TERMS AND CONDITIONS FOR THE SUPPLY OF
IT SERVICES
of the SPAR Group

The Supplier hereby agrees with the Customer (i.e., the respective company of the SPAR Group, including all foreign companies of the SPAR Group, which orders the delivery of IT-related goods and/or the provision of IT-related work or services from the Supplier) that the following Terms and Conditions for the supply and the deliveries of IT Services (hereinafter "**IT Terms**") shall apply.

For better readability and applicability, the relevant IT Terms have a modular structure. General rules applicable to any contract concluded between the Supplier and the Customer are contained in the section "General Provisions for all Types of Contracts and Services". Specific provisions in connection with contracts for the delivery of IT-related goods or the provision of IT-related services or work performances are governed by the respective section "**Special Terms**". The respective Special Terms shall only be deemed agreed if and to the extent that the contract concluded between the Supplier and the Customer includes performance elements of the respective contract type covered by the Special Terms.

GENERAL PROVISIONS FOR ALL TYPES OF CONTRACTS AND SERVICES

Insofar as reference is made herein to "**Points**", this shall mean the clauses of these General Terms and Conditions, unless expressly provided otherwise in detail.

1.   Validity of the IT Terms

1.1.   These IT Terms shall apply to all contracts for the delivery of IT-related goods and/or the provision of IT-related services or work by the Supplier to the Customer, in particular license agreements, purchase agreements for software and/or hardware, maintenance contracts, etc., and all orders placed by the Customer with the Supplier for this purpose or offers made by the Supplier to the Customer for this purpose. The IT Terms shall also apply to all future deliveries of goods, services and/or work between the Customer and the Supplier (including all orders and offers relating thereto), even if no express reference is made to the IT Terms in each case. If supplements (e.g., patches, supplements to the user manual etc.) or a new version of the goods (e.g., update or upgrade) are provided to the Customer within the scope of subsequent improvements or maintenance, which e.g., replace the previously provided goods (old software), these shall also be subject to this IT Terms.

1.2.   These IT Terms shall replace all other agreements or conditions concerning the delivery of IT-related goods and/or the provision of IT-related services or work by the Supplier to the Customer, which have not been expressly agreed to in writing by the Customer. The version of these IT Terms in force at the time of the conclusion of the contract shall be applicable.

1.3.   Deviating terms and conditions or delivery terms and conditions of the Supplier shall not apply unless the Customer has expressly accepted their inclusion in the contractual relationship with the Supplier in writing. This shall also apply if the Supplier provides the Customer with its own terms and conditions Customer and the Customer subsequently places an order or does not object upon receipt of the Supplier's terms and conditions after placing an order.

1.4.   Amendments and supplements to these IT Terms and to the respective contract concluded between the Customer and the Supplier must be made in writing to be valid; any waiver of this requirement must also be made in writing.

2.   Definitions

2.1.   "**Working day**" means any Austrian weekday from Monday to Friday, excluding Austrian public holidays and Good Friday ("*Karfreitag*").

2.2.   "**Affiliated Companies**" of the Customer shall mean all domestic and foreign companies of the Austrian SPAR group of companies, particularly the domestic and foreign companies affiliated in the sense of Sec 189a No. 8 of the Austrian Commercial Code ("UGB") and/or Sec 15 of the Austrian Stock Corporation Act (AktG) with SPAR HOLDING AG, FN 256183 s, and/or with the Customer.

2.3.   "**Goods**" shall mean the respective subject matter of the contract, i.e., hardware, software, source code, etc., for each contract aimed at achieving a certain result (e.g., the delivery of hardware or software, the programming of individual software, etc.).

3.   Orders and conclusion of the contract

3.1.   Offers made by the Supplier to the Customer shall be legally binding and may be accepted by the Customer within a reasonable period of time, which shall not be less than 5 working days from receipt of the offer by the Customer. Acceptance must be made in writing to be effective.

3.2.   If the Customer submits an order to the Supplier without prior submission of an offer by the Supplier, this order shall constitute a legally binding offer to conclude a contract for the services that are the subject of the order. Orders must be placed in writing to be valid. If the Supplier does not immediately object to a valid order, in any case within 5 working days from the date of the order, in writing to the Customer in one of the forms specified in point 3.3 the contract between the Customer and the Supplier shall be validly concluded under the terms and conditions defined in the purchase order.

3.3.   Insofar as written form is required by this section 3 of the IT Terms, transmission by fax, e-mail or in any other electronic form shall also meet this requirement. In the case of electronic transmission, a signature by the Customer shall not be required.

3.4. If an offer or an order, which was the basis for a valid contract between the Customer and the Supplier has been concluded, contains provisions deviating from the rules of these IT Terms, such provisions shall take precedence over the IT Terms.

4. Energy efficiency

4.1. For all products or alternatives not further defined in the Customer's order, the Supplier shall always evaluate the energy efficiency and those products or services with the highest energy efficiency shall be preferred.

5. Delivery, delivery date, delay in delivery

5.1. The delivery of Goods shall be made in each case in accordance with the contractual agreements and at the place of performance relevant for the respective service.

5.2. Each Delivery shall be made with a separate delivery bill; the order number and the respective contact person of the Customer shall be indicated on the delivery bill.

5.3. The fulfillment of a contract concerning the delivery of Goods in partial deliveries is only permissible after express written agreement. In the case of partial deliveries, the note "Remaining delivery to be made by ..." shall be made on the delivery bill, whereby the respective data/delivery dates shall be indicated and shall be binding for the supplier. The delivery date according to the contract may not be exceeded even in case of fulfillment in partial deliveries. If partial deliveries are invoiced with a total invoice, the due date or the start of the payment period shall be the date of the invoice, but shall not start earlier than the date of acceptance of the last partial delivery by the Customer at the respective place of performance. The Customer shall be entitled to reject partial deliveries which have not been agreed or which do not comply with the time limit or deadline; this shall also apply if one or more partial deliveries have already been accepted. The Customer shall also not be obliged to accept premature deliveries.

5.4. Even after the contract has been concluded, the Customer shall be entitled to postpone delivery periods or dates by notifying the Supplier, provided that this is reasonable for the Supplier. In this case, the Customer shall also not be obliged to accept premature deliveries.

5.5. In the case of Goods to be delivered physically (i.e., not merely electronically), t the Supplier shall obtain at its own expense a sufficient transport insurance in each case..

5.6. If the Supplier is unable to meet the agreed delivery or acceptance date, Supplier shall notify the Customer thereof without undue delay, stating the reasons and the expected duration of the delay. Upon receipt of such notification, the Customer shall already be entitled to the rights set forth in the following points of this section 5 (as in the case of a delay in delivery which has already occurred). The Supplier shall be liable to the Customer in particular for all disadvantages and damages caused by the delay.

5.7. In the event of a delay in delivery, the Customer shall be entitled - at its own discretion - to continue to insist on performance of the contract or to withdraw from the contract by granting a reasonable grace period of no more than 5 working days. In any case, all further claims of the Customer in connection with the delay in delivery, in particular claims for damage compensation, shall remain unaffected. The Customer's right to withdraw from the contract shall not be forfeited by the Customer's failure to assert it immediately after the occurrence of the delay in delivery.

5.8. In the event of a justified withdrawal, the Customer shall be entitled to obtain the ordered Goods or goods of equivalent value from another supplier. The related additional costs shall be borne by the Supplier, provided that he is at fault for the delay in delivery which is the cause of the withdrawal.

5.9. In the event of a delay on the part of the Supplier, the Customer shall be entitled to claim a contractual penalty of up to 3 % of the order amount for each commenced week of delay. The amount of the contractual penalty shall be determined by the Customer at its reasonable discretion depending on the severity of the breach. The Supplier shall reserve the right to prove that the damage was less than the contractual penalty determined by the Customer. When calculating the contract sum as the basis for assessing the contractual penalty, the agreed total price for the contractual services including value added tax shall be taken as the basis. The contractual penalty shall not apply if the delivery date is unilaterally postponed by the Customer as defined in Point 5.4.

5.10. Each physical shipment of Goods shall be accompanied by all necessary shipping documents, such as customs documents, delivery bills, approvals, certificates, warranty certificates, etc.

("**Shipping Documents**"). Deliveries without enclosed Shipping Documents may be rejected by the Customer. In the event that, due to incorrect or incomplete Delivery Documents, the Delivery cannot be accepted in due time at the agreed place of performance in the agreed form, the Customer shall not be liable in any way whatsoever. In such cases, the Customer shall be entitled to assert all rights he is entitled to in the event of a delay in delivery by the Supplier.

5.11. The use of a subcontractor requires the written consent of the Customer. In the case of subcontracting, the Supplier shall remain solely and exclusively responsible for the performance of the services and for compliance with the contractual obligations towards the Customer. Subcontractors shall act as vicarious agents (§ 1313a of the Austrian Civil Code (ABGB)) of the Supplier.

6. Prices, invoicing, and payment

6.1. Unless expressly stated otherwise in the respective offer or order, the agreed prices are unchangeable fixed prices in Euro excluding VAT and including handling charges, packaging, transport, transport insurance and costs of customs clearance as well as other duties and taxes on the Goods.

6.2. Price increases as a result of exchange rate fluctuations shall in any case be borne by the Supplier.

6.3. The term of payment for all fees owed by the Customer under a contract shall in each case be 45 days net from the date of invoicing. Invoices may only be issued after complete fulfillment of the contract by the Supplier. Partial invoices are not permitted. The parties may agree otherwise in writing. Each invoice shall be sent to the invoice address stated in the underlying purchase order or in the contract, indicating the delivery address for the respective Goods. The invoice shall contain the delivery address, the order number as well as the other legally required contents, in particular in accordance with the relevant VAT regulations, and, for example, in the case of a triangular transaction, the reference to the provision of Art. 28c, Part E, Para. 3 of the 6th EC Directive. In case of errors or incompleteness, the due date of the invoiced amounts and the beginning of the payment period shall not commence.

6.4. In the event of default in payment, interest on arrears pursuant to Sec 456 of the Austrian Commercial Code (UGB) shall be agreed.

7. Information obligations of the supplier

7.1. If the Supplier is in a crisis or is subject to a need for reorganization, Supplier shall disclose this fact to the Customer in writing (e-mail or fax is sufficient) in the course of submitting its legally binding offer or before accepting the Customer's legally binding offer. The Supplier shall be deemed to be in crisis for the purposes of these IT Terms if (a) he is insolvent (Sec 66 Austrian Insolvency Code "IO") or threatened with insolvency (Sec 6 para 2 Reorganization Act "ReO"), (b) it is over-indebted (Sec 67 IO) or (c) the equity ratio (Sec 23 Austrian URG) of the Suppliers' Company is less than 8 % and the notional debt repayment period (Sec 24 Business Reorganization Act "URG") is more than 15 years.

7.2. The Supplier shall notify the Customer in writing without undue delay (e-mail or fax shall be sufficient) if there are circumstances which may give rise to justified concerns regarding the Supplier's creditworthiness or its ability to duly meet his obligations towards the Customer when due. In this regard, the Supplier shall inform the Customer in particular about (foreseeable or already occurred) (a) deteriorations of its creditworthiness or probability of default according to the assessment of the Austrian Creditors' Protection Association (KSV1870) or of comparable creditors' protection associations, (b) calculated over-indebtedness, (c) (imminent) insolvency, (d) payment stagnation, (e) applications (by the Supplier itself or by third parties) for the initiation of insolvency, restructuring and/or reorganization proceedings against the assets of the Supplier as well as (f) any rejections of the initiation of insolvency proceedings against the assets of the Supplier for lack of assets or restructuring proceedings.

7.3. The Supplier shall be liable to the Customer for all damages and disadvantages incurred by the Customer as a result of the Supplier's breach of its duty of disclosure.

8. Deterioration of the economic situation of the supplier, right of withdrawal or termination by the Customer

8.1. For the purposes of these IT Terms, a deterioration of the Supplier's creditworthiness, indebtedness, credit standing and/or solvency shall always be material if it reasonably leads to

justified doubts as to whether or that the Supplier will be able to fully perform its contractual obligations towards the Customer when due. A material deterioration shall be rebuttably presumed (cf. Point 8.3), if one of the cases of Point 7.2 sublit (a) to (f) occurs.

8.2. In the event of a material deterioration of the Supplier's creditworthiness, indebtedness, credit standing and/or solvency compared to the situation at the time of (i) submission of the offer by the Supplier or the Customer and/or (ii) conclusion of the respective contract, a material deterioration of the Supplier's creditworthiness, indebtedness, credit standing and/or solvency, as well as in the event of justified suspicions suggesting the occurrence of such a material deterioration, the Customer shall be entitled - unless mandatory statutory provisions to the contrary exist - to, (a) to withhold the Supplier's outstanding claims for payment under the respective contractual relationship until the complete performance of the affected contract by the Supplier and/or (b) to declare the immediate withdrawal from the contract with the Supplier (or its termination without notice or deadline) and to claim compensation for all disadvantages and expenses incurred by the Customer in this respect.

8.3. In the event of a dispute and upon request of the Customer, the Supplier shall prove that no material deterioration of its creditworthiness, indebtedness, credit standing and/or solvency has occurred and that there are no reasonable grounds to suspect that such material deterioration has occurred.

8.4. In the event of *ex tunc* rescission of the contract by the Customer, the mutually rendered services shall in each case be reversed without undue delay. However, the Customer shall in this case pay a reasonable compensation for the use of services already rendered by the Supplier and/or Goods already used by the Customer after delivery.

9. Warranty

9.1. The warranty for delivered Goods shall be governed by the relevant statutory provisions, unless otherwise stipulated below. For the purpose of the application of these IT Terms and any contract concluded thereunder, the time of transfer of the Goods within the meaning of the statutory provisions shall be deemed to be the time at which the risk passes from the Supplier to the Customer.

9.2. The Supplier warrants that the goods have the contractually agreed properties, in particular that they meet the agreed specifications and functionalities and/or those specified by the Supplier, that they are suitable for the intended use (in particular also in compliance with the provisions of the GDPR and national data protection regulations) and that they also have all other properties usually assumed. With regard to software, the Supplier also warrants that the software can be used in the Customer's system environment without any functional restrictions.

9.3. The Customer's obligations to give notice of defects pursuant to Sec 377 *et seqq.* of the Austrian Commercial Code (UGB) or comparable legal provisions as well as the provision of Sec 928 of the Austrian Civil Code (ABGB) are hereby excluded by mutual consent.

9.4. The Supplier shall be deemed to be in default in remedying a defect if the Supplier fails to remedy the respective defect within a maximum of 21 days upon request by the Customer.

9.5. In the event of a delivery in cross-border transport, the Supplier further warrants that the respective Goods have been lawfully imported into the country of destination and have been duly cleared through customs and taxed and that at the time of acceptance by the Customer at the respective place of performance they comply with all relevant national and European Union standards and statutory provisions, in particular all applicable labeling and safety regulations, and that all Delivery Documents (cf. item 5.10) are complete and correct.

9.6. In addition, the Supplier warrants that, upon acceptance by the Customer at the respective place of performance, all Goods shall comply with the state of the art of information security at the time of conclusion of the relevant contract, in any case with the requirements contained in the handbook "General Security Measures (incl. Secure Coding Guidelines)", which shall be made available to the Supplier immediately prior to conclusion of the contract, as well as with the requirements pursuant to the "Indispensable baseline security requirements for the procurement of secure ICT products and services", published by the European Network and Information Security Agency (ENISA).

9.7. The Supplier shall compensate the Customer for all damages, costs and other disadvantages incurred by the Customer due to the defectiveness of the delivered goods, depending on the fault. This includes, in particular, indemnification and hold harmless of the Customer for all claims made

by third parties due to a defectiveness of the goods, the costs of a necessary inspection of other stocks, return deliveries, tests, investigations, additional costs for the provision of replacement Goods, reasonable legal costs and costs of experts, etc.

9.8. In the event of a replacement delivery, the Supplier shall furthermore be obliged to take back the defective Goods at its own expense.

9.9. For the investigation of the cause as well as the remedy of defects, the Customer shall grant the Supplier access to the respective Goods, at the Customer's fair choice directly and/or by means of electronic data exchange. As far as possible, any investigation of the cause and remedy of defects on the part of the Supplier shall be carried out by means of remote access. Should access costs arise in the case of electronic data exchange, these shall be borne by the Supplier. If the Customer grants the Supplier direct (physical) access to the Goods, the place, date, and duration shall be mutually agreed between the parties in advance.

10. Warranty commitments of the supplier, industrial property rights of third parties

10.1. The Supplier warrants to the Customer pursuant to Section 880a second half-sentence of the Austrian Civil Code (ABGB) that the delivered Goods are free from third party intellectual property rights (such as, in particular, patent rights, trademark rights, design rights or copyrights).

10.2. If the Goods are marked with a trademark, the Supplier further guarantees pursuant to Section 880a second half-sentence of the Austrian Civil Code (ABGB) that the delivered Goods are genuine and have been put on the market in the EEA either by the owner of the trademark or with the consent of this trademark owner. Furthermore, the Supplier warrants to the Customer the unrestricted legal admissibility of the placing on the market of the Goods and their distribution using the trademark in Austria and the respective country of destination of the Goods according to the relevant contract.

10.3. In accordance with Sec 880a second half-sentence of the Austrian Civil Code (ABGB), the Supplier furthermore guarantees the Customer that the goods distributed by the Supplier are lawfully distributed or sold by the Supplier and that the Supplier is the holder of all necessary authorizations for this purpose.

10.4. The Supplier undertakes to indemnify and hold the Customer harmless - without prejudice to any other or further rights - for all damages, costs and disadvantages arising from the non-fulfillment of contractual warranty promises within the scope of the IT Terms. This includes in particular damages, costs, and disadvantages from claims of the Customer by third parties. Furthermore, the Supplier's obligation shall also extend to compensation for fines imposed on the Customer or its customers or on bodies or employees of the Customer or its customers.

11. Assignment of receivables and offsetting, intercompany netting clause

11.1. The Supplier is permitted to assign claims against the Customer. However, the Supplier shall be obliged to notify the Customer of the intended assignment of claims at least 12 weeks in advance, otherwise the assignment may not take place. The notification must be made in writing to the Customer's management by registered letter to the address of the Customer's registered office, whereby the date of receipt of the mail arrival shall be decisive. Notifications by other means, in particular invoice notes or the like, shall be invalid. In the event of assignment, a handling fee (for increased administrative expenses) amounting to one per mill of the gross nominal amount of the assignment-relevant claim plus VAT, but at least the amount of EUR 100.00 plus VAT, shall be deemed to have been agreed, which the Supplier shall pay to the Customer within 14 days at the latest after the corresponding invoice has been issued. The processing fee may alternatively be set off against any claim of the Supplier, which is due and payable, at the sole discretion of the Customer. Notwithstanding the foregoing provisions and in addition thereto, the Supplier expressly acknowledges that the credit exposure of the Customer or its affiliated companies shall be burdened by the assignment of receivables. In case of assignment of receivables, the Supplier shall therefore be liable for all disadvantages resulting for the Customer and/or the companies affiliated with the Customer, whereby a corresponding written confirmation of the banking institutions involved shall be expressly agreed as sufficient proof of these disadvantages. The Supplier shall bear the burden of proof for the non-existence of a damage.

11.2. The Customer may set off claims of the Supplier not only against claims of the Customer itself against the Supplier, but also against claims of the Customer's affiliated Companies.

11.3. Any set-off of claims of the Supplier against claims of the Customer shall be inadmissible and invalid without the express written consent of the Customer, unless the claims put forward for set-off have been acknowledged by the Customer or have been legally determined as final a court.

12. Force majeure

12.1. The supplier is not entitled to invoke force majeure or comparable legal institutions in order to justify the non-performance or poor performance of the respective contract. The procurement risk for goods lies exclusively with the supplier and cannot be passed on to the Customer - not even by way of price adjustments.

13. Instructions for installation and operation

13.1. The Supplier shall provide the Customer with instructions of an appropriate scope and level of detail for the installation and operation of the ordered Goods together with the Goods; this shall also apply - without a separate request by the Customer - to all new releases or versions (e.g., updates or major updates within the meaning of the respective, Special Terms of these IT Terms).

14. Cooperation obligations of the customer

14.1. If, in addition to the delivery of the ordered Goods, further services of the Supplier are necessary for the proper performance of the respective contract (e.g., assembly, installation, etc.), the Customer shall cooperate in this insofar as Customer provides a maximum of one employee and, insofar as necessary, also working rooms and telecommunication facilities to the extent required. If additional employees of the Customer are required, the number of employees required shall be mutually agreed with the Customer in good time in advance, otherwise the Customer shall only make them available against separate payment, insofar as the personnel capacities of the Customer permit this. The Supplier shall ensure compliance with all provisions of labor law and shall indemnify and hold the Customer harmless in this respect, regardless of fault.

14.2. Insofar as applicable to the respective contract between the Supplier and the Customer, Section 1168 Para 2 of the Austrian Civil Code (ABGB) shall apply with the provision that the Supplier shall grant the Customer in each case a grace period of at least 4 (four) weeks for the performance of its respective duties to cooperate.

14.3. The Customer shall not be obliged to comply with any duties to cooperate on an Austrian public holiday.

15. Confidentiality

15.1. The contracting parties undertake to treat all knowledge of confidential information and business secrets of the respective other contracting party obtained in the course of the initiation and execution of the contract as confidential for an unlimited period of time and to use it only for the purpose of the execution of the contract. The business secrets of the customer include all information within the meaning of Sec 26b Para 1 Unfair Competition Act (UWG), in particular in addition to the respective subject matter of the contract, also the services provided in accordance with these IT Terms as well as knowledge obtained through remote access.

15.2. The Supplier shall only disclose confidential information to its employees and other third parties to the extent that this is absolutely necessary for the performance of the respective contract. During the performance of the contract, each party shall be responsible for ensuring that its employees comply with the present confidentiality obligations as well as all other relevant statutory provisions, in particular those of the applicable data protection law. The contracting parties undertake to impose corresponding obligations on the persons entrusted with the performance of the contract. The obligation to maintain confidentiality shall not apply to information which, at the time it was disclosed to of one of the parties, was already known to that party or to the general public, or which later became generally known without any action on the part of that party and without any breach of contract. The obligations shall also not apply to authorities or courts unless there is a legal right to refuse disclosure.

15.3. Affiliated companies of the Customer shall not be "third parties" within the meaning of this Point 15.

16. Data Protection

16.1. If personal data is disclosed to the Supplier, the Supplier warrants that it will only process such data in accordance with the EU General Data Protection Regulation ("**GDPR**") and protect the rights of the data subjects. If the Supplier processes personal data as a processor on behalf of SPAR, the following applies:

16.1.1. The details of the subject matter, duration, nature and purpose of the processing, type of personal data and the categories of data subjects are derived from the specific order.

16.1.2. The supplier undertakes to process personal data only within the scope of application of the respective contract, insofar as this is necessary to fulfill the purpose of the contract. All such data transferred or provided to Supplier may only be processed within the European Union or within a country for which there is also an adequacy decision of the Commission within the meaning of Art 45 (3) DSGVO. If SPAR exceptionally agrees to a processing in a third country, the Supplier shall ensure that standard contractual clauses as defined in Art 46 (2) lit c DSGVO have been concluded between the data exporter and the data importer. Prior to such a conclusion, the supplier or the data exporter shall conduct a data transfer impact assessment and mitigate all transfer-preventing risks. Furthermore, it shall be provided that Austrian law and the competence of the Austrian Data Protection Authority are agreed upon in the SCC.

16.1.3. The Supplier undertakes to process personal data only within the scope of the Customer's instructions. If the Supplier is of the opinion that an instruction violates the GDPR or other legal provisions, the Supplier shall inform the Customer without undue delay. After completion of the processing, the Supplier shall delete all data. Before doing so, Supplier shall offer to return the data to the Customer in a format readable by the Customer.

16.1.4. The Supplier shall take all data security measures required under Art 32 DSGVO.

16.1.5. Notwithstanding any agreements to the contrary, the Supplier shall only use further data Processors with the prior consent of the Customer. The Supplier shall contractually bind any further Processor to all data protection obligations it has entered into vis-à-vis the Customer.

16.1.6. The Supplier shall support the Customer with suitable technical and organizational Measures to comply with its obligations under data protection law. This includes, in particular, the obligation to respond to requests to exercise the rights of the data subject and to comply with the obligations set out in Articles 32 to 36 of the GDPR regarding the security of personal data.

16.1.7. The Supplier shall provide the Customer with all necessary information to prove compliance with the above obligations and shall contribute to inspections carried out by the Customer or another inspector appointed by the Customer.

16.1.8. Furthermore, the Supplier declares in a legally binding manner that those persons, who have access to data of the Customer, have been obligated to protect data confidentiality. In particular, this obligation to maintain confidentiality shall remain in full force even after termination of the employee's activity and departure from the Supplier. The obligation to maintain confidentiality shall also apply to data of legal entities and partnerships under commercial law.

16.1.9. If the Parties have concluded a Data Processing Agreement within the meaning of Article 28 of the GDPR, this shall remain unaffected by the provisions set forth herein. If, on the other hand, no Data Processing Agreement has been concluded, the agreement available under https://www.spar-ics.com/content/dam/sparicswebsite/dokumente-at/dsgvo-adv-v-englischevorlagemitkonzernfremdenunternehmen2022.pdf shall apply if the Supplier concludes an agreement with the Customer as the data controller.

16.1.10. If the Goods are used by more than one Data controller, each Data Controller shall be entitled to the claims under data protection law as defined in the applicable processor agreement.

16.2. In the event of a breach of this clause 16. the Customer shall be entitled - irrespective of any fault on the part of the Supplier - to claim a penalty in the amount of 10% of the annual order value (gross) or at least EUR 50,000.00, whereby the assertion of a claim for damages in excess thereof shall not be excluded thereby.

17. Termination and cancellation of contract

17.1. All contracts that have the character of a continuing obligation (*Dauerschuldverhältnisse*) may be terminated by the Customer by registered letter or e-mail for good cause without notice.

17.2. Material reasons entitling the Customer to extraordinary termination are in particular:

    (i) if the Supplier breaches contractual obligations at least three times within a continuous period of 3 months and does not remedy the respective breach of obligations within a maximum of 14 days from the corresponding complaint by the Customer;

    (ii) if the supplier violates the non-disclosure agreement;

    (iii) if the use of the delivered Goods in accordance with the GDPR or national data protection law is not possible if or the services of the supplier otherwise violate applicable data protection law.

18. Liability provisions, assertion of claims by affiliated companies

18.1. In all cases of contractual and non-contractual liability, the Supplier shall pay damages on the basis of the statutory provisions.

18.2. The application of Sec 1168 Para. 1, last sentence of the Austrian Civil Code (ABGB) to the respective contract between the Supplier and the Customer shall be excluded, provided that the Customer is not or only slightly at fault for the respective loss of time.

18.3. To the extent that an Affiliate of the Customer suffers (directly or indirectly) any damage caused by a breach of the contract by the Supplier or by the Supplier's conduct in tort, the Customer shall be entitled to claim damages from the Supplier under the relevant contract as if the Customer had directly and personally suffered the relevant damage.

19. Antitrust law

19.1. The Supplier undertakes to pay the Customer in the event of case of any in connection with the award and performance of the present contract

    a) Agreement or other act aimed at restricting competition, such as, in particular, an infringement of Sections 1 and 5 of the Antitrist Act (KartG) and Articles 101 and 102 of the TFEU;

    b) Fulfillment of a criminal offense under Section 6 of the special part of the Austrian Criminal Code, such as in particular fraud and breach of trust, or under Section 22 of the special part of the Austrian Criminal Code, such as in particular bribery, acceptance of advantage, acceptance of advantage to influence, bribery, granting of advantage, granting of advantage to influence, prohibited intervention, acceptance of gifts and bribery of officials or agents;

    c) Fulfillment of a criminal offense under Sections 122, 123 and 124 of the Austrian Criminal Code (violation of a trade or business secret, spying on a trade or business secret, spying on a trade or business secret for the benefit of a foreign country) as well as Sections 11 and 12 of the Austrian Unfair Competition Act (violation of trade or business secrets, misuse of entrusted originals);

in which the Supplier, its organs, representatives, or other persons acting on its behalf were or are involved, irrespective of the form of participation (direct perpetration, determining perpetration and contributing perpetration), a contractual penalty irrespective of the occurrence and proof of damage in the amount of 15% in the case of point a);

19.2. In the case of the points b) and c) 15 % insofar as the misconduct was committed by a managing director, board of directors or other bodies of the Supplier authorized to represent the Supplier; 10 % insofar as the misconduct was committed by an authorized signatory or officer; 5 % insofar as the misconduct was committed by other employees, subcontractors of the Supplier or other persons working for the Supplier, but not less than Euro 10,000, of the net order value (including the net value of all additional and supplementary orders).

20. Use of company trademarks

20.1. Any use of company marks (trademarks as well as unregistered marks) of the Customer shall only be permitted with the express prior written consent of the Customer; this shall apply in particular to the naming of the Customer in a reference customer list of the Supplier.

21. Corporate Compliance

21.1. The Supplier undertakes to avoid corruption and bribery. The Supplier is therefore prohibited from offering, promising, or guaranteeing money or monetary benefits (gifts, invitations, etc.) through

its employees or through the management as well as through third parties to the employees or management of the Customer as well as to persons related to the Customer within the meaning of Section 32 IO ("**Prohibition of Corruption**").

In the event of any violation of the Prohibition of Corruption, the Customer shall be entitled, after a prior written reminder, to terminate all existing and not yet fully performed contracts with the Supplier immediately and without notice by rescission (in the case of target oblgations, known as *Zielschuldverhältnis* in Austrian law) or termination (in the case of continuous obligations, known as *Dauerschuldverhältnis* in Austrian law).

21.2. The supplier undertakes to comply with the European and national antitrust provisions and to take all necessary and reasonable measures to avoid conduct of its employees and assistants in violation of antitrust law.

21.3. In the event that the Supplier, its employees, assistants or third parties commissioned by it repeatedly violate antitrust law, the Customer shall be entitled to terminate all existing and not yet fully performed contracts with the Supplier prematurely for good cause without observing any rescission or termination periods and/or dates. In the event that the infringement of anti-trust law is a so-called hard core infringement as defined in Art. 4 of the of the Austrian ordinance Vertical Block Exemption Regulation ("VBER") or Section III.3 and III.4 of the Guidelines on Vertical Restraints, the Customer shall be entitled to terminate all existing contracts with the Supplier immediately for good cause in the event of a first-time infringement, even without prior written warning and without observing any withdrawal or termination periods and/or deadlines.

22. Special provisions for the deduction of Withholding Taxes

22.1. If the Supplier is not subject to unlimited tax liability in Austria (non-resident taxpayer) pursuant to Sec 1 Para 2 of the Austrian Income Tax Act ("EStG") and if the Supplier generates income from the contractual relationship with the Customer in accordance with the list below, the Supplier shall be obliged to submit a fully completed form ZS-QU1 (natural person) or ZS-QU2 (legal entity) (see website of the Austrian Ministry of Finance / Forms) to the Customer for this income for each calendar year without being requested to do so. Form ZS-QU1 or ZS-QU2 is used for relief from withholding tax and must be submitted by 31 January of the calendar year following the income for the following income:

22.1.1. Income from commercial or technical consulting services provided (physically) in Austria

22.1.2. Income from the transfer of rights (e.g., license fees)

22.1.3. Income from activities as a writer, artist, architect, sportsman, lecturer, performer, or participant in entertainment carried out or exploited in Austria

22.2. In the event that the respective form (or a justification as to why none of the income described above exists) is not received by the Customer by 31 January of the following calendar year, the Customer reserves the right to deduct the withholding tax provided for by law pursuant to Sec 99 of the Austrian Income Tax Act (EStG), currently in the amount of 20 %, from any outstanding or future payments.

23. Applicable law and place of jurisdiction

23.1. The contractual relationship between the Supplier and the Customer, including the assessment of the formation thereof, as well as these IT Terms (including all Special Terms contained herein) shall be governed exclusively by Austrian law, its conflict of laws rules shall be excluded. The UN Convention on the International Sale of Goods (CISG) shall not apply.

23.2. The exclusive place of jurisdiction for all disputes arising from or in connection with contracts concluded between the Customer and the Supplier, including those concerning their conclusion, shall be the respective competent court in the provincial capital of Salzburg. However, the Customer shall be entitled, at its option, to bring an action against the Supplier also at the Supplier's general place of jurisdiction.

24. Severability clause, miscellaneous

24.1. Should one of the provisions of these IT Terms be or become ineffective, the remaining content shall not be affected thereby. The invalid provision shall be replaced by a provision which comes as close as possible in economic terms to the meaning and purpose of the invalid provision in a legally effective manner.

24.2. Unless otherwise agreed in these IT Terms, the statutory provisions agreed in Point 23.1. shall apply. Furthermore, the rights of the Customer set forth in these IT Terms shall not exclude the assertion of other or any further and more extensive statutory or contractual rights of the Customer.

........................, at ....

....
Supplier (stamp + company signature)

SPECIAL TERMS FOR THE LICENSING AND DELIVERY OF SOFTWARE

To the extent that reference is made herein to "Points", this shall mean the clauses of these Special Terms, unless expressly provided otherwise.

1.   Definitions
1.1.   "**Software**" shall mean computer programs distributed as standard or developed or adapted individually for the Customer for the use, operation or control of electronic equipment and systems, including documents provided for this purpose.
1.2.   "**Standard Software**" is any software that covers a clearly defined area of application and is purchased as a pre-fabricated product, i.e., has not been developed specifically for the Customer.
1.3.   "**Individual Software**" means any software that has been individually developed for the Customer.
1.4.   "**Preliminary Delivery**" shall mean the physical delivery of the Software in the form of a program copy on a data carrier or the making available of the Software for retrieval free of charge by Customer on the Internet or any other network to which both parties have access.
1.5.   "**Go-live**" shall mean the transition of the Software into the productive operation of the Customer by the commissioning of the Software.
1.6.   "**Troubleshooting**" means any search for a malfunction of the Software, whether in the course of Go-live, or at a later point in time, e.g., as a result of a notice of defect by Customer.
1.7.   "**Major Update**" means the general change of a product to a higher-level configuration or version.
1.8.   "**Proof of Concept (PoC)**" is a proof of feasibility, which confirms the functionality of the software in the customer's system environment.
1.9.   "**Service pack**" represents an entire maintenance package for updating the software.

2.   Scope of the license grant
2.1.   With the purchase of the Software, the Customer shall receive an unlimited, irrevocable, locally unrestricted, non-exclusive, non-sublicensable right of use (permit to use the work, *Werknutzungsbewilligung*) for the use of the Software in the business operations of the Customer and all affiliated companies of the Customer for whose benefit the Customer has purchased the licenses. The number of installations (number of servers, clients) shall be based on the number of licensed workplaces or users according to the license agreement. If no number of licenses is specified in the License Agreement, the Software may be installed any number of times by the Customer and by its affiliated companies for whose benefit the Customer has acquired licenses.
2.2.   If a license agreement is concluded, it shall also include updates which cover the adaptation to changed legal provisions, additions, improvements and extensions of the software, provided that the original function of the software is not fundamentally changed thereby; the updates shall be provided to the Customer free of charge either by providing a download from the Internet or any other network to which the Customer has access, or, at the Customer's request, also on a permanent machine-readable data carrier.

3.   Delivery, Place of Performance, Acceptance, Transfer of Risk
3.1.   The Supplier shall deliver the Software by - depending on the agreement reached with the Customer - either (i) providing the Customer free of charge with a program copy of the Software on a machine-readable data carrier as well as a copy of the application documentation or (ii) making the Software available free of charge on the Internet or any other network to which the Customer has access and informing the Customer thereof. Depending on the agreement, this may also be done by way of web hosting, in which case the contracting parties shall conclude a corresponding hosting agreement.
3.2.   The Customer shall test and verify the Individual Software to ensure its freedom from defects and usability in the Customer's existing hardware and software configuration prior to its use. For this purpose, the Supplier shall enable acceptance tests free of charge upon the Customer's request. If the Customer identifies defects in the software in the course of these tests, the defects shall be recorded in the acceptance report, which shall be prepared in any case, and which must be signed by both parties at the time of acceptance; neither party may refuse to sign the acceptance report without an objective reason. If both parties fail to sign an acceptance report, this shall in no way

limit the rights of the Customer with respect to the Software concerned. The Customer shall list the defects of the Software identified in the course of the acceptance tests performed according to their severity and shall mark all significant defects accordingly. In the event of significant defects, the Customer shall be entitled to refuse acceptance of the Software. In this case, the Supplier shall immediately remedy all defects of the Software identified by the Customer and marked as significant in the respective acceptance report before making the Software available again for acceptance by the Customer. Acceptance of the Software shall not release the Supplier from its warranty obligations with respect to defects of the Software, regardless of whether such defects were identified during the acceptance tests or remained undetected and shall not constitute any waiver by the Customer of corresponding rights against the Supplier.

3.3. Compliance with agreed delivery periods or dates is measured as follows:

3.3.1. in the case of Standard Software, the time of the provisional handover is decisive;

3.3.2. in the case of Custom Software, the positive acceptance on the part of the Customer in a mutually signed acceptance protocol shall be decisive.

3.4. The place of performance of the contract shall be the registered office of the Customer in each case. Any change of the place of performance by the Supplier shall require the express written consent of the Customer. The transportation risk shall be borne exclusively by the Supplier.

3.5. The transfer of risk shall take place with the delivery of Standard Software with the Go-live and with the delivery of Individual Software with the positive acceptance by the Customer in a mutually signed acceptance protocol.

4. Accounting

4.1. In addition to the agreed general requirements, the term of any maintenance agreement concluded must also be stated on invoices issued by the Supplier. In the case of temporary licenses, the term of the licenses must also be stated.

5. Warranty

5.1. The length of the warranty period shall be assessed on the basis of the statutory provisions. In the case of Standard Software, the warranty period shall commence when the software goes live; in the case of Individual Software, the warranty period shall commence upon positive acceptance by the Customer in an acceptance protocol signed by both parties. Each Major Update shall be qualified as an independent Delivery of Software and the Software updated in this way is in turn subject to the warranty to the agreed extent.

6. Guarantee

6.1. Pursuant to Section 880a second half-sentence of the Austrian Civil Code (ABGB), the Supplier guarantees to the Customer the availability of technical support services for the contractual software products for at least 3 years from provisional handover (in the case of Standard Software) or from positive acceptance by the Customer (in the case of Individual software). In addition, the supplier guarantees that the contractual software products will run without defects for at least 5 years in a unchanged IT environment (same basic systems) from the conclusion of the contract, even without an update.

7. Backup

7.1. The Customer is permitted to make copies of the Software for archiving and data backup purposes. If the Software bears a copyright notice or a copyright as a mark, this notice shall also be affixed to the copies made by the Customer.

8. Training in the software

8.1. Upon request, the Supplier shall provide the Customer with training of an appropriate length, including advice on the installation, use and application possibilities of the Software, in order to enable optimum use of the software supplied. In addition, the Supplier shall provide the Customer free of charge with written user documentation (e.g., an operating manual) in the Customer's national language, but at least in English, which shall contain all essential application instructions and descriptions for the proper use of the Software in an appropriate level of detail.

9. Special provisions for license audits

IT Terms Vers. 2022 effective from 12.10.2022

9.1. License audits based on separate agreements, such as license agreements, shall be announced to the Customer by the Supplier in writing at least 6 weeks prior to the actual license audit; with regard to the license audit on site at the Customer's business premises, Point 14.1. shall apply *mutatis mutandis*.

9.2. If the license audit is not carried out by a self-report of the Customer or by the Supplier itself, the license audit shall be carried out by an independent auditor of an internationally recognized auditing company who is subject to a confidentiality obligation. The Customer shall select the independent auditor and the Supplier shall bear its costs. In addition, the independent auditor shall give a written confirmation that no conflict of interest exists or will arise as a result of the audit. The Customer may require the Supplier or third parties mandated by the Supplier to sign a corresponding confidentiality agreement when announcing a license audit.

9.3. Unless otherwise contractually agreed, a license audit is permitted a maximum of once per contract year.

10. Special provisions for maintenance, service and support

10.1. Technical support and updating of the Software (updates including Major Updates) shall be governed by a separately concluded maintenance agreement (service level agreement or similar), if applicable. All maintenance services are covered by the maintenance fee agreed between the parties. Regardless of whether updates or service packs are downloaded from the Internet by the Customer or whether they are provided on a data carrier, no further costs shall be incurred. On-site maintenance services are in any case included in the agreed maintenance fee. This is a flat rate including all travel and personnel costs incl. VAT.

10.2. The respective maintenance contract may be terminated by the Customer at any time without cause by giving 2 months' notice to the end of a calendar month, unless expressly agreed otherwise in writing in the maintenance contract. If the maintenance contract is concluded for a fixed period of time and is not terminated by the Customer in writing, it shall be automatically extended by a further year in each case, unless otherwise expressly agreed in writing in the maintenance contract.

10.3. Should an error or disruption of the software occur, the Supplier is obligated, depending on the severity of the error, to react at least within the following time periods after an error notification and to provide for at least a preliminary elimination of the error:

Type of error	Maximum response time	Maximum time-to-fix
Minor errors (work with hardware or software is hardly restricted; also: errors in documentation or general usage issues).	Within a week	In the course of the next update
Moderately severe errors (work with hardware or software is limited, but error can be bridged with little effort in the short term)	Within 1 working day	Within 3 working days
Serious errors (major or critical function of the hardware or software is incapable; work is no longer possible or only possible with great difficulty; circumvention of the error is not possible)	On working days within 2 hours	Within 1 working day

In the event of a merely temporary elimination of the error, the Supplier shall be obliged to provide a permanent and final solution without undue delay.

The agreed time to response and time to fix must be strictly observed in any case and cannot be extended - in particular not by applying warranty law provisions (arg. "**reasonable grace**

period"). The supplier shall therefore be directly and immediately liable for any culpable exceeding of the agreed deadlines.

If the Supplier fails to comply with the applicable response and fixing times, the Customer shall be entitled to claim a penalty of EUR 1,500.00 from the Supplier for each calendar day or part thereof exceeding the stated deadlines. In any case, the assertion of a claim for actual damages in excess thereof shall not be excluded.

Maintenance contracts shall be performed by the supplier with reasonable care in each case (Sec 1299 of the Austrian Civil Code (ABGB)). The services rendered must correspond to the respective applicable state of the art. Unless expressly agreed otherwise in writing, the agreed maintenance obligations shall be qualified as performance obligations of the Supplier, unless this would be incompatible with the nature of the respective performance.

10.4. Warranty provisions are not limited by the conclusion of maintenance agreements, but rather apply in parallel.

10.5. In the event that a maintenance service of the Supplier falls on a public holiday of the country in which the Supplier has its registered office or branch office, the Supplier shall notify the Customer thereof in due time, at the latest 1 week before the scheduled date of performance.

SPECIAL TERMS FOR SUPPLY CONTRACTS CONCERNING HARDWARE

To the extent that reference is made herein to "Points", this shall mean the clauses of these Special Terms, unless expressly provided otherwise.

1. Definitions
1.1. "**Hardware**" means data processing equipment (computers including computer accessories such as printers) and their conditions of use.
1.2. "**Major Update**" means the general change of a product to a higher-level configuration or version.
1.3. "**Actual handover**" shall mean the physical takeover of the Hardware by the Customer at the respective place of performance.

2. Delivery, place of performance, transfer of risk
2.1. The acceptance of the Goods by the customer at the place of the delivery address shall be decisive for the compliance with agreed delivery periods or dates.
2.2. The place of performance of the contract shall in each case be the place defined in 2.1. A change of the place of performance by the Supplier requires the express written consent of the Customer. The transportation risk shall be borne exclusively by the supplier.
2.3. The transfer of risk shall only take place upon delivery, i.e., upon acceptance of the Goods by the Customer at the place of performance.

3. Warranty
3.1. The warranty period shall commence at the time of the actual handover of the respective hardware. Each Major Update is to be qualified as an independent delivery of hardware and is therefore subject to warranty in the agreed scope.

4. Guarantee
4.1. The Supplier, with the exception of Suppliers with registered offices outside Austria, guarantees the Customer pursuant to Sec 880a second half-sentence of the Austrian Civil Code (ABGB) that it is a participant in a collection and recovery system as defined by the Austrian Ordinance on Electrical and Electronic Equipment Waste (*Elektroaltgeräteverordnung*) as amended from time to time and that it shall, in its capacity as distributor or final distributor or manufacturer of the same, ensure the collection, disposal and recovery of electrical and electronic equipment waste as well as the fulfillment of the Customer's obligations arising in this context from the Ordinance on Electrical and Electronic Equipment Waste (*Elektroaltgeräteverordnung*) and shall fully indemnify and hold the Customer harmless in this respect.
4.2. For hardware products, the Supplier also guarantees the availability of spare parts in accordance with Sec 880a second half-sentence of the Austrian Civil Code (ABGB) at least until the expiry of five (5) years from the date of the last delivery of the hardware product to the Customer. In addition, the Supplier guarantees that a comparable successor product will be available in the event of discontinuation of production or distribution of the respective Hardware Product. The advance notice of the discontinuation of the production or the distribution of a Hardware Product must be given at least 6 months prior to the respective effective date of the discontinuation.

5. Special provisions for maintenance, care, and support
5.1. The provisions set forth under Point 10 of the Special Terms and Conditions for the Licensing and Supply of Software shall apply *mutatis mutandis* with respect to maintenance contracts and technical support for Hardware.