

## GENERAL TERMS AND CONDITIONS OF USE OF DESKWALL-SOFTWARE

This text establishes the GENERAL TERMS & CONDITIONS (henceforth "T&C") of use of DESKWALL-SOFTWARE. DESKWALL-SOFTWARE consists of an embedded software and is a part of a final product named "DESKWALL". DESKWALL allows the management, administration, device control and information sources control via a single keyboard and mouse, including multimedia controls through a 360° display, in a revolutionary concept: the multi-canvas. GESAB reserves the right to modify those T&C at any time, recommending the USER to frequently check their content by accessing [www.gesab.com](http://www.gesab.com). The continued use of DESKWALL-SOFTWARE constitutes an agreement with the amendments of the T&C.

**DEFINITIONS** For the purposes of this T&C, meanings shall be:

<i>DESKWALL:</i>	A new generation of Dynamic KVM. DESKWALL is a powerful and innovative system based on X86, which delivers incredible speed, power and graphics performances. DESKWALL is the result of combining the software designed for the application purposes as well as the hardware platform in which it's executed, regardless of the platform.
<i>USER'S GUIDE:</i>	Document published by GESAB which includes functioning details, instructions and necessary support for the USER to properly run DESKWALL-SOFTWARE.
<i>MODIFICATION:</i>	Referred to a change in DESKWALL-SOFTWARE which implies an alteration of the source code.
<i>RESPONSIBLE:</i>	GESAB, as the owner and provider of DESKWALL-SOFTWARE services.
<i>SOFTWARE:</i>	Referred to DESKWALL- SOFTWARE in general.
<i>DESIGNATED UNIT:</i>	Referred to each server, computer, data processing equipment from which DESKWALL-SOFTWARE will be accessible and usable.
<i>USE:</i>	Meaning charging, executing, accessing, using, storing or displaying DESKWALL- SOFTWARE either directly or indirectly.
<i>USER:</i>	Either the legal or natural person who acquires DESKWALL and uses DESKWALL-SOFTWARE.

**GENERAL INFORMATION** GESAB, S.A.U., with CIF A59877076 and registered in Avenida Mogent 68, 08450 Llinars del Vallès, Barcelona, is the owner of DESKWALL-SOFTWARE and is responsible for it. For further information, you may contact the company by email at [deskwall.support@gesab.com](mailto:deskwall.support@gesab.com).

**SPECIAL CONDITIONS** The use of certain services or functionalities available in DESKWALL- SOFTWARE may be subject to individual SPECIAL TERMS and CONDITIONS, that depending on the case may replace, complete and/or modify these T&C. Therefore, prior to the use of the above-mentioned services/functionalities, the USER shall peruse and accept the SPECIAL TERMS and CONDITIONS of each service, if any.

**ACCEPTANCE** As stated previously, the use of DESKWALL-SOFTWARE and/or the use of any of the additional services/functionalities of DESKWALL imply the knowledge and acceptance of the T&C and the SPECIAL TERMS and CONDITIONS, if any. Consequently, the USER states:

1. that he/she is of legal age and/or has the legal capacity to undertake contracts, according to the general law of the state in which he/she resides, and
2. that he/she has previously read, understood and accepted the entire content of the T&C and the SPECIAL TERMS and CONDITIONS, if any, which may apply.

**CONFIDENTIALITY** The Parties (GESAB and the USER), undertake not to disclose to third parties and keep confidentiality about the information that they may have access to or should be provided during the use of DESKWALL-SOFTWARE or that by its nature should be treated as such. All the information that shall be disclosed either by GESAB or by the USER to comply with the existing laws, a judicial resolution or an act issued by a competent authority will not be regarded as confidential information. This duty will remain for a period of three years since the termination of services.

**MODUS OPERANDI AND SOFTWARE DESCRIPTION** DESKWALL- SOFTWARE is an embedded Software on DESKWALL product that allows the management, administration, device control and information sources control via a single keyboard and mouse, including multimedia controls through an extended desktop system named "multi-canvas".

DESKWALL allows visualization and control of multiple information sources, from a wide diversity of formats and in a homogeneous and integrated way, insuring at all times the proper and individualized functioning and interaction with the different signal sources, as well as the effective integration into external devices and means. DESKWALL is a single and closed operational unit, able to offer by itself a proper functioning without the need or possibility for the USER to install it in the application system disk, offering high levels of security against intrusions, application's installations, trojans, etc.

DESKWALL-SOFTWARE is an additional item dependent on DESKWALL. The Software is entirely bound to the device and will only be able to migrate to a new one in case of breakage or irreparable failure, prior authorization and supervision of GESAB.

For further information regarding the functioning of DESKWALL-SOFTWARE, GESAB provides the USER with an "User's Guide" which is available at DeskWall support web platform.

**SOFTWARE USER LICENSE** GESAB grants the USER a personal, limited, revocable, non-transferable and non-exclusive License for using DESKWALL-SOFTWARE, in conjunction with its respective device, within the territory that corresponds with the office of the acquirer, during the time DESKWALL is in use.

USER's usage rights are subject to his/her compliance with T&C. User License is part of the acquisition of DESKWALL product and complements the "general terms and conditions for product sales".

The service life of the License will start the day the USER starts using the Software and shall end when the first of following situations is met:

1. That the deadline agreed among the parties for the provision of services subject to these terms is met.
2. That the DESKWALL product which incorporates the Software was made obsolete.
3. That GESAB decides to cancel or terminate User's License due to a breach of the T&C.

**GESAB LIABILITIES** GESAB agrees to comply with the following obligations:

- To provide the right use of DESKWALL-SOFTWARE and/or any other additional service settled by the USER, according to these T&C and the SPECIAL TERMS and CONDITIONS, if any.
- To communicate hardware configuration and other technical details to the USER, as well as their respective instructions for use, for him to make optimum use of DESKWALL-SOFTWARE.
- To notify the USER the existence of updates and/or new versions of DESKWALL-SOFTWARE, as well as its purchase conditions.

**USERS' RIGHTS AND OBLIGATIONS** The USER hereby accepts and undertakes the compliance of the following prohibitions:

- The USER compels to use DESKWALL-SOFTWARE without carrying out acts that could be considered illicit or illegal or contrary to the T&C or the SPECIAL TERMS and CONDITIONS, if any.
- The USER compels not to damage, disable, overload or deteriorate the Software, or prevent its normal use and benefit.
- The USER will not conduct any access levels infringement attempts; unappropriated data manipulation; overlaps and data exports; breach of information protected by intellectual property considerations or other rights; try to access GESAB or third parties computer systems restricted areas and the introduction of programs, viruses or any other device that may produce modifications into GESAB or third parties computer systems.
- The USER will not disassemble, decompile or apply any other procedure to the Software to discover its source code.
- The USER will not replicate the Software in whole or in part.
- Under no circumstances the USER will erase indications referred to copyright, registered trademarks and any other related to intellectual and industrial property rights that certify GESAB and its licensors' exclusive ownership. The latter applies to full or in part Software copies, the documentation and information owned exclusively by GESAB and its licensors, in the same form and following the original work.
- The USER will not modify or alter the Software in any way or by any means, and consequently, shall not develop modifications or derivative works from it.
- The USER will not hand over or transmit to third parties any of the rights included in this License of Use or allow its use to third parties. Consequentially, the use of the Software is forbidden for any other purpose than the sole satisfaction of the USER's needs, in combination with DESKWALL product and the use for which it is defined; not being able to, including (but not limited to), rent, lend or sublicense the Software or perform acts that could imply a breach of the duty of protection for a good owned by GESAB or third parties.
- The USER undertakes to provide the necessary means to guarantee, including (but not limited to), the non-disclosure, copy, duplication, manipulation, copy, translation, transformation or access on the part of third parties, or any other proceeding that may imply or lead to an infringement of the duty of protection for a good owned by third parties. Thus, the USER shall physically and logically protect and custody the Software and/or his content, logic procedures and access mechanisms.
- The USER will maintain and use the Software in a correct and responsible way, according to the advices and instructions that GESAB will issue every so often, and shall only permit its use by authorized and capable staff.
- The USER agrees to defend and indemnify, and in any case hold GESAB and/or its service providers harmless from and against any and all liabilities, as well as any costs and expenses (including, among other things, fees for legal advice) that may arise from the infringement by the USER of the T&C and the SPECIAL TERMS and CONDITIONS, if any. This obligation will therefore remain in force even after the expiration of the services relationship among the USER and GESAB or the use of the Software.

- The USER undertakes to notify GESAB of any defects or alleged defects for a period not exceeding five (5) days since the day the said defect was detected.

**WARRANTIES** To the fullest extent permissible by law, DESKWALL-SOFTWARE is provided "As Is", with its defects and without performance guarantees or guarantees of any kind. Its use is at the USER's own risk and responsibility, who will bear all the risk regarding satisfactory quality and performance.

GESAB will not be bound by the commitments or promises made by people outside the company or by erroneous expectations regarding the Software functionalities. In any case, the USER agrees that DESKWALL-SOFTWARE constitutes a tool designed to complement, not substitute, human activity. If errors were to be detected by the USER, he/she shall notify GESAB about them. Under no circumstances GESAB will be held responsible before the USER or third parties for the loss of profits or any damage caused by malfunction or failure of the Software provided.

GESAB does not guarantee that DESKWALL-SOFTWARE fits USER's expectations, that the performance will be uninterrupted or without malfunctioning, that the Software may interoperate or be compatible with applications or third parties devices, that any errors will be corrected or that the application will be available to reinstall, in the same or in multiple designed units.

No oral advice or written information given by GESAB or its authorized representatives shall create a warranty.

The USER acknowledges that the Software provided may contain defects and errors. The Software is supplied "As Is" and shall be used at the USER's own risk and responsibility. To the fullest extent permissible by law, GESAB disclaims all express, implied or legal warranties, including, among other, implied warranties of title, non-breach of third party rights, merchantability and fitness for a particular purpose. Applicable law may not allow the exclusion or limitation of liability for consequential or incidental damages so the above-mentioned limitation may not apply.

**LIABILITIES** GESAB will not be held responsible for Software interruptions caused by reasons of *force majeure* or beyond its control. GESAB may temporary restrict access due to security measures or restructuring of IT resources in order to improve the Software. Those restrictions shall be duly justified and the interruption shall be as short as possible.

The USER agrees that he/she knows the hardware, the unit and the technical requirements needed for the correct use of DESKWALL-SOFTWARE. Consequentially, GESAB will not be held responsible for any inappropriate use or infringement that the USER may conduct while using DESKWALL-SOFTWARE.

GESAB will not be held liable in any case or under any circumstance before the USER for the individual and material damages, for the computing faults and errors, for the information or data loss, for the lack or erroneous delivery of data and/or for the breach of any obligation that may arise during DESKWALL-SOFTWARE use.

GESAB will not be held responsible for any damages and losses likely to arise due to random circumstances caused, among other, by the hardware or other computer programs, by calculation error or other unforeseeable error arising under normal simulation conditions and/or by other error based on Software functionalities.

The USER is the sole responsible for the provision and the corresponding payment made to assure Software's compatibility with other accessory computer applications or with the computer equipment, including all of the hardware, Software, electrical components and others physical components required for DESKWALL-SOFTWARE use; including (but not limited to) telecommunication services, internet access, links, browsers or other programs, units and services needed.

The use of DESKWALL-SOFTWARE use by the USER does not imply acceptance, approval and/or knowledge from GESAB. GESAB solely provides the Software in order to perform a proper use, according to these T&C, and if so, to the USER'S GUIDE, to the SPECIAL TERMS and CONDITIONS and to the applicable legislation. Thus, the USER is the only responsible for the correct performance of the Software.

GESAB shall cooperate, if it's needed by judicial order or by relevant authorities, in identifying those persons responsible for law-breaching uses. Additionally, GESAB accepts no liability for any interruption of the Software that might arise by its upgrading or improving or for reasons beyond the company's control.

The USER is not entitled to claim whatsoever indemnification (directly or indirectly) for any temporally interruption or definitive suspension of the Software, the services/additional features or any type of content, product or services provided. According to this, GESAB declines any liability whether the interruption or definitive suspension of the Software were forced by internal or external causes.

Under no circumstances GESAB's liability shall exceed the total amount which corresponds to the amount paid for the authorization granted.

In the event that the applicable law doesn't allow liability's exclusion for any indirect or incidental damages, GESAB's responsibility will be limited to minimum warranties and liabilities extension allowed by law.

The USER agrees that, if permitted under applicable law, GESAB will not be held responsible for any damage or loss suffered by the USER, his/her clients or third parties caused by the malfunctioning of the Software. GESAB will not be held responsible for any special, indirect, punitive or consequential damage (including, among others, those related to emerging damages, costs of good's replacement, data loss or the commercial activity interruption) related to the Software' use or related to any other claim resulting from these T&C; even if GESAB obtains actual knowledge that there's a possibility those damages may happen. No part of these T&C

shall limit or exclude GESAB' liability for gross negligence or in case of willful deceit by GESAB, its commercial agents, its employees, or in the event of death or personal injuries. The applicable law may not allow the exclusion or limitation of liability for consequential or incidental damages so the above-mentioned limitation may not apply.

**SERVICE CANCELLATION** DESKWALL-SOFTWARE user's license may be suspended based on the assumption that the USER fails to comply with the T&C.

GESAB will notify the USER in writing of the reason for the License's suspension. If after thirty (30) days from the notification the USER hasn't solved, rectified or amended the reason whereby the suspension was announced, GESAB will be then entitled to suspend the License when deemed necessary. GESAB will reactivate the License once the USER might have solved, rectified or amended the reason by which the suspension was announced.

**COMMENTS** If the USER send comments to GESAB related to the use, functioning or Software functionalities (the "Comments"), including, among others, information related to operating results, defects, errors or compatibility problems (suspected or known) or desired characteristics, by the acceptance of these T&C, the USER hands over to GESAB all the industrial and intellectual property rights which might arise from these Comments and hereby accepts GESAB's rights to use those Comments, the information related to them and/or industrial use and intellectual property rights handed over, in whatever manner the software author desires.

**TERMINATION** DESKWALL-SOFTWARE's License will be in force until it's rescinded, as indicated in the paragraph "**SOFTWARE USER LICENSE**"

The rights acquired by the USER from the User License will terminate immediately, automatically and without prior notification if the USER fails to comply with the T&C. Immediately after the termination, USER shall stop using the Software and destroy all of the copies that lay under his possession or control.

DESKWALL-SOFTWARE authorization will be terminated if GESAB (in its absolute discretion) considers that the use made by the USER is less secure for others users or that there is an illegal or improper use of the Software, its provided services or GESAB's intellectual and industrial property rights.

GESAB might cancel all USER's accounts in response to a breach of the T&C.

GESAB might give a warning, suspend the account, remove or selectively seize rights for both the account or the device; immediately terminate all of the accounts created by the USER and temporary or definitely ban USER's device or designated unit in order not to access the Software. USER acknowledges that, in these cases, GESAB is not compelled to notify the decision that suspends, terminates, temporary or definitely bans USER's access to the Software from his device, remove, revoke or selectively seize rights related to the account.

If GESAB cancels USER's account, this latter won't be able to use the Software without prior express written permission from GESAB.

USER will not allow his account to be used by users with accounts that have been cancelled by GESAB.

If the USER considers that erroneous assumptions have been made against his account or his team of users, please contact us at [deskwall.support@gesab.com](mailto:deskwall.support@gesab.com)

**INTELLECTUAL AND INDUSTRIAL PROPERTY** The USER acknowledges all industrial and intellectual property rights hold by GESAB among its Software, its representation, graphics, documentation and other relevant information as an exclusive property that he accesses through use. DESKWALL-SOFTWARE, DESKWALL product, additional services/features provided by GESAB, the contents and its characteristics are protected by national law, *acquis communautaire* and international treaties about industrial and intellectual property, as well as by the national applicable law-of the country where the Software it is being used, and are of the exclusive ownership of its owners. The owners reserve their exclusive use and exploitation.

The reproduction, distribution, public communication, transformation and/or public supply of part or all of DESKWALL-SOFTWARE, of the additional services provided by GESAB, contents, distinctive signs, designs, trademarks, trade names and industrial designs contained therein, is forbidden without prior express written permission from its legitimate owner. Therefore, the USER undertakes not to delete, hide or alter the notices from copyright, patent, trademark or other rights hold by GESAB. Likewise, the USER undertakes not to copy or download any of the contents that appear into the Software unless an express permission is issued. Unless GESAB expressly authorizes it, the USER is not allowed to distribute, execute or publicly display, rent, sell, transmit, transfer, publish, edit, copy, create derivative works, sublicense, distribute, decompile, reverse engineer, disassemble or to conduct any unauthorized use of the contents or the rights owned by GESAB or that may appear in the Software.

No rights related to the Software's source code are granted to the USER, even for the compiled format.

The unauthorized use and/or the infringement of existing intellectual and industrial property rights applying to DESKWALL-SOFTWARE, DESKWALL product, additional services/features provided by GESAB, contents, distinctive signs, designs, trademarks, trade names and industrial designs will lead to legal liabilities. The USER hereby accepts to indemnify and exclude GESAB from liability for any unauthorized or illegal conduct made by the USER.

**HARDWARE AND SOFTWARE REQUIREMENTS** The USER shall possess appropriate computing, data and information management systems. GESAB shall not be liable for any problem that might arise from defects, age of the product or generally inadequacy of hardware of the property of the USER.

The USER shall also deal with the installation on the computer of his property of the Software needed to execute communication and internet access programs, duly upgraded. For the proper functioning of the system and according to the use he/she will give to the following components, the USER shall necessarily install:

- Internet browser
- E-mail service
- Servers: VNC, RDP or similar
- IT security systems such as firewalls and antivirus

Likewise, the USER shall comply with technical specifications that according to the operational needs will be detailed in the preliminary draft phase.

**TECHNICAL SUPPORT** In the event of any eventuality related to the technical functioning of the Software, the USER will have the following means before GESAB:

- Web communication for this purpose – [www.gesab.com](http://www.gesab.com)
- Support email – [deskwall.support@gesab.com](mailto:deskwall.support@gesab.com)

GESAB undertakes to acknowledge as soon as possible the notifications of problems that may arise, provided that they are due to an error in the service of GESAB, and not to problems of access or of any type by the USER.

**MODIFICATION AND SOFTWARE UPDATES** As deemed appropriate, GESAB reserves the right to unilaterally modify, at any time and without prior notice, the presentation, configuration and contents of DESKWALL-SOFTWARE. The access or the partial or total use of DESKWALL-SOFTWARE implies the acceptance of the modification or modifications made.

DESKWALL-SOFTWARE is acquired according to the version available at the time of acquisition of DESKWALL, updating the Software will not be mandatory to use DESKWALL. The USER acknowledges and accepts that any obligation that GESAB may have to render assistance in previous versions cases may end as soon as an update, improvement or implementation of additional functions is available.

GESAB provides the USER with “DESKWALL CARE PLAN”, which consists of a hardware/software maintenance plan based on its corresponding special conditions.

**NULL AND VOID CLAUSES** If any clause included in the T&C and/or the SPECIAL TERMS and CONDITIONS were declared, totally or partially, null or ineffective, such nullity or inefficacy will only apply to that provision or the part of it, which will be modified to achieve the objective of the original provision to the greatest extent possible. T&C remain into force in everything else.

#### **GENERAL PROVISION**

Force majeure. Neither party shall be liable for failure to perform or delay in performing its obligations if such failure or delay is due to riot, war, civil commotion, climatology, labor disputes, failure of subcontractors or any other cause beyond the reasonable control of the party concerned.

Obligations roll-out. The USER cannot transfer either the benefits and obligations acquired through the authorization, or those acquired through these T&C to third parties without prior express written permission from GESAB.

Notices. Any notice that has to be given from one party to the other, will be made by email at the address in which the receiving party receives the information usually.

#### **APPLICABLE LEGISLATION AND JURISDICTION**

With regard to any dispute which might arise as to the interpretation and application of these T&C, DESKWALL-SOFTWARE License of use, Software’s contents, activities, products or contracted services, GESAB and the USER expressly waiving their right to any other jurisdiction, undergo the jurisdiction competence exclusive to the Courts of Barcelona, unless the applicable legislation states any other mandatory legislation or jurisdiction.

**CONTACT US.** If you have any questions or comments about our T&C, you may contact us at [deskwall.support@gesab.com](mailto:deskwall.support@gesab.com)