Müller-BBM VibroAkustik Systeme GmbH

GTC Software Licensing and Maintenance of Software

1. General / Scope

1.1. These GTC Software Licensing and Maintenance of Software (hereinafter referred to as "**Terms**") shall apply in all cases in which **we**, Müller BBM VibroAkustik Systeme GmbH, Helmut-A.-Müller-Straße 1-5, 82152 Planegg, provide (sell or rent) or maintain standard software which is provided to the customer separately or as part of our products (hereinafter referred to as "**Software**") and shall form an integral part of corresponding offers, order confirmations and agreements, unless we expressly agree otherwise in writing.

1.2. The customer's general terms and conditions shall not apply. Unless we have explicitly agreed in writing, we shall not be bound by any provision of the customer's order or other document that is inconsistent with the provisions of these Terms, whether by providing software, performing services, confirming an order of the customer or otherwise.

2. Order

Unless otherwise agreed, our offers are subject to change. The order by the customer shall be deemed a legally binding offer to conclude a contract for the purchase and/or rental of software and/or the provision of maintenance services (hereinafter "**Contract**"). We are entitled to accept the customer's offer within a period of 14 calendar days. The Contract shall only be concluded when we have confirmed the order in writing by means of an order confirmation or when we commence with the execution of the Contract.

3. Delivery / Object of delivery

3.1. The object of delivery is the Software defined in the respective Contract. The quality and functionality to be provided is conclusively regulated in the documentation of the Software.

3.2. Delivery shall be made by handing over a data carrier or by making the Software available for download.

3.3. The Software shall be provided exclusively in machine-readable form (object code). The source code is not the subject matter of the Contract and shall not be provided. The provisions in Clause 6 shall apply to the provision of parts of the source code in accordance with third-party license conditions, in particular open-source software, and to the connection of third-party components.

3.4. We reserve the right to make changes to the Software provided and any third-party software and/or open-source software used therein at any time, insofar as this does not restrict the functional scope of the Software as described in the documentation or otherwise agreed between the parties.

4. Rights of use

4.1. We or our licensors exclusively own all rights and title in and to the Software. The customer shall only be entitled to the rights to the Software as set forth in these Terms. This shall also apply to all versions of the Software provided to the customer within the scope of maintenance and to adaptations of the Software individually commissioned by the customer against additional remuneration (e.g., supplementary parameterization, configuration, or programming of the Software - hereinafter "**Customized Solutions**"). The following provisions on rights of use of the Software shall apply accordingly to Customized Solutions.

4.2. If the Software is purchased as part of a product, we grant the customer a simple, non-exclusive right to use the Software for the purpose of using the product in accordance with the Contract and exclusively in connection with the product.

4.3. In the case of Software provided separately and not as part of products, we grant the customer within the scope of the agreed license option a simple, non-exclusive right to use the Software for its own internal purposes and for the internal purposes of its affiliated companies.

4.4. The right of use is, subject to deviating agreements in the Contract, territorially limited to the country in which the Customer has its registered seat.

4.5. If the Software is acquired by way of purchase, the customer shall be granted the simple right of use for an unlimited period of time. In the case of software rental, the granting of the simple right of use is limited in time to the agreed term.

4.6. The customer may make a copy of the Software exclusively for backup purposes (backup copy). Furthermore, the customer may not remove alphanumeric and other identifiers, e.g., copyright notices, from the data carriers and must transfer them unchanged to each backup copy. Except in the cases permitted by law according to § 69d and § 69e UrhG, the customer is not entitled to modify, reverse engineer, or translate the Software or to extract parts of the Software. Before decompiling the Software, however, the customer shall request us in writing to provide the information required to establish interoperability within a reasonable period of time.

4.7. Furthermore, the customer is not entitled to sub-license, distribute, rent, or otherwise disseminate the Software, to combine it with its own products or products of third parties, to modify it, to publish it or to exploit it commercially in any other way. The operation of the Software on systems of a service provider (outsourcing) for use in accordance with the Contract is permitted.

4.8. The customer is only entitled to transfer the Software to a third party if (i) we have granted the customer a right of use for an unlimited period of time, (ii) the customer transfers the Software in its entirety and together with the product intended for the use of the Software, (iii) the customer discontinues the use of the Software unconditionally and completely, (iv) the customer destroys or hands over to the recipient all copies of the Software, in particular backup copies, which are in his possession; and, (v) the customer ensures that the third party is not granted any further rights of use in the Software than the customer is entitled to under these Terms and that the third party is imposed at least the obligations under these Terms that exist in respect of the Software. If the customer transfers the Software to a third party, the customer shall be responsible for compliance with any export requirements and shall indemnify us against any obligations in this respect.

4.9. The following licensingoptions are available to the customer for Software provided separately and not as part of products:

4.9.1. Single-user license

A single-user license entitles the customer to install and use the Software on one workstation / client. Use of the Software at different workstations / clients is not permitted.

4.9.2. Floating license

A floating license in connection with a corresponding basic license entitles the customer to use the Software within a network from different workstations / clients. For the simultaneous use of the Software at several workstations / clients, a corresponding number of floating licenses is required.

4.9.3. Server License

If the Software is a server service, the server license authorizes the installation and operation of the Software on a dedicated hardware unit or docker instance of the customer. Several server licenses can be operated as a logical unit of the server service ("**Cluster**"), distributed on several hardware units or docker instances. A Cluster is assigned to a dedicated license server and requires a number of server licenses and Cluster options equal to the number of hardware units or docker instances associated with the Cluster.

4.9.4. Daily User License

A Daily User License entitles the Customer to use the server service from the activation of the Daily User License until 24:00 o'clock of the same day.

4.9.5. Named User Licence

The Named User License entitles one user with registered personalized access to use the Software.

4.10. The license options set out in Clause 4.9 refer exclusively to direct use by natural persons. Machine use or use based on other automated data processing procedures via interfaces or other technical means that give several persons access to the functionalities of the Software without these persons being licensed as users in accordance with one of the above license options is not permitted.

4.11. In addition to the license options set out in Clause 4.9, we may grant the customer a license to use the Software in a staging environment that cannot be used productively ("**Staging License**"). Staging Licenses are generally subject to a fee unless the parties have expressly agreed otherwise. The Staging License entitles the customer exclusively to use the Software in a staging environment that cannot be used in productive operation. The customer is responsible for the provision and operation of the staging environment.

5. Interfaces / connection of third-party software

5.1. The customer may only use interface information, libraries, or other components of the Software, contained in the Software, or otherwise made available by us, which are required for the connection of its own applications or applications of third parties in accordance with the provisions in these Terms.

5.2. The connection of customer applications or applications of third parties to the Software is only permitted if we have given the customer prior written consent and have made the necessary components of the Software (incl. libraries) available in source code form or the customer is entitled to do so on the basis of mandatory statutory provisions.

5.3. Use of the Software in connection with connected applications is permitted only in accordance with the rights to use the Software granted in these Terms.

5.4. If customer or third-party applications are to be connected to the Software as part of a digital ecosystem, we are entitled to subject the connection to a quality and compatibility check in order to avoid risks for the digital ecosystem arising from such connection. For this purpose, we are also entitled to refuse consent to the connection or to revoke consent already granted if significant risks arise for the digital ecosystem. A Digital Ecosystem is the network connection of various software and hardware components of the customer, third parties and/or us by using the Software.

5.5. The customer shall be solely responsible for any disruptions to the operation, security, performance, or functionality of (i) the Software or systems or programs of the customer or third parties that are based on the use of connected applications and (ii) applications of the customer that are based on the use of the interfaces of the Software provided by us. We are not obliged to remedy such errors within the scope of the warranty or the maintenance services. We cannot safeguard the compatibility of the versions of the Software provided as part of the maintenance services with connected applications.

6. Third-party Software / Open-source Software

6.1. Insofar as we provide the customer with Software that contains open-source software or software for which we only have a derived right of use (hereinafter: "**Third-Party Software**"), the license conditions to which this open-source software or Third-Party Software is subject shall apply additionally and with priority.

An overview of the open-source software and/or third-party software used is provided, together with the respective license conditions, naming the respective license in the documentation of the respective Software package. Unless otherwise agreed, the Software does not contain any open-source software whose license conditions provide for the obligation to place all elements derived from it under the same license conditions, i.e., for free copying, distribution, and processing.

6.2. The license conditions for Third-Party Software are available from us on request or are delivered together with the Software. At the customer's request, we shall provide the customer with the source code of the open-source software, insofar as the respective license conditions of the open-source software require the release of the source code. The customer undertakes to comply with the respective license conditions. In the event of a breach of these license conditions by the customer, we as well as our licensors shall be entitled to assert the resulting claims and rights in their own name.

6.3. If third parties assert claims against us due to the infringement of the license conditions for third-party software by the customer, the customer shall indemnify us in full against all damages, expenses and costs including reasonable costs of legal defense.

7. Cooperation obligations of the customer

7.1. The customer shall ensure a sufficient technical operating and system environment for the proper operation of the Software, which must at least comply with the minimum technical requirements contained in the documentation of the Software.

7.2. The customer shall test the Software prior to its use in productive operation in accordance with the respective current state of the art and in compliance with the usual care required in the course of business. This includes in particular the performance of functional tests, integration tests, checks for viruses and malware as well as other tests agreed separately in the respective Contract. § 377 HGB remains unaffected. Notices of defects must be sent to us in writing.

7.3. The customer shall take all necessary and reasonable measures to prevent or limit damage caused by the Software. In particular, the customer shall ensure regular back-ups of programs and data. Insofar as the customer culpably violates this obligation, we shall not be 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 provision.

7.4. With regard to software maintenance, in particular with regard to PAK Cloud (see Clause 13 and Clause 17), the customer also has the following (non-conclusive) cooperation obligations:

7.4.1. The customer shall report defects in the Software to us immediately after discovery.

7.4.2. When reporting an error, the customer shall observe in detail the symptoms that have occurred, the Software as well as the system and hardware environment and report the error to us in text form without delay, providing any documents and information that is useful for the elimination of the error (e.g. description of the system and hardware environment as well as any simultaneously loaded third-party software).

7.4.3. The customer shall, insofar as this is necessary for the error analysis, provide us with the necessary data, information, and documents together with the error report.

7.4.4. If remote troubleshooting has been agreed, the customer shall create the necessary technical conditions for this. If on-site troubleshooting has been agreed, the customer shall grant the employees commissioned by us access to the Software and the affected systems for the performance of the services.

7.4.5. The customer shall keep all data used or obtained in connection with the Software available in machine-readable form as a backup copy, which enables the reconstruction of lost data with reasonable effort.

7.4.6. Before installing a new version of the software, the customer shall test it to a sufficient extent. This applies in particular if the Software is used in complex system environments. We shall support the customer in this upon a separate instruction.

7.5. Insofar as the fulfilment of the cooperation obligations is a prerequisite for our services, the customer must fulfil these in good time before the provision of the services starts pursuant to the Contract.

7.6. In all other respects, the customer shall reasonably and acting in good faith support the provision of the services.

7.7. If the customer does not fulfil its cooperation obligations, does not fulfil them on time or does not fulfil them in accordance with the Contract, we shall be released from our obligation to perform the services until the cooperation obligations have been fulfilled in full and in accordance with the Contract, insofar as we are dependent on the respective cooperation for the provision of the services. We

shall not be responsible for any resulting disruptions in performance. Section 254 German Civil Code remains unaffected.

7.8. If the customer breaches its obligations to cooperate, unless it is not responsible for this, and if the performance of the service is delayed as a result or if the customer is in default of acceptance, the customer shall bear the resulting additional expenses. Any further claims of us remain unaffected.

8. Remuneration

8.1. The customer is obliged to pay the remuneration agreed in the respective Contract. The remuneration for the provision of the Software by way of purchase shall be paid after delivery of the Software. In the case of Software rental, the agreed remuneration shall be paid annually in advance. For the maintenance of the Software, the remuneration shall be paid annually in advance, for the first time 12 months after the purchase of the Software. In the case of additional license purchases, the obligation to pay the increased maintenance fee shall arise with the purchase of the additional licenses, but no earlier than 12 months after the purchase of the first license of the respective Software. If the purchase or additional purchase is made during the year, the (increased) maintenance fee shall be calculated pro rata temporis for the respective current calendar year.

8.2. Payments are due 30 days after the invoice date without deduction.

8.3. We are entitled to adjust the remuneration for maintenance and software rental with effect from 1 January of a calendar year. The customer must be notified in writing of any adjustments to the remuneration at least eight weeks in advance. Adjustments are permissible within the scope corresponding to the change in the nominal wage index for services in information technology since the respective last remuneration adjustment (in the case of the first adjustment since conclusion of the Contract).

8.4. The customer is entitled to terminate the Contract with regard to the services affected by the adjustment within four weeks after receipt of the adjustment notice. The adjustment shall be deemed to have been agreed if the customer does not exercise its special right of termination within the aforementioned period. We will separately inform the customer of its special right of termination and the consequences of non-exercise in the adjustment notice.

9. Warranty

9.1. A defect of quality (*Sachmangel)* in the Software shall only be considered if the Software provided deviates from the documentation or other specification agreed between the parties and the customer can prove these deviations.

9.2. The customer must notify us of the defect of quality immediately and in writing. The written notice of a defect shall describe the defect of quality and the corresponding data processing environment as precisely as possible.

9.3. A defect of quality does not exist if the defect does not occur in the version of the Software last provided to the customer and the use of this version is reasonable for the customer.

9.4. The customer shall have no claims for defects of quality if the defect in the Software arises from an impermissible, unsuitable, or improper use or treatment of the Software by the customer, in particular if such use does not correspond to the usage possibilities described in the documentation, or if the defect arises from any alteration to the Software that was not authorized by us.

9.5. If the software has a defect of quality, we shall first be given the opportunity to remedy (*Nacherfüllung*) the defect within a reasonable period of time by providing a defect-free software or by eliminating the defect. The remedy of the defect may also consist in us showing the customer a reasonable workaround solution. We have the right to choose between the types of remedy.

9.6. In the event of remedy, we shall be obliged to bear the expenses necessary for the remedy, in particular transport and material costs, insofar as these do not increase because the defective product was taken to a place other than the place of performance. If we were not originally obliged to install the product, the remedy shall neither include the removal of the defective product nor the re-installation of the defect-free product. In this case, removal and installation costs are not considered costs of the remedy of defects and shall not to be borne by us as part of the remedy of defects.

9.7. If the remedy fails, the customer may withdraw from the Contract or reduce the remuneration (*Minderung*). This shall not affect any claims for damages on the part of the customer to which Clause 11 applies.

9.8. In the event of justified notices of defects of quality, the customer may withhold payments to an extent that is in reasonable proportion to the defects that have occurred. If the notice of defect is unjustified, we shall be entitled to demand reimbursement from the customer for the expenses incurred by us.

9.9. Further claims or claims other than those regulated in Clause 9 by the customer against us and our vicarious agents due to a defect of quality are excluded.

9.10. The limitation period for claims due to defects of quality in the software is 24 months from the delivery of the Software to the customer.

9.11. The provisions in Clause 9 shall apply accordingly to any defects of quality in Software provided to the customer within the scope of maintenance or software rental, with the provision that the right to withdraw from the Contract shall be replaced by the right to termination for cause, and the right to reduce the remuneration shall apply to the remuneration agreed upon for the respective service (maintenance or software rental). The strict liability for defects existing at the time of conclusion of the Contract pursuant to § 536a (I) German Civil Code is excluded.

10. Defects in title

10.1. Unless otherwise agreed, we are only obliged to provide the Software free of intellectual property rights and copyrights of third parties (hereinafter: "**IP Rights")** in the country of the place of delivery. If a third party asserts justified claims against the customer due to the infringement of IP Rights by our Software used in accordance with the Contract, we shall be liable to the customer within the agreed warranty period for defects, as follows:

10.1.1. We shall, at our own choice and at our own expense, either obtain a right of use for the Software, modify it so that the IP Right is not infringed or replace it. If this is not possible for us under reasonable conditions, the customer shall be entitled to the statutory rights of withdrawal or reduction.

10.1.2. Our aforementioned obligations shall only exist insofar as the customer immediately notifies us in writing of the claims asserted by the third party, does not acknowledge an infringement and all defense measures and settlement negotiations remain reserved for the customer. We shall be entitled to take over the out-of-court and judicial defense of claims of third parties at our own expense. In this case, the customer shall provide us with all information necessary for the defense and conduct court proceedings with our agreement. We reserve the right to decide on a settlement agreement.

10.1.3. If the customer suspends the use of the Software in order to mitigate damages or for other important reasons, the customer shall be obliged to inform the third party that the suspension of use does not constitute an acknowledgement of infringement of IP Rights.

10.1.4. In the event of any claims for damages Clause 11 shall apply.

10.2. Claims of the customer are excluded insofar as the customer is responsible for the infringement of IP Rights. Claims of the customer are also excluded insofar as the infringement of IP Rights is caused by specific instructions of the customer, by an application that we could not have foreseen, or by the fact that the Software is modified by the customer or used in conjunction with products that are not supplied or authorized by us, or in an unauthorized system environment.

10.3. The limitation period for claims based on defects of title in the Software shall be 24 months from delivery of the Software to the customer.

10.4. The provisions in Clause 9 shall apply accordingly to any defects in title of Software provided to the customer within the scope of maintenance or software rental, with the provision that the right to withdraw from the Contract shall be replaced by the right to

termination for cause, and the right to reduce the remuneration shall apply to the remuneration agreed upon for the respective service (maintenance or software rental). The strict liability for defects existing at the time of conclusion of the Contract pursuant to § 536a I German Civil Code is excluded.

11. Liability

11.1. Our liability is limited in all cases of contractual and non-contractual liability for damages or expenses as follows:

11.1.1. We are fully liable for intent and fraudulent concealment of a defect.

11.1.2. In the event of gross negligence, our liability shall be limited to the typical and foreseeable damage.

11.1.3. In the event of simple negligence, we are liable only for the breach of essential contractual obligations and limited to the typical foreseeable damage. Essential contractual obligations are obligations whose fulfilment enables the proper execution of the Contract and on whose compliance the customer regularly relies and may rely. In all other respects, liability for simple negligence is excluded (without prejudice to Clause 11.2).

11.1.4. Insofar as we are liable pursuant to 11.1.3, our liability is limited to an amount of EUR 500,000.00 per damage claim and EUR 1,000,000.00 in total under the Contract.

11.1.5. We shall also be liable in the event of the assumption of a quality guarantee, but only in accordance with the respective guarantee conditions.

11.2. The limitations of liability pursuant to Clause 11.1 do not apply to personal injury and to liability under the Product Liability Act.

11.3. Insofar as our liability is excluded or limited in accordance with the above provisions, this shall also apply to the personal liability of our executive bodies, legal representatives, employees, staff, and vicarious agents.

12. Confidentiality and data protection

12.1. The parties undertake to treat all confidential information, for example of a technical, commercial, or organizational nature, of which they become aware in the course of the cooperation as confidential for the duration of the business relationship and for a period of 5 years thereafter and to use it only for contractually agreed purposes. Any separately agreed non-disclosure agreements shall take precedence.

12.2. The confidentiality obligation shall not apply to such persons who are authorized to access such information and are legally or contractually bound to secrecy or in respect of whom the other party has consented to disclosure. Confidential information within the meaning of this provision is information, documents, details, and data which are marked as confidential or which by their nature or the circumstances of their disclosure are to be regarded as confidential. Confidential information is in particular the Software, the documentation as well as information on product offers and prices. The term confidential information does not include information that (i) is in the public domain or is or has become generally accessible (unless due to a breach of this Agreement by the informed party or one of its representatives); (ii) was already lawfully in the possession of the informed party without an infringement of a confidentiality obligation before it received it from the disclosing party; or (iii) was received from a third party that is entitled to disclose such information without restriction.

12.3. The existence of one of the above exceptions shall be proved by the party invoking it.

12.4. If a party is obliged to make confidential information of the other party available to a public body in the aforementioned sense, it shall be entitled to do so; the other party shall be informed immediately and, if possible, before the information is released to the public body.

12.5. The parties shall impose the same obligations as described in Clause 12 on their employees and third parties who become aware of confidential information, in the case of employees also for the time after their departure to the extent permitted by law.

12.6. The parties undertake to comply with the applicable data protection law. Insofar as we should process personal data of the customer on the customer's behalf within the scope of the provision of services, the parties shall conclude a data processing agreement in accordance with the requirements of Art. 28 GDPR.

13. Maintenance

13.1. Object of maintenance

13.1.1. The object of the maintenance is the purchased or rented Software, including all updates and service releases of the Software provided by us during the term of the maintenance. In the case of software rental, the maintenance services, with the exception of the supplementary maintenance offers for the PAK Cloud in Clause 17 of these Terms, are part of the maintenance obligation under the rental agreement.

13.1.2. Unless expressly stated otherwise in individual cases, we shall only maintain the latest version of the Software. We shall inform the main contact persons in the context of the update authorization as soon as a version is no longer updated ("discontinuation"). Interfaces of the Software as well as customer-specific individual developments are not subject of the maintenance services.

13.1.3. For the PAK Cloud (see Clause 16) the maintenance conditions for the PAK Cloud regulated in Clause 17 shall apply in addition to this Clause 13.

13.2. Updates / Service Releases

13.2.1. We provide the customer with updates and service releases of the Software within the scope of maintenance. Updates are generally new full versions of the Software with a changed version number in the first position after the main version number (e.g., PAK 5.x). Updates contain fundamental revisions, improvements and may also contain new functionalities compared to the respective previous version. Service releases are revisions of the Software that primarily serve to correct errors. The version number does not change in principle but is identified by the addition "SR <SR number>" (e.g., PAK 5.9 SR2). In the scope of PAK Cloud continuous delivery, a new version number is not assigned for every update and an SR number is not assigned for every service release, since the frequency of updates and service releases is usually higher and the scope of the increments is smaller.

13.2.2. The authorization to perform updates shall be exercised by a primary point of contact designated by the customer. The customer may appoint a replacement to exercise the authorization to perform updates in the event that the primary point of contact is unavailable.

13.2.3. Updates and service releases are made available online for downloading.

13.2.4. The Customer is obliged to comply with the technical information in the respective release notes and to pass them on to the users..

13.2.5. Insofar as the Software contains third-party software (e.g., PAK Cloud), the customer is obliged to install the respective updates and service releases provided by the third-party provider, insofar as we recommend this. It is possible that the installation of updates and service releases from third-party providers is necessary for the proper operation of the Software (e.g., PAK Cloud).).

13.3. Troubleshooting / Hotline support

13.3.1. The notification of a malfunction or any other request can be made by e-mail to pak-support@mbbm-vas.com. Exclusively for malfunctions that prevent operation, the Customer may also use the telephone support hotline to report malfunctions within the support hours (No. 13.3.2).

13.3.2. Our support hotline is available on working days (Monday to Friday) from 9:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 4:00 p.m. (ME(S)Z) under the number +49 89 264860440, with the exception of public holidays in Bavaria as well as 24.12. and 31.12. of a year.

13.3.3. In order to be able to process reported malfunctions promptly, the customer is obligated to provide us with remote access to the affected system. The customer is further obliged to exhaust

all solution possibilities integrated in the software itself (product documentation and diagnostic system) and the help available on our website (e.g. papers, online help in the myVAS portal) before calling the support hotline

13.3.4. Reports of a malfunction or other inquiries to our hotline support shall be accepted exclusively when executed by a main contact person to be named by the customer. The customer may nominate up to one deputy who shall assume the hotline authorization if the main contact person is not available. The nomination of further deputies is only possible against separate remuneration. The contact persons appointed by the customer must have sufficient technical knowledge and competence of the software and hardware used in the respective environment. Furthermore, the contact persons must have the necessary administration rights for the affected system as well as access to the customer's license server for the purpose of finding solutions and eliminating problems.

13.3.5. Requests regarding the connectivity between the systems / networks used by the customer and the software can only be processed by the support hotline if the customer provides the appropriate technical tools (e.g. tools for network analysis). Hardware requests are only processed for hardware components that the customer has purchased from us. Requests for third-party hardware components are not processed by the support hotline.

13.3.6. The processing of inquiries and malfunctions shall be carried out within a reasonable period of time within working hours. In processing the inquiries, we shall make every technically and economically reasonable effort to find a solution for the customer without delay. The elimination of disruptions can take place by providing an appropriate and reasonable workaround or by providing a service release.

13.3.7. General support of the client on site is not the subject of our maintenance services. Services on site are to be agreed and remunerated separately.

13.4. The maintenance and support services provided by us do not in principle include maintenance and support of Customized Solutions. Maintenance and support services for Customized Solutions must be expressly agreed between the parties for additional remuneration within the Contract or a separate maintenance agreement.

14. Term and termination; Return-to-support

14.1. Unless otherwise agreed in the respective Contract, the term of the maintenance agreement starts with the purchase of the Software and the term of the software rental begins with the provision of the Software and runs in each case until the end of the calendar year following the purchase or provision (minimum term). Thereafter, the term shall be automatically extended by a further 12 months in each case (extension periods). The maintenance agreement or the software rental may be terminated with three months' notice to the end of the minimum term or an extension period. Terminations must be made in writing. The right to termination for good cause remains unaffected.

14.2. If the Customer terminates the Maintenance Agreement and wishes to conclude a new Maintenance Agreement for the same Software at a later point in time, a one-time lump sum shall become due at the time of the new conclusion **("return-to-support lump sum"**). In determining the amount of the return-to-support lump sum, particular account shall be taken of the duration of the period between termination and conclusion of the new agreement, any further development of the software that has taken place in the meantime, and any cost increases. We will inform the customer of the specific amount of the return-to-support flat rate in the offer for the new conclusion of the maintenance agreement.

15. Special conditions for test licenses

15.1. Insofar as we grant the customer the right to use the Software for evaluation or test purposes ("**Test License**"), this is limited exclusively to these purposes. Use in productive operation is not permitted. The right is limited to the agreed test period. In the absence of an agreement on the test period, a period of 30 days shall be deemed agreed. The right of use shall end automatically upon expiry of the test period.

15.2. The provision of the Software under a test license shall be free of charge. Any costs for third-party providers (e.g., Amazon Web Services) associated with the use shall be borne by the customer.

15.3. We shall only be liable for Software provided under a Test License for intent and gross negligence, fraudulent concealment of a defect and for injury to life, body, and health. The statutory mandatory liability under the Product Liability Act shall remain unaffected. In all other respects, liability is excluded.

15.4. For the Software provided under a Test License we do not warrant that the Software will be error-free, permanently functional, or suitable for any particular purpose, or that errors are remedied. Furthermore, we do not warrant that the Software provided under a Test License is free from third party rights. The exclusion of warranty does not apply insofar as we have fraudulently concealed a material defect or a defect in title. In this case, we are obliged to compensate the customer for the resulting damage.

15.5. Unless otherwise provided in this Clause 15 for Test Licenses, the provisions of the Terms shall also apply to Software provided under a Test License.

16. Special conditions for PAK Cloud

16.1. PAK Cloud is a solution hosted either on-premise at the Customer's premises or at an external cloud service, which enables the Customer to access and use the PAK Cloud Services. PAK Cloud is provided either on-premise or within a cloud service to be obtained independently by the customer in accordance with the documentation (e.g., in AWS as a Bring Your Own License (BYOL) model) or as Software as a Service (SaaS model). The PAK Cloud consists of a number of components that also include third-party software. Clause 6 of these Terms applies to third-party software.

16.2. The use of the SaaS model of the PAK Cloud requires the conclusion of an agreement on the basis of separate Terms and Conditions. The use of the SaaS model is not covered by these Terms.

16.3. The prerequisite for the use of PAK Cloud by the Customer is the provision of the respective required technical infrastructure, i.e. in the case of the on-premise model of PAK Cloud in particular the required data centers, servers and hardware, network connections as well as for the cloud-based model a valid user account for the respective compatible cloud service (e.g. AWS) which at least complies with the minimum technical requirements contained in the documentation of PAK Cloud as well as any further minimum requirements notified to the Customer prior to the conclusion of the Contract. In the event of use of the cloud-based model of the PAK Cloud, the Customer is solely responsible for compliance with the Terms of the provider of the cloud service used by the Customer as well as all legal and technical requirements associated with the use of the cloud service. The technical environment must at least meet the requirements according to the documentation provided to the customer.

16.4. We will support the Customer in the implementation (i.e., initial installation and configuration) of the PAK Cloud on the operating and system environment provided by the Customer (on-premise or cloud) against payment of the agreed remuneration. The customer is obliged to regularly save its data itself and to create regular backups. There is no data backup obligation on our part unless the parties have expressly agreed otherwise against additional remuneration.

16.5. The PAK Cloud and any Customized Solutions commissioned by the Customer in connection with the PAK Cloud can only be rented and not purchased.

16.6. PAK Cloud is used on the basis of the license options specified in Clause 4.9 and defined in the Contract for the respective customer. Licensed users may only be employees of the customer and employees of companies affiliated with the customer within the meaning of §§ 15ff. German Stock Corporation Act or service providers commissioned by the customer. For the respective users, the Customer will create unique user IDs and access data for logging into the PAK Cloud ("**Access Data**").

16.7. The customer must ensure that all Access Data is carefully secured and not passed on to third parties without authorization.

He is furthermore obliged to inform us immediately if there are indications that his access to PAK Cloud could be misused by third parties. The customer is not entitled to publicly disseminate information or evaluations about the functionality or performance of PAK Cloud.

16.8. The remuneration is based on the respective license option specified in the Contract. During a Subscription Term, the Customer may purchase additional licenses for the current Subscription Term. A reduction in the number of licenses during a Subscription Term is not possible. Any costs for third-party providers associated with the use, in particular for the operation of on-premise data centers and hardware or the cloud service, shall be borne by the customer.

16.9. We will monitor the customer's use of PAK Cloud in terms of the number of licenses. If it is found that the customer is using PAK Cloud with more users than licenses acquired, the customer is obliged to acquire an adequate number of additional licenses at the current list price.

16.10. Customized Solutions shall only be created by us on the basis of a separate agreement against additional remuneration specified individually in the Contract or subsequently agreed between the parties.

16.11. Insofar as we offer the customer a test version of PAK Cloud, the provisions in Clause 15 apply.

16.12. Unless otherwise provided for in this Clause 16 for PAK Cloud, the other provisions of these Terms also apply to PAK Cloud.

17. Maintenance of the PAK Cloud

17.1. We offer the following maintenance packages for the PAK Cloud in addition to the maintenance services regulated in Clause 13:

17.1.1. Package A (Errors in the operational use of the PAK Cloud)

- Step 1: We make a preliminary diagnosis in consultation with the client.
- Step 2: We (i) perform a detailed analysis of the reported error, and (ii) support the customer in keeping the installed version of PAK Cloud operable or in restoring operability. This can also be done by providing a workaround solution.
- Step 3: We endeavor to rectify the reported error as soon as possible.

17.1.2. Package B (Error in a PAK Cloud Function))

- Step 1: We make a preliminary diagnosis in consultation with the client.
- Step 2: We (i) undertake a detailed analysis of the reported error, and (ii) endeavor to create (temporary) workarounds.
- Step 3: We endeavor to rectify the reported error.

17.2. The Support-Hotline (Clause 13.3) is not available for problems with the use of the GUI of the PAK Cloud.

17.3. Error reports by the customer within the scope of the Support Packages A and B shall be made in accordance with the conditions set out in Clause 13.3 via the support hotline provided by us.

17.4. The classification of the priority of support cases shall be made by mutual agreement between the parties on the basis of the following criteria, whereby we shall have the final decision-making right to determine the priority:

Priority	Description
1 (significant impact)	The PAK Cloud or central functionalities of the PAK Cloud are not available or only available to a limited extent, the problem has a significant impact on the operability of the PAK Cloud and there is no workaround that can remedy the significant impact on the operability of the PAK Cloud.
2 (moderate impact)	Individual functionalities of the PAK Cloud are not available or are only available to a limited extent, but the problem only has a moderately severe impact on the operability of the PAK Cloud or a workaround solution is available to remedy the significant impact on the operability of the PAK Cloud.
3 (little impact)	Individual functionalities of the PAK Cloud are not available or only available to a limited extent, but the problem has little or no effect on the operability of the PAK Cloud.

17.5. Support Package A (Clause 17.1.1) will only be provided by us against additional remuneration and upon express order of the customer. Support Package B (Clause 17.1.2) is included in the Subscription Fee payable for the PAK Cloud (both on-premise and cloud-based). The support services do not relate to the operating environment to be provided by the customer or the cloud service (e.g., AWS).

18. Special conditions for development tools

18.1. Insofar as the Software is a development tool (e.g., PAK Matrix), prior training of the users by us is required for the use of the Software. For this purpose, the customer shall appoint one or more employees to complete the relevant training. The use of the development tools is only permitted by trained personnel.

18.2. The customer is responsible for his own developments which he has created using the development tools ("**Customer Developments**") (with the exception of any compilation carried out by us). Support services and support for customer developments are to be ordered and remunerated separately.

18.3. Insofar as the compilation of the source code into an executable version is required for customer developments, we shall make the compilation available to the customer as a service. The provision of compilation tools is not part of the provision of development tools.

19. Final provisions

19.1. These Terms as well as the Contracts shall be governed by the laws of the Federal Republic of Germany excluding the the UN Convention on Contracts for the International Sale of Goods (CISG).

19.2. The courts having jurisdiction at our registered office shall have exclusive jurisdiction for all disputes concerning rights and obligations arising from these Terms and the Contracts, including their validity. However, we are entitled to sue the customer at his place of general jurisdiction.

19.3. The customer is not entitled to assign rights or claims arising from the Contracts to third parties without our prior written consent.

19.4. Amendments and supplements to these Terms must be made in writing to be effective. This also applies to the amendment of the written form clause.

19.5. The invalidity or unenforceability of one or more provisions of these Terms shall not affect the validity of the remaining provisions of these Terms. The same shall apply in the event that these Terms do not contain a provision that is necessary in itself. The parties shall replace the invalid or unenforceable provision with the legally permissible and enforceable provision that comes closest in economic terms to the meaning and purpose of the invalid or unenforceable provision. If these Terms are incomplete, the parties shall reach an agreement with the content on which they would have agreed within the meaning of these Terms if the loophole had been known at the time of conclusion of the Contract.