ATOSS

GENERAL TERMS AND CONDITIONS

FOR

ATOSS SOFTWARE MAINTENANCE OF ATOSS PRODUCTS

("GTC SOFTWARE MAINTENANCE")

I.   Part: General Terms and Conditions

§ 1   Applicability of these GTC SOFTWARE MAINTENANCE

1. <u>Scope of applicability:</u> These GTC SOFTWARE MAINTENANCE govern the rights and obligations concerning the provision of SOFTWARE MAINTENANCE for purchased ATOSS PRODUCTS ("on premises") under the CONTRACT between the CUSTOMER and the COMPANY. The following provisions shall apply accordingly to pre-contractual relationship between the PARTIES.

   Deviating, conflicting or supplementary general terms and conditions of the CUSTOMER shall not apply, even, for example, if the COMPANY does not expressly object to their applicability or if the COMPANY provides the services without reservation in the knowledge of the general terms and conditions of the CUSTOMER.

2. <u>Definitions:</u> The definitions and clarifications set out in II. Part shall apply to these GTC SOFTWARE MAINTENANCE.

§ 2   Scope of services of SOFTWARE MAINTENANCE

1. <u>Included services:</u> The COMPANY always wishes to design the ATOSS PRODUCTS purchased by the CUSTOMER in the best possible way and will therefore adapt and / or further develop them at its own discretion within the scope of the SOFTWARE MAINTENANCE ("CONTINUOUS MODIFICATIONS").

   SOFTWARE MAINTENANCE includes

   a) the further development of ATOSS PRODUCTS in terms of quality and modernity;

   b) the submission of new MAJOR RELEASES / MINOR RELEASES. They include new releases which are part of the ATOSS PRODUCTS' scope of services and which bring about functional or technological adjustments within this context;

   c) the electronic provision of updated versions of the DOCUMENTATION on the release changes;

   d) troubleshooting for the ATOSS PRO-DUCTS licensed under the CONTRACT.

2. <u>Excluded services:</u> In particular, the following services are not covered:

   • SOFTWARE MAINTENANCE for ATOSS PRODUCTS which the CUSTOMER has not used in accordance with the DOCUMENTATION;

   • the delivery of completely new functions that represent a significant expansion of the scope of services as well as the delivery of new MODULES;

   • the installation of new MAJOR RELEASES / MINOR RELEASES as well as necessary updates to the CUSTOMER´s system environment;

   • on-site services.

   Such activities as well as extensions and the provision of completely new functions or MODULES shall only be offered by the COMPANY for a separate fee.

3. <u>Provision of SOFTWARE MAINTENANCE:</u> The COMPANY shall provide the CUSTOMER with the services specified under § 2 clause 1 lit. a) to d) of the GTC SOFTWARE MAINTENANCE in the form of CONTINUOUS MODIFICATIONS by download.

§ 3   Release plan

The COMPANY shall provide the CUSTOMER with SOFTWARE MAINTENANCE in accordance with these Terms and Conditions exclusively for the following releases:

a)   For ATOSS PRODUCTS of the series "ATOSS Staff Efficiency Suite" and "ATOSS Startup Edition":

- The current MAJOR RELEASE of the ATOSS PRODUCTS listed in the CONTRACT;
- the respective current MINOR RELEASE of the ATOSS PRODUCTS listed in the CONTRACT, but only until the next MINOR RELEASE is published;
- the MINOR RELEASE of the ATOSS PRODUCTS immediately preceding the respective current MAJOR RELEASE for a period of twelve (12) months after the publication of the then generally available MAJOR RELEASE;
- the immediately preceding MAJOR RELEASE of the ATOSS PRODUCT listed in the CONTRACT, but only for a period of twelve (12) months after the publication of the then valid generally available MAJOR RELEASE.

b)   For ATOSS PRODUCTS of the "ATOSS Time Control" series":

- The respective current MAJOR RELEASE of the ATOSS PRODUCTS listed in the CONTRACT, however, only until the next MINOR RELEASE is published;
- the respective current MINOR RELEASE of the ATOSS PRODUCTS listed in the CONTRACT, but only until the next MINOR RELEASE is published;
- the MINOR RELEASE of the ATOSS PRODUCTS immediately preceding the respective current MAJOR RELEASE for a period of twenty-four (24) months after the publication of such MINOR RELEASE.

The COMPANY will provide SOFTWARE MAINTENANCE for older releases only on the basis of a separately agreed service contract at the usual rates of remuneration for such services.

§ 4   Rights and obligations of the CUSTOMER

1.   Rights of use / restrictions on use: The CUSTOMER´s rights of use and restrictions of use, including fair use, as governed in the contract for the supply of ATOSS PRODUCTS ("Software Purchase - on premises") hereby expressly also apply to the CONTINUOUS MODIFICATIONS provided by the COMPANY within the scope of SOFTWARE MAINTENANCE, including the associated DOCUMENTATION as amended from time to time.

The CUSTOMER shall observe the requirements set out in the DOCUMENTATION and comply with them at its own expense. The COMPANY shall supply the CONTINUOUS MODIFICATIONS in a manner that is subject to the system requirements specified in the DOCUMENTATION. The provision and operation of a system environment as well as its security, which are required for the use of the CONTINUOUS MODIFICATIONS at the CUSTOMER, and data backups shall not be subject matter of the CONTRACT. The CUSTOMER shall therefore independently provide the required IT infrastructure and conditions for its operation. The COMPANY shall not be obliged to provide advice or information on any necessary licensing with regard to the use of third-party products by the CUSTOMER.

The CUSTOMER´s right to use the CONTINUOUS MODIFICATIONS shall be subject to timely payment of the agreed fees for the SOFTWARE MAINTENANCE.

2.   Additional obligations of the CUSTOMER: Furthermore, the CUSTOMER shall in particular:

a)   independently carry out the implementation, configuration, parameterisation, maintenance of master data and other measures for customising the CONTINUOUS MODIFICATIONS; in doing so, attention must be paid to the complete implementation of the announced requirements, as otherwise the stability of MODULES may be impaired;

b)   implement the instructions communicated by the COMPANY (e.g. for troubleshooting or the exchange of certificates in relation to interfaces) within the communicated implementation period by competent personnel;

c)   take appropriate measures to ensure communication between the CUSTOMER and the COMPANY (e.g. ensuring that e-mails from the known contacts of the COMPANY are not intercepted by the spam filter);

d) designate to the COMPANY a responsible contact person as well as a substitute who is responsible for all communication within the scope of the provision of the SOFTWARE MAINTENANCE on the part of the CUSTOMER. The CUSTOMER shall notify the COMPANY without undue delay of any change of contact person or substitute or their contact details, naming a new contact person or new contact details. At the same time, the CUSTOMER shall only appoint contact persons who have sufficient technical and professional knowledge and skills as well as the required system responsibility. In this respect, the relevant contact person must be able to ensure first-level support at the CUSTOMER;

e) save and install new MAJOR RELEASES / MINOR RELEASES or any troubleshooting programmes (bug fixes, patches etc.) and any necessary adjustments in its IT system on its own; in doing so, it must ensure that the new MAJOR RELEASES / MINOR RELEASES are imported in due time and that the announced requirements are implemented in full, as otherwise the functional and release capability of the ATOSS PRODUCTS may be impaired;

f) enable the CONSULTANT to remotely access the ATOSS PRODUCTS installed on the CUSTOMER´s system, especially for performing SOFTWARE MAINTENANCE; in doing so, the CUSTOMER shall ensure that only such personal data relating to the specific individual case can be remotely viewed by the CONSULTANT on the CUSTOMER´s system. If the CUSTOMER does not provide the COMPANY with remote access upon the COMPANY´s request and no other equally suitable means is available, the COMPANY may refuse the service in question and shall not be responsible for the consequences thereof.

The CUSTOMER may commission the COMPANY to assist with individual or several of the aforementioned obligations (with the exception of lit. c), d) and f)) separately and subject to a charge. The General Terms and Conditions for Work and Services of the COMPANY, which are available on the website https://www.atoss.com/en-gb/general-terms-and-conditions, shall apply to separate orders.

In addition, the CUSTOMER shall perform actions and provisions of cooperation which are reasonable for the CUSTOMER in connection with the SOFTWARE MAINTENANCE of the ATOSS PRODUCTS. The COMPANY reserves the right to charge separately for additional expenses resulting from the CUSTOMER´s failure to comply with contractual obligations to cooperate.

§ 5 Rights of the COMPANY

The CUSTOMER grants the COMPANY the right to verify compliance with the terms of the CONTRACT by objectively suitable (technical) measures. The CUSTOMER shall, upon request, assist the COMPANY in the inspection to the extent necessary and ensure that the inspection can be carried out without hindrance. The COMPANY will give notice of at least five (5) BUSINESS DAYS for a system inspection. Should the inspection reveal a breach of CONTRACT (e.g. a breach of the LICENSE METRIC), the costs of the inspection shall be borne by the CUSTOMER. For each case of violation of the agreed LICENSE METRIC, the CUSTOMER undertakes to pay any additional fees on the basis of the COMPANY´s prices valid at the time.

§ 6 Intellectual property

1. Intellectual property of the COMPANY: The intellectual property, industrial property rights and all other rights of the COMPANY (i) to the CONTINUOUS MODIFICATIONS, including software, technologies, databases, (ii) to the DOCUMENTATION and other materials shall remain with the COMPANY. This shall also apply if they are processed, translated or combined unchanged or processed with third-party products by the CUSTOMER or a THIRD PARTY. The CUSTOMER shall be strictly prohibited from removing the copyright notice in the CONTINUOUS MODIFICATIONS.

2. ANALYSES: The COMPANY and / or its AFFILIATED COMPANIES may conduct analyses, investigations, evaluations and measurements (collectively "ANALYSES"), provided that they contain exclusively anonymous or anonymized usage data (e.g. duration and frequency of use of functions, mouse clicks, etc.) and / or other anonymous or anonymized data and information, such as license information, technical information or such information resulting from the technical, functional framework conditions of the deployment and use of the CLOUD SERVICE by the CUSTOMER. The data used for the ANALYSES are either already anonymous by nature,

i.e. without personal reference in the meaning of the GDPR, or are anonymized for the purpose of the ANALYSES.

For example, COMPANY may conduct ANALYSES for the following purposes: (i) to improve the product and service portfolio, technical resources and support, (ii) to research, develop and enhance ATOSS PRODUCTS and professional services, (iii) to verify and ensure data integrity, (iv) to prepare forecasts and demand scenarios, (v) to identify and evaluate correlations and trends in industry segments, (vi) to establish and expand AI (artificial intelligence) applications, and (vii) for anonymous benchmarking. ANALYSES and the anonymous or anonymized data may be automatically forwarded by the COMPANY to itself and / or to its AFFILIATED COMPANIES.

Non-anonymized, and thus personal, data will – unless otherwise agreed – only be used to provide the contractually agreed services in accordance with the provisions of the DPA.

The COMPANY shall become the sole legal owner of the data obtained from the ANALYSES at the time of its creation. The intellectual property, industrial property rights and all other rights to the CUSTOMER DATA shall remain with the CUSTOMER or the other holders of rights.

§ 7   Fees and payment methods

1. The CUSTOMER shall pay the agreed fees in advance at the agreed payment intervals. The first fee shall be invoiced as of the first day of the month following the delivery of the ATOSS PRODUCTS as supplied. Invoices may be issued in paper form or electronically. For any subsequent orders of ATOSS PRODUCTS, the fees for the SOFTWARE MAINTENANCE set forth in the CONTRACT shall increase proportionately in accordance with the then applicable prices of the COMPANY.

2. Payments are due within ten (10) days of the invoice date without deduction.

3. The CUSTOMER may set off only those claims which are undisputed or have been finally determined by a court of law.

4. The COMPANY shall be entitled to adjust the fees for the SOFTWARE MAINTENANCE on 1 January of each year, whereby the change may not exceed the respective interim increase in the official consumer price index for the Federal Republic of Germany or the index replacing it by more than two (2) full percentage points.

5. Insofar as the CONTRACT provides a binding price (if applicable, for a specific period) for ATOSS PRODUCTS (e.g. for additional MODULES and/or license extensions) and/or for the provision of professional services by the COMPANY (e.g. daily rates for CONSULTANTS, training courses, flat rates e.g. for setting up terminals, test systems or VPN tunnels as well as for any travel costs and expenses), which the CUSTOMER may order from the COMPANY after conclusion of the CONTRACT, COMPANY shall no longer be bound to these prices if the official consumer price index for the Federal Republic of Germany or the index replacing it increases in one month by more than thirty (30) percentage points compared to the same month of the previous year.

§ 8   Claims in case of non-performance or poor performance (service level) of SOFTWARE MAINTENANCE

In the event of non-performance or poor performance of SOFTWARE MAINTENANCE, the CUSTOMER´s claims shall be governed by the provisions set out in this § 8. The CUSTOMER may not reduce the agreed fees for the SOFTWARE MAINTENANCE in the event of non-performance or poor performance. However, any existing right to reclaim fees paid under reservation shall remain unaffected.

1. Admissible complaint: If the SOFTWARE MAINTENANCE is not provided in accordance with the CONTRACT and if the COMPANY is responsible, it shall be obliged to provide the respective services in accordance with the CONTRACT upon express and admissible complaint by the CUSTOMER. The CUSTOMER´s complaint shall be made in writing to the COMPANY´s contact person and at the latest within two (2) weeks of becoming aware of it or of the time at which the CUSTOMER should have become aware of it without gross negligence. The COMPANY may reject the complaint in whole or in part as inadmissible if the examination shows that it is not responsible for the non-performance or poor performance or if it can provide evidence

that the SOFTWARE MAINTENANCE services largely comply with the specifications in the CONTRACT.

2. Service level: The troubleshooting included under § 2 clause 1 lit. d) of the GTC SOFTWARE MAINTENANCE shall be subject to the reproducibility or detectability of the error with regard to the ATOSS PRODUCTS licensed under the CONTRACT. In doing so, the CUSTOMER shall take suitable measures which facilitate the detection of the error and avert or mitigate its effects. The COMPANY grants the following times to react depending on the level of severity. The time to react shall be the period between receipt of an admissible complaint (clause 1) and the time when the COMPANY begins to process troubleshooting. Times to react will only run within the COMPANY´s regular business hours (Monday to Friday from 08.00 to 18.00 (CET) and on 24.12. and 31.12. from 08.00 to 12.00 (CET) each day, except on national holidays). If the CUSTOMER submits an admissible complaint outside regular business hours, this complaint shall only be deemed to have been received at the time when business hours begin again.

If the complaint of the CUSTOMER is admissible but incomplete or misleading and if further enquiries are necessary for this reason, the time to react shall not begin until the COMPANY has received the complete information for processing the admissible complaint.

No times to react shall be triggered in the event of malfunctions which (i) are based on or caused by the CUSTOMER's use of the ATOSS PRODUCTS in violation of laws or the CONTRACT; or (ii) are caused by the CUSTOMER's failure to comply with required configurations, system requirements or obligations to cooperate; or (iii) due to improper use or use in excess of system resources - system resources will be sized based on the then current licensing data -; or (iv) due to EVENTS OF FORCE MAJEURE; or (iv) due to applications and / or services, hardware and / or other software of the CUSTOMER or a THIRD PARTY not owned or reasonably controlled by the COMPANY or its subcontractors.

The following table details the severity levels and respective times in which COMPANY should react:

Severity level	Description of severity level	Time to react
1	Operation-preventing errors: serious errors, e.g. errors that result in an inability to use at least one MODULE; errors in key functions that result in a crash of the entire application.	1 hour
2	Operationally disruptive errors: medium errors, e.g. errors in a MODULE, which do not lead to a crash, do not belong to the other errors listed in error category 1 and are nevertheless so significant that it would not be reasonable to wait until the next release to remove the error. In particular, there is no reasonable workaround for the error by organisational means	1 day
3	Other errors: minor errors, e.g. errors that do not have a significant impact on functionality and usability. The use of a MODULE is not or only insignificantly restricted by this.	Within a reasonable period of time or with a release

§ 9 Liability

1. Unlimited liability: The COMPANY shall assume unlimited liability in accordance with the statutory provisions in the event of wilful intent and gross negligence, as well as in the event of culpable injury to life, limb or health and to the extent of a guarantee accepted by the COMPANY.

2. Liability in case of minor negligence: Subject to § 9 clause 1, the COMPANY shall be liable in the event of a minor negligent breach of an obligation, the fulfilment of which is a requirement for the proper performance of the CONTRACT or on the observance of which the CUSTOMER

regularly relies and may rely ("CARDINAL OBLIGATION"), limited to the amount of foreseeable damage typical for the CONTRACT.

3. Clarification: In the cases of § 9 clause 2, the COMPANY´s liability shall be limited to EUR 25,000 regardless of the legal grounds.

4. Liability disclaimer: In all other respects, the COMPANY´s liability shall be excluded. Except in the cases set out in § 9 clause 1, the COMPANY shall in particular not be liable for profits lost or savings forfeit, losses resulting from THIRD-PARTY claims and other indirect or consequential losses. The COMPANY shall not be liable for any consequences based on the CUSTOMER´s s failure to use the CONTINUOUS MODIFICATIONS in accordance with the system requirements or these GTC SOFTWARE MAINTENANCE.

5. Force majeure: The COMPANY shall not be liable for EVENTS OF FORCE MAJEURE which make it substantially more difficult for the COMPANY to provide the SOFTWARE MAINTENANCE, or which temporarily impede or render impossible the proper performance of the CONTRACT.

§ 10 Limitation period

With the exception of claims due to wilful intent or gross negligence or due to injury to life, body or health, a limitation period of one (1) year shall apply to liability claims against the COMPANY. The limitation period shall commence from the statutory commencement of the limitation period.

§ 11 Term and termination

1. Term: The minimum CONTRACT term shall be forty-eight (48) months and shall commence on the start date agreed in the OFFER or, in the absence thereof, on the date of commencement of the first payment period designated in the first invoice for the agreed fees. In the event of repeat orders, the remaining CONTRACT term for such repeat orders, i. e. additional orders (such as licence extensions or further MODULES), shall apply accordingly.

2. CONTRACT extension: After the end of the minimum CONTRACT term, the CONTRACT term shall be automatically extended by twelve (12) months in each case, unless a PARTY terminates the CONTRACT with three (3) months' notice with effect at the end of the minimum CONTRACT term or to the end of the then current extension term. Extraordinary terminations for good cause shall remain unaffected.

3. Special right of termination: The CUSTOMER shall have a special right of termination of the SOFTWARE MAINTENANCE IN whole or in part with respect to individual MODULES at the end of the payment period specified in the CONTRACT for the SOFTWARE MAINTENANCE in the event that it terminates the use completely either with respect to all ATOSS PRODUCTS or with respect to individual MODULES. A pro rata refund of fees due or already paid for SOFTWARE MAINTENANCE is excluded.

After exercising the aforementioned special right of termination the CUSTOMER shall be obliged to irretrievably delete or irrevocably destroy all MODULES concerned respectively all ATOSS PRODUCTS in the form of the CONTINUOUS MODIFICATIONS from the IT system of the CUSTOMER within three (3) BUSINESS DAYS after termination of the CONTRACT and to surrender to the COMPANY the DOCUMENTATION in its entirety and in all versions provided as well as all other documents and information provided or to irretrievably delete or irrevocably destroy them. In the event of electronic transfer and / or storage, destruction shall be effected by deletion. The CUSTOMER shall delete incremental backup copies at the latest in the next scheduled deletion cycle. At the COMPANY´s request, the CUSTOMER shall affirm in lieu of an oath that the data has been duly destroyed or deleted. To the extent required by mandatory legal provisions, the CUSTOMER may demand the continuation of use for purely archiving purposes.

4. Extraordinary termination: Notwithstanding § 11 clauses 1 to 3, the PARTIES may extraordinarily terminate the CONTRACT in whole or in part (e.g. with respect to individual MODULES) for good cause.

Good cause for the COMPANY exists, for example, if the CUSTOMER is in arrears with the payment of fees equivalent to two (2) monthly instalments or if the CUSTOMER seriously or repeatedly breaches obligations under the CONTRACT and does not remedy the breach within

thirty (30) days following a warning from the COMPANY.

5. <u>Form of the notice of termination:</u> Notices of termination shall be in writing; text form, e.g. e-mail or fax, shall not be sufficient.

6. <u>Wind down:</u> If the COMPANY terminates the CONTRACT due to non-payment of fees due, the CUSTOMER may obtain an extension of the provision of services for a period of up to two (2) months from receipt of the notice of termination (so-called mutually agreed expiry period). This requires cumulatively that the CUSTOMER (i) notifies the COMPANY in writing of its request for extension, (ii) pays the arrears in fees without undue delay and (iii) at the same time pays the fees for the extended period of two (2) months in advance.

§ 12   Confidentiality

The PARTIES shall be obliged to treat all CONFIDENTIAL INFORMATION obtained within the context of the contractual relationship as confidential for an unlimited period of time, in particular they may not disclose it to THIRD PARTIES or use it other than for contractual purposes. Insofar as disclosure to THIRD PARTIES is necessary for the exercise of rights or for the performance of CONTRACTS, these THIRD PARTIES shall be obliged to comply with non-disclosure obligations that are largely comparable to § 12 of this document. The receiving PARTY may disclose CONFIDENTIAL INFORMATION by way of exception to the extent that it is required to disclose the CONFIDENTIAL INFORMATION pursuant to a binding legal, judicial or regulatory decision. Prior to disclosure, the PARTY which received the CONFIDENTIAL INFORMATION undertakes to notify the other PARTY without undue delay in writing of the order to disclose the CONFIDENTIAL INFORMATION so that the other PARTY may take timely remedies to prevent or limit the disclosure. If it lodges an appeal, the other PARTY continues to be bound by the obligation of secrecy as long as the appeal has suspensive effect. The disclosing PARTY will inform the receiving PARTY of the filing of an appeal.

§ 13   Data protection

By signing the CONTRACT, the COMPANY and the CUSTOMER have concluded a DPA in accordance with the GDPR. All processing of non-anonymised, personal CUSTOMER DATA shall be carried out by the COMPANY on behalf of the CUSTOMER on the basis of the DPA.

When the COMPANY provides the SOFTWARE MAINTENANCE, the CUSTOMER shall ensure that only personal data relating to the specific individual case can be viewed remotely by the CONSULTANT.

The transmission of non-anonymised, personal CUSTOMER DATA (e.g. test data, employee master data, etc.) to the COMPANY by means of transmission and communication channels that have not been mutually agreed upon in advance shall not be permitted.

§ 14   Final provisions

1. <u>Written form:</u> Amendments and supplements to the CONTRACT shall only be effective if made in writing. This shall also apply to the waiver of the written form requirement or the waiver of this written form clause itself.

2. <u>Amendments to the CONTRACT:</u> The COMPANY shall be entitled to amend or supplement the provisions of the CONTRACT insofar as this does not negatively affect the equivalence relationship agreed upon at the time the CONTRACT was concluded with regard to essential elements of the CONTRACT and the amendments are reasonable for the CUSTOMER. The right to amend the contract in particular shall include changes with regard to (i) technical developments, (ii) changes in the legal framework. The COMPANY will inform the CUSTOMER of the planned amendments in advance. The amendments shall be deemed to have been accepted by the CUSTOMER if it does not object to the COMPANY in writing or text form within six (6) weeks after notification. In the notice of amendment, the COMPANY shall also draw the CUSTOMER´s attention to the intended significance of its conduct. If the CUSTOMER objects to the amendments, the COMPANY may terminate the CONTRACT by giving one (1) month's notice. The provisions in § 3 sec. 3 DPA and § 6 sec. 4 DPA shall always take precedence over this right to amend.

3. <u>Transfer:</u> The PARTIES may not assign or transfer the CONTRACT or individual rights and obligations under the CONTRACT without the prior written consent of the other PARTY. However, the transfer to an AFFILLIATED COMPANY of the COMPANY does not require the consent of the CUSTOMER.

4. <u>Updating of contact details of the main contacts:</u> The CUSTOMER is responsible for keeping the contact details of its main contacts (in particular contractual and technical main contact) provided to the COMPANY in the CONTRACT, up to date and for notifying the COMPANY of any changes.

5. <u>Choice of law, place of jurisdiction:</u> The laws at the registered office of the COMPANY shall apply exclusively to all claims arising from or in connection with the CONTRACT; the application of the "Uniform UN Sales Law" ("United Nations Convention on Contracts for the International Sale of Goods") shall be expressly excluded. The exclusive place of jurisdiction for all disputes arising from or in connection with the CONTRACT shall be the registered office of the COMPANY.

II. Part: Definitions and clarifications

1. To the extent the masculine form for certain persons or groups of persons is exclusively used in the GTC SOFTWARE MAINTENANCE, it is merely for the sake of simplification. The relevant wording shall refer equally to all genders.

2. Insofar as a declaration is to be made "in written form" or "in writing" in accordance with these GTC SOFTWARE MAINTENANCE, it may also be made by the COMPANY in text form, in particular by e-mail, to the relevant contact person of the CUSTOMER, with the exception of notices of termination.

3. In all other respects, the following definitions shall apply:

   "GTC SOFTWARE MAINTENANCE" means these General Terms and Conditions;

   "ANALYSES" means the analyses, investigations, evaluations and measurements of anonymised CUSTOMER DATA and / or other data and information, such as licence information, technical information or such information resulting from the technical, functional framework conditions of the deployment and use of the ATOSS PRODUCTS by the CUSTOMER, as described in more detail in § 6 clause 2 of the GTC SOFTWARE MAINTENANCE;

   "OFFER" means the letter of offer from the COMPANY defining the content of the performance by the COMPANY. Insofar as the PARTIES extend the content of the performance as a result of supplementary orders, this term shall also refer to the supplementary offer in its most recently amended version;

   "ATOSS PRODUCTS" means the entirety of the software programs which the COMPANY delivers to the CUSTOMER in accordance with the CONTRACT in object code as MODULES for the purpose of installation and use on the CUSTOMER´s system. The CUSTOMER will not receive the source code;

   "DPA" means the Data Processing Agreement, that the COMPANY as Processor and the CUSTOMER as Controller conclude pursuant to Article 28 of the GDPR by signing the CONTRACT as an integral part of the CONTRACT with respect to the collection, processing and use of the CUSTOMER´s personal data. The DPA is available on the ATOSS website at https://www.atoss.com/en-gb/dpa;

   "CONSULTANT" means personnel who perform services on behalf of and at the sole discretion of the COMPANY;

   "DOCUMENTATION" means, collectively, the following documents at this time: (i) the annex called "System Releases and Requirements", (ii) the annex called "Product Description" and (iii) the COMPANY's reference manual and other technical documentation provided by the COMPANY, in each case as amended;

   "THIRD PARTY" means any natural person or legal entity other than the PARTIES and their AFFILIATED COMPANIES, their salaried and freelance employees, temporary workers and external consultants (such as management consultants, auditors and legal advisors) engaged by the PARTIES;

"GDPR" means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

"EVENT OF FORCE MAJEURE" means an event which could not have been foreseen by the PARTIES and which could not have been avoided even by exercising due care. This shall include in particular natural disasters, fire and water damage, storms, terror, war, strikes and industrial disputes, diseases (including epidemics and pandemics), insofar as a risk level of at least "moderate" is defined by the Robert Koch Institute or by an assessment of the World Health Organisation WHO;

"COMPANY" means the contracting ATOSS Group Company;

"CARDINAL OBLIGATION" means, in accordance with § 9 clause 2 of the GTC SOFTWARE MAINTENANCE a material contractual obligation the fulfilment of which is a prerequisite for the proper performance of the CONTRACT or on the fulfilment of which the CUSTOMER regularly relies and may rely;

"CONTINUOUS MODIFICATION" is described in more detail in § 2 clause 1 lit. a) to d) of the GTC SOFTWARE MAINTENANCE;

"CUSTOMER" means the contracting party of the COMPANY;

"CUSTOMER DATA" means the personal data or other data which the CUSTOMER enters into, processes and stores in the ATOSS PRODUCTS;

"LICENSE METRIC" results from the licence model named in the OFFER and the specification of the agreed scope of the licence. Regular licence models that can be considered are:

(a) "*Employee master record-based licensing model*": Here, licensing takes place on the basis of a fixed number of employee master records. The term "employee master record" means the employee master records of the respective MODULE created in a database. The term "active employee master records" refers to the master records stored in the database relating to employees whose data can be edited without restriction. The term "inactive employee master records" refers to the master records stored in the database with regard to employees whose data can only be read and thus, in particular, cannot be changed;

(b) "*User-based licensing model (Named User)* " Here, licensing is based on a fixed number of specific users (Named Users) who are authorised to use a MODULE. These Named Users can be deleted at any time and replaced by a corresponding number of new Named Users to be released for the respective MODULE. A Named User is not entitled to pass on or transfer his access data to the relevant MODULE. The access data must be treated confidentially by the Named User. The CUSTOMER shall inform the Named User about this;

(c) "*Concurrent User Licences*"*:* Here, licensing is based on a fixed number of concurrent users. In this case, the CUSTOMER shall only be entitled to use the licensed material through simultaneous access by the specified number of users (Concurrent Users);

(d) "*Terminal-based licensing model*": Here, licensing is based on the connection of a fixed number of capture terminals or other hardware, i.e. use is limited to this fixed number of external hardware devices to which the MODULE is connected;

(e) "*Other licensing models*": Other licence models require description and individual agreement in the CONTRACT;

"MAJOR RELEASE" means any release designated by the COMPANY as such by specifying a pre-point release number (e.g. 3.x; 4.x etc.);

"MINOR RELEASE" means any release designated by the COMPANY as such by specifying a post-point release number (x.1; x.2; etc.);

"MODULES" mean the COMPANY software programmes ordered by the CUSTOMER. The MODULES are made available to the CUSTOMER by the COMPANY for use in a non-parameterised state in their standard functions in accordance with the annex entitled "Product Description";

"PARTY" means either the CUSTOMER or the COMPANY as the respective contracting party; collectively, both contracting parties are referred to as "PARTIES";

"SUPPORT HOTLINE" means the services by the COMPANY described in § 2 of the GTC SOFTWARE MAINTENANCE;

"AFFILIATED COMPANY" means any entity that is directly or indirectly controlled by or under common control with a PARTY. "Control" for the purposes of this definition means (i) direct or indirect ownership or control of more than 50% of the voting shares of the relevant company and / or (ii) the ability to direct or cause the direction of the management and policies of the relevant company;

"CONTRACT" means the entirety of the rights and obligations of the PARTIES arising, as the case may be, from (a) the OFFER, (b) these GTC SOFTWARE MAINTENANCE, (c) the DPA, (d) the DOCUMENTATION and (e) other annexes referenced in the OFFER; the CONTRACT shall be concluded by written order confirmation or countersignature by the COMPANY vis-à-vis the CUSTOMER;

"CONFIDENTIAL INFORMATION"

means any information, including data and other materials, which the COMPANY or the CUSTOMER – whether communicated in writing, electronically or orally– (i) has designated as "confidential" or otherwise deemed confidential or (ii) which a reasonable THIRD PARTY would, by its nature or by reason of the circumstances, consider to be entitled to protection and therefore confidential. Such confidential information shall in particular include the CUSTOMER DATA, information on the business activities and / or processes of the PARTIES as well as all software, technologies and know-how of the COMPANY in any form, including the MODULES, DOCUMENTATION and their updates and adaptations, the business model as well as the cooperation partners and suppliers of the COMPANY, prices, offer documents, (marketing) ideas, brochures, advertising materials and presentations, concepts as well as all copies and records made thereof. Confidential Information shall not include information (i) expressly marked as "non-confidential" by the disclosing PARTY; (ii) lawfully developed or acquired by the receiving PARTY without any obligation of confidentiality; (iii) which is already generally known or subsequently becomes generally known through no fault of the receiving PARTY or as a result of a breach of CONTRACT; (iv) which is communicated or provided to the receiving PARTY by a THIRD PARTY entitled to make disclosure without breach of these GTC SOFTWARE MAINTENANCE; or (v) which has been released for disclosure by the disclosing PARTY with express written permission.

"BUSINESS DAY" means the weekdays from Monday to Friday (excluding public holidays recognised by law at the registered office of the COMPANY).

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