Terms and Conditions of Simon-Kucher Engine GmbH
for the provision of software "on-premise"
Version: October 2024

These *Terms and Conditions of Simon-Kucher Engine GmbH for the provision of software "on-premise"* (the "**Software T&Cs**") apply to all agreements between Simon-Kucher Engine GmbH, Willy-Brandt-Allee 13, 53113 Bonn, Germany ("**SKE**") and its customers (each a "**Customer**") regarding the permanent or temporary provision of software for installation and use at the Customer's premises (such an agreement hereinafter "**Customer Agreement**"). SKE and the Customer are also referred to individually as "**Party**" and jointly as "**Parties**"**.**

Chapter I - General Provisions

1. Subject Matter, Order of Precedence

1.1 The subject matter of these Software T&Cs is the provision of the object code of the software described in more detail in the Customer Agreement (the "**Contractual Software**"), the granting of non-exclusive, permanent (purchase) or temporary (rental) rights to use the Contractual Software, and the payment of the agreed remuneration by the Customer.

1.2 SKE shall only provide services to support the installation and/or configuration of the Contractual Software against separate remuneration and only insofar as this has been expressly agreed in the Customer Agreement.

1.3 Unless otherwise expressly agreed in the Customer Agreement, the Customer shall not be entitled to the delivery of source code, particularly in case of commissioned Customization Services (see section 4.1).

1.4 Unless expressly agreed otherwise, all other contractual agreements that form part of the Customer Agreement, particularly service-specific agreements, shall take precedence over the provisions of the Software T&Cs.

1.5 The Customer's terms and conditions shall not apply to the Customer Agreement, not even in a supplementary manner, except where SKE expressly agrees to the Customer's terms and conditions in text form or written form.

2. Structure and Order of Precedence within the Software T&Cs

2.1 The Software T&Cs consist of three (3) Chapters, whereby

    a) <u>Chapter I (General Provisions)</u> applies to any Customer Agreement on the provision of software for installation and use at the Customer's premises;

    b) <u>Chapter II (Software Purchase)</u> applies to the permanent provision of software to the Customer; and

    c) <u>Chapter III (Software Rental)</u> applies to the temporary provision of software to the Customer.

2.2 Chapter II and III shall take precedence over Chapter I in the event of contradictions.

2.3 Unless the context clearly indicates otherwise, references to sections within the Software T&Cs refer to the respective section in the same Chapter of the Software T&Cs.

3. General Provisions for the Provision of Services

3.1 Details of the Contractual Software and any additional services to be provided by SKE, if any (collectively the "**Contractual Services**"), as well as the remuneration to be paid by the Customer in consideration of the Contractual Services are set out in the Customer Agreement.

3.2 SKE shall provide the Contractual Services in the agreed quality. Specified delivery and performance times and dates are non-binding, unless expressly agreed to be binding. Such performance times and dates shall automatically be extended or postponed by the period of time for which SKE is prevented from performing the relevant Contractual Services, plus a reasonable ramp-up time after the reason for the hindrance has ceased to exist; this shall not apply to the extent that SKE itself is responsible (*Vertretenmüssen*) for the hindrance.

3.3 SKE may use subcontractors as vicarious agents (*Erfüllungsgehilfen*) to perform the Contractual Services. SKE shall be liable for the acts and omissions of any vicarious agents as if they were acts or omissions of SKE.

3.4 SKE will notify the Customer appropriately about disruptions, impairments, obstacles, and other restrictions, insofar as these have an impact on the contractual provision of the Contractual Services. If SKE recognizes that binding delivery or performance dates cannot be met, SKE will notify the Customer accordingly.

3.5 Unless expressly agreed otherwise, the place of performance for the Contractual Services shall be the registered office(s) of SKE from which the respective Contractual Services are being rendered.

4. Customization of the Contractual Software

4.1 The Contractual Software is a standardized product and/or contains standardized components of SKE. Development, configuration and customization services (collectively "**Customization Services**") are only performed by SKE if and to the extent that such services are expressly agreed in the Customer Agreement. In any instance, Customization Services are performed in accordance with SKE's standards (technologies, methods).

4.2 SKE shall make the results of Customization Services available to the Customer as part of the Contractual Software in object code form in accordance with these Software T&Cs. For the Customer's rights of use to the

results of the Customization Services, Chapter II section 2 shall apply accordingly in case of a permanent provision of the Contractual Software; in the case of a temporary provision of the Contractual Software, Chapter III section 2 shall apply accordingly.

4.3 If Customization Services are commissioned and performed as a work contract (*werkvertraglich*), the results of the Customization Services are subject to the Customer's acceptance. For the purpose of the respective acceptance test, SKE shall make the results of the Customization Services available to the Customer. The Customer shall commence the acceptance testing immediately and perform the acceptance procedure expeditiously. The Customer is obliged to accept the results in accordance with Section 640 para. 1 German Civil Code (*BGB*).

4.4 The Customer may declare acceptance expressly or by conclusive action. In particular, the Customization Services shall also be deemed to have been accepted by the Customer if the Customer

    a)   uses the customized Contractual Software in operational mode or with real data for a period of at least five (5) business days without expressly refusing acceptance due to not insignificant defects; or

    b)   does not declare the refusal of acceptance within a reasonable period of time after the provision of the Customization Services. As a general rule, such reasonable period shall not exceed two (2) weeks.

Section 640 para. 2 and 3 BGB shall remain unaffected.

4.5 If the Customer refuses acceptance of the Customization Services, he/she shall also notify SKE in writing or by electronic means of the material defects on account of which the Customer refuses acceptance. If the Customer refuses acceptance even though the results are ready for acceptance (*abnahmereif*), the Customer shall be in default of acceptance (*Annahmeverzug*).

5. Provision of the Contractual Software

5.1 SKE shall provide the Contractual Software to the Customer in object code together with a user documentation. SKE shall not be obliged to provide source code.

5.2 SKE shall provide the Contractual Software to the Customer by handing it over on a data carrier, transmitting it to the Customer electronically or by making it available for download and informing the Customer of the possibility to download the Contractual Software. The risk of accidental loss and accidental deterioration (*Gefahrübergang*) shall pass to the Customer upon handover, transmission or information about the download option, as the case may be.

5.3 If SKE provides the Customer with patches, updates, upgrades, fixes or other changes to the Contractual Software (collectively "**Updates**"), such Updates are subject to the usage rights and usage restrictions applicable to the underlying Contractual Software.

6. Third-Party Components

For open source software contained in the Contractual Software as well as for proprietary software of third parties (collectively "**Third-Party Components**"), the license terms applicable to the respective Third Party Component (collectively "**Third-Party License Terms**") shall apply exclusively. SKE shall provide the Customer with a list of the relevant Third-Party Components, including the relevant open source license terms.

7. Support

In case the Customer has commissioned support services, the provisions of the incorporated appendix "Support and Service Level Agreement" (the "**Support Agreement**") shall apply in addition and with priority. For support services, the terms of the Support Agreement shall prevail.

8. Professional Services

8.1 If agreed in the Customer Agreement, SKE shall provide services to support the Customer ("Professional Services"). Professional Services may include, but are not limited to, consulting services, conceptual design services, instruction services, configuration service, support and/or training. The subject matter and scope of the Professional Services are defined in the Customer Agreement. For Professional Services, this section 8 shall prevail.

8.2 If training sessions or other means of training by SKE are agreed upon, the Customer shall be solely responsible for ensuring that the participants attend the respective training on the date and at the time agreed upon for this purpose. SKE is not obliged to offer another training session if the Customer's participants do not attend a training session.

8.3 If, in the course of the Professional Services, SKE provides the Customer with work results (e.g. algorithms, configurations, concepts, presentations) which are protected by intellectual property rights, SKE shall grant the Customer upon delivery with the exclusive right, without limitation as to content, time and place, to use the newly created components of the work result. Upon delivery, the Customer shall receive a non-exclusive, permanent right, limited in terms of content, to use pre-existing components of the work results (Professional Services) for its own business purposes within the Customer's company and its Affiliates (as defined in Section 15 German Stock Corporation Act (AktG)).

8.4 SKE shall perform Professional Services with due diligence and care. SKE is not obligated to achieve a certain success or to provide a certain work result. In particular, SKE shall not be responsible for the Customer achieving a certain economic success through or on the basis of the Professional Services.

8.5 If SKE fails to provide Professional Services in accordance with the Customer Agreement, and provided that SKE is responsible (*Vertretenmüssen*), SKE shall repeat the Professional Services concerned without additional remuneration to be paid by the Customer. The Customer shall grant SKE a reasonable period of time for this purpose. Further claims of the Customer shall remain unaffected within the scope of the contractually agreed limitations of liability.

9. Customer's Cooperation Obligations and Responsibilities

9.1 General cooperation obligations and Customer responsibilities

a) The Customer shall provide SKE with all documents, data and other information from the Customer's sphere requested by SKE for the performance of the Contractual Services free of charge, completely and without undue delay. The Customer shall ensure that SKE's queries are answered in a professional and qualified manner, within a reasonable period of time. SKE may assume that all information provided by the Customer is complete and correct, unless SKE recognizes, or must recognize with the diligence of a prudent businessman, that the information is incomplete or incorrect.

b) The Customer shall establish all necessary conditions in his/her sphere for the proper performance of the Contractual Services. In particular, the Customer shall provide SKE with the necessary access to its IT systems and, if possible, also enable remote access to the Customer's system. If remote access is not possible for security or other reasons, the relevant deadlines shall be extended accordingly.

c) Insofar as it is agreed that Contractual Services are to be performed on site at the Customer's premises, the Customer shall provide SKE with sufficient work places and work equipment free of charge.

d) The Customer shall adequately test the Contractual Services and all work results made available to the Customer within the scope of the Contractual Services, including the results of Customization Services, for usability and suitability for the Customer and the Customer's purposes prior to their operational use, and shall commence such operational use only if the test results are positive. The foregoing shall not affect the Customer's statutory and contractual obligations to inspect and give notice of defects (*Rügeobliegenheiten*).

e) If the Customer claims a defect in the Contractual Services although there is actually no defect, the Customer shall reimburse SKE for all expenses and costs incurred, unless it was not apparent to the Customer in the exercise of due diligence that the claimed defect was not actually present.

f) The Customer shall nominate a primary contact person for SKE and an alternate contact person (collectively, "**Contact Persons**") for the performance of the Customer Agreement. The Contact Persons' contact information shall include the name, telephone number and e-mail address. The Contact Persons shall be authorized to make legally binding decisions for the Customer and to effect such decisions in a timely manner.

g) The Customer is obliged to inform SKE immediately, at least in text form, about changes in the company name, company address, Contact Persons and any other changes relevant to the performance of the Customer Agreement.

h) The Customer shall also provide any further cooperation agreed in the Customer Agreement. The Customer shall provide all cooperation services exclusively through competent personnel who are sufficiently qualified for the respective cooperation service.

9.2 Software-specific cooperation duties and responsibilities of the Customer

a) Unless expressly agreed otherwise, the Customer shall be solely responsible for the successful installation, configuration and operation of the Contractual Software, including the creation and connection of the necessary APIs and the integration of the Contractual Software into the Customer's system landscape. The Customer shall ensure that the Contractual Software is only installed and used in an operating environment approved by SKE.

b) The Customer shall be responsible for the proper transfer of data to the Contractual Software via connected APIs. The Customer shall take reasonable measures to ensure the accuracy and completeness of the data processed through the Contractual Software and its proper transfer to the Contractual Software.

c) The Customer is responsible for the security of the Customer's systems and their protection against malware and attacks.

d) The Customer shall use the Contractual Software only to the extent permitted by the Customer Agreement and shall comply with all legal and regulatory requirements applicable to the Customer. Users of the Contractual Software authorized by the Customer must be bound by the Customer accordingly and shall be appropriately monitored by the Customer in this respect.

e) If the Parties have agreed on usage restrictions for the use of the Contractual Software (e.g. a maximum number of users), the Customer shall ensure compliance with the agreed usage restrictions by taking appropriate measures to this end.

f) The Customer shall immediately install any Updates provided to the Customer to remove defects. The Customer shall be responsible for the consequences of failing to install any such Update.

g) The Customer shall support SKE in analyzing and removing defects in the Contractual Software by specifically describing the defect at hand, providing SKE with comprehensive information and granting SKE the time and opportunity required to analyze and correct defects.

h) The Customer shall grant SKE access to the relevant premises and systems, and grant remote access to the relevant operating environment of the Contractual Software during the Customer's regular business hours for the purpose of analyzing and removing defects of the Contractual Software. The Customer shall provide the technical equipment required in this regard at the Customer's own expense. If the urgency of removing the defect requires so, the Customer shall also grant this access and remote access outside of the Customer's regular business hours.

i) The Customer shall bear sole responsibility for the security of its systems, interfaces and transmission paths, in particular for their protection against malware and attacks. To this end, the Customer shall implement measures in accordance with the current state of the art and shall regularly and properly back up data and configurations in accordance with the current state of the art. When commencing measures on the Contractual Software, SKE may assume that the Customer has properly backed up all potentially affected data and the configuration of the Contractual Software in accordance with the current state of the art, unless SKE has specific evidence that this is not the case.

10. Remuneration, Payment Terms, Taxes

10.1 The Customer is obliged to pay the agreed remuneration for the Contractual Services in a timely manner. Unless expressly agreed otherwise, the following payment terms shall apply:

a) If remuneration is agreed on a time and materials basis, e.g. for Customization Services, the Customer shall be obliged to pay the agreed hourly and daily rates according to the time and effort incurred. SKE will document the activities performed and expenses incurred. Travel time is considered working time. Unless otherwise agreed, the work performed shall be invoiced on a monthly basis. Upon conclusion of the Customer Agreement, the Customer shall make an advanced payment of 25% of SKE's non-binding effort estimation as a creditable advance payment.

b) If the subject matter of the Contractual Services is the provision of software (on-premise) on a temporary basis, the Customer shall be obliged to pay the agreed recurring fee for the following twelve (12) months in advance commencing from the point in time in which SKE provides the Contractual Software to the Customer or makes the Contractual Software available for download by the Customer and has informed the Customer of the possibility to download the Contractual Software. If the Parties instead agree on a monthly payment, SKE may charge a service fee in the amount of 20% of the portion attributable to each month, but not more than EUR 2,000.00 per month.

c) If the subject matter of the Contractual Services is the provision of software (on-premise) on a permanent basis, the Customer is obliged to pay the agreed remuneration upon provision of the software, i.e. upon handover of the Contractual Software or the point in time in which SKE makes the software available for download by the Customer and has informed the Customer of the possibility to download the Contractual Software.

10.2 Unless otherwise agreed, the amounts invoiced by SKE shall be due for payment on the day of invoicing (invoice date). Due payments shall be paid by the Customer in Euros within fourteen (14) days of the due date, unless other payment terms have been agreed upon. The Customer shall always be the recipient of the invoice and the party liable to pay SKE.

10.3 Money owed shall be subject to interest during any period of default. The interest rate shall be nine (9) percentage points per annum above the current base rate published by the Deutsche Bundesbank.

10.4 All fees are subject to the addition of statutory value-added tax and do not include the deduction of any withholding taxes or other deductions imposed by a tax authority or other governmental entity and/or owed pursuant to statutory provisions. The Customer shall remain obligated to pay the agreed remuneration in full even in the event that deduction or withholding taxes are incurred.

11. Limitation of Liability

11.1 SKE shall be liable without limitation in case of intent, gross negligence and culpable injury to life, body or health.

11.2 In the event of slight negligence, SKE shall only be liable in case of breach of material contractual obligations, i.e. obligations the fulfilment of which is a prerequisite for the proper execution of the Customer Agreement or the breach of which jeopardizes the achievement of the purpose of the Customer Agreement, and on the

fulfillment with which the Customer may regularly rely. In such cases, SKE's liability is limited to the damage foreseeable at the time of conclusion of the contract and typical for the contract.

11.3 SKE shall not be liable beyond section 11.1 and section 11.2 in cases of slight negligence.

11.4 The above limitations of liability shall not apply to liability under the Product Liability Act (*ProdHaftG*) and to guarantees assumed by SKE in writing.

11.5 Section 11 shall also apply in favor of SKE's employees, representatives, organs and vicarious agents (*Erfüllungsgehilfen*).

12. Confidentiality

12.1 "**Confidential Information**" of a Party means information relating to competitively relevant know-how, information marked as confidential or otherwise identifiable as confidential on the basis of an objective recipient horizon, as well as trade secrets of a Party. Confidential Information of SKE shall in each case also include prices and rates agreed with the Customer. The Parties undertake to treat Confidential Information of the other Party confidentially in accordance with this section 12.

12.2 Either Party will

   a) treat the other Party's Confidential Information as confidential and use it only for the performance of the Customer Agreement;

   b) not disclose or make accessible the other Party's Confidential Information to their employees or third parties, except to the extent absolutely necessary for the performance of the Customer Agreement (*need-to-know*) and only if such employees or third parties have been obligated to maintain confidentiality; and

   c) protect the other Party's Confidential Information against access by unauthorized persons through appropriate and suitable measures (e.g., access control, encryption).

12.3 Section 12.2 shall not apply to Confidential Information which

   a) a Party has lawfully received or receives from a third party, without breaching a confidentiality obligation;

   b) was already generally known at the time of the conclusion of the Customer Agreement or subsequently become generally known without any breach of the obligations contained in the Customer Agreement;

   c) already existed with a Party prior the establishment of the business relationship and is not subject to a confidentiality obligation; or

   d) is developed independently by a Party.

12.4 Furthermore, the Parties may disclose Confidential Information to the extent required by law or by governmental authorities. In such case, the Party concerned shall immediately inform the other Party in writing of the scope and basis of the disclosure.

12.5 The confidentiality provisions shall continue to apply for a period of five (5) years after the termination of the Customer Agreement.

13. Auditing

13.1 The Customer shall only be entitled to carry out audits if this has been expressly agreed upon in the Customer Agreement or if SKE has expressly agreed to carry out an audit in advance in an individual case. Unless otherwise agreed, the audit shall in such cases be carried out - subject to section 13.6 – in accordance with this section 13.

13.2 The Customer is obliged to inform SKE in due time (regularly two weeks in advance) about all circumstances relating to the intended audit. Unless otherwise agreed, the Customer is permitted to conduct a maximum of one (1) audit per calendar year.

13.3 After due notice, the Customer may, at his/her own expense, enter the business premises where the Contractual Services are performed on behalf of the Customer during SKE's normal business hours (Monday to Friday, from 10:00 a.m. to 6:00 p.m.) - without interfering with SKE's business operations – but solely for the purpose of the audit announced by the Customer.

13.4 Access to information from or about other customers of SKE, cost information, quality control and contract management reports or other confidential information of SKE is not permitted in the context of an audit by the Customer. SKE is entitled to reject access to any such information. If the Customer becomes aware of such confidential information in the course of an audit, section 12 applies.

13.5 The Customer may only commission third parties to carry out the audit if they are bound to confidentiality in the same manner as the Customer himself, and only if the Customer provides respective proof to SKE. The Customer is not permitted to have the audit carried out by competitors of SKE.

13.6 The Customer's mandatory statutory rights to information or inspection shall remain unaffected by this section 13. For the provision of information and review in accordance with Art. 28 (3) h) GDPR, the provisions of the DPA shall apply exclusively.

14. Marketing and Reference

14.1 SKE may publish and otherwise use the Customer's name and logo in press releases and other marketing materials as well as for advertising purposes on social media platforms and elsewhere on the internet, also as a reference customer and in connection with SKE's products and services. SKE shall, to the extent possible, take into account design specifications provided by the Customer for this purpose.

14.2 The Customer may revoke the permission pursuant to section 14.1 by notifying SKE in text form or written form. Upon receipt of such revocation, SKE's authorization pursuant to section 14.1 ceases with effect for the future. In particular, SKE shall not be obliged to destroy any marketing materials or communications already printed or produced prior to receipt of the revocation, or to remove or recall any published marketing materials or communications.

15. Assignment, Set-off, Retention

15.1 The Parties may only assign claims or obligations arising under the Customer Agreement with the consent of the respective other Party. Section 354a of the German Commercial Code (*HGB*) shall remain unaffected.

15.2 The Customer may only set off against SKE claims arising from the respective Customer Agreement which are undisputed or have been finally legally established by a court of law and may only exercise a right of retention on the basis of such claims.

16. Applicable Law and Place of Jurisdiction

16.1 The Customer Agreement as well as any and all claims, rights and obligations arising out of or in connection with the Customer Agreement shall be governed by the laws of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

16.2 The exclusive place of jurisdiction for all disputes between the Parties arising from or in connection with the Customer Agreement is Bonn, Germany.

17. Other Provisions

17.1 The Customer Agreement, including all documents and appendices incorporated therein, fully reflects the final contractual regulation of all rights and obligations of the Parties relating to the subject matter of the Customer Agreement. No side agreements have been reached.

17.2 Should any provision of the Customer Agreement be invalid or unenforceable, the validity of the remaining provisions of the Customer Agreement shall remain unaffected. The Parties shall replace such provisions by effective and feasible provisions which correspond as closely as possible to the meaning and commercial purpose as well as the intention of the Parties. The same shall apply to unintended loopholes.

17.3 Amendments and supplements to the Customer Agreement must be made in writing to be effective. This also applies to any waiver or modification of this written form requirement.

17.4 Unless expressly agreed otherwise, written form within the meaning of the Customer Agreement shall only be deemed to be satisfied by the postal transmission of a signed original declaration. Electronic form or text form (e-mail or fax) shall not satisfy the written form requirement.

Chapter II - Software Purchase (Kauf)

1. Scope and Quality (*Beschaffenheit*)

1.1 The provisions of this Chapter II shall apply where the subject matter of the Customer Agreement is the provision of the Contractual Software on a permanent basis against payment by the Customer (software purchase).

1.2 The quality and the scope of performance of the Contractual Software, including functionality and compatibility, as well as the approved operating environment are set out in the service description in the Customer Agreement, which is supplemented by the user documentation for the Contractual Software.

1.3 Unless expressly agreed otherwise, neither installation, nor configuration of the Contractual Software or putting into operation the Contractual Software is part of SKE's Contractual Services and are the sole responsibility of the Customer.

2. Rights of use to the Contractual Software

2.1 Upon full payment of the agreed remuneration, SKE grants the Customer a non-exclusive, permanent, non-transferable and non-sublicensable right to use the Contractual Software at the Customer's premises. Unless otherwise agreed, this usage right authorizes the Customer to use the Contractual Software on one computer by a single user at a time only. The right of use is limited to using the Contractual Software for the Customer's own internal purposes.

2.2   The Customer may only copy the Contractual Software insofar as this is necessary for using the Contractual Software in accordance with the Customer Agreement. Copyright notices in the Contractual Software may not be changed or deleted.

2.3   If SKE expressly agrees in the Customer Agreement, the Customer may have the Contractual Software hosted by a third party on the Customer's behalf.

2.4   The Customer shall take appropriate measures to ensure that its employees comply with the rights of use and restrictions on use agreed. The Customer shall not take any measure that could encourage an unauthorized use of the Contractual Software. If the Customer becomes aware that unauthorized access is imminent or has occurred in the Customer's sphere, the Customer shall inform SKE immediately. SKE may take appropriate technical measures to protect the Contractual Software against non-contractual use.

2.5   Notwithstanding Chapter I section 6, all exclusive rights and title to the Contractual Software, Updates and Customization Services and their results shall, in the relationship between the Parties, remain entirely with SKE. Unless otherwise agreed, the Customer is in particular not permitted by SKE to edit, disassemble, reverse engineer, modify, distribute, lease or make the Contractual Software publicly available. The Customer's mandatory statutory rights shall remain unaffected.

2.6   For Third-Party Components, Chapter I section 6. applies.

2.7   The Customer shall immediately inform SKE in text form or written form if the Customer becomes aware of a violation of this section 2.

3. Material and Legal Defects

3.1   SKE warrants that the Contractual Software is free from material defects and legal defects upon the transfer of risk (*Gefahrübergang*). In the event of a defect in the Contractual Software, Section 434 et seq. BGB shall apply with the following amendments.

3.2   SKE shall remedy defects by either removing the defect or by re-delivering the Contractual Software without defects. SKE may also remedy defects by means of an Update.

3.3   If SKE is obliged to subsequent performance (*Nacherfüllung*), the Customer shall give SKE sufficient time to provide such subsequent performance. The Customer shall support SKE as far as necessary in the removal of defects and provide other analysis material required.

3.4   The Customer shall exercise any right of choice to which the Customer may be entitled with regard to the Customer's claims and rights in respect of defects within a reasonable period of time, which shall as a principle not exceed fourteen (14) calendar days after the Customer has become aware of the right of choice.

Chapter III - Software Rental (*Miete*)

1. Scope and Quality (*Beschaffenheit*)

1.1   The provisions of this Chapter III shall apply where the subject matter of the Customer Agreement is the provision of the Contractual Software for a limited period of time (temporary) against payment by the Customer (software rental).

1.2   The quality and the scope of performance of the Contractual Software, including functionality and compatibility, as well as the approved operating environment are set out in the service description in the Customer Agreement, which is supplemented by the user documentation for the Contractual Software.

1.3   Unless expressly agreed otherwise, neither installation, nor configuration of the Contractual Software or putting into operation the Contractual Software is part of SKE's Contractual Services and are the sole responsibility of the Customer.

2. Rights of use to the Contractual Software

2.1   Upon full payment of the agreed remuneration, SKE grants the Customer a non-exclusive, non-transferable and non-sublicensable right, limited to the term of the Customer Agreement, to use the Contractual Software at the Customer's premises. Unless otherwise agreed, this usage right authorizes the Customer to use the Contractual Software on one computer by a single user at a time only. The right of use is limited to using the Contractual Software for the Customer's own internal purposes.

2.2   The Customer may copy the Contractual Software only as necessary for using the Contractual Software in accordance with the Customer Agreement. Copyright notices in the Contractual Software may not be changed or deleted.

2.3   If SKE expressly agrees in the Customer Agreement, the Customer may have the Contractual Software hosted by a third party on the Customer's behalf.

2.4   Notwithstanding Chapter I section 6, all exclusive rights and title to the Contractual Software, Updates and Customization Services and their results shall, in the relationship between the Parties, remain entirely with SKE. Unless otherwise agreed, the Customer is in particular not permitted by SKE to edit, disassemble, reverse

engineer, modify, distribute, lease or make the Contractual Software publicly available. The Customer's mandatory statutory rights shall remain unaffected.

2.5 For Third-Party Components, Chapter I section 6. applies.

2.6 The Customer shall immediately inform SKE in text form or written form if the Customer becomes aware of a violation of this section 2.

3. Term and Termination

3.1 The Customer Agreement on the temporary provision of the Contractual Software shall enter into force on the effective date specified in the Customer Agreement. If no effective date has been specified in the Customer Agreement, the Customer Agreement shall enter into force upon conclusion of the Customer Agreement.

3.2 Either Party may terminate the Customer Agreement by giving notice to the other Party of at least three (3) months, to take effect at the end of a calendar year. However, if a minimum term has been agreed upon, termination for convenience shall be possible by giving effect to the termination at the end of such minimum term at the earliest.

3.3 The Customer shall not be entitled to terminate for good cause in accordance with Section 543 para. 2 sentence 1 no. 1 BGB, unless the restoration of the contractual use of the Contractual Software is deemed to have failed. In all other cases, the right of the Parties to terminate for good cause remains unaffected.

3.4 Any termination must be in text form to be effective.

3.5 Upon termination of the Customer Agreement, the Customer shall cease using the Contractual Software and shall immediately remove all existing copies of the Contractual Software from its systems. At SKE's request, the Customer shall without undue delay confirm such removal of the Contractual Software in writing.

4. Material and Legal Defects

4.1 SKE warrants that the Contractual Software is free from material defects and legal defects during the term of the Customer Agreement provided it is properly installed and used in an environment approved by SKE.

4.2 SKE shall remedy defects by either removing the defect or by re-delivering the Contractual Software without defects. SKE may also eliminate defects by means of an Update. SKE may analyze defects by remote diagnosis and - where feasible - remove defects via remote access to the Customer's system.

4.3 Otherwise, in the event of defects in the Contractual Software, Sections 535 et seq. BGB shall apply with the proviso that the strict liability for defects existing at the time of conclusion of the contract (Section 536a para. 1, 1st alternative BGB) shall be excluded.

4.4 If the Customer modifies the Contractual Software, the Customer shall not be entitled to any claims or rights due to defects, unless the deviation from the agreed quality of the Contractual Software was not caused by the Customer's modification.

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