

GENERAL TERMS AND CONDITIONS ("GTC")

Part 1: General Provisions

1. Subject Matter and General Provisions; Definitions

1.1 These GTC set out the binding terms and conditions for the acquisition of on-premise licenses and software maintenance for on-premise installations, the provision of SaaS services and/or Additional Services by Provider to Customer as further specified in the Provider's quotation and Purchase Order Confirmation (collectively called "Purchase Order").

Part 1 of these GTC includes general provisions applicable to all Purchase Orders. Part 2-6 include special provisions applicable to SaaS services, on-premise license subscription, maintenance and hosting services and a Service Level Agreement.

1.2 By the Customer signing or otherwise accepting the Provider's quotation, Provider and Customer (also referred to collectively as the "Parties" or each individually as a "Party") enter into an agreement that shall consist of the Quotation, the Purchase Order Confirmation (if applicable) and their Exhibits, based on these GTC ("Agreement"). The Agreement is entered into as of the Effective Date indicated in the Purchase Order.

1.3 Among the documents comprising the Agreement, the following order of precedence shall apply:

1.3.1 In case of a conflict between the Agreement and an applicable Data Processing Agreement, the terms of the Data Processing Agreement shall prevail.

1.3.2 In case of a conflict between any Exhibit (except for an applicable Data Processing Agreement) and the Purchase Order, the terms of the Purchase Order shall prevail.

1.3.3 In case of a conflict between the Provider's quotation and the Purchase Order Confirmation, the Purchase Order Confirmation shall prevail.

1.3.4 In case of a conflict between an Exhibit (except for an applicable Data Processing Agreement) and the GTC, the terms of the GTC shall prevail.

1.4 Where the Agreement refers to a time of day or to public holidays, such reference shall be interpreted as reference to the local time and public holidays at the place of the main establishment of the Provider, unless specified otherwise in the Purchase Order or another Exhibit.

1.5 Provider may subcontract its obligations under the Agreement. Provider shall remain fully responsible for any and all such subcontracted obligations, and for the acts and omissions of Provider's subcontractors.

1.6 Usage limitation. The Customer must not use the Provider's services and products for planning or designing pumps and other components of aircrafts, spacecrafts or nuclear plants. The services and products are not suitable for any measures and procedures in connection with aircrafts, spacecrafts and nuclear plants.

1.7 Definitions

1.7.1 "Licensed Products" means the software products of Provider listed in the Purchase Order (or in a license sheet attached to the Purchase Order).

1.7.2 "SaaS" ("Software as a Service") means the provision of the Licensed Products in one or more data centers at locations to be determined by Provider in its own discretion so that the Licensed Products can be used by the Customer via the internet. "SaaS System" refers to the entirety of the hardware and software (including the Licensed Products) operated by Provider so that the Customer can use the Licensed Products by way of SaaS.

2. Acceptance Procedure

2.1 The parties agree that all services are provided as services (*Dienstleistungen*; § 611 BGB) and don't require acceptance but are accepted by Customer upon performance of the service by Provider. Where Provider and Customer make an exception to this rule and explicitly agree in writing that a service or deliverable requires acceptance, the following procedure shall apply.

2.2 Once Provider deems a service or deliverable complete, Provider will give notice to Customer that the service or deliverable is ready for acceptance testing (hereinafter "**RFA Notice**").

Upon receipt of the RFA Notice, Customer will begin the acceptance test, which shall be completed within two (2) weeks of receipt of the RFA Notice, unless the Parties have agreed another time period in text form. Customer may only refuse acceptance if the service or deliverable has defects that either prevent the overall usage of the service or deliverable or significantly affect its use. Customer may only refuse acceptance if Customer at the same time provides a written and detailed record of all defects detected. If the Customer refuses acceptance, Provider shall correct the defects and give a new RFA Notice to the Customer within a reasonable period of time.

2.3 If Customer does not refuse acceptance and provides the aforementioned record within two (2) weeks of receipt of the RFA Notice or if Customer declines acceptance without being entitled to do so, the service or deliverable will be deemed accepted. When Customer uses all or part of any service or deliverable for business purposes (in a production and not in a test environment) such use shall be deemed to be the Customer's acceptance of such service or deliverable.

2.4 If the service or deliverable contains minor defects (i.e., defects based on which Customer is not entitled to decline acceptance), Provider will use commercially reasonable efforts to correct such defects in coordination with Customer.

3. Remuneration, Invoices

3.1 Provider shall be entitled to the remuneration as further specified in the Purchase Order. The remuneration does not include any applicable duties, tariffs and taxes, in particular VAT, unless stated otherwise. For the avoidance of doubt, additional services carried out by Provider not included within the scope of a Purchase Order shall be charged in addition to any fixed fees on a time and material basis.

3.2 Insofar as services are charged on time and material basis, these are usually invoiced monthly in arrears. Unless otherwise agreed in the Purchase Order, the remuneration rates are based on Provider's then-current price list. Services provided on a time and material basis shall be documented by Provider in the form of hourly time sheets, which shall be

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- submitted to the Customer at regular intervals. If the Customer does not accept a timesheet, Provider can request that the accuracy of the timesheet be jointly verified within ten business days of receipt. If the Customer does not raise an objection during the verification or no later than five business days after a verification, or expressly maintains its objection, the timesheet shall be deemed accepted. Provider shall notify the Customer's about this and the consequences of a failure to object.
- 3.3 Customer will provide any information reasonably requested by Provider to determine whether Provider is obligated to collect VAT and sales tax from Customer, including Customer's VAT and sales tax identification number. If Customer is entitled to an exemption from any relevant taxes, Customer is responsible for providing Provider with the respective tax exemption certificates. Provider will apply the tax exemption certificates to charges occurring after the date Provider receives the tax exemption certificates.
- 3.4 If any deduction or withholding is required by applicable law, Customer will notify Provider and will pay any additional amounts necessary to ensure that the net amount that Provider receives after any deduction and withholding equals the amount Provider would have received if no deduction or withholding had been required. Customer will provide Provider with documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority.
- 3.5 Customer will be responsible for the payment of all VAT and other taxes owed by Customer in connection with this Agreement. Customer will reimburse Provider for any deficiency relating to taxes that are Customer's responsibility under this Agreement. The Parties will cooperate in good faith to minimize taxes to the extent legally permitted. Each Party will provide to the other Party any resale exemption, multiple points of use certificates, treaty certification and other exemption information reasonably requested by the other Party.
- 3.6 All amounts payable under this Agreement will be made without set-off or counterclaim, and without any deduction or withholding, unless such counterclaims have been established by a final and conclusive court judgement, have been asserted before a court and are ready for decision or are undisputed.
- 3.7 Travel and accommodation expenses incurred by Provider shall be reimbursed by Customer as set out in the Provider's then-current price list, unless otherwise agreed in the Purchase Order. In case neither the Purchase Order nor the price list do contain any provisions regarding Provider's travel and accommodation expenses, such expenses shall be reimbursed by Customer up to a reasonable amount or as pre-approved by Customer. Travel times will be reimbursed on an hourly basis. Provider will undertake travelling only after prior clearance with the Customer.
- 3.8 The Parties agree that remuneration and reimbursements may be invoiced by Provider on a monthly basis, unless otherwise agreed in the Purchase Order. Payment shall in any case become due and payable within 30 days following the receipt of an invoice. Invoices shall be sent to the address specified in the Purchase Order.
- 3.9 Provider may reasonably adjust the remuneration and rates without Customers approval by giving three months notice. An adjustment shall be deemed to be reasonable if the increase does not exceed 5% in each case. In addition, Provider may reasonably adjust the remuneration and rates based on increased costs (e.g., marketing, support, hosting, development and sales costs, costs of third-party products and services, including license fees, general costs, including rent, accounting, personnel, IT-systems, energy, supplier costs as well as government-imposed fees, contributions, taxes and levies). Such an adjustment shall be deemed to be reasonable if the increase does not exceed 10% in each case. Prices may be adjusted at the earliest 12 months after the Effective Date and thereafter at the earliest 12 months after the previous adjustment. If the Customer does not agree with an price adjustment, the Customer can terminate the Agreement within one month of receipt of the notification of change with a notice period of three months. If the Customer has terminated the Agreement in accordance with this provision, the original fee shall remain in effect until the termination becomes effective.
- 3.10 If the Customer fails to pay fees or any other amounts payable within thirty (30) calendar days after its due date, Provider shall be entitled, in addition to any other remedies available to Provider, to suspend the performance of this Agreement and any other agreements with the Customer until the Customer has paid all outstanding amounts in full.
- #### 4. Change Procedure
- 4.1 Customer may propose a change to the services or to the terms of the Agreement ("**Change Request**"). A Change Request must be submitted to Provider in accordance with Section 10.1 and contain sufficient information to enable Provider to reasonably evaluate the Change Request.
- 4.2 Provider will inform Customer if and under which conditions the change may be implemented (including information on resources, costs, and on possible further impacts on the services, etc.). Provider will provide this information in the form of a written offer for an amendment to the Purchase Order (hereinafter "**Change Offer**").
- 4.3 Provider may propose changes via a Change Offer without Customer first proposing a Change Request if Provider deems the proposed changes necessary for the continued performance of the Agreement. Provider may terminate the Agreement for good cause (*aus wichtigem Grund*) if Customer refuses to accept a Change Offer proposed by Provider and Provider cannot reasonably be expected to continue performance under the unmodified Agreement.
- 4.4 After receipt of a Change Offer, Customer will review the Change Offer without undue delay, in any case not later than 10 working days from receipt of the Change Offer and will inform Provider of its refusal or acceptance of the Change Offer. If Customer refuses to accept the Change Offer, the Agreement will remain unchanged, and Provider will continue to provide the Services as per the Agreement. The Change Offer shall be deemed accepted if Customer does not refuse to accept such Change Offer within 10 working days from receipt of the Change Offer. An accepted Change Offer shall apply from the date of acceptance.

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5. Data Processing on behalf of Customer

Insofar as Provider processes personal data for Customer, the Parties will enter into a Data Processing Agreement which shall be added as an Exhibit to the Purchase Order.

6. Confidentiality

6.1 Each Party shall keep confidential and shall not disclose to any person any information, whether in written or any other form, disclosed to it ("**Receiving Party**") by or on behalf of the other Party and/or companies affiliated with the other Party ("**Disclosing Party**") in the course of the discussions leading up to or the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including, but not limited to, personal data relating to Customer's employees and customers ("**Confidential Information**").

6.2 Confidential Information does not include information which:

6.2.1 is or becomes generally available to the public otherwise than as a direct or indirect result of disclosure by the Receiving Party or a person employed or engaged by the Receiving Party contrary to their respective obligations of confidentiality; or

6.2.2 is or was made available or becomes available to the Receiving Party otherwise than pursuant to this Agreement and free of any restrictions as to its use or disclosure; or

6.2.3 which the Receiving Party develops independently without use of any Confidential Information.

6.3 Each Party may disclose the other Party's Confidential Information to its affiliates, employees, contractors, licensors, and agents who have a need to know it for the purpose of fulfilling the respective Party's obligations under this Agreement and are legally bound to protect the Confidential Information on terms no less protective than the terms of this Agreement.

6.4 Confidential Information disclosed to either Party by or on behalf of the other Party may solely be used in connection with the performance of this Agreement and not otherwise for its own benefit or the benefit of any third party.

6.5 The receiving Party will not be considered to have breached its obligations under this Section 6 for disclosing Confidential Information of the disclosing Party to the extent required to satisfy any legal requirement of a competent governmental or regulatory authority, provided that promptly upon receiving any such request and to the extent that it may legally do so, the receiving Party

6.5.1 advises the disclosing Party prior to making such disclosure in order that the disclosing Party may object to such disclosure or take any other action that it considers appropriate to protect the Confidential Information, and

6.5.2 takes any reasonable actions necessary to minimize any disclosure to only that necessary to satisfy any legal requirement of a competent governmental or regulatory authority (including through redaction of sensitive commercial information, where legally permissible).

6.6 Upon the written request of the Disclosing Party, the Receiving Party shall return all hard copy documents which contain Confidential Information to the Disclosing Party, shall

destroy all electronic documents or files which contain Confidential Information and shall immediately cease all use of the Confidential Information.

6.7 Neither Party shall disclose the terms, including pricing information, of this Agreement or any association with the other Party without the prior written consent of the other Party. Provider may name the Customer in customer lists and as a reference customer. In particular, Provider may name the Customer and the signature of this Agreement for marketing and public relations purposes and use the Customer's name and logo for such purposes.

6.8 This Section 6 shall continue in force for a period of two (2) years from the actual termination date or expiry of this Agreement howsoever caused.

7. Warranty

Insofar as Customer should have claims for defects in quality (*Sachmängelansprüche*) against Provider based on statutory law, the nature of the Agreement and the respective service, the following applies:

7.1 Provider warrants that the services do not have any defects at the time of the transfer of risk that would negate or significantly impair their suitability for the contractually intended use in accordance with the description identified in the Purchase Order Technical data, specifications and performance figures stated in public statements are not a specification of the Services. Insofar as claims are subject to a statute of limitation, the limitation period shall be 12 months.

7.2 No warranty is made regarding the compatibility of any Service with Customer's systems or any third-party services. No warranty is made regarding suitability of a Services for any purpose. The terms "ensure", "ensuring" "warrant", "warranty" or "guarantee" as used within the Agreement shall describe a regular performance obligation only and shall not imply a liability independent from negligence or intent, in no case shall it be interpreted as a promised feature (*zugesicherte Eigenschaft*) within the meaning of Sec. 536 II BGB or a guarantee in the meaning of Sec. 443, 639 BGB.

7.3 The statutory provisions shall apply to Customer's rights in the event of defects of any Service, unless explicitly agreed otherwise.

7.4 Warranty rights of Customer due to a defect are excluded if Customer

7.4.1 at the time of entering into the Agreement was either aware of the defect or was grossly negligent in not recognising the defect unless Provider fraudulently concealed the defect, or

7.4.2 causes the defect through its own behaviour, in particular by modifying services or deliverables (including without limitation faulty configuration by the Customer) or by using services or deliverables in a manner which is not compatible with the instructions or documentation of the Services.

7.5 Customer shall without delay notify Provider of any defect by providing a detailed report describing the defect and the circumstances of its occurrence. If such a report is not made immediately, Provider shall not be liable for damage resulting

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from the omitted or delayed report, unless Provider has fraudulently concealed the defect. § 377 HGB remains unaffected. Customer must give Provider the necessary time and opportunity to examine complaints made in such reports and rectify defects.

7.6 If, contrary to Customer's report in accordance with Section 7.5, there is actually no defect for which Provider is responsible, Customer shall bear the costs incurred by Provider in verifying the reported defect if Customer knew or, as a result of negligence, did not know that there was actually no defect for which Provider was responsible.

7.7 Provider will remedy a defect by methods and means of its own choice. Remedies also include any reasonable workarounds made available to Customer. Only if the defect has not been remedied within a period of three months, the Customer may, in accordance with the applicable statutory provisions, demand a reduction in payment (*Minderung*) or rescind the respective Agreement (*Rücktritt*) at its discretion. However, a rescission is only possible with regard to the affected partial performance and only if it is a serious defect that precludes economic use or significantly impedes it. With continuing obligations (for example provision of maintenance or SaaS services), rescission shall be excluded. Instead, the Customer may terminate the Agreement for breach. At Provider's request, the Customer shall be obliged to declare within a reasonable period of time whether it will rescind or terminate the Agreement after failed or refused subsequent performance or insist on the continued contractual performance. The right to self-correct defects (*Selbstvornahme*) shall be excluded. The Customer's damage claims within the scope of Section 8 shall remain unaffected.

7.8 When Customer requests support or reports defect, Customer will include all relevant information available in such request or report. Upon request by Provider, Customer will provide additional information regarding such request or report without undue delay.

7.9 Further warranty claims of the Customer shall be excluded.

8. Liability

8.1 Each Party shall be liable for the full extent of damage in the event of an intentional (*vorsätzlich*) or grossly negligent (*grob fahrlässig*) breach of a Party's obligations by the Party itself or its vicarious agents. In addition, each Party shall be fully liable in the case of a guarantee (*Garantie*), a warranted property (*zugesicherte Eigenschaft*), in the case of culpable injury to life, body and health and under the German Product Liability Act (*Produkthaftungsgesetz*).

8.2 In the case of culpable violation of essential contractual obligations, meaning principal obligations enabling the proper execution of the Agreement and upon which the other Party therefore relies and may rely, Provider's liability shall be limited to the amount of damage that is typical for the Agreement and that could be reasonably foreseen at the time the Parties entered into the Agreement.

8.3 The Parties agree that the total amount of all damages, reasonably foreseeable at the time the Parties enter into the Agreement, that typically might occur in connection with the Agreement during one calendar year does not exceed the remuneration paid for the services provided under the Agreement in the respective calendar year.

8.4 Any other claims for damages against Provider shall be excluded. In no event shall Provider be liable to the Customer for any special, indirect, incidental, exemplary or consequential damages of any kind or nature whatsoever (including for loss of data, loss of revenue or profits or for business interruption) suffered by the Customer or other third party howsoever caused and regardless of the form of action or theory of liability (including for breach of contract, tort, negligence, by statute or otherwise), even if such damages are foreseeable or Provider has been advised of the possibility of such damages.

8.5 The Parties undertake in the event of damage occurring or having already occurred to make all necessary efforts or to arrange for such efforts to be made without delay in order to limit the damage and its effects to a minimum.

9. Third Party Claims

Insofar as Customer should have claims for defects in title (*Rechtsmängelansprüche*) against Provider based on statutory law, the nature of the Agreement and the respective service, the following applies:

9.1 Provider warrants that, to its knowledge, the services and deliverables are free from third-party intellectual property rights that would preclude or restrict their contractual use by the Customer. Insofar as claims for defects in title are subject to a statute of limitation, the limitation period shall be 12 months.

9.2 If a third-party asserts claims against Customer claiming that the Services infringe on copyrights or intellectual property rights of the third party, Customer is obligated to inform Provider immediately and comprehensively in writing.

9.3 If, during the warranty period (if applicable), claims are made for infringement of intellectual property rights and the contractual use of the services or deliverables is affected or prohibited, Provider shall be obliged, at its discretion, either to modify or replace the services or deliverables in such a way that they no longer fall under the intellectual property rights, but nevertheless comply with the contractual provisions, or to obtain the right to use them without restriction and at no additional cost in accordance with the Agreement. Provider may, at its own discretion, decide to defend Customer against the asserted rights of third parties. If Provider decides to take this course of action, Customer shall grant Provider the exclusive authority to defend or settle the asserted claim and provide Provider with comprehensive information and reasonable support. Provider will indemnify Customer against any third-party claim for damages and costs finally imposed by the competent court of law against Customer based on the Services' infringement of the copyrights or the intellectual property rights of such third party for which Provider is responsible.

9.4 The limitation of liability stated in Section 10 shall apply to the indemnification according to Section 9.3.

10. Notices and Communication

10.1 All notices and other communications in connection with this Agreement shall be made in text form within the meaning of section 126b German Civil Code (BGB) and shall be transmitted by e-mail, telefax, personally, by letter, by registered mail or by courier to the recipients designated in the Purchase Order or to such other recipients or addresses

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that have been notified from time to time by the relevant Party to the other Party. However, unless a notice or communication pertains to the termination of the Agreement, email shall suffice.

11. Force Majeur

11.1 Other than Customer's obligation to pay the remuneration owed under the Agreement, neither Party shall be deemed in breach of the Agreement for any cessation, interruption, or delay in the performance of its obligations due to causes beyond its reasonable control, including but not limited to, acts of God, natural disasters, public health emergencies, acts or orders of government, labour disputes, armed conflicts, war or terrorism ("**Force Majeure Event**").

11.2 The affected Party shall promptly notify the other Party of the occurrence and expected duration of the Force Majeure Event and its effects on the affected Party's ability to fulfil its obligations.

12. Miscellaneous

12.1 This Agreement comprises the entire agreement between the Parties concerning its subject matter. It shall supersede all prior or contemporaneous representations, understandings, agreements, and conventions, oral and written declarations of intent and other arrangements or side agreements (whether binding or non-binding) made by the Parties in respect of the subject matter of the Agreement. General terms and conditions of Customer shall not apply.

12.2 Provider shall retain full and sole authority to hire and dismiss its employees at its discretion and to give directions to its employees who are engaged in the provision of Services for Customer.

12.3 Nothing in this Agreement shall be deemed to create a joint venture, partnership, or agency relationship between the Parties or be deemed to authorize either Party to incur any liabilities or obligations on behalf of, or in the name of, the other Party.

12.4 Except as otherwise expressly provided to the contrary in the Agreement, amendments and additions to this Agreement shall be valid only if made in writing; the electronic form (§ 126a BGB) and the text form (§ 126b BGB) are excluded. This also applies to any amendment to this written form clause. Contrary to § 127 (2) BGB transmission by telecommunication or an exchange of letters shall not satisfy the written form requirement.

12.5 The headings in this Agreement are inserted for convenience only and shall not affect the interpretation of this Agreement.

12.6 If individual provisions of this Agreement should be or become invalid or should there be an unintended gap, the rest of the Agreement shall continue to be valid. In this event, the Parties now undertake to agree on a valid provision that most closely reflects the Parties' economic intention to replace the invalid provision or lack of provision.

12.7 Neither Party shall be permitted to assign rights (including, but not limited to claims arising from this Agreement) to any third party without the prior consent of the other Party. Customer undertakes not to unreasonably withhold consent if Provider intends to transfer the rights and duties under this

Agreement to companies affiliated with Provider in terms of Section 15 Stock Corporation Act (AktG).

12.8 This Agreement shall be governed solely by the laws of the Federal Republic of Germany, excluding the applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG). The exclusive place of jurisdiction for all disputes arising from or in connection with this Agreement shall be at the place of establishment of Provider.

12.9 If this Agreement contains German terms as a translation for English terms, the German term shall be binding for the interpretation of this Agreement. Notwithstanding the Parties' use of the English language for the formulation of this Agreement, the language and legal interpretation of this Agreement shall be based on the principles and the understanding predicated under German law.

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Part 2: SaaS Terms and Conditions

13. SaaS provision

- 13.1 In addition to Part 1 of these GTC, the following terms and conditions apply to the SaaS provision of Licensed Products.
- 13.2 Subject of this Agreement is the SaaS provision of the Licensed Products by the Provider for the Customer's own internal business purposes for the term of this Agreement.
- 13.3 Provider shall be responsible for the technical operation of the SaaS System, including the operation, maintenance and servicing of the necessary hosting and server infrastructure. Provider may modify all aspects of the SaaS System (e.g. hardware, technical infrastructure, third-party software such as operating system or database server, configuration and setup below the application level) at any time, as long as this does not result in a restriction of the agreed functionality or performance.
- 13.4 Provider's responsibility for hardware and technical infrastructure ends at the connection point of Provider's data center to the public Internet. In particular, and without limitation, the Customer is obliged to operate and maintain clients capable of accessing the SaaS System in accordance with the Provider's specifications.

14. License

- 14.1 Provider grants to Customer a non-perpetual, non-exclusive, non-sublicensable and non-transferable license to use the Licensed Products via SaaS for the term of this Agreement for Customer's own internal business purposes, subject to the further conditions, limitations and requirements specified herein.
- 14.2 In particular the licenses granted herein are subject to the conditions and limitations set out in the Purchase Order for each Licensed Product ("License Metrics"). The Purchase Order may in particular, and without limitation, include the following License Metrics:
- A maximum number of users as specified in the Purchase Order ("per user" license). Users are "named users", i.e. individual persons defined by access names or a unique user ID. Joint usage of an access name or user ID through various persons is not permitted.
 - A maximum number of data records as specified in the Purchase Order.
 - A maximum number of API requests as specified in the Purchase Order.
- 14.3 The Customer may use the product documentation solely and exclusively for its internal business purposes in connection with the operation and use of the Licensed Products as permitted hereunder.
- 14.4 The Customer acknowledges and agrees that all right, title and interest whatsoever, in and to the SaaS System, the Licensed Products and the corresponding documentation, including all intellectual property rights therein are, and shall be, owned solely and exclusively by Provider and/or its licensors. For the avoidance of doubt, all improvements, innovations, customizations or enhancements to or derivatives of the SaaS System, the Licensed Products and the documentation, whether invented, conceived, produced,

created or otherwise developed by Provider or the Customer (or their employees, contractors or agents), whether jointly or severally, shall be owned solely and exclusively by Provider. Nothing in this Agreement shall, or shall be deemed or construed to, assign, transfer or convey to the Customer any title, rights or interest in any intellectual property, including in or to the SaaS System, the Licensed Products and the documentation, other than the licenses or other rights specifically and expressly granted herein.

- 14.5 Customer shall ensure that its use of the SaaS System will not
- 14.5.1 unreasonably impair, degrade, or reduce the performance or security of the SaaS System and any related third-party software, services, or related technology, or
 - 14.5.2 enable the bypassing or circumventing of any license restrictions and/or provide any third party with access to the SaaS to which such third party is not licensed or otherwise entitled.
- Provider reserves the right to terminate user activities that lead to an extraordinary load, resource consumption or performance degradation of the SaaS System or that enable activities described in Section 14.5.2. Section 18.2 applies.
- 14.6 Customer is responsible for all use of the SaaS System by those who have access to them through Customer's credentials, and for ensuring that its users do not circumvent or disclose any usernames, passwords or other access credentials or authentication details, or interfere with or disrupt any other security control of the SaaS.
- 14.7 Customer agrees that it shall not license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit the SaaS by making the SaaS available for access or use by any third party, including by means of operating a service bureau, outsourcing or time-sharing service. Customer shall be entitled to let third parties, in particular outsourcing service providers of Customer, use the SaaS exclusively for Customer's own business purposes.
- 14.8 If Customer wishes to perform any form of security vulnerability assessments or penetration testing on the SaaS, this will be subject to the written permission of Provider at Provider's sole discretion.
- 14.9 Provider may implement technical measures to ensure that the SaaS System and the Licensed Products are used in accordance with the Agreement. Customer agrees to monitor its use of the SaaS and to report any actual use in excess of the agreed License Metrics to Provider. Provider is entitled to audit electronically Customer's use of the SaaS System at any time and without unreasonably disrupting Customer's business operations. If such an audit shows that Customer exceeds the permitted use, Provider is entitled to adjust the remuneration to be paid for the respective SaaS retroactively for the entire period of time since the last audit, or, in case there has been no previous audit, for the entire respective calendar year in such a way that it is increased by the percentage by which the actual use exceeds the permitted use. Additionally, Customer shall bear the full costs of the audit in this case.
- 14.10 If Provider is notified by a third party or an owner of intellectual property rights that Customer entered or uploaded data into a SaaS claiming that such data infringe its rights or if Provider otherwise becomes aware of such claim,

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Provider may investigate the allegation and determine in good faith and in its reasonable discretion whether such data should be removed from the SaaS. The data may be removed only (a) when required by law, or (b) if Provider reasonably determines it is necessary to protect the interests of the third party against continued infringement (and Provider against liability) that cannot be prevented by temporarily suspending access to the SaaS with as much reasonable prior notice as the circumstances permit. In no event, shall such removal of data give rise to any liability of Provider or its licensors (if any) to Customer for a refund or damages, or impose any obligation on Provider for continuing to provide the SaaS for use with such data.

14.11 On-premise maintenance tools. Provider may license to Customer additional maintenance tools (e.g. a database maintenance tool) as on-premise software, accompanying the SaaS offering. The license terms are applicable accordingly to these on-premise maintenance tools. On-premise software may be installed on one client device per licensed user and may require registration and activation via an online activation server. The SLA (including availabilities) does not apply to on-premise software. Upon termination or expiration of this Agreement, the Customer shall delete all copies and installations of the on-premise software.

15. New versions

15.1 Provider shall regularly make new versions of the Licensed Products available in the SaaS System at its own discretion (e.g. patches, updates, upgrades, service packs). However, the Customer shall have no right to demand the use of new versions. The functionalities of the Licensed Products may therefore change during the term of the Agreement, provided that the modifications do not result in any significant functional deterioration compared to the version available at the time of the conclusion of the Agreement.

15.2 Provider shall provide new versions of the Licensed Products to adapt them to comply with any changes demanded by German legislature, to the extent changes in legislature affect existing functionality of the Licensed Products and only if the changes do not result in unreasonable costs for the Provider. In addition, Provider shall provide new versions of the License Products if required to maintain compatibility of the web-based parts of the Licensed Products with current versions of common Internet browsers. Common Internet browsers are all Internet browsers with a market share of at least 10%.

15.3 New versions may, due to technical progress, have modified requirements regarding the technical specifications of client workstations or client software. Provider shall notify the client in good time about changed requirements. In this case, the Customer shall be obliged to adjust its clients accordingly.

16. Service Levels, Availability, Hotline Services, Fault Correction

16.1 Details regarding service levels, availability, hotline services and fault correction are set out in the Service Level Agreement (Part 5 of the GTC), based on the SLA package agreed in the Purchase Order.

16.2 Warranty. In addition to Section 7 and Section 9 GTC the following shall apply: Provider shall correct defects in quality and defects in title in accordance with the Service Level Agreement. If Provider has not rectified the defect even after a reasonable grace period set by the Customer in writing, and

if the suitability of the SaaS system is significantly reduced as a result, the Customer shall be entitled to terminate the Agreement in writing. The right to claim further damages shall remain unaffected. There shall be no further warranty claims.

Provider's strict liability for initial defects according to Section 536a, Subsection 1, Alternative 1 BGB shall be excluded. Section 536a Subsection 2 BGB (right to self-correct defects and reimbursement of expenses) shall be excluded.

17. Customer Responsibilities

17.1 Customer shall be obligated to

17.1.1 fulfil the specific obligations designated as prerequisites in the Purchase Order or its Exhibits,

17.1.2 fulfil the obligations imposed on him in this Agreement, and

17.1.3 reasonably support Provider as required for the performance of the Services by Provider or the receipt and/or use of the Services by Customer, or as reasonably requested by Provider, e.g. by providing necessary information to Provider required for the performance of Services.

17.2 Customer shall maintain commercially reasonable security standards for its use of the Services. Specifically, Customer will use good industry practice (*Stand der Technik*) procedures to avoid introducing any malware. Customer also agrees that it shall use all reasonable endeavours to ensure that its users do not upload or distribute files that contain malware or do anything else or cause anyone else, either by acts or omissions, to disrupt or attempt to disrupt, the systems and networks used for the provision of the SaaS. If Customer learns or suspects that it or its users have introduced a malware or other threats, Customer will notify Provider without delay. In the event a malware or threat is introduced into the systems used to deliver the SaaS due to Customer's failure to use such endeavours, Customer will at its cost assist Provider in mitigating the effects of such malware or threat. Further rights and remedies of Provider remain unaffected.

17.3 Customer shall not

17.3.1 access or use the SaaS to host or transmit any content, data or information that is illegal, or which infringes any third party's rights,

17.3.2 copy, translate, make derivative works, disassemble, decompile, reverse engineer or otherwise attempt to discover the source code or underlying ideas or algorithms embodied in the software applications or other systems used for the provision of the SaaS, unless expressly permitted under any applicable laws such as the right of Sec. 69e German Act on Copyright and Related Rights (UrhG), or remove any titles or trademarks, copyrights or restricted rights notices in the systems, software and other materials used in the provision of SaaS,

17.3.3 access or use the SaaS for the purpose of building competitive products or services by copying or re-creating its features or user interface,

17.3.4 allow a direct competitor of Provider to access or use the SaaS, or

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17.3.5 interfere with or disrupt any software or system used to host the SaaS, or other equipment or networks connected to the SaaS.

17.4 Customer shall be responsible for the acts and omissions of its users as if they were the acts and omissions of Customer, and for ensuring that anyone who uses the SaaS does so in accordance with the terms and conditions of this Agreement.

17.5 Unless as explicitly agreed as part of a Service, Customer alone shall be responsible for backups of Customer's data entered into or uploaded to any Service.

17.6 Customer's obligations as described herein will herein be referred to as "**Customer Responsibilities**".

17.7 Provider shall not be responsible for defects or delays in performance of the services due to Customer's failure to fulfil a Customer Responsibility if and to the extent Provider's ability to provide the services is adversely impacted by Customer's delay or failure to fulfil the Customer Responsibility. The aforementioned delays may include a reasonable ramp-up time to resume performance of services after Customer remedied its failure to fulfil its Customer Responsibilities.

18. Suspension of Services

18.1 Provider may suspend access to or use of SaaS System or remove any relevant data from the SaaS System, if

18.1.1 such access or use, or any data

18.1.1.1 poses a security risk to or may otherwise unduly and adversely impact the SaaS System, or

18.1.1.2 infringes or otherwise violates the rights or other interests of a third party, entails illegal or otherwise prohibited content or activities, or otherwise subjects Provider to a potential liability;

18.1.2 Provider is required to do so under any mandatory applicable laws, or any court's or governmental body's order.

18.2 Unless prohibited under the applicable laws and if reasonable under the circumstances (as determined by Provider in its own discretion), Provider shall provide Customer with a written notice prior to such suspension or removal, and an opportunity to take steps to avoid any such suspension or removal. Any suspension of Customer's right to access or use the SaaS System or removal of data shall not release Customer from any of its obligations under this Agreement if and to the extent Customer is responsible for the incident resulting in the suspension or removal. For the avoidance of doubt, Provider's suspension and removal rights are in addition to Provider's right to terminate this Agreement pursuant to Section 20 and any other rights and remedies Provider may have under this Agreement or any applicable laws.

19. Remuneration

19.1 In consideration of the provision of the SaaS System the SaaS Fee shall be paid by the Customer in accordance with the Purchase Order.

20. Term and Termination

20.1 The Agreement shall enter into force as of the Effective Date and shall be valid for the Initial Term and will subsequently be renewed for Renewal Terms (each as designated in the Purchase Order) until termination by either Party. Unless otherwise agreed in the Purchase Order, the Initial Term and the Renewal Terms shall be one year and the Effective Date shall be the date of the Provider's Purchase Order Confirmation.

20.2 The Agreement can be terminated for convenience by either Party with 3 months' prior notice to the end of the Initial Term or to the end of each Renewal Term.

20.3 The right of the Parties to terminate this Agreement for good cause (*aus wichtigem Grund*) remains unaffected. In particular, a good cause for each Party shall be deemed to exist, if

20.3.1 the other party is in severe breach of a material obligation under this Agreement and such breach is not remedied within 30 (thirty) days after the issue of a notice (no such notice shall be required if the breach is not capable of being cured),

20.3.2 insolvency proceedings or similar proceedings under foreign law have been instituted with respect to the assets the other Party or a corresponding application has been refused for lack of assets or if the other Party is in liquidation, or

20.3.3 claims against the other Party are subject to an attachment or seizure order issued by a competent court or authority and the corresponding order is not lifted within two weeks.

20.4 Any termination of this Agreement shall be in text form within the meaning of section 126b BGB and shall be transmitted by e-mail, telefax, personally, by letter, by registered mail or by courier to the recipients designated in the Purchase Order.

20.5 Upon effect of any termination, Customer is no longer entitled to use or access the SaaS System. Where so agreed in the Agreement, Provider shall provide such information, cooperation, and assistance to Customer, as Customer may reasonably request, to assure an orderly return or transfer to Customer or Customer's designee of all data and materials of Customer ("**Remigration Services**"). Otherwise, Provider may destroy (or procure the destruction of) or otherwise dispose of any data and materials in its possession (including, if any, backups) upon effect of the termination.

20.6 Customer shall remunerate Provider for the Remigration Services on a time and material basis based on the Provider's then-current price list or as otherwise agreed by the Parties. If the Agreement has been terminated due to Customer's breach of the terms of the Agreement, Provider may invoice the Customer in advance the expected costs and expenses for such Remigration Services and Customer will pay in advance.

21. Domain registration services

21.1 If agreed in the Purchase Order, the Provider shall register and/or manage an Internet domain name on behalf of the Customer and make the SaaS System available under such domain name.

21.2 Registration

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- 21.2.1 Domains are assigned and administered by various registries on the basis of their own registration conditions. For example, the registry for .de domains is DENIC e.G. (www.denic.de). If a domain is registered for the Customer, a contract is concluded between the Customer and the respective registry on the basis of the registry's registration conditions. The Customer becomes the owner of the domain. The Provider does not become a contractual partner of the registry, but acts as a representative (§ 164 BGB) on behalf of the Customer to register and manage the domain.
- 21.2.2 The Customer commissions the Provider to submit all necessary declarations to the relevant registry (or intermediate registrar/provider) in order to have the domain registered for the Customer. The Customer shall be named as the party entitled to use the domain and a natural person appointed by the Customer as an administrative contact ("Admin-C"). The Provider shall be named as the technical contact ("Tech-C").
- 21.2.3 The Provider shall check whether the domain is available or has already been assigned to a third party. Provider will only provide non-binding information concerning the availability of a domain. It is possible that between the provision of availability information and registration, the domain may already be registered by a third party without Provider being able to influence this or becoming aware of it. If a domain cannot be registered, regardless of the reason, Provider will notify Customer and the Parties will mutually decide on a course of action.
- 21.2.4 The Parties may, as an alternative to registering a new domain, agree that Provider takes over the management of an existing domain of the Customer. This requires cooperation of the Customer's current provider managing the domain (in particular a release declaration). For the avoidance of doubt, a remuneration for the takeover shall also become payable if the release fails due to a lack of cooperation of the Customer and/or the Customer's current provider.
- 21.3 Management
- 21.3.1 After registering the domain, the Provider shall take all reasonable measures vis-à-vis the relevant registries and any intermediate registrars/providers to maintain registration of the domain.
- 21.3.2 For the term of this Agreement, the Provider shall be the point of contact for the registry with regard to the domain, insofar as these have been registered to the Customer. In this respect, the Provider shall act as the Customer's representative (§ 164 BGB) vis-à-vis the registry.
- 21.3.3 The Customer may at any time request the release of the domain management to himself or another provider. Provider shall grant such a release without additional charge, provided that Customer has paid all outstanding fees in full.
- 21.4 Customer obligations
- 21.4.1 The Customer is responsible for the selection of the domain name. The Customer is obliged to verify before registration and after registration on an ongoing basis whether the registration and/or the intended use of the domain infringes the rights of third parties or applicable laws. The Provider is not obliged to check whether registering the domain infringes the rights of third parties or applicable laws.
- 21.4.2 The Customer shall cooperate to a reasonable extent with all measures necessary for registration, maintenance of registration and the disposal of the domain, in particular its transfer or the amendment of entries in the databases of the registries. In particular, and without limitation, the Customer shall provide all necessary information and declarations and ensure cooperation of its existing providers, if applicable.
- 21.4.3 The Customer shall indemnify Provider on first demand against all costs, expenses and damages incurred by Provider due to the assertion of third-party claims arising from or in connection with the registration or use of a domain. The Customer will cooperate to a reasonable extent in the defense of Provider against such claims and support Provider's defense.

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Part 3: On-Premise License Subscription Terms and Conditions

22. Subject

- 22.1 In addition to Part 1 of these GTC, the following terms and conditions apply to the subscription (license and maintenance) of on-premise software licenses by the Customer. For the avoidance of doubt, maintenance of perpetual licenses acquired by the Customer is subject of Part 4 of the GTC.
- 22.2 Subject to the terms and conditions of this Agreement and upon full payment of the License Fees, Provider grants to the Customer a non-exclusive, non-perpetual license pursuant to Sec. 24 to use the software (the "Licensed Products") and the corresponding documentation as set out in the Purchase Order (and for additional orders at a later time as set out in the corresponding Purchase Orders).
- 22.3 Unless otherwise agreed, all future versions of the Licensed Products provided to the Customer by Provider (e.g. under maintenance or a change request, as bug fixes, patches, updates, upgrades, amendments or modifications) are subject to the terms and conditions stated herein. The rights of use granted therein shall not exceed the rights granted in the original software and shall apply only in conjunction with the original software.
- 22.4 Provider provides documentation for the Licensed Products in electronic form. The functionality of the Licensed Products is set out in the documentation.

23. Delivery and installation

- 23.1 Provider delivers the software and documentation by providing download access. If Provider provides installation services to the Customer, delivery takes place by installation of the software in the system environment.
- 23.2 Installation and setup of the Licensed Products will only be provided by the Provider if explicitly agreed in the Purchase Order.
- 23.3 For the operation of the Licensed Products the Customer needs to procure and provide an appropriate client and server system and infrastructure environment, as documented by Provider in the system requirement documentation. Operation of the Licensed Products may require additional third party software, including system software, not provided by the Provider under this Agreement. The Customer shall obtain such software, infrastructure and equipment at its own cost, its own responsibility and its own risk.

24. Ownership and license

- 24.1 The Customer acknowledges and agrees that all right, title and interest whatsoever, in and to the Licensed Products and the corresponding documentation, including all intellectual property rights therein are, and shall be, owned solely and exclusively by Provider and/or its licensors. For the avoidance of doubt, all improvements, innovations, customizations or enhancements to or derivatives of the Licensed Products and the documentation, whether invented, conceived, produced, created or otherwise developed by Provider or the Customer (or their employees, contractors or agents), whether jointly

or severally, shall be owned solely and exclusively by Provider. Nothing in this Agreement shall, or shall be deemed or construed to, assign, transfer or convey to the Customer any title, rights or interest in any intellectual property, including in or to the Licensed Products and the documentation, other than the licenses or other rights specifically and expressly granted herein.

- 24.2 Provider grants to the Customer upon full payment of the License Fee for the term of the Agreement a non-perpetual, non-exclusive, non-transferable and non-sublicensable license, which entitles the Customer to install, operate and use the License Products in object code format solely and exclusively for its internal business purposes, subject to the further conditions, limitations and requirements specified herein.

Unless otherwise agreed in the Purchase Order, Spaix Web and Spaix Desktop components may be installed as follows:

- Spaix Web (server software) may be installed in one production environment and one test environment (per component license)
- Spaix Desktop (client / desktop software) may be installed on one client device per licensed user.

In addition the licenses granted herein are subject to the conditions and limitations set out in the Purchase Order for each Licensed Product ("License Metrics"). The Purchase Order may in particular, and without limitation, include the following License Metrics:

- A maximum number of users as specified in the Purchase Order ("per user" license). Users are "named users", i.e. individual persons defined by access names or an unique user ID. Each user may install and use the Licensed Products on one specific client device. Users and client devices must be registered with an online activation server. Joint usage of a user license, an access name or user ID through various persons is not permitted. Users and client devices can be re-assigned via the activation server.
- A maximum number of data records as specified in the Purchase Order.
- A maximum number of API requests as specified in the Purchase Order.

- 24.3 The Customer may use the product documentation solely and exclusively for its internal business purposes in connection with the installation, operation and use of the Licensed Products as permitted hereunder

- 24.4 The Customer may provide copies of an "advertising version" of the Spaix Desktop client software to its end customers solely in connection with the Customer's pump data and for the purpose of promoting the Customer's products, to the extent the Customer has licensed such advertising versions. The Customer's end customers may use such copies solely in connection with the pump data provided by the Customer.

Otherwise the Licensed Products shall not be used by or for the benefit of third parties (e.g. by the Customer acting as a service provider for third parties, or by means of leasing or renting) or sublicensed to third parties. Third parties include the Customer's affiliates, unless agreed otherwise in the

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- Purchase Order. Staff of the Customer's external outsourcing partners may also be registered as users if they use the Licensed Products for the Customer's business purposes as part of a business process outsourcing.
- 24.5 Nothing in this Clause shall prevent the Customer from copying the Licensed Products for backup purposes.
- 24.6 Provider may implement technical measures to ensure that the Licensed Products are used in accordance with the Agreement. In particular, desktop client software may require activation and registration of the respective named user and client device via an online activation server.
- 24.7 Provider is permitted to audit electronically via remote access at any time and without unreasonably disrupting the Customer's business operations Customer's degree of utilization of the Licensed Products, i.e. compliance with the agreed License Metrics. If the degree of utilization exceeds the permitted degree of utilization, the Customer shall be required to pay such additional license and maintenance fees as related to any incremental degree of utilization, effective from the date on which the Customer increased such degree of utilization. The Customer shall grant Provider remote access for audit purposes upon request.
- 24.8 The Customer shall
- not (except as otherwise expressly provided herein) provide, disclose, sublicense or otherwise permit any person to access, use, read, disseminate, transmit, "download", reproduce, manipulate or otherwise commercially exploit the Licensed Products without the prior and express consent of Provider;
 - not (except as otherwise expressly provided herein) translate, change, enhance, augment, partially delete or alter, or otherwise modify the Licensed Products in any manner or to any extent whatsoever, whether in whole or in part;
 - not knowingly perform any act, nor knowingly permit any act to be performed by any person, that does, or may reasonably be expected to, harm, or in any way negatively affect or diminish Provider's rights in or to, or the commercial value of, the Licensed Products including all legal, commercial, statutory, equitable, intellectual property or other proprietary rights or confidentiality rights in or to all or any part of the Licensed Products;
 - not disassemble, decompile, reverse engineer, or otherwise in any manner deconstruct all or any part of the Licensed Products, except as permitted by statutory law;
 - with respect to any copies of Licensed Products made as permitted herein, cause to be reproduced, marked on or included in all such copies of Licensed Products such copyright, trademark and other proprietary and confidentiality notices as were marked on or included with such original copies of same;
 - access or use the Licensed Products for the purpose of building competitive products or services by copying or re-creating its features or user interface;
 - allow a direct competitor of Provider to access or use the Licensed Products.
- 25. Provision of new versions**
- 25.1 Provider provides the Customer with new patches / bug fixes, updates and upgrades (collectively called "Versions") of the Licensed Products.
- 25.2 Updates. Provider continues to develop the Licensed Products (1) as part of a continuous improvement in functionality, at Provider's sole discretion, (2) to adapt the Licensed Products to new versions of Microsoft Windows (3) to adapt them to comply with any changes demanded by German legislature, to the extent changes in legislature affect existing functionality of the Licensed Products and only if the changes do not result in unreasonable costs for the Provider and (4) if required to maintain compatibility of the web-based parts of the Licensed Products with current versions of common Internet browsers. Common Internet browsers are all Internet browsers with a market share of at least 10%.
- 25.3 New Versions of the Licensed Products may result in additional demands on the Customer's client and server environment and infrastructure. In particular, and without limitation, new Versions might require that the Customer has installed all bugfixes, service packs and other patches regarding the current version of his Windows operating system. All costs concerning the client and server environment and infrastructure have to be paid by the Customer.
- 26. Discontinuation**
- 26.1 Provider can give notice discontinuing maintenance for Versions of the Licensed Products older than the previous update of the current major version released by Provider. For example, if the following Update releases are available: 6.24.3, 6.24.2 and 6.24.1, the Provider can discontinue Version 6.24.1 and all older Versions. The same applies for any older major versions 12 months after the release of a new major version. For example, 12 months after the release of version 7, the maintenance for version 6.24.3 will be discontinued.
- 26.2 All maintenance obligations apply only in respect of Versions that have not been discontinued. If Provider provides services in respect of discontinued Versions upon the Customer's request, the Customer shall reimburse all of Provider's services in respect of discontinued version (e.g. correction of faults) in addition to the Maintenance Fee on a time and material basis.
- 27. Service Levels, Hotline Services, Fault Correction, Warranty**
- 27.1 Details regarding service levels, hotline services and fault correction are set out in the Service Level Agreement (Part 5 of the GTC), based on the SLA package agreed in the Purchase Order.
- 27.2 Warranty. In addition to Section 7 and Section 9 GTC the following shall apply: Provider shall correct defects in quality and defects in title in accordance with the Service Level Agreement. If Provider has not rectified the defect even after a reasonable grace period set by the Customer in writing, and if the suitability of the Licensed Products is significantly reduced as a result, the Customer shall be entitled to terminate the Agreement in writing. The right to claim further damages shall remain unaffected. There shall be no further warranty claims.

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Provider's strict liability for initial defects according to Section 536a, Subsection 1, Alternative 1 BGB shall be excluded. Section 536a Subsection 2 BGB (right to self-correct defects and reimbursement of expenses) shall be excluded.

- that become necessary due to a default or non-observance by the Customer of its obligations, including non-compliance with the documentation,
- that becomes necessary due to force majeure or other circumstances for which the Provider is not responsible.

28. Term and termination

28.1 The Agreement shall enter into force as of the Effective Date and shall be valid for the Initial Term and will subsequently be renewed for Renewal Terms (each as designated in the Purchase Order) until termination by either Party. Unless otherwise agreed in the Purchase Order, the Initial Term and the Renewal Terms shall be one year and the Effective Date shall be the date of the Provider's Purchase Order Confirmation.

28.2 The Agreement can be terminated for convenience by either Party with 3 months' prior notice to the end of the Initial Term or to the end of each Renewal Term.

28.3 The right of the Parties to terminate this Agreement for good cause (*aus wichtigem Grund*) remains unaffected. In particular, a good cause for each Party shall be deemed to exist, if

28.3.1 the other party is in severe breach of a material obligation under this Agreement and such breach is not remedied within 30 (thirty) days after the issue of a notice (no such notice shall be required if the breach is not capable of being cured),

28.3.2 insolvency proceedings or similar proceedings under foreign law have been instituted with respect to the assets the other Party or a corresponding application has been refused for lack of assets or if the other Party is in liquidation, or

28.3.3 claims against the other Party are subject to an attachment or seizure order issued by a competent court or authority and the corresponding order is not lifted within two weeks.

28.4 Upon effect of any termination or expiration of this Agreement, Customer is no longer entitled to use the Licensed Products. Customer shall delete, destroy or otherwise dispose of any copies and installations of the Licensed Products upon effect of the termination (including copies at the Customer's end customers pursuant to Sec. 23.4) and shall certify this to the Provider in writing upon request.

29. Fees and payment

29.1 In consideration of the provision of the maintenance services under this Agreement recurring fees (the "Subscription Fee") will be paid by the Customer. Unless specific payment terms are set out in the Purchase Order, the Subscription Fee is payable annually in advance.

29.2 Consultancy services and any other work or services carried out by Provider not included within the scope of this Agreement shall be charged in accordance with the Provider's then-current price list. This applies in particular, and without limitation, to work or services

- rendered outside of service hours (as agreed in the applicable SLA package),

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Part 4: Maintenance Terms and Conditions for perpetually licensed software

30. Subject

30.1 In addition to Part 1 of these GTC, the following terms and conditions apply to the maintenance of software licensed by the Customer, as set out in the respective Purchase Order(s). For the avoidance of doubt, this Part 4 only applies to the maintenance of perpetual licenses acquired by the Customer. Maintenance of subscription licenses is covered by Part 3.

31. Provision of new versions

31.1 Provider provides the Customer with new patches / bug fixes, updates and upgrades (collectively called "Versions") of the Licensed Products. Provider delivers the software and documentation by providing download access. It is the Customer's obligation to install and deploy new Versions, unless the parties have separately agreed otherwise, for example in a hosting agreement. If Provider provides installation and deployment services to the Customer, delivery of a new Version takes place by installation of the Version by the Provider.

31.2 Updates. Provider continues to develop the Licensed Products (1) as part of a continuous improvement in functionality, at Provider's sole discretion, (2) to adapt the Licensed Products to new versions of Microsoft Windows (3) to adapt them to comply with any changes demanded by German legislature, to the extent changes in legislature affect existing functionality of the Licensed Products and only if the changes do not result in unreasonable costs for the Provider and (4) if required to maintain compatibility of the web-based parts of the Licensed Products with current versions of common Internet browsers. Common Internet browsers are all Internet browsers with a market share of at least 10%.

31.3 New Versions of the Licensed Products may result in additional demands on the Customer's client and server environment and infrastructure. In particular, and without limitation, new Versions might require that the Customer has installed all bugfixes, service packs and other patches regarding the current version of his Windows operating system. All costs concerning the client and server environment and infrastructure have to be paid by the Customer. If Provider provides hosting services to the Customer, upgrades of the hosting environment are subject to the applicable hosting agreement.

31.4 All new Versions provided to the Customer are subject to the same license terms and conditions as the previous versions. The rights of use granted therein shall not exceed the rights granted in the original software and shall apply only in conjunction with the original software. In particular, new Versions are intended as a replacement of the previous versions and shall not result in additional use rights or an extension of the license scope.

32. Discontinuation

32.1 Provider can give notice discontinuing maintenance for Versions of the Licensed Products older than the previous update of the current major version released by Provider. For example, if the following Update releases are available: 6.24.3, 6.24.2 and 6.24.1, the Provider can discontinue Version 6.24.1 and all older Versions. The same applies for

any older major versions 12 months after the release of a new major version. For example, 12 months after the release of version 7, the maintenance for version 6.24.3 will be discontinued.

32.2 All maintenance obligations apply only in respect of Versions that have not been discontinued. If Provider provides services in respect of discontinued Versions upon the Customer's request, the Customer shall reimburse all of Provider's services in respect of discontinued version (e.g. correction of faults) in addition to the Maintenance Fee on a time and material basis.

33. Service Levels, Hotline Services, Fault Correction, Warranty

33.1 Details regarding service levels, hotline services and fault correction pertaining to the Licensed Products are set out in the Service Level Agreement (Part 5 of the GTC), based on the SLA package agreed in the Purchase Order.

33.2 Warranty. In addition to Section 7 and Section 9 GTC the following shall apply: Provider shall correct defects in quality and defects in title in accordance with the Service Level Agreement. If Provider has not rectified the defect even after a reasonable grace period set by the Customer in writing, and if the suitability of the Licensed Products is significantly reduced as a result, the Customer shall be entitled to terminate the Agreement in writing. The right to claim further damages shall remain unaffected. There shall be no further warranty claims.

Provider's strict liability for initial defects according to Section 536a, Subsection 1, Alternative 1 BGB shall be excluded. Section 536a Subsection 2 BGB (right to self-correct defects and reimbursement of expenses) shall be excluded.

34. Term and termination

34.1 The Agreement shall enter into force as of the Effective Date and shall be valid for the Initial Term and will subsequently be renewed for Renewal Terms (each as designated in the Purchase Order) until termination by either Party. Unless otherwise agreed in the Purchase Order, the Initial Term and the Renewal Terms shall be one year and the Effective Date shall be the date of the Provider's Purchase Order Confirmation.

34.2 The Agreement can be terminated for convenience by either Party with 3 months' prior notice to the end of the Initial Term or to the end of each Renewal Term.

34.3 The right of the Parties to terminate this Agreement for good cause (*aus wichtigem Grund*) remains unaffected. In particular, a good cause for each Party shall be deemed to exist, if

34.3.1 the other party is in severe breach of a material obligation under this Agreement and such breach is not remedied within 30 (thirty) days after the issue of a notice (no such notice shall be required if the breach is not capable of being cured),

34.3.2 insolvency proceedings or similar proceedings under foreign law have been instituted with respect to the assets the other Party or a corresponding application has been refused for lack of assets or if the other Party is in liquidation, or

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34.3.3 claims against the other Party are subject to an attachment or seizure order issued by a competent court or authority and the corresponding order is not lifted within two weeks.

35. Fees and payment

35.1 In consideration of the provision of the maintenance services under this Agreement recurring fees (the "Maintenance Fee") will be paid by the Customer. Unless specific payment terms are set out in the Purchase Order, the Maintenance Fee is payable annually in advance.

35.2 Consultancy services and any other work or services carried out by Provider not included within the scope of this Agreement shall be charged in accordance with the Provider's then-current price list. This applies in particular, and without limitation, to work or services

- rendered outside of service hours (as agreed in the applicable SLA package),
- that become necessary due to a default or non-observance by the Customer of its obligations, including non-compliance with the documentation,
- that becomes necessary due to force majeure or other circumstances for which the Provider is not responsible.

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Part 5: Service Level Agreement

SLA package	Base	Silver	Gold	Diamond
Availability (SaaS and Hosting only)	99,5% per year, 24/7 basis	99,5% per year, 24/7 basis	99,5% per year, 24/7 basis	
Support communication channels	Ticket System	Ticket System Support hotline (phone)	Ticket System Support hotline (phone) Online chat	
# employees with access to VSX support	1	3	5	
Service hours	Mo-Thu 9:00-17:00 CET, Fr 9:00-13:00 (except on public holidays at public holidays at the place of the main establishment of the Provider)	Mo-Thu 9:00-17:00 CET, Fr 9:00-13:00 (except on public holidays at public holidays at the place of the main establishment of the Provider)	Mo-Thu 9:00-17:00 CET, Fr 9:00-13:00 (except on public holidays at public holidays at the place of the main establishment of the Provider)	
Reaction times for support tickets	-	12 priority requests p.a. The reaction time for priority requests is 24 hours for a first assessment. The request will then be processed with priority over other issues.	24 priority requests p.a. The reaction time for priority requests is 24 hours for a first assessment. The request will then be processed with priority over other issues.	
Additional services	<ul style="list-style-type: none"> • Documentation / Access to customer center • 1 free job advert per year on impeller.net • Free integration of your pump data in the impeller.net Pump Selector 	<ul style="list-style-type: none"> • Documentation / Access to customer center • 2 free job adverts per year on impeller.net • Free integration of your pump data in the impeller.net Pump Selector • Subscription for 1 additional language in Spaix • 4h/year data audit and review call • Quarterly update / status calls • 2 banner ads on impeller.net per year 	<ul style="list-style-type: none"> • Documentation / Access to customer center • 4 free job adverts per year on impeller.net • Free integration of your pump data in the impeller.net Pump Selector • 2 additional languages • 8h/year data audit and review call • Monthly update / status calls • 4 banner ads on impeller.net per year • Web-based traffic reports (Spaix Web) 	

The applicable SLA package is agreed in the Purchase Order.

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The following terms and conditions apply:

36. Availability

- 36.1 Subject of the Agreement is the SaaS provision of the Licensed Products with the availability set out in the applicable SLA package. For hosting services, subject of the Agreement is the provision of the Hosted System with the availability set out in the applicable SLA package. For the avoidance of doubt, availability only applies to SaaS agreements, not to on-premise subscription and maintenance.
- 36.2 Availability means that the License Products (for SaaS agreements) or the Hosted System (for hosting agreements) are accessible for use via the Internet. In particular, the following downtimes are not included in the calculation of availability:
- downtime due to maintenance in accordance with Section 36.3;
 - downtime due to operational disruptions caused by an event of force majeure that could not have been averted by Provider with reasonable effort and that could not have been foreseen even if due care had been exercised;
 - downtime caused by the Customer;
 - downtimes that can be traced back to general failures or restrictions in internet traffic outside of Provider's network or to disruptions in the internet connection or infrastructure of the customer, as well as to other circumstances that are beyond Provider's reasonable control or cannot be attributed to Provider's fault.
- 36.3 Provider may interrupt operation of the SaaS System or the Hosted System for maintenance. Provider shall plan maintenance interruptions so as to minimize the impact on the Customer's use of the SaaS System or Hosted System, i.e. generally at a time agreed with the Customer outside of the main usage period. The Customer shall be notified about planned downtimes at least one calendar day in advance. Provider may also interrupt operation of the SaaS System or Hosted System for good cause. These include, in particular, emergency changes (e.g. installation of security patches or bug fixes that are necessary to maintain proper and secure operations and require immediate implementation). The Customer shall be notified of these unscheduled maintenance interruptions without undue delay. They shall be carried out in such a way that disruptions to the Customer's operations are kept to a minimum.

37. Support and fault rectification

- 37.1 Provider provides support via the communication channels and during the service hours set out in the applicable SLA package. Support can only be utilized by a specific number of named employees of the Customer, as set out in the applicable SLA package.
- 37.2 Communication via online chat takes place via an industry standard online chat tool at the Provider's choice (e.g. Microsoft Teams, Zoom). The Customer cannot claim chats with specific employees of the Provider.
- 37.3 The support
- answers questions regarding the Licensed Products and their functionality,
 - assists with problem diagnosis including, but not limited to, analysis of error messages of the Licensed Products, the identification and isolation of the source of the problem and obtaining information and status of existing problems;
 - assists with resolving defects including, but not limited to, obtaining a work around to the problem, including but not limited to, installation issues and operating system environment details that relate to the Licensed Products' operation and functionality issues;
 - provides bug fixes when a known problem is encountered

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37.4 Depending on the applicable SLA package, the Customer can qualify a certain number of support requests per year as "priority requests". For priority requests, the Provider will provide the Customer with first qualified feedback (but not necessarily a full solution of the Customer's inquiry or problem) within the agreed reaction time. Reaction times are running within the service hours.

38. Fault correction

38.1 The Customer shall:

- report all defects via the available communication channels (depending on the applicable SLA package), describing the symptoms of the defects where reasonably practicable,
- include sufficient information to enable Provider to reproduce the defect, whenever reasonably possible, including for example the message of the program function and text of any error message and describe the effects of the defect.

38.2 The Customer shall at its own cost make available all documents and data reasonably requested by Provider and necessary for diagnosing the defect and shall support Provider by providing sufficient qualified operating personnel, computer time and any other assistance reasonably necessary for defect diagnosis and rectification.

38.3 Unless otherwise agreed in the applicable SLA package, Provider shall use commercially reasonable efforts to respond to a defect and to correct defects as soon as reasonably practicable.

39. Additional Services

39.1 Data audits include a review of the data structures implemented by the Customer. The Provider provides information on errors and recommendations for improvements in a review call.

39.2 If the Customer has entered into a maintenance agreement and a hosting agreement, both referring to this SLA, the additional services and priority request contingents shall nevertheless only apply once.

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Part 6: Hosting Services Terms and Conditions

40. Hosting services

40.1 In addition to Part 1 of these GTC, the following terms and conditions apply to the hosting of Licensed Products. For the avoidance of doubt, the SaaS provision of software (i.e. hosting services including a license subscription) is solely subject of Part 2 of these GTC.

40.2 Subject of this Agreement is the hosting of the Licensed Products for the term of this Agreement. Hosting means the installation and technical operation of the Licensed Products in one or more data centers at locations to be determined by Provider in its own discretion so that the Licensed Products can be used by the Customer via the internet. "Hosted System" refers to the entirety of the hardware and software operated by Provider so that the Customer can use the Licensed Products via the internet.

40.3 Provider shall be responsible for the technical operation of the hosting environment, including the operation, maintenance and servicing of the necessary hosting and server infrastructure. Provider may modify all aspects of the Hosted System (e.g. hardware, technical infrastructure, third-party software such as operating system or database server, configuration and setup below the application level) at any time, as long as this does not result in a restriction of the agreed functionality or performance.

40.4 Provider's responsibility for hardware and technical infrastructure ends at the connection point of Provider's data center to the public Internet. In particular, and without limitation, the Customer is obliged to operate and maintain clients capable of accessing the Hosted System in accordance with the Provider's specifications.

40.5 Licenses and maintenance.

40.5.1 The Customer has acquired licenses for the Licensed Products to be hosted by Provider pursuant to a separate license agreement and maintenance for the Licensed Products pursuant to a separate maintenance agreement. For the avoidance of doubt, the Customer's rights and obligations in respect of the Licensed Products, including their use, are solely governed by the license agreement.

40.5.2 Maintenance of the Licensed Products is solely governed by the maintenance agreement. In particular, updates, upgrades and bug fixes to the Licensed Products will be provided to the Customer under the terms and conditions of the applicable maintenance agreement. Installation and roll-out of such updates, upgrades and bug fixes in the Hosted System is part of the hosting services. The Provider shall adapt the Hosted System to meet any changed requirements of a new Version.

40.6 Customer shall ensure that its use of the Hosted System will not unreasonably impair, degrade, or reduce the performance or security of the Hosted System and any related third-party software, services, or related technology. Provider reserves the right to terminate user activities that lead to an extraordinary load, resource consumption or performance degradation of the Hosted System. Section 43.2 applies.

40.7 Customer is responsible for all use of the Hosted System by those who have access to them through Customer's

credentials, and for ensuring that its users do not circumvent or disclose any usernames, passwords or other access credentials or authentication details, or interfere with or disrupt any other security control of the system.

40.8 Customer agrees that it shall not license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit the Hosted System by making the Hosted System available for access or use by any third party, including by means of operating a service bureau, outsourcing or time-sharing service. Customer shall be entitled to let third parties, in particular outsourcing service providers of Customer, use the Hosted System exclusively for Customer's own business purposes.

40.9 If Customer wishes to perform any form of security vulnerability assessments or penetration testing on the Hosted System, this will be subject to the written permission of Provider at Provider's sole discretion.

40.10 Provider may implement technical measures to ensure that the Hosted System System and the Licensed Products are used in accordance with the applicable agreements. Provider is entitled to audit electronically Customer's use of the Hosted System and the Licensed Products at any time and without unreasonably disrupting Customer's business operations. If such an audit shows that Customer exceeds the permitted use, Provider is entitled to adjust the remuneration to be paid for the respective hosting, license and maintenance services retroactively for the entire period of time since the last audit, or, in case there has been no previous audit, for the entire respective calendar year in such a way that it is increased by the percentage by which the actual use exceeds the permitted use. Additionally, Customer shall bear the full costs of the audit in this case.

40.11 If Provider is notified by a third party or an owner of intellectual property rights that Customer entered or uploaded data into a Hosted System claiming that such data infringe its rights or if Provider otherwise becomes aware of such claim, Provider may investigate the allegation and determine in good faith and in its reasonable discretion whether such data should be removed from the Hosted System. The data may be removed only (a) when required by law, or (b) if Provider reasonably determines it is necessary to protect the interests of the third party against continued infringement (and Provider against liability) that cannot be prevented by temporarily suspending access to the Hosted System with as much reasonable prior notice as the circumstances permit. In no event, shall such removal of data give rise to any liability of Provider or its licensors (if any) to Customer for a refund or damages, or impose any obligation on Provider for continuing to provide the Hosted System for use with such data.

41. **Service Levels, Availability, Hotline Services, Fault Correction**

41.1 Details regarding service levels, availability, hotline services and fault correction pertaining to the Hosted System are set out in the Service Level Agreement (Part 5 of the GTC), based on the SLA package agreed in the Purchase Order.

41.2 Warranty. In addition to Section 7 and Section 9 GTC the following shall apply: Provider shall correct defects in quality and defects in title in accordance with the Service Level Agreement. If Provider has not rectified the defect even after a reasonable grace period set by the Customer in writing, and

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if the suitability of the Hosted System is significantly reduced as a result, the Customer shall be entitled to terminate the Agreement in writing. The right to claim further damages shall remain unaffected. There shall be no further warranty claims.

Provider's strict liability for initial defects according to Section 536a, Subsection 1, Alternative 1 BGB shall be excluded. Section 536a Subsection 2 BGB (right to self-correct defects and reimbursement of expenses) shall be excluded.

42. Customer Responsibilities

- 42.1 Customer shall be obligated to
- 42.1.1 fulfil the specific obligations designated as prerequisites in the Purchase Order or its Exhibits,
- 42.1.2 fulfil the obligations imposed on him in this Agreement, and
- 42.1.3 reasonably support Provider as required for the performance of the services by Provider or the receipt and/or use of the services by Customer, or as reasonably requested by Provider, e.g. by providing necessary information to Provider required for the performance of services.
- 42.2 Customer shall maintain commercially reasonable security standards for its use of the Services. Specifically, Customer will use good industry practice (*Stand der Technik*) procedures to avoid introducing any malware. Customer also agrees that it shall use all reasonable endeavours to ensure that its users do not upload or distribute files that contain malware or do anything else or cause anyone else, either by acts or omissions, to disrupt or attempt to disrupt, the systems and networks used for the provision of the Hosted System. If Customer learns or suspects that it or its users have introduced a malware or other threats, Customer will notify Provider without delay. In the event a malware or threat is introduced into the systems used to deliver the Hosted System due to Customer's failure to use such endeavours, Customer will at its cost assist Provider in mitigating the effects of such malware or threat. Further rights and remedies of Provider remain unaffected.
- 42.3 Customer shall not
- 42.3.1 access or use the Hosted System to host or transmit any content, data or information that is illegal, or which infringes any third party's rights,
- 42.3.2 copy, translate, make derivative works, disassemble, decompile, reverse engineer or otherwise attempt to discover the source code or underlying ideas or algorithms embodied in the software applications or other systems used for the provision of the Hosted System, unless expressly permitted under any applicable laws such as the right of Sec. 69e German Act on Copyright and Related Rights (UrhG), or remove any titles or trademarks, copyrights or restricted rights notices in the systems, software and other materials used in the provision of Hosted System,
- 42.3.3 access or use the Hosted System for the purpose of building competitive products or services by copying or re-creating its features or user interface,

- 42.3.4 allow a direct competitor of Provider to access or use the Hosted System, or
- 42.3.5 interfere with or disrupt any software or system used to host the Hosted System, or other equipment or networks connected to the Hosted System.
- 42.4 Customer shall be responsible for the acts and omissions of its users as if they were the acts and omissions of Customer, and for ensuring that anyone who uses the Hosted System does so in accordance with the terms and conditions of this Agreement.
- 42.5 Unless as explicitly agreed as part of a service, Customer alone shall be responsible for backups of Customer's data entered into or uploaded to any service.
- 42.6 Customer's obligations as described herein will herein be referred to as "**Customer Responsibilities**".
- 42.7 Provider shall not be responsible for defects or delays in performance of the services due to Customer's failure to fulfil a Customer Responsibility if and to the extent Provider's ability to provide the services is adversely impacted by Customer's delay or failure to fulfil the Customer Responsibility. The aforementioned delays may include a reasonable ramp-up time to resume performance of services after Customer remedied its failure to fulfil its Customer Responsibilities.

43. Suspension of Services

- 43.1 Provider may suspend access to or use of Hosted System or remove any relevant data from the Hosted System, if
- 43.1.1 such access or use, or any data
- 43.1.1.1 poses a security risk to or may otherwise unduly and adversely impact the Hosted System, or
- 43.1.1.2 infringes or otherwise violates the rights or other interests of a third party, entails illegal or otherwise prohibited content or activities, or otherwise subjects Provider to a potential liability;
- 43.1.2 Provider is required to do so under any mandatory applicable laws, or any court's or governmental body's order.
- 43.2 Unless prohibited under the applicable laws and if reasonable under the circumstances (as determined by Provider in its own discretion), Provider shall provide Customer with a written notice prior to such suspension or removal, and an opportunity to take steps to avoid any such suspension or removal. Any suspension of Customer's right to access or use the Hosted System or removal of data shall not release Customer from any of its obligations under this Agreement if and to the extent Customer is responsible for the incident resulting in the suspension or removal. For the avoidance of doubt, Provider's suspension and removal rights are in addition to Provider's right to terminate this Agreement pursuant to Section 45 and any other rights and remedies Provider may have under this Agreement or any applicable laws.

44. Remuneration

- 44.1 In consideration of the provision of the Hosted System the Hosting Fee shall be paid by the Customer in accordance with the Purchase Order.

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45. Term and Termination

- 45.1 The Agreement shall enter into force as of the Effective Date and shall be valid for the Initial Term and will subsequently be renewed for Renewal Terms (each as designated in the Purchase Order) until termination by either Party. Unless otherwise agreed in the Purchase Order, the Initial Term and the Renewal Terms shall be one year and the Effective Date shall be the date of the Provider's Purchase Order Confirmation.
- 45.2 The Agreement can be terminated for convenience by either Party with 3 months' prior notice to the end of the Initial Term or to the end of each Renewal Term.
- 45.3 The right of the Parties to terminate this Agreement for good cause (*aus wichtigem Grund*) remains unaffected. In particular, a good cause for each Party shall be deemed to exist, if
- 45.3.1 the other party is in severe breach of a material obligation under this Agreement and such breach is not remedied within 30 (thirty) days after the issue of a notice (no such notice shall be required if the breach is not capable of being cured),
 - 45.3.2 insolvency proceedings or similar proceedings under foreign law have been instituted with respect to the assets the other Party or a corresponding application has been refused for lack of assets or if the other Party is in liquidation, or
 - 45.3.3 claims against the other Party are subject to an attachment or seizure order issued by a competent court or authority and the corresponding order is not lifted within two weeks.
- 45.4 Any termination of this Agreement shall be in text form within the meaning of section 126b BGB and shall be transmitted by e-mail, telefax, personally, by letter, by registered mail or by courier to the recipients designated in the Purchase Order.
- 45.5 Upon effect of any termination, Customer is no longer entitled to use or access the Hosted System. Where so agreed in the Agreement, Provider shall provide such information, cooperation, and assistance to Customer, as Customer may reasonably request, to assure an orderly return or transfer to Customer or Customer's designee of all data and materials of Customer ("**Remigration Services**"). Otherwise, Provider may destroy (or procure the destruction of) or otherwise dispose of any data and materials in its possession (including, if any, backups) upon effect of the termination.
- 45.6 Customer shall remunerate Provider for the Remigration Services on a time and material basis based on the Provider's then-current price list or as otherwise agreed by the Parties. If the Agreement has been terminated due to Customer's breach of the terms of the Agreement, Provider may invoice the Customer in advance the expected costs and expenses for such Remigration Services and Customer will pay in advance.

46. Domain registration services

- 46.1 If agreed in the Purchase Order, the Provider shall register and/or manage an Internet domain name on behalf of the Customer and make the Hosted System available under such domain name.
- 46.2 Registration

46.2.1 Domains are assigned and administered by various registries on the basis of their own registration conditions. For example, the registry for .de domains is DENIC e.G. (www.denic.de). If a domain is registered for the Customer, a contract is concluded between the Customer and the respective registry on the basis of the registry's registration conditions. The Customer becomes the owner of the domain. The Provider does not become a contractual partner of the registry, but acts as a representative (§ 164 BGB) on behalf of the Customer to register and manage the domain.

46.2.2 The Customer commissions the Provider to submit all necessary declarations to the relevant registry (or intermediate registrar/provider) in order to have the domain registered for the Customer. The Customer shall be named as the party entitled to use the domain and a natural person appointed by the Customer as an administrative contact ("Admin-C"). The Provider shall be named as the technical contact ("Tech-C").

46.2.3 The Provider shall check whether the domain is available or has already been assigned to a third party. Provider will only provide non-binding information concerning the availability of a domain. It is possible that between the provision of availability information and registration, the domain may already be registered by a third party without Provider being able to influence this or becoming aware of it. If a domain cannot be registered, regardless of the reason, Provider will notify Customer and the Parties will mutually decide on a course of action.

46.2.4 The Parties may, as an alternative to registering a new domain, agree that Provider takes over the management of an existing domain of the Customer. This requires cooperation of the Customer's current provider managing the domain (in particular a release declaration). For the avoidance of doubt, a remuneration for the takeover shall also become payable if the release fails due to a lack of cooperation of the Customer and/or the Customer's current provider.

46.3 Management

46.3.1 After registering the domain, the Provider shall take all reasonable measures vis-à-vis the relevant registries and any intermediate registrars/providers to maintain registration of the domain.

46.3.2 For the term of this Agreement, the Provider shall be the point of contact for the registry with regard to the domain, insofar as these have been registered to the Customer. In this respect, the Provider shall act as the Customer's representative (§ 164 BGB) vis-à-vis the registry.

46.3.3 The Customer may at any time request the release of the domain management to himself or another provider. Provider shall grant such a release without additional charge, provided that Customer has paid all outstanding fees in full.

46.4 Customer obligations

46.4.1 The Customer is responsible for the selection of the domain name. The Customer is obliged to verify before registration and after registration on an ongoing basis whether the registration and/or the intended use of the domain infringes the rights of third parties or applicable

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laws. The Provider is not obliged to check whether registering the domain infringes the rights of third parties or applicable laws.

- 46.4.2 The Customer shall cooperate to a reasonable extent with all measures necessary for registration, maintenance of registration and the disposal of the domain, in particular its transfer or the amendment of entries in the databases of the registries. In particular, and without limitation, the Customer shall provide all necessary information and declarations and ensure cooperation of its existing providers, if applicable.
47. The Customer shall indemnify Provider on first demand against all costs, expenses and damages incurred by Provider due to the assertion of third-party claims arising from or in connection with the registration or use of a domain. The Customer will cooperate to a reasonable extent in the defense of Provider against such claims and support Provider's defense.