses and lack of negligence.

The aforementioned shall be understood with regards to the App, and the provision of or failure to provide support or other services, information, software and related content through the App or otherwise arising out of the use of the same.

Notwithstanding the above, Gantner warrants that it has adopted all necessary measures, within its possibilities and the state-of-the-art, to warrant the functioning of the App and to reduce system failures to a minimum in order to meet the availability set forth in Section 10.

Gantner expressly disclaims any warranty with regards to compatibility of the App with the User's systems, applications, devices, networks and any other software or hardware used by the User, except where Gantner has expressly declared their compatibility in writing.

The User is responsible for installation and use of the App.

8. Liability

8.1. Liability of the User

The User shall be responsible for:

1. Any acts that contravene the contents of this Agreement, the law, morality, generally accepted customs or social standards, and public order.
2. Any damage or loss that may arise from misuse, negligence or breach by the User in its use of the App, including but not limited to the terms of this Agreement, applicable law and/or any instructions, guidelines or recommendations made by Gantner.
3. Accuracy and completeness of the information provided by the User when accepting and executing this Agreement.
4. Compliance with the terms of this Agreement, including payment of, if any, the relevant license fees.

The User agrees to indemnify, defend and hold Gantner harmless, including its officers, directors, shareholders, successors, affiliates, employees, agents and representatives, from and against any and all costs, claims, demands, liabilities, expenses, losses, damages, including attorney's fees, that arise or result from the use of the App by the User. The User also agrees to indemnify Gantner for any legal costs incurred by Gantner, acting reasonably, in investigating or enforcing its rights under this Agreement.

8.2. Liability of Gantner

The User expressly exonerates Gantner from any liability derived from any damage caused by any use of the App and/or related hardware not expressly authorized by Gantner.

To the maximum extent permitted by applicable law, in no event shall Gantner or its supplier(s) of technology or software be liable for any loss, cost or damage, including without limitation indirect, special, incidental or consequential damages, including any loss of profits or savings, loss of goodwill, business interruption, loss of data, computer failure, damage or malfunction, or for any claim by any party, arising out of the use of, or inability to use the App, even if advised of the possibility of such damages. In no case shall Gantner's liability, or that of its supplier(s), exceed the amount of fifty (50) euros. The warranty and remedies set forth herein are exclusive and in lieu of all others, oral or written, express or implied.

Some countries, states or regions do not allow the exclusion or limitation of incidental, consequential, or other damages, so those limitations or exclusions may not apply to all Users. If User's local applicable law allows the User to claim damages from Gantner, even though this Agreement does not, the User cannot recover more than the amount determined hereinabove.

In no event shall Gantner exclude its liability in cases of gross negligence, personal injury (including death) or fraudulent misrepresentation derived from any claim or provision of this Agreement or the subject matter of it.

9. Contact

As the User will mainly use our Apps to manage and/or get physical access to our clients' smart lockers, any complaints, queries, issues, questions and suggestions related to (i) the App and its integration or usage with any given hardware, or (ii) the access, installation and use of the App, must be directly addressed at the client who will give the User due attention. In the cases it deems necessary the client will escalate the complaint, query, issue, question and/or suggestion to Gantner or its local partners and offices.

If you have any queries in relation to the Services or terms of this Agreement, you can contact us through our corporate website: <https://www.gantner.com/en/contact>. Gantner will respond to complaints or inquiries received in the shortest possible time and will endeavor to avoid exceeding a period of thirty (30) days from the moment when the claim or query was filed and received by Gantner.

10. Availability

Gantner will make its best effort to maintain a good level of availability of the App. However, Gantner may limit the availability for the period needed to carry out any scheduled maintenance (which Gantner will endeavor to notify the User in advance when it hinders the use of the App) and force majeure events, which may affect totally or partially its availability.

Gantner shall not be obliged to restore the availability described hereinabove when the failures, defects or malfunctions are caused by misuse, negligence or breach of the terms of this Agreement by the User, including any use that contravenes the terms of this Agreement, applicable law and/or instructions, guidelines or recommendations made by Gantner or its Partners. Additionally, Gantner shall not be obliged to meet the availability in the terms provided herein in case of force majeure events or other external factors affecting availability or functionality of the App.

Notwithstanding the aforementioned, nothing in this document may be understood nor construed as an obligation of Gantner to provide support to the User, other than what may expressly be described herein.

11. Data Protection

The Use of the App implies the processing of certain personal data of the User, as it is described in Gantner's Privacy Policy: <https://www.gantner.com/en/privacy-policy/eloxx365-lockpal365>.

12. No Waiver

No delay or failure by Gantner to exercise any right or remedy under this Agreement will constitute a waiver of such right or remedy, Gantner shall still be entitled to enforce its rights and remedies under this Agreement in any situation. All waivers must be in writing and signed by an authorized representative of Gantner. A waiver of any breach or covenant shall not be construed as a waiver of any succeeding breach of any other covenant.

13. No Assignment

The User shall not assign, sublicense, delegate or otherwise transfer any of its rights or obligations under this Agreement without Gantner's prior written consent.

14. Force Majeure

Except for payment obligations (if any), neither Party shall be liable for any delays or failures in performance due to a force majeure event. A force majeure event shall mean the occurrence of an event or circumstance beyond the reasonable control of the Party invoking this provision, provided that the non-performing Party is without fault in causing or failing to prevent such occurrence. If the force majeure event persists for a period of ninety (90) business days or more, either Party shall be entitled to terminate the Agreement without liability to the other Party in respect of such termination.

15. Severability

Should any of the provisions of this Agreement be declared invalid or unenforceable by a Court of competent jurisdiction hereunder, such provisions shall be deemed invalid for the remainder of this Agreement and such declaration shall not affect the validity or enforceability of the remaining provisions. To the extent possible, the invalid or unenforceable provision shall be deemed modified to the minimum extent necessary to render the provision enforceable in a manner that serves to achieve the purpose of the invalid or unenforceable provision.

16. Headings & Official Language

The headings of this Agreement are merely informative and inserted for convenience and are not intended to be part of or to affect, qualify or encourage the interpretation of this Agreement.

The official language of this Agreement is English. In case of any discrepancy between the English version and any other version these Terms of Service could be translated to (for the exclusive purposes of facilitating User's understanding), the content of the English version shall prevail.

17. Entire Agreement

This Agreement and, if any, the documentation accompanying it contains the entire agreement between Gantner and the User with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, whether oral or written. Any varying or additional terms to the terms of this Agreement and the documentation must be executed and signed by authorized representatives of Gantner in order to be binding.

18. Modifications

Gantner reserves the right to modify this Agreement at any time. In that case, Gantner will notify the User at least thirty (30) days in advance prior to the date on which the modified Agreement shall be enforceable. If the User does not agree with the modified Agreement, the User shall not use the App from the date of application thereof. During the period where the modification is notified and the date on which such modifications are enforceable, the User shall be entitled to continue using the App under the unmodified terms. Use of the App by the User on or after the date on which the modified Agreement comes into force shall be deemed as an acceptance of the same and the User shall be bound by its terms.

19. Governing Law and Jurisdiction

This Agreement shall be governed and construed under the laws of Austria, unless a mandatory Federal or State consumers regulation provides otherwise. For any matter related to the interpretation or execution of this Agreement, or to the extent necessary to settle any controversy with regards to the same, the User hereby agrees to submit to the sole competence and jurisdiction of the Courts of Feldkirch, Austria and waives any other courts which might have jurisdiction over the subject matter, unless the jurisdiction consumer regulation states otherwise or a mandatory jurisdiction.

20. Additional Provisions for Consumers

Nothing in this Agreement shall prejudice the statutory or legally rights that the User may have as a consumer accessing and using the Services.

Some countries, states, provinces or other jurisdictions might not allow the exclusion of certain warranties or the limitation of liability, certain stipulations, limitations or any other statement.

Therefore, the stipulations set herein may not fully apply to the User when is considered a Consumer.

Instead, in such jurisdictions, these stipulations shall only apply to the maximum extent permitted by the applicable laws. In that regard, and to the maximum possible extent, the relevant provision shall be deemed modified exclusively to the minimum necessary to render the provision enforceable in a way that serves to achieve the purpose of the invalid or unenforceable provision.

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