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Additional Terms and Conditions for Services/ Supplies of Software
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The following terms and conditions supplement or, in contradiction, change the "General terms and conditions for R&D products and services" based on the "General Conditions for the Supply of Products and Services of the Electrical and Electronics Industry" (GL) ("Green Delivery Terms"), referred to as "GL" in these conditions.

1. Scope of Application of these terms: This software clause applies exclusively to the - temporary or unlimited - provision of software that has been created by the supplier as part of or in connection with a delivery of related hardware or is tailored to a specified hardware (hereinafter referred to as "software"), as well as to the entire delivery, insofar as a breach of duty or disruption of performance is caused by the software. Updates or upgrades that replace previously licensed software are subject to these terms accordingly. Furthermore, hardware shall be solely subject to the conditions of the GL.

Firmware is not "software" within the meaning of this software clause.

The GL shall apply to those matters not specifically covered by these terms.

With these conditions, the supplier does not assume any obligation to provide services. These require a separate agreement.

2. Documentation: The following applies in addition to Article I No. 2 GL: The provision of documentation requires a separate written agreement. If documentation is provided, the term "software" in the following also includes the documentation.

3. Rights of use: Instead of Article I No. 3 GL, the following applies:

3.1 The supplier grants the customer the non-exclusive right to use the software in accordance with the contract. Unless otherwise agreed, the right of use applies in the country of delivery of the hardware and in the territory of the European Union or another contracting state of the Agreement on the European Economic Area. The right of use is limited to the agreed period of time; in the absence of such an agreement, the right of use is unlimited in time.

3.2 The following supplementary conditions shall apply where the right to use is subject to a time limit: The customer may only use the software with the hardware specified in the contract documents, in the absence of such a mention with the associated hardware delivered together with the software. The use of the software with another device requires the express written consent of the supplier and, if the software is used with a more powerful device, entitles the supplier to an appropriate additional payment; this does not apply if and for as long as the customer uses the software temporarily with a replacement device to the agreed extent due to a defect in the agreed device.

3.3 Where the contract documents refer to more than one device, the customer shall not install or make useable the software provided on more than one of these devices simultaneously single license), unless the customer is granted a multiple license in accordance with Section 3.10. Where more than one workplace exists for a specific device

on which the software can be used independently, the single license shall apply to only one workplace.

3.4 The software is only provided in machine-readable form. The source code is not owed.

3.5 The customer may only make one copy of the software, which may only be used for backup purposes (backup copy). Otherwise, the customer may only reproduce the software within the framework of a multiple license in accordance with Section 3.10.

3.6 Except in the cases of § 69e of the German Copyright Act (decompilation), the customer is not entitled to change, reverse engineer, translate or remove parts of the software. The customer may not remove alphanumeric and other identifiers from the data carriers and must transfer them unchanged to every backup copy.

3.7 For permanently licensed software, the supplier grants the customer the right to transfer to third parties the right of use granted to him. However, the customer who is not given the software for the purpose of commercial resale may only pass on the right to use the software to third parties together with the device that he purchased from the supplier together with the software. If the right to use is transferred to a third party, the customer shall ensure that the right to use granted to the third party does not exceed the scope of rights to the software granted to the customer under this agreement, and the customer shall ensure that the third party shall be obliged to comply with at least the same obligations as are imposed. The customer is not entitled to grant sublicenses. If the customer leaves the software to a third party, the customer is responsible for observing any export requirements and must release the supplier from any obligations in this respect.

3.8 For software for which the supplier only has a derived right of use and which is not open source software (third-party software), the terms of use agreed between the supplier and his licensor apply in addition and take precedence over the provisions of this clause 3, insofar as they relate to the customer (such as End User License Agreement); the supplier shall notify the customer of such conditions and make them available upon request.

3.9 For open source software, the terms of use to which the open source software is subject shall take precedence over the provisions of this Section 3. The supplier will only release or make available the source code to the customer to the extent that the terms of use of the open source software require this. The supplier will inform the customer of the existence and the terms of use of the open source software provided and make the terms of use accessible to him or, if required by the terms of use, provide them to the customer.

3.10 In order to use the software on several devices or at several workplaces at the same time, the purchaser requires a separately agreed right of use. The same applies to the use of the software in networks, even if the software is not duplicated. In the aforementioned cases (hereinafter uniformly referred to as "multiple licenses"), the following letters (a) and (b) shall apply in addition to and superseding the provisions of this No. 3.1 to 3.9.

a) A prerequisite for a multiple license is an express written confirmation from the supplier of the number of permitted copies that the customer may make of the software provided and the number of devices or workplaces on which the software may be used. Section 3.7 sentence 2 applies to multiple licenses, with the proviso that the customer may only transfer the multiple licenses to third parties if they are transferred in their entirety and with all devices on which the software may be used.

b) The customer shall observe the duplication rules provided by the supplier together with the multiple license. The customer must keep records of the whereabouts of all copies and present them to the supplier on request.

4. Transfer of risk: Article V GL shall be amended as follows: When software is provided by means of electronic communication media (e.g. via the Internet), the risk passes when the software leaves the supplier's sphere of influence (e.g. during download).

5. Further cooperation obligations of the customer and liability: The following applies in addition to Article VI GL: The customer must take all necessary and reasonable measures to prevent or limit damage caused by the software. In particular, the customer must ensure that programs and data are regularly backed up. Insofar as the customer culpably breaches this obligation, the supplier is not liable for any consequences arising therefrom, in particular not for the replacement of lost or damaged data or programs. A change in the burden of proof is not associated with the above regulation.

6. Defects as to quality ("the defects"):

6.1 Instead of Article VIII GL, the following applies to permanently provided software:

a) Contractual claims based on Defects of the Software are subject to a limitation period of 12 months from the start of the statutory statute of limitations. The statutory limitation period shall apply to claims for damages based on intent and gross negligence and in the case of culpable injury to life, body or health. In the event of fraudulent concealment of the defect or non-compliance with a quality guarantee, the longer statutory periods apply. Claims for reimbursement of expenses by the customer pursuant to Section 445a of the German Civil Code (BGB) (recourse of the seller) expire 12 months after the start of the statutory limitation period, provided that the last contract in the supply chain is not a consumer goods purchase. The legal regulations on suspension of statute of limitations ("Ablauf-hemmung", "Hemmung") and recommencement of limitation periods remain unaffected.

b) The suspension of expiration according to Section 445b (2) of the German Civil Code (Bürgerliches Gesetzbuch - BGB) ends in any case no later than five years after the time at which the supplier delivered the item to the seller. This does not apply if the last contract in the supply chain is a purchase of consumer goods or in the cases listed under (a) sentence 3.

c) Only deviations from the specification that are proven and reproducible by the customer are deemed to be defects in the software. A defect does not exist if it does not occur in the latest version supplied to the customer, and the customer can be reasonably expected to use it.

d) Notifications of Defect by the purchaser shall be given in written form without undue delay. The defect and the corresponding data processing environment must be described in as much detail as possible.

e) Claims based on defects do not exist in the case of any of the following:

1. insignificant deviations from the agreed characteristics,

2. only minor impairment of usability,
3. damage from faulty or negligent handling,
4. damage from particular external influences not assumed under the contract,
5. modifications or amendments made by the customer or third parties, and any consequences resulting therefrom,
6. incompatibility of the Software provided with the data processing environment of the customer.

f) If the software has a defect, the supplier must first be given the opportunity to remedy the defect within a reasonable period of time. The supplier has the right to choose between the types of supplementary performance.

g) Unless the supplier chooses otherwise, the supplier will correct the defect in the software as follows:

1. The supplier will provide a replacement by way of an update or an upgrade of the Software if available to the supplier or obtainable with reasonable efforts by the supplier. If the supplier has granted the customer a multiple license, the customer may make a number of copies of the update or upgrade provided as a replacement that corresponds to the multiple license.

2. If a supplied data medium or documentation is defective, the customer can only demand that the supplier replaces it with one that is free of defects.

3. The Supplier shall have the right to choose whether it corrects the Defect at the location of the Purchaser or at its own location. If the Supplier chooses to correct the Defect at the Purchaser's location, the Purchaser shall assure that the required hardware and software as well as the required operating conditions (including the required computing time) and qualified operating personnel are available. The customer must provide the supplier with the documents and information he needs to remedy the defect.

4. The customer shall enable the supplier access for remote maintenance if so requested.

5. Claims by the customer for the expenses required for the purpose of supplementary performance are excluded.

6. The customer's right of recourse against the supplier pursuant to Sec. 445a BGB (German Civil Code) (seller's right of recourse) shall exist only as the customer has not made any agreements with his customer that go beyond the statutory claims for defects.

h) If at least two supplementary performances fail, the customer is entitled to set a reasonable period of grace to remedy the defect. If the rectification fails even in the period of grace, the customer can - without prejudice to any claims for damages according to Article XII GL - withdraw from the contract or reduce the payment, unless there is an insignificant defect.

i) In the case of claims for defects, payments by the customer may not be withheld. The customer does not have a right of retention, especially if his claims for defects have become statute-barred. If the notice of defects is unjustified, the supplier is entitled to demand reimbursement of the expenses incurred by the customer.

j) Furthermore, Article XII GL applies to claims for damages. Claims of the customer against the supplier and his vicarious agents because of a defect that go beyond or differ from those regulated in this clause 6 are excluded.

6.2 Instead of Article VIII GL, the following applies to non-permanently provided software:

a) Only deviations from the specification that are proven and reproducible by the customer are deemed to be defects in the software. A defect does not exist if it does not occur in the latest version supplied to the customer, and the customer can be reasonably expected to use it.

b) Notifications of Defect by the purchaser shall be given in written form without undue delay. The defect and the corresponding data processing environment must be described in as much detail as possible.

c) Claims based on defects do not exist in the case of any of the following:

1. insignificant deviations from the agreed characteristics,
2. only minor impairment of usability,
3. damage from faulty or negligent handling,
4. damage from particular external influences not assumed under the contract,
5. modifications or amendments made by the customer or third parties, and any consequences resulting therefrom,
6. incompatibility of the Software provided with the data processing environment of the customer.

d) If the software has a defect, the supplier must first be given the opportunity to remedy the defect within a reasonable period of time. The supplier has the right to choose between the types of supplementary performance.

e) Unless the supplier chooses otherwise, the supplier will correct the defect in the software as follows:

1. The supplier will provide a replacement by way of an update or an upgrade of the Software if available to the supplier or obtainable with reasonable efforts by the supplier. If the supplier has granted the customer a multiple license, the customer may make a number of copies of the update or upgrade provided as a replacement that corresponds to the multiple license.

2. If a supplied data medium or documentation is defective, the customer can only demand that the supplier replaces it with one that is free of defects.

3. The Supplier shall have the right to choose whether it corrects the Defect at the location of the Purchaser or at its own location. If the Supplier chooses to correct the Defect at the Purchaser's location, the Purchaser shall assure that the required hardware and software as well as the required operating conditions (including the required computing time) and qualified operating personnel are available. The customer must provide the supplier with the documents and information he needs to remedy the defect.

4. The customer shall enable the supplier access for remote maintenance if so requested.

f) If at least two supplementary performances fail, the customer is entitled to set a reasonable period of grace to remedy the defect. If the rectification fails even in the period of grace, the customer can - without prejudice to any claims for damages according to Article XII GL - withdraw from the contract or reduce the payment, unless there is an insignificant defect.

g) Furthermore, Article XII GL applies to claims for damages. Claims of the customer against the supplier and his vicarious agents because of a defect that go beyond or differ from those regulated in this clause 6 are excluded.

7. Industrial property rights and copyrights; Legal defects: Instead of Article IX GL applies:

7.1 Unless otherwise agreed, the supplier shall provide the supplies in the country of the place of delivery or within the territory of the European Union or of another signatory state to the agreement on the European Economic Area without infringing any third-party industrial property rights and copyrights (hereinafter referred to as "IPR"). If a third party asserts a justified claim against the customer based on an infringement of an IPR by the supplies made by the supplier and used in conformity with the contract, the supplier shall be liable to the customer - in the case of software provided for an unlimited time period within the contractual limitation period stipulated for defects; in the case of temporarily provided software within the statutory limitation period – as follows:

a) The Supplier shall choose whether to acquire, at its own expense, the right to use the IPR with respect to the Supplies concerned or whether to modify the Supplies such that they no longer infringe the IPR or replace them. If this would be impossible for the supplier under reasonable conditions, the Purchaser may rescind the contract or reduce the remuneration pursuant to the applicable statutory provisions.

b) The supplier's liability to pay damages is governed by Article XII GL.

c) The above-mentioned obligations of the supplier only exist if the customer immediately notifies the supplier in written form of the claims asserted by the third party, does not acknowledge an infringement and the supplier reserves the right to take all defensive measures and negotiate settlements. If the customer stops using the delivery to reduce the damage or for other important reasons, he is obliged to point out to the third party that the discontinuation of use is not associated with any acknowledgment of an infringement of industrial property rights.

7.2 Claims by the customer are excluded insofar as he is responsible for the infringement of property rights.

7.3 Claims by the purchaser are also excluded if the infringement of IPR is caused by specifications made by the purchaser, by a type of use not foreseeable by the supplier or that the delivery is modified by the purchaser or used together with products not supplied by the supplier.

7.4 In the event of infringements of property rights, the provisions of Section 6 No. 1 (i) and Section 6 No. 1 (f) sentence 1 apply accordingly to the claims of the customer regulated in Section 7 No. 1 (a).

7.5 Claims of the customer against the supplier and his vicarious agents because of a defect in title that go beyond or other than those regulated in this clause 7 are excluded.

7.6 Bei Vorliegen sonstiger Rechtsmängel gelten die Bestimmungen der Ziffer 6.

7.7 Where other defects in title occur, the provisions of No. 6 shall apply *mutatis mutandis*.