§ 1 Scope of validity

The general terms and conditions for the licensing of software ("*GTC - Licence Agreement*") shall apply to all contractual relationships with Customers in connection with the temporary provision of software programs ("Software Licence Agreement") and form an integral part of the contract, unless otherwise stipulated in writing in an individual agreement between the Provider and the Customer. The *GTC - Licence Agreement* supplements the General Terms and Condition of the Provider, which also form an integral part of the contract.

Any general terms and conditions of the Customer diverging from, conflicting with or supplementing these *GTC - Licence Agreement* shall only become a part of the contract insofar as the Provider has expressly agreed to their validity. This requirement of consent shall apply in any event, and in particular also if the Provider makes a delivery or performs a service to the Customer without reservation despite being aware of the Customer's general terms and conditions.

§ 2 Services of the Provider

The Provider shall provide the subject of the contract stipulated in the Software Licence Agreement - hereinafter referred to as the "Contract Software" - for the duration of the Software Licence Agreement concerned under the terms and conditions stipulated in these *GTC - Licence Agreement*.

The Provider makes the Contract Software available by means of a download from the internet. If available, the Customer will receive an electronic user manual and other documentation (e.g. operating instructions, Help files, online support, other technical information, and documentation) in this manner as well. The *GTC - Licence Agreement* shall apply *mutatis mutandis* to the provision of new program versions of the Contract Software, e.g. patches, bug fixes, updates.

When providing Contract Software by means of a download, the Provider shall seek to ensure the availability of the Contract Software on a server for download by the Customer during the general business hours of the Provider.

The product description of the Contract Software includes detailed information about the functions and results that can be achieved by the Contract Software when used in accordance with the Contract. The agreed properties and intended use of the Contract Software is defined exclusively by the respective product description. It is located on our website (https://www.etu-software.com/). Any public statements, promotion or advertising does not amount to a description of the properties of the Contract Software.

During the term of the Software Licence Agreement, the Provider will provide the following software maintenance services required to keep the Contract Software in the required contract-compliant state:

1. All program updates and new versions of the Contract Software during the contract term will be provided to the Customer for download.

2. Elaboration of solutions if software defects occur. In this regard, software defects are deemed to be faults in the program sequence that are likely to impair the use of the software in the Customer's business to a not merely insignificant extent. If the Customer reports such a defect, the Provider undertakes to resolve this defect as quickly as possible within the framework of the means and resources available to the Provider.

The remuneration for the above software maintenance services is included in the agreed licence fee.

The Provider's provision of services as part of the licensing of the Contract Software does not include the software installation, any user support, such as customer-specific adaptations, training, configuration, or any other consulting services or works beyond the licensing of the Contract Software. Support services and other services or works beyond the provision of software programs and software maintenance must be agreed separately.

§ 3 Remuneration

The licence fee is stipulated in the Software Licence Agreement. Depending on the contract model, the licence fee is due monthly or annually in advance by no later than the fifth working day and must be paid to the Provider by this day at the latest.

If the Customer is in arrears with the payment of the licence fee, the Provider is entitled to charge interest at the rate of eight (8) per cent above the base interest rate according to section 247 of the German Civil Code [BGB], unless the Provider is able to show that he has incurred greater damage as a result of the arrears.

If the licence fee collected by debit order is reversed or cancelled, the following applies: For the first reversed or cancelled debit order, the Customer will receive a dunning notice by email; the Customer must then pay the amount in arrears to the Provider within one week after receipt of the dunning notice plus an amount € 12.00 for bank and processing costs. If another debit order is reversed or cancelled, and if the Customer is at the same time in arrear with at least two monthly licence fees, the Customer shall receive a warning of termination and shall be granted a final opportunity to settle all outstanding amounts, including the bank and processing costs of € 12.00 for each reversed or cancelled debit order, by the end of the month in which the warning of termination is received. If the Customer fails to do so, the conditions for termination for cause are in place and access to the software will be prevented.

The Customer is entitled to exercise a right of retention only if the Customer's claim, due to which the Customer withholds payment, is based on the same contractual relationship and is either confirmed as final and binding, is the subject of a court ruling or has been acknowledged by the Provider.

The Provider is entitled to increase the monthly licence fee for the first time after expiry of twelve (12) months after conclusion of the contract subject to a prior written notice of three (3) months for the end of the month, provided and to the extent that the costs of maintaining the Contract Software in a contract-compliant state have increased. The Customer is entitled to terminate the Software Licence Agreement within a period of six weeks after receipt of the notice announcing the increase of the licence fee.

§ 4 Right of use

The Provider shall grant the Customer the non-exclusive and non-transferable right, limited to the term of the Software Licence Agreement, to use the Contract Software pursuant to the terms of these *GTC - Licence Agreement*.

The Customer is entitled to install and use the Software in accordance with the number of the user licences acquired by him. Any simultaneous use of the Software beyond the agreed scope is unlawful.

The Customer is not entitled to edit and/or reproduce the Contract Software beyond the contract-compliant use.

The Customer is not permitted to analyse, reassemble, or otherwise edit the Contract Software in any way. The Customer is not permitted to decompile the Contract Software. Any other methods of deconstructing the various development levels of the Contract Software - reverse engineering - are also not allowed.

The Customer may not remove, modify, or render illegible the ownership and copyright notices, serial numbers, stickers, labels or trade marks of the Provider or other providers within the Contract Software or in any user manual or other documentation that is provided.

Furthermore, any use of the Contract Software beyond the contractually agreed scope, such as unauthorised multiple use by several users, amounts to unlawful use. The Customer undertakes to pay a lease fee for the period of unauthorised use of the Contract Software based on the actual extent of the use in accordance with the Provider's price list without undue delay after receipt of the invoice. If the Customer fails to disclose the excess use, and if the Provider becomes aware of such use by other means, the Customer shall pay lump-sum damages for the unauthorised excess use at an amount equivalent to three times the monthly licence fee that would be due to the Provider for the authorised use of the Contract Software in accordance with the price list of the Provider. The Customer remains entitled to provide proof that the actual damage incurred by the Provider was less than the amount of the lump-sum damages.

§ 5 Resale and relinquishing of Software to third parties

Without the Provider's prior written consent, the Customer may not relinquish the copy of the Contract Software made available to him for use, including the related documentation, to third parties, in particular by reselling, renting, or lending the Contract Software to third parties. The commercial use of the Contract Software on behalf of third parties by way of "Application Service Providing (ASP)" or "Software as a Service (SaaS)" is not permitted.

The non-independent use of the Contract Software by third parties, who are governed in the way and manner of their use by the will of the Customer, i.e. especially by employees of the Customer, is allowed. The prohibition on simultaneous, multiple use pursuant to § 4(2) is not affected by the above.

§ 6 Use of software protective mechanisms, internet connection, duty of care of the Customer

The Provider shall supply the contract software with a technical protective mechanism in the form of an electronic licence update. This means that the User, when starting the Contract Software, must establish an internet connection to the Provider's licence server. The Customer must ensure that the electronic licence activation is not blocked by firewall settings or other installed software (e.g. antivirus software). Bypassing technical protective measures amounts to a violation of the Provider's rights and is unlawful.

The Provider's website https://www.etu-software.com/) stipulates with binding effect the hardware and software requirements for proper and fault-free operation of the Contract Software. The Customer is responsible for ensuring that a suitable hardware and software environment is in place in time. In the absence of such environment, the Customer is solely responsible for any inability to use the Contract Software.

Prior to the commissioning of the Contract Software, the Customer should test all functions of the Contract Software in the Customer's hardware and software environment and to check the documentation provided. If the Customer detects any defects, these must be notified to the Provider within two (2) weeks. In doing so, the Customer will provide all information available to him and required for the removal of the defect to the Provider.

The Customer is obliged to prevent unauthorised access to the Contract Software.

Upon request, the Customer will inform the Provider in writing within an appropriate time limit whether the Contract Software is used by the Customer in a contract-compliant manner, and in particular, if the Customer complies with the contractually agreed scope of use (e.g. in regard to the number of installed licences) and complies with the conditions for use pursuant to § 4.

§7 Warranty for material and legal defects

Unless otherwise stipulated below, the statutory provisions shall apply to the Customer's rights in the event of material and legal defects (hereinafter referred to as "defects").

The Provider warrants that the Contract Software, when used in accordance with the terms of the contract, complies with specifications and is devoid of defects that impair the suitability of the Contract Software for the contractually agreed use to a more than insignificant extent. Insignificant deviations from the specifications do not constitute a defect.

The Customer is obliged to notify any defects without undue delay in writing to the Provider at the latest after an inspection and consideration period of one (1) week; at the same time, the Customer shall also specify and describe how the defect is manifested, what its effects are, and under which circumstances the defect occurs.

The Provider will remove the defect duly notified by the Customer by way of a cure, in other words through repair or replacement. At the outset, the Provider shall have the right to choose the manner of cure to remove the defect. The right of the Provider to refuse the chosen type of cure within the scope of the statutory provisions remains unaffected. To the extent that the Customer can be reasonably expected to accept it, the Provider is entitled to provide a new version of the Contract Software to the Customer, which does not contain the notified defect, or which removes this defect. The Customer may not enforce a reduction of the licence fee by a deduction from the agreed licence fee, unless the right of reduction is uncontested

or has been confirmed by a court ruling. The right to reduce the remuneration relates only to the respective defective functioning of the Contract Software.

The Provider is not liable in terms of the warranty if the defect in the Contract Software occurs after a change in the conditions of deployment and operation of the Software, after installation and operating errors, after interventions in the Contract Software, such as modifications, adjustments, connections with other programs and/or after unauthorised use, unless the Customer is able to show that the defects already existed at the time the Contract Software was provided or are not causally linked to the above events. The above does not apply if the Customer is entitled to make changes to the Contract Software, in particular, when exercising the right of self-help to remedy defects pursuant to section 536a(2) of the German Civil Code [BGB], and if those changes were executed in a technically correct manner and are properly documented.

§ 8 Liability

The strict liability of the Provider pursuant to section 536a(1) of the German Civil Code [BGB] for defects in the Contract Software already existing at the time the contract is signed is expressly excluded.

The liability of the Provider and of his legal representatives and persons used to perform his obligations is governed by the statutory provisions in the event of intent or gross negligence.

In all other instances, the liability of the Provider and of his legal representatives and persons used to perform his obligations for slight negligence is excluded, except in the following cases:

- for damage resulting from an injury to life, body, or health;
- for the violation of obligations within the meaning of section 241(2) of the German Civil Code [BGB], if the Customer cannot be reasonably expected to accept performance;
- for the acceptance of a guarantee for the quality of a performance, the achievement of a performance result, or for a procurement risk;
- for the applicability of the provisions German Product Liability Act;
- for fraudulent intent, initial impossibility, or other instances of mandatory statutory liability;
- for the breach of an essential contractual obligation; in this case, however, liability is limited to the indemnification of the foreseeable, typically occurring damage.

"Essential contractual obligations" are obligations that protect the Customer's legal positions which are essential to the contract, and must be accorded to the Customer by reason of the very content and purpose of the contract; furthermore, essential contractual obligations are obligations that are indispensable for the proper performance of the contract and on the performance of which the Customer regularly relies and may rely.

The Provider's liability is limited to the contract-typical, foreseeable damage in the case of gross negligence, if none of the exceptions listed above apply. None of the above provisions lead to any change in the onus to the detriment of the Customer.

Unless unrestricted liability exists according to the preceding provisions, in the event of slight negligence the Provider will not be liable in all other instances of liability for consequential damage, lost profit, and any claims of third parties, except for claims in which third parties assert legitimate infringements of proprietary rights by the Software.

The Customer may cancel the contract in the event of a breach of obligation that is not based on a defect - if the further statutory requirements apply - only if the Provider is responsible for the breach of obligation. Cancellation of the contract is excluded if the breach of obligation is negligible.

The Provider shall not be liable for the loss of data if the damage could have been averted through a proper data backup within the Customer's sphere of responsibility. A proper data backup is deemed to have taken place if the Customer demonstrably saves his data daily in a machine-readable format and thus ensures that the data can be restored with a reasonable effort. The Provider's liability for loss of data - unless caused intentionally or with gross negligence by the Provider - is limited to the typical restoration effort that would have been required in the event of a proper data backup.

Likewise, the Provider is not liable if the defect in the Contract Software occurs after a change in the conditions of deployment and operation of the Software, after installation and operating errors, after interventions in the Contract Software (such as modifications, adjustments, connections with other programs) and/or after unauthorised use, unless the Customer is able to show that the defects already existed at the time the Contract Software was provided or are not causally linked to the above events.

If the Provider's liability is excluded or limited, such exclusion or limitation shall also apply to the personal liability of the Provider's employees and other persons used by the Provider to perform his obligations. The defence of contributory fault remains unaffected.

If claims for damages are excluded or limited pursuant to the above provisions, this exclusion or limitation also extends to the damages in addition to performance and damages in lieu of performance, irrespective of the legal cause, in particular for concurrent claims for defects, the breach of obligations in terms of the contract, delict and claims for the reimbursement of costs pursuant to section 284 of the German Civil Code [BGB].

§ 9 Obligation to return the Contract Software

Upon termination of the Software Licence Agreement, the downloads of the Contract Software and all copies thereof must be deleted. If so requested, the Customer shall confirm such deletion to the Provider in writing.

After termination of the Software Licence Agreement, the Contract Software may not be used in any way.

§ 10 Validity of the General Terms and Conditions

The provisions included in the General Terms and Conditions of the Provider, e.g. relating to the conclusion of a contract, delivery, remuneration and payment, retention of title and reservation of rights, liability, place of jurisdiction, etc., shall apply

mutatis mutandis to contractual relationships as part of the temporary provision of software programs to the extent that these specific *GTC - Licence Agreement* do not stipulate otherwise.

§11 final provisions

The law of the Federal Republic of Germany. The provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply. The contract language is German and, in exceptional cases, English. The German language is the language of the interpretation of the text in all documents. If the customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from this contract is our place of business. The same applies if the customer has no general place of jurisdiction in Germany or if his place of residence or habitual residence is not known at the time the lawsuit is filed.

Cologne, 09 April 2020