

GENERAL TERMS AND CONDITIONS OF SALE (GTCS)

SECTION A

1. GENERAL PROVISIONS

1.1 Our General Terms and Conditions of Sale (GTCS) apply exclusively to all our deliveries, services and offers, including future ones. We do not recognise any terms and conditions of the Purchaser that conflict with or deviate from our terms and conditions; the terms and conditions of the Purchaser are hereby rejected. Our Terms and Conditions of Sale shall also apply if we are aware of conflicting or deviating terms and conditions of the Purchaser and carry out the delivery to the Purchaser without reservation.

1.2 Any changes to these GTCS, including this provision, require our written consent.

1.3 The GTCS shall apply mutatis mutandis to contracts for work (*Werkverträge*), contracts for work and materials (*Werklieferungsverträge*), and mixed contracts. The term «Purchaser» is to be understood in this sense as «customer» or «client».

2. CONCLUSION OF THE CONTRACT

2.1 All agreements between us and the Purchaser relating to the contract and its execution must be made in written form to be valid. This also applies to the acceptance of an order. The waiver of the written form requirement may only be made in writing.

2.2 Our offer regarding quantity, delivery period and possibility of delivery is nonbinding unless otherwise stated in the order confirmation (Art. 7 of the Swiss Code of Obligations). In principle, the order is still be qualified as an offer. We are free to accept the order (order confirmation) within two weeks, unless the Purchaser has specified a different acceptance period.

A contract shall not be deemed to come into being until confirmed by way of an order confirmation in writing. If there is no such confirmation in an individual case or if a contract comes into being without it, our offer shall be authoritative in determining the substance of such contract. Where the Purchaser and the seller have jointly signed a written document on a delivery and if such document contains all the terms of contract, such document shall be equivalent to a written order confirmation.

2.3 For prices quoted in offers expressly marked as being binding, we consider ourselves committed to them for four weeks starting from the date of the offer unless the offer specifies a different period for acceptance.

2.4 In the case of custom-made products (*Sonderanfertigungen*), we reserve the right to produce more or less within the scope of what is reasonable if such a deviation is unavoidable and the balance between performance and consideration is thereby maintained. The Purchaser shall be informed of this in advance.

2.5 If an export licence is required for the execution of the contract, the conclusion of the contract is subject to the condition precedent of the export licence being granted.

3. SUBJECT MATTER OF CONTRACT

3.1 We shall supply the hardware identified in the order confirmation and – to the extent agreed – software conforming to the specifications set forth in the order confirmation.

3.2 Our hardware and software is delivered complete with the documentation provided for and made available by us or the manufacturer (manuals).

3.3 The allocation and application of the hardware and software supplied by us shall be the Purchaser's responsibility. We shall only provide the Purchaser with advice in this respect if specifically agreed.

3.4 Installation, configuration and instruction do not form part of our duties except where expressly agreed.

4. PRICING

4.1 Unless otherwise stated in the order confirmation, prices are in CHF and exclude delivery and packaging. Packaging and other additional or special services shall be charged separately.

4.2 Our quotations, cost estimates and order confirmation do not include the statutory value added tax, unless expressly stated as such. Value added tax, if due, shall be shown separately in the invoice at the statutory rate on the date of invoicing. In the case of export deliveries, this also applies to customs duties and other public charges.

5. PAYMENT TERMS

5.1 Invoices are due 30 days after the invoice date, unless otherwise stated in the order confirmation. The receipt of payment by us is decisive for compliance with this deadline. Insofar as notices of defects are raised, this shall not affect the due date of the invoice amount attributable to the non-defective part of the delivery.

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5.2 All payments shall first be offset against interest and costs and then against the oldest receivables, even if the Purchaser has stipulated otherwise. We will inform the Purchaser immediately of the specific way in which the offsetting was carried out.

5.3 If circumstances become known to us that substantially reduce the creditworthiness of the Purchaser and that jeopardise the payment of our outstanding receivable from the relevant contractual relationship, we are entitled to provide outstanding performances only against advance payment or to demand additional security. Moreover, we may in that case and in particular in case of default on due payments declare immediate maturity of the entire residual debt.

5.4 In the event of acceptance of bills of exchange and cheques, any discount charges incurred will be charged and immediately due. Payment of the invoice amount shall only be deemed to have been made when the instrument has been redeemed.

6. CONSEQUENCES OF DEFAULT

6.1 Once the payment deadline has passed, the Purchaser will be in default in payment. The outstanding amounts shall bear interest at 7% above the base rate p.a. from the due date without further reminder. If we are able to prove higher interest on default in payment, we are entitled to claim this. After the unsuccessful expiry of a reasonable grace period set by us in writing or text form, we may withdraw from the contract and claim damages or continue to claim payment of the purchase price.

6.2 In the event of late payment, we may temporarily suspend the fulfilment of our contractual obligations until the payment claim is fulfilled, whereby the delivery periods are extended accordingly. The Purchaser shall reimburse any additional costs incurred as a result of the suspension. Our rights under section 6.1 remain unaffected by this.

6.3 In the event of default in payment or if an instrument is not duly honoured, all further receivables shall become due immediately, including all existing claims from bills of exchange or cheques.

7. SHIPMENT AND TRANSFER OF RISK

7.1 Unless otherwise stated in the order confirmation, shipment shall be effected on account FCA to our address stated in the order confirmation in accordance with INCOTERMS 2020 and at the risk of the Purchaser, the latter also applies if we assume the shipping costs on the basis of a special agreement or in the case of partial performance.

7.2 If the delivery is delayed due to circumstances for which the Purchaser is responsible, the risk shall pass to the Purchaser from the day on which we have notified the Purchaser of our readiness to deliver.

7.3 Packaging material will not be taken back unless otherwise agreed. In the case of deliveries of goods by rail or freight forwarder, the containers must be returned to the delivery forwarding agent within 48 hours of receipt. Delay charges caused by the sender of the empty containers shall be borne by the sender.

8. EXECUTION OF DELIVERY

8.1 The dates and time limits of delivery anticipated by us are always tentative except where a fixed time limit or deadline has expressly been promised or agreed. Compliance with a fixed delivery date or a fixed delivery period shall be subject to the Purchaser fulfilling its duties to cooperate, in particular cooperating in the full clarification of the technical details of the order, submitting the agreed scope of paperwork and documents to us on time and making punctual down payments and promptly providing payment security.

8.2 We are entitled to make partial deliveries and partial performances if:

- ▶ partial delivery or partial performance is usable for the Purchaser
- ▶ the remaining delivery and remaining performances is ensured, and
- ▶ the partial delivery or partial performance causes no significant additional work or costs for the Purchaser

8.3 If we are in default with a delivery or service or if a delivery or service becomes impossible to us for whatever reason and there is no case defined by section 8.2, liability shall be limited to damages in accordance with section 13 of these GTCS, unless we can prove that we are not at fault.

8.4 Call orders can be executed within the scope of the production possibility.

8.5 Where formal acceptance is required, our delivery or performance shall be deemed to have been formally accepted if and when:

- ▶ delivery or performance, where appropriate with installation, has been completed
- ▶ the seller has accordingly advised the Purchaser while drawing

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its attention to the implied form of acceptance provided for above and has requested the Purchaser to accept the delivery or performance

- ▶ twelve days have passed since delivery or installation or, alternatively, the Purchaser has begun to use the delivery or performance result and six business days have in that case elapsed since delivery or installation, and
- ▶ the Purchaser has neglected to declare acceptance within that period for any reason except where the use of the purchased object is rendered impossible or substantially impaired by a defect communicated to the seller.

9. RETENTION OF TITLE

9.1 All delivered goods shall remain our property (reserved goods) until the payment of all receivables, including future and conditional receivables, arising from deliveries agreed on the basis of these terms and conditions as well as the balance receivable from the current account of the aforementioned receivables. In the event of breach of contract on the part of the Purchaser, in particular in the event of default in payment, the Purchaser is obliged to cooperate in measures that are necessary to protect our property; in particular, upon conclusion of the contract, the Purchaser authorises us to enter or reserve the retention of title in public registers, books or the like in accordance with the relevant national laws and to fulfil all formalities in this regard at its own expense.

9.2 The Purchaser shall insure the goods against the usual risks.

9.3 The goods subject to retention of title may only be processed in the proper course of business and with our express written consent. In the event of processing, the retention of title shall also extend to the new items created by processing, in which we shall acquire co-ownership in the ratio of the invoice value of the reserved goods to the other items not belonging to us at the time of processing. In all other respects, the same shall apply to the item created by processing as to the goods delivered under reservation. If the purchased good is inseparably mixed or combined with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the invoice value of the reserved goods to the value of the other mixed items at the time of mixing. Where such mixture is made in such a manner that the item of the Purchaser must be looked upon as the principal item, it shall be deemed agreed that the Purchaser shall transfer to us a proportionate co-owner's interest therein. In all other respects, the same shall apply to the item resulting from mixing or combination as to the goods delivered under reservation. The Purchaser shall provide storage at no charge to us. As security against our claims against the Purchaser, the Purchaser shall also assign to

us claims acquired vis-à-vis third parties as a result of the connection of the object of sale to a property.

9.4 Insofar as it is in the ordinary course of business, the Purchaser may resell the reserved goods. The Purchaser hereby assigns to us the resulting receivables from the resale of the reserved goods and which accrue to the Purchaser against its customer or third parties, in the amount of the final invoice amount including VAT of our receivables. It does not matter whether the reserved goods have been resold without or after processing. The Purchaser shall remain entitled to collect the assigned account receivable. This does not affect our authority to collect the account receivable. We undertake not to collect the account receivable as long as the Purchaser meets its payment obligations, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments have not been suspended. If this is the case, we may demand that the Purchaser informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors of the assignment. We undertake to release the securities to which we are entitled at the request of the Purchaser to the extent that the realisable value of our securities exceeds the claims to be secured by more than 20%. We are responsible for selecting the securities to be released.

9.5 Pledging or assignment by way of security of the reserved goods is not permitted. Where third parties have recourse to reserved goods, in particular seizures, the Purchaser shall draw attention to our ownership status and shall notify us immediately. The Purchaser shall be liable for all costs incurred by us in connection with this.

9.6 In the event of breach of contract on the part of the Purchaser, in particular in the event of late payment, we shall be entitled to demand the return of the reserved goods after setting a reasonable period of time; the Purchaser shall be obliged to return the goods.

10. INADEQUATE PERFORMANCE BY THE PURCHASER AND LUMP-SUM COMPENSATION FOR DAMAGES

If we are entitled to a claim for damages against the Purchaser due to breach of contract, we are entitled to demand compensation in the amount of 15 % of the purchase price, even without proof of corresponding damage, unless the Purchaser proves a lesser damage. We reserve the right to assert and prove higher damages on our part.

11. INVOICING

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The Purchaser shall only be entitled to offset rights where its counterclaims have been legally established and/or acknowledged by us. The Purchaser may exercise a right of retention to the extent that the counterclaim, which is undisputed, acknowledged by us in writing or established by a final court decision, is based on the same contractual relationship.

12. WARRANTY

12.1 The customer's rights in respect of defects require that our goods and services are carefully inspected immediately after delivery of the goods or acceptance of the service. In the case of contracts for work, acceptance shall be deemed to have taken place without an agreement to the contrary with delivery of the goods. The Purchaser must inform us immediately and in writing of any material defects and/or defects of title, stating the claimed defect.

12.2 We warrant (*gewährleisten*) that the delivered goods and services comply with the contractually agreed specifications. The information in the offer and in the order confirmation does not constitute any guarantee of quality (*Beschaffheitsgarantie*), unless specifically agreed in writing otherwise. We only warrant that the delivered goods are suitable for the intended purpose if this has been expressly agreed in writing.

12.3 Insofar as the purchased good is defective and we are responsible for the defect, we shall be entitled at our own discretion to rectify the defect or provide a replacement. In the event that we decide to rectify the defect, the Purchaser shall only be entitled to declare withdrawal from the contract (rescission) or to reduce the purchase price appropriately (reduction) after we have unsuccessfully rectified the defect twice.

12.4 The warranty rights do not include the costs for the removal or dismounting of the defective item nor those for its reinstallation.

12.5 Any expenditure required for the purposes of inspection and cure of defect, in particular transport, travel, labour and material costs, shall be borne by us, provided a defect actually exists. Otherwise, we can demand compensation from the Purchaser for the costs incurred as a result of the unjustified request for rectification of a defect.

12.6 Warranty rights against us may not be assigned to a third party without our written consent.

12.7 Liability for defects is excluded if the reduction in value or suitability of the delivered goods is insignificant. In the case of a divisible service, the Purchaser remains obliged to pay the purchase price with regard to the non-defective part.

All warranty rights shall lapse where changes are made to our performance results without our consent, where parts are exchanged or materials used that do not conform to our original specifications, and where, as a result, any analysis or rectification of defects becomes impossible or is inordinately hampered. In these cases we are entitled to a refund of any costs we may have unnecessarily incurred for the analysis and rectification of such defects. The same shall apply if our operating or maintenance instructions are not observed or if our performance results are not used in accordance with the contract or with our product specifications or operating instructions. This shall also apply where our performance results are used in combination with third-party performances in a way that is incompatible with our product specifications or operating instructions or where the defect of the given performance is based on design records or other standards provided by the Purchaser. The above provisions shall not apply if the Purchaser can prove that the given defect is not attributable to any of the aforementioned circumstances.

12.8 In the case of defects in components from other manufacturers included in the sale and which we cannot eliminate due to licensing or any other reasons, we shall, at our discretion, assert our warranty claims against the manufacturers or suppliers for the account of the Purchaser or assign these to the Purchaser. Warranty claims against us in respect of such defects are deemed to exist under these terms and conditions of sale only if any legal enforcement of the aforementioned claims against the manufacturer and the supplier was unsuccessful or is considered futile, for example, due to insolvency. While such litigation is pending, the statute of limitations in respect of the Purchaser's pertinent warranty claims shall be suspended.

12.9 The limitation period for the assertion of warranty claims begins on the day of delivery of the goods and is one year. For the replaced goods or repaired or replaced parts of the goods a limitation period of twelve months shall apply from the date of delivery of the replaced or repaired goods (excluding wear parts and consumables). In any case, any warranty obligation of seller shall expire twelve months after expiration of the original limitation period.

12.10 The limitation periods of the law on the sale of goods and the commencement of the period specified in section 12.9 shall also apply to contractual and non-contractual claims for damages of the Purchaser that are based on a defect of the goods.

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13. LIABILITY

13.1 We shall be responsible for the diligent performance of our contractual obligations and are only liable for indirect and direct damages in connection therewith if we have caused them intentionally or through gross negligence. Liability for indirect and direct damage caused by slight negligence on our part is excluded. In all other respects, liability is excluded to the extent permitted by law. In particular, liability for loss of profit, loss of production or other consequential damages is expressly excluded.

13.2 We may engage third parties or auxiliary persons for the performance of the contract and shall in this case be liable exclusively for the careful selection and supervision of those auxiliary persons.

13.3 We shall not be liable for third parties that we select together with the Purchaser. We act on behalf of and for the account of the Purchaser.

13.4 Insofar as we provide technical information or advice, and this information or advice is not included in the contractually agreed scope of services owed by us, this information or advice will be provided free of charge and with exclusion of any liability.

13.5 Liability for culpable injury to life, limb and health remains unaffected; this also applies to mandatory liability under the Product Liability Act (PrHG), insofar as this is applicable.

13.6 Our liability arising from a guarantee (Garantie) assumed by us is not determined by the above agreements, but by the guarantee conditions, explicitly agreed in writing, and the statutory provisions.

13.7 The above agreements apply irrespective of the legal theory upon which it is based, including but not limited to liability in contract, for non-contractual or tortious claims.

13.8 Unless otherwise agreed in this section 13, the seller's liability is excluded to the extent permitted by law. This also applies to our representatives and vicarious agents.

14. COMPLIANCE

The Purchaser undertakes to comply with all statutory provisions, in particular in the areas of anti-corruption, competition and antitrust law. In particular, the Purchaser assures that it will refrain from offering, promising or granting our staff members and persons close to them any unlawful benefits. The same obligations apply to staff members of the Purchaser, its vicarious agents and other third parties who are acting on the Purchaser's instructions and whom the Purchaser is required to commit accordingly.

15. DATA PRIVACY

We are entitled to process the data of our Purchasers in accordance with the applicable data protection law.

16. TRANSFER OF INFORMATION WITHIN THE GROUP

16.1 The information brought to our knowledge by the Purchaser will be considered as non-confidential, unless it is specifically marked as such or the confidentiality is obvious.

16.2 We are entitled to pass on data that comes to our knowledge in the context of our customer relations with the Purchaser to companies affiliated with us, insofar as this does not conflict with provisions of data protection law.

16.3 We are entitled to name the Purchaser as a reference in press releases, public statements or advertising activities using the Purchaser's publicly available logos (e.g. on the website).

17. ENVIRONMENTAL CLAUSE/PACKAGING

17.1 In the case of disposal of the goods, the Purchaser must observe our accompanying information and ensure that the goods specified on the delivery note are disposed of properly in accordance with the statutory provisions.

17.2 The Purchaser is obliged to dispose of the goods at its own expense. In the event of resale of the goods or their components, the Purchaser must transfer this obligation to the next purchaser.

18. INTELLECTUAL PROPERTY RIGHTS AND COPYRIGHTS

18.1 The intellectual property rights to all specifications, drawings, offer documents, illustrations, calculations, technical descriptions, source codes or other technical information, regardless of their format or medium (hereinafter collectively referred to as «Technical Information»), and to all goods, assemblies, contractual objects, etc. that are delivered or rendered in connection with the contract shall remain exclusively with us. This applies regardless of whether the delivery or service is provided to the Purchaser or to third parties.

18.2 Unless otherwise agreed in writing, no licences, rights of use, industrial property rights, or rights similar to industrial property rights or other intellectual property rights are transferred by us or our suppliers with the acquisition of the respective object of purchase exclusive of the right of use, necessary for the appropriate use of the deliveries and services, which is legally mandatorily associated with each purchase.

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18.3 The Purchaser shall immediately notify us in writing whenever a third party asserts a claim against the Purchaser by reason of its use of a consignment/performance, invoking infringement of industrial property rights or copyrights. In these cases, we reserve the right to take all defensive and extrajudicial measures for legal defence. The Purchaser must assist us at our request.

18.4 Our liability for infringement of any third-party industrial property rights or copyrights shall be confined to those cases where the subject rights are owed to the given third party in respect of territory of Switzerland or of the country in which delivery is to be effected, or of the states in which the object of purchase is to be used in accordance with the purpose of the contract expressly declared in writing. The latter applies only insofar as the states covered by the purpose of the contract are expressly designated in the order confirmation.

19. DELIVERY OR PERMANENT TRANSFER OF SOFTWARE

If the subject matter of the contract is also or exclusively the delivery or permanent transfer of software, the provisions of section B shall also apply.

20. SUPPLY CONSTRAINTS / FORCE MAJEURE

We shall not be liable for events of force majeure which are attributable to circumstances which are beyond our control and which could not have been foreseen at the time of the conclusion of the contract, such as war, riots, pandemics, unusual weather events and other cases of force majeure, operational disruptions of any kind for us and our subcontractors, delivery delays or delivery failures caused thereby, shortages of raw materials, energy or labour, strikes, lockouts, difficulties in procuring means of transport, traffic disruptions, refusal or delay in the granting of public permits, revocation or suspension of export or import permits, decrees of state prerogatives, acts or omissions of civil or military authorities such as foreign exchange restrictions, attacks by third parties on our IT system, as well as circumstances which make the performance of the contract uneconomical until further notice. Such circumstances release us from our delivery obligations for their duration, including an appropriate restart phase. If these last longer than three months, they entitle us to terminate the contract in part or in full without compensation. The same applies if circumstances of force majeure occur with our subcontractors.

21. WITHDRAWAL / TERMINATION CLAUSE

21.1 Continuing obligations may be terminated for cause in whole or in part by either contracting party. In the case of contracts for work and services, the Purchaser may withdraw only

against payment for the work already performed and against full indemnification, and only as long as the work has not yet been completed or delivered.

21.2 If the Purchaser intends to file a petition for moratorium or insolvency or if, as a debtor, the Purchaser becomes aware of the possibility of insolvency proceedings against it through the service of a creditor's request to open insolvency proceedings, the Purchaser is obliged to notify us of this without delay. Such circumstances and a breach of this duty of notification by the Purchaser constitute good reason and entitle us to terminate or withdraw from the contract.

21.3 Termination or withdrawal must be in writing. It is sufficient for this to be sent via telecommunications, in particular by fax or email, provided that the copy of the signed notice of termination is sent.

22. EXPORT

22.1 Fulfilment of the contract is subject to the proviso that an export licence is granted and that there are no obstacles to performance of the contract due to national and/or international regulations of foreign trade law and/or no embargoes and/or other sanctions.

22.2 The Purchaser must provide the necessary information and documents required for compliance with the relevant (re-) export regulations and for carrying out export control inspections by authorities.

22.3 When passing on our deliveries or the work and services provided by us to third parties, the Purchaser must comply with the applicable regulations of national and international (re-)export control law. In any case, the (re-)export control regulations of Switzerland, the European Union and the United States of America must be observed when passing on the deliveries to third parties.

22.4 The Purchaser shall indemnify us against any damages incurred by us as a result of the culpable non-compliance with the above obligations according to sections 22.1-22.3.

23. PLACE OF PERFORMANCE, PLACE OF JURISDICTION, APPLICABLE LAW AND SEVERABILITY

23.1 The place of performance for all obligations arising from the contractual relationship is our registered office.

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23.2 These terms and conditions and the entire legal relationship between the seller and the Purchaser shall be governed by Swiss substantive law to the exclusion of the conflict of laws provisions of the Swiss Federal Act on Private International Law (PILA) or the United Nations Convention on Contracts for the International Sale of Goods.

23.3 The place of jurisdiction for all disputes is the registered office of SwissOptic AG. However, in all cases we are also entitled to file a claim at the general place of jurisdiction of the Purchaser. Priority statutory provisions, in particular those relating to exclusive responsibilities, remain unaffected.

23.4 Should a provision in these GTCS be or become invalid, this shall not affect the validity of all other provisions or agreements.

SECTION B – SPECIAL TERMS AND CONDITIONS FOR THE SUPPLY OF SOFTWARE

24. GENERAL PROVISIONS

24.1 The following provisions shall apply additionally if and insofar as the subject matter of the contract is also or exclusively the delivery of software.

24.2 The following provisions take precedence over deviating provisions of section A with regard to the delivery of software.

24.3 Insofar as we supply software that is the subject of third party rights, the terms notified by us shall apply in addition and shall in this respect take precedence over any deviating provisions of this section B.

24.4 The provisions of this section B also apply to software updated by us.

25. SUBJECT MATTER OF CONTRACT

25.1 We supply software in executable form (object code) only. The source code does not form part of the subject matter of contract and is not included.

25.2 We are only obliged to update software if this has been expressly agreed in writing.

26. DELIVERY

We deliver software exclusively in accordance with the contractual agreement on data carriers supplied by us, as a download version or pre-installed on the hardware supplied by us.

27. WARRANTY OF DATA

27.1 We do not warrant that data of a specific content can be generated, processed or stored permanently with the software supplied by us.

27.2 The Purchaser is obliged to ensure regular and proper data backup that is commensurate with the associated risks and that is carried out in accordance with the latest technological standards.

28. UPDATES

28.1 Insofar as we provide updates for delivered software without being obliged to do so, no claim to further updates can be derived from this.

28.2 Updates that serve to solve or avoid problems do not constitute acknowledgement of a material defect.

29. RIGHTS OF USE

29.1 The Purchaser shall be granted a non-exclusive right to use the software, unlimited in time and place.

29.2 If the Purchaser does not use the software but delivers it in its entirety or as part of another service to third parties (end customers), only the end customer shall be entitled to the rights specified in section 29. The Purchaser must work towards a corresponding obligation on the part of the end customer and inform us of the name and full address of the end customer in writing or in text form.

29.3 The software may only be used to the extent set forth the contractual agreement:

29.3.1 If we have provided the software pre-installed on hardware supplied by us, the Purchaser is entitled to run the software on this hardware for the contractually specified purposes.

29.3.2 If we have provided the software on a data carrier or as a download for use with hardware supplied by us, the Purchaser is entitled to install the software on one end device and run it in connection with the hardware supplied by us for the contractually specified purposes, unless a higher number of installations has been contractually agreed.

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29.3.3 If we have provided the software on a data carrier or as a download for purposes other than use with hardware supplied by us, the Purchaser is entitled to install the software on one end device and run it for the contractually specified purposes. The Purchaser is entitled to install the software on another end device and to allow it to expire for the contractually specified purposes, provided that it deletes the software on the end device on which the software was previously installed.

29.3.4 Insofar as it is contractually agreed that the software can only be used by a certain number of persons or only by certain persons, the Purchaser shall only be entitled to the aforementioned rights to this extent. In this case, we are entitled to measure and monitor the extent of actual use with the technical means specified in the specification. This includes the transfer of the corresponding data to us.

29.4 The permissible use only includes the proper use by the Purchaser or its end customer for their own economic purposes. In no event shall the Purchaser have the right to lease or otherwise sub-license the software, publicly reproduce or make available the software by wire or wireless means, or make the software available to third parties, whether for a fee or free of charge. Sections 29.2 and 29.7 remain unaffected.

29.5 The Purchaser may not decompile, edit, modify, copy or otherwise reproduce the software provided. The Purchaser is entitled to make a backup copy. The Purchaser shall visibly mark the backup copy with the note «Backup copy» as well as a copyright notice from the manufacturer.

29.6 The interface information required to establish interoperability can be ordered from us against payment of a reasonable charge.

29.7 Transfer to third parties

29.7.1 The Purchaser shall be entitled to transfer the acquired software to a third party permanently, but not for a limited period of time, in accordance with section 29.2, handing over the original data carrier and the documentation. In this case, the Purchaser shall:

- ▶ completely discontinue use of the software
- ▶ remove and delete all copies installed at the Purchaser's premises, and
- ▶ delete all copies (including the backup copy) held by the Purchaser on other data carriers, unless the Purchaser is legally obliged to keep them for a longer period

29.7.2 At our request, the Purchaser must confirm to us in writing that the measures specified in section 29.7.1 have been carried out in full or explain to us the reasons for a longer storage period.

29.7.3 If we have delivered the software on hardware supplied by us, the software may only be transferred to a third party together with the hardware in accordance with section 29.2. Data carriers with copies of the software supplied by us in this context are merely backup or recovery data carriers; they are not independently transferable.

29.8 The Purchaser undertakes to prevent unauthorised access by its employees and other third parties to the delivered software and the associated documentation by means of appropriate precautions, in particular the storage of the original data carriers and the backup copy in a secure location. Copyright notices, serial numbers and other features serving to identify the program may not be removed from the data carrier or the documentation, or changed.

30. PROHIBITED ACTIONS

It is expressly forbidden for the Purchaser:

- ▶ to use the software for purposes other than those for which it was designed
- ▶ to decompile the software
- ▶ to bypass or circumvent encryption or security mechanisms of the software, or
- ▶ to analyse the software for the purposes of reverse engineering

31. RIGHTS OF THIRD PARTIES, RIGHT OF WITHDRAWAL

31.1 Insofar as we deliver software that is the subject of third-party rights, the provisions communicated by us at the time of conclusion of the contract must be observed, which the Purchaser must expressly accept on request. If the Purchaser fails or refuses such acceptance, we are entitled to withdraw from the contract.

31.2 We are entitled to inform the Purchaser of the terms and conditions on the rights of third parties only after conclusion of the contract, insofar as these terms and conditions do not impair the contractually agreed use of the software by the Purchaser and the third party does not require or demand acceptance of the provisions.

32. AUDIT

32.1 The Purchaser is obliged, at our request, to allow us to verify compliance with the Purchaser's obligations set out in this section B. For this purpose, the Purchaser must provide us with all information and documents required for the audit for tempo-

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rary inspection. Furthermore, the Purchaser is obliged to grant us access to all devices on which software supplied by us is installed for the aforementioned purposes. For this purpose, the Purchaser shall grant us access to their business premises during usual business hours at our request after a notice period of at least 10 calendar days. We are entitled to transfer the aforementioned rights through a third party bound to secrecy, who must not be a competitor of the Purchaser. We will ensure that the exercise of our rights will have as little impact as possible on the Purchaser's business operations.

32.2 If the Purchaser does not use the software but delivers it in its entirety or as part of another service to third parties (end customers), we shall also be entitled to the rights specified in section 32.1 against the end customer. The Purchaser must work towards a corresponding obligation on the part of the end customer.

Heerbrugg, 26 September 2023