Software License Terms (date of May 2018)

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Please note that there are three different versions of the Software License Terms, namely

1)   the "**International Software License Terms**" which apply if your company has its principal place of business <u>in any country other than the ones listed in 2) and 3)</u>;
2)   the "**Software License Terms for Russia**" which apply if your company has its principal place of business in <u>Russia</u>;
3)   the "**Software License Terms for Turkey**" which apply if your company has its principal place of business in <u>Turkey.</u>

<u>The respective version of the Software License Terms applicable pursuant to the above is the only version that applies to your use of the Licensed Software. The other two versions are not applicable.</u>

You may find the respective version of the Software License Terms on the following pages of this document:

International Software License Terms	Page **2** et seqq.
Software License Terms for Russia	Page **76** et seqq.
Software License Terms for Turkey	Page **140** et seqq.

Please note that if your company has its principal place of business <u>in one of the following countries</u>, the applicable International Software License Terms are <u>adapted by specific local terms in a so-called "Local Annex"</u> as set forth on page 31 et seqq.

Austria (p. 31)	Belgium (p. 33)	Bulgaria (p. 34)	Croatia (p. 35)
Czech Republic (p. 38)	Finland (p. 39)	France (p. 40)	Germany (p. 45)
Greece (p. 48)	Hungary (p. 49)	Ireland (p. 51)	Italy (p. 54)
Japan (p. 56)	Latvia (p. 57)	Lithuania (p. 57)	Luxemburg (p. 58)
Malta (p. 60)	Netherlands (p. 63)	Norway (p. 65)	Poland (p. 66)
Portugal (p. 68)	Romania (p. 70)	Slovakia (p. 71)	Slovenia (p. 71)
Sweden (p. 72)	United Kingdom (p. 74)		

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1.2   Direct and indirect distribution

1.3   These Software License Terms apply both to cases where (1) a company of the Phoenix Contact Group provides the Licensed Software directly to an End Customer and to cases where (2) a company of the Phoenix Contact Group provides the Licensed Software by way of indirect distribution to an Authorized Distributor and an End Customer purchases this Licensed Software from this Authorized Distributor.

1.4   The "End Customer" is a company that purchases the Licensed Software directly from a Phoenix Contact company or indirectly via an Authorized Distributor and uses the Licensed Software for its own business purposes by certain designated natural persons (such persons, "Users").

1.5   The "Authorized Distributor" is a company authorized by a Phoenix Contact company to distribute certain Licensed Software to End Customers as an authorized reseller in its own name and on its own account. Authorization by Phoenix Contact may occur on the basis of a distributor contract between the Phoenix Contact company and the company in question or in another manner, as stipulated by Phoenix Contact.

1.6   In the aforementioned case 1 in clause 1.3, i.e., direct distribution of Licensed Software by Phoenix Contact to the End Customer, the "Licensor" refers to the relevant company of the Phoenix Contact Group that provides the Licensed Software to the End Customer and that the "Licensee" refers to the relevant End Customer that purchases the Licensed Software.

1.7   In the aforementioned case 2 in clause 1.3, i.e., indirect distribution of Licensed Software via an Authorized Distributor: (a) as between the Phoenix Contact company that provides the Licensed Software on one side and the Authorized Distributor on the other, the Phoenix Contact company is the "Licensor" and the Authorized Distributor is the "Licensee" and (b) as between this Authorized Distributor and the relevant End Customer, the Authorized Distributor is the "Licensor" and the End Customer is the "Licensee". For the avoidance of doubt, such indirect distribution via an Authorized Distributor does not constitute a contractual relationship between Phoenix Contact and the End Customer.

1.8   Part A of these Software License Terms contains general provisions that apply to all Licensed Software and to any agreed maintenance and support services.

1.9   The special provisions in Part B apply only to On-Premise Products if and insofar as the Licensee purchases On-Premise Products.

1.10   The special provisions in Part C apply only to Mobile Apps, if and insofar as the Licensee purchases Mobile Apps.

1.11   The special provisions in Part D apply only to Embedded Software, if and insofar as the Licensee purchases Embedded Software.

1.12   The special provisions in Part E apply only to Software Development Toolkits (SDKs) and Source Code, if and insofar as the Licensee purchases SDKs or Source Code.

1.13   The special provisions in Part F apply only to Cloud Products if and insofar as the Licensee purchases Cloud Products.

1.14   The special provisions in Part G apply only to maintenance and support services, if and insofar as the Licensee purchases maintenance and support services.

1.15   The offer to purchase the Licensed Software on these Software License Terms is aimed only at natural and/or legal persons or partnerships that purchase the Licensed Software in exercise of their commercial or self-employed professional activities (entrepreneurs).

PART A – GENERAL PROVISIONS

2.   DEFINITIONS

In addition to the definitions in clause 1, for the purposes of interpreting these Software License Terms the following terms have the meanings ascribed to them here in clause 2.

2.1   "**Affiliate**" is any company controlled by the relevant party to the License Agreement or that controls the relevant party or that is under the joint control of a third party along with the relevant party. For the purpose of this provision, "control" means (i) holding over 50 % of the voting shares in the relevant company or (ii) having the legal and/or actual option of determining the management and/or the major business actions of the relevant company.

2.2   "**Client Software**" means the application software (if available) in its latest version that the Licensee must install on a client to gain access to certain On-Premise Products or Cloud Products including the relevant user documentation, if available.

2.3   "**Cloud Product**" means Licensed Software that does not require installation on the Licensee's servers for proper use but is operated on the systems of Phoenix Contact or third parties commissioned by it and which is accessed by the User by remote data transmission (internet, VPN, etc.).

2.4   "**Company License**": If the Licensee purchases a Company License, it is entitled to use the Licensed Software according to these Software License Terms only for its own company and not in a group of companies.

2.5   "**Confidential Information**" is all information and documents of the other party designated as confidential or to be considered confidential based on the circumstances, especially information about business processes, business contacts and know-how.

2.6 "**Contractual Year**" is a period of twelve (12) months from entering into the License Agreement and/or Maintenance Agreement and the period from the first day following expiry of the first or each subsequent 12-month period.

2.7 "**Customer Data**" means all electronic data or information transferred by or in the name of the Licensee or by the User - to or via Cloud Products, or to licensing systems (e.g., ticket number of a license) enabling activation of an On-Premise Product.

2.8 "**Embedded Software**" is Licensed Software that is integrated into a Phoenix Contact device or designed for integration into an End Customer device, e.g., in a control unit, an intelligent controller or a display and also encompasses runtime licenses for function block libraries and visualization libraries.

2.9 "**Facility License**": If the Licensee purchases a Facility License, it is entitled to use the Licensed Software according to these Software License Terms only at the facility named in the License Agreement.

2.10 "**Group License**": If the Licensee purchases a Group License, it is entitled to sublicense the Licensed Software according to these Software License Terms to Affiliates of the Licensee, to use it for such Affiliates or to allow it to be used by such Affiliates for the benefit of the Licensee on condition that (i) the Licensee informs the Licensor in writing in advance about such sublicensing or third-party use in the group, giving the name and contact details of the Affiliate and (ii) the Affiliate agrees to tolerate, and cooperate with respect to, controls by the Licensor pursuant to clause 15.

2.11 "**License Agreement**" means any contractual agreement between Licensor and Licensee about the paid-for or free-of-charge provision of software by the Licensor to the Licensee. Depending on the product, such an Agreement can arise in different ways, especially by conclusion of a License Sheet between Licensor and Licensee, downloading of the software by the Licensee from a location specified by the Licensor for that purpose (e.g., website of the Licensor, its Affiliate or authorized partner or a cloud marketplace used for distribution by the Licensor, such as an app store) and/or purchase of a device with integrated Embedded Software by the Licensee.

2.12 "**License Sheet**" is a document issued by the Licensor for certain Licensed Software as part of or in addition to a License Agreement and containing detailed provisions to be observed by the Licensee regarding the Licensed Software such as Licensor, name and type of Licensed Software, licensed Users and duration of the license.

2.13 "**License Upgrade**" means an extension of the license scope on the basis of an existing license.

2.14 "**Licensed Software**" is the computer program in the object code and/or Source Code – depending on the product – including the related documentation in the agreed language that is the subject of the purchase by the Licensee from the Licensor. This includes all SW Updates, SW Upgrades and License Upgrades insofar as they are provided to the Licensee according to these Software License Terms, a License Agreement and a Maintenance Agreement. The Licensed Software can include third-party software, especially Open Source Software and/or

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2.15 "**Login**" means registering or logging in by a User onto the system at the start, and as a requirement for, every use of the Licensed Software, when the User is required to enter certain individual information such as name, user name, password or client ID.

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2.21 "**On-Premise Product**" is Licensed Software that requires installation on a Workplace or Server of the Licensee. On-Premise Products therefore include desktop software and libraries that come within the above description.

2.22 "**Product Description**" means the description and technical specifications of the Licensed Software, which may also include the security, data backup and other relevant descriptions and which is provided to the Licensee upon Purchase of the Licensed Software or which is available to the Licensee on a website specified by the Licensor.

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2.25 "**Software Development Toolkit (SDK)**" is a set of program libraries and programming tools for software development.

2.26 "**Source Code**" is the text of a computer program written in a programming language and readable by humans.

2.27 "**SW Update**" describes a version of the Licensed Software with the same or refined functions with minor improvements but with the intention of removing bugs, defects or malfunctions in the Licensed Software. The change in the version number, e.g., from 2.4.**1** to 2.4.**2** (corresponding to a bug fix or changes that do not contain any extended functionalities) determines classification as an Update.

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2.30 "**Workplace Software**" is Licensed Software that may only be installed on one Workplace per license.

2.31 "**Workplace**" means an individual computer or computer workstation.

2.32 "**Written Form**" requires that the declaration of intent and/or declaration of knowledge, unless otherwise specified in the Software License Terms, be signed by duly authorized representative(s) of the respective party in writing.

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6.   RESTRICTIONS

6.1   If the Licensee is an <u>End Customer</u>, the provisions of this clause 6 apply without any restriction.

        If the Licensee is an <u>Authorized Distributor</u>, the following applies: The Authorized Distributor is entitled to distribute the Licensed Software to End Customers according to the relevant License Agreement between Phoenix Contact and the Authorized Distributor; in this respect the clauses 6.2 and 6.5 (i) do not prevent distribution to End Customers permitted under the License Agreement and are not

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6.6   The Licensee is entitled to resell to third parties Licensed Software for which it has purchased a perpetual right of use, with simultaneous transfer of the rights of use granted under these Software License Terms, provided that

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   b)   the Licensee fully and irrevocably deletes all copies it has of the Licensed Software; and

c)   the third party accepts the applicability of these Software License Terms as between Licensor and third party.

7.   INFRINGEMENT OF RIGHTS OF USE

7.1   In the event of an infringement of the provisions of clauses 5 to 6 by the Licensee, the Licensee shall pay a contractual penalty to the Licensor in the amount of: (i) 10 % of the total fees paid and payable under the affected License Agreement, or (ii) EUR 25,000, whichever is higher. Any other rights of Licensor, including without limitation damage claims, shall remain unaffected.

7.2   In the case of Cloud Products and other Licensed Software provided for a limited time, the Licensor may, in the event of an infringement by the Licensee of a material provision of these Software License Terms and Licensee's failure to cure this infringement within thirty (30) days of receipt of a written warning notice, suspend access to the Licensed Software until the infringement is cured. This includes but is not limited to Licensee's infringement by its breach of any terms in clauses 5, 6 or 10.

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10.   PRICES AND PAYMENT TERMS

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10.2   All prices are net of any statutory value-added tax, customs duties and other taxes or fees. These are payable by the Licensee.

10.3 In the case of Licensed Software provided perpetually for a fee, the Licensor invoices the purchase price upon delivery of or granting of access to the Licensed Software, unless otherwise agreed.

10.4 In the case of Licensed Software provided for a limited time for a fee, remuneration is due and payable without deduction

a) in the case of fixed prices, in advance by the 3rd working day of the agreed regular billing period at the latest;

b) in the case of varying, e.g., User-dependent prices

either (i) within ten (10) days of expiration of the regular billing period and invoicing; the amount of remuneration is determined by the number of licenses existing in the regular billing period to be invoiced;

or (ii) in advance within ten (10) days of invoicing for the agreed regular billing period, whereby the price for this billing period is calculated from the actual quantity used during the previous billing period;

if a varying price calculation is agreed, but not a due-date rule, variant (i) applies.

Unless otherwise agreed, the regular billing period is quarterly.

10.5 Maintenance and support services are invoiced by the Licensor on a quarterly basis in advance.

10.6 The remuneration is due and payable without deductions within thirty (30) days net starting from the invoicing date. Except as provided for by mandatory applicable laws (e.g., in case of warranty claims subject to clause 11, or a pre-mature termination of a time-limited license by the Licensee pursuant to clause 17.5, all payment obligations under any and all License Agreements and/or Maintenance Agreement are non-cancellable and all payments made are non-refundable.

10.7 For Cloud Products, other Licensed Software provided for a limited period, and maintenance and support services, the Licensor is entitled once per Contractual Year beginning upon the second Contractual Year, with three (3) months' advance notice, to increase the prices agreed for the current contract with effect for the future, in order to adjust the price structure to altered costs for the procurement and provision of the Licensed Software and/or the maintenance and support services, including price increases of third-party suppliers or service providers, higher wage costs and increases in the tax to be paid upon procurement, but by a maximum of ten percent (10 %) in comparison with the price valid at the time in question.

10.8 If the Licensee defaults on payment, the Licensor is entitled to charge default interest (i) at the maximum amount allowed by applicable statutory law, or (ii) of nine percent (9 %) p.a., depending on which is lesser. Other rights of the Licensor, especially compensation claims, remain unaffected.

10.9 The Licensee is only entitled to offset or withhold payments on the basis of claims that are undisputed by the Licensor, or claims that have been finally awarded by a competent court.

11. PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES

11.1   Solely for Licensed Software provided for a fee, the Licensor covenants that the Licensed Software will perform as described in the Product Description. For the Cloud Products, the foregoing covenant will apply only during the period of the agreed availability (clause 27.4). If the performance standard in this clause 11.1 is not met, the Licensee's sole and exclusive remedy is to request a repair of the defect from Licensor pursuant to clause 11.2 Upon Licensor's receipt of the foregoing request, Licensor may at its solely discretion remedy this defect by repairing it or by supplying defect-free Licensed Software. The Licensor also may remedy the defect by providing an SW Update or SW Upgrade. The Licensor bears no responsibility for the Licensed Software that meets the expectations of the Licensee.

11.2   The Licensee must notify the Licensor of defects in writing without delay and at least within ten (10) days and describe the error symptoms in detail. This period starts (i) for obvious defects, upon provision of the Licensed Software, (ii) for other defects, upon discovery of the defect. For perpetually provided Licensed Software, the warranty for defects not reported on time shall be excluded.

11.3   The Licensor warrants that the Licensed Software within the European Union, EFTA, US and China is not subject to third party claims for infringement of their intellectual property rights that impair the contractually agreed use of the Licensed Software in the aforementioned territories by Licensee.

11.4   If third parties assert claims before expiration of the warranty period (clause 11.8) against the Licensee for infringement of intellectual property rights within one of the territories listed in clause 11.3, the Licensee's sole and exclusive remedy is to request Licensor to remedy this defect. Licensor may remedy this defect at its sole discretion by (i) acquiring the necessary rights for the Licensee so that the Licensed Software no longer infringes any third-party intellectual property rights, (ii) replacing the Licensed Software wholly or partly with another product with similar functionality that causes no infringement, or (iii) modifying the Licensed Software in such a way that no third-party intellectual property rights are infringed while maintaining similar functionality; this can be done by providing an SW Update or SW Upgrade.

11.5   Subject to Licensee's compliance with these Software License Terms, the Licensor shall indemnify the Licensee against any claims of third parties within the meaning of clause 11.3 awarded by a court provided that the Licensee (i) informs the Licensor in writing without delay about such a claim; (ii) provides the Licensor with all reasonable support requested by the Licensor, and (iii) gives the Licensor as between the parties the sole control and decision-making power about defending and settling such a claim at the Licensor's expense. The Licensor will indemnify the Licensee in this respect against any court fees and fees for the Licensee's lawyer necessary to defend against claims up to the value of the statutory fees. Any lawyer's fees exceeding that amount shall be assumed only with the prior written consent of the Licensor. The indemnification obligation does not apply if the Licensor is not responsible for the infringement of intellectual property rights.

11.6   The Licensee is only entitled to remedy defects itself or have third parties remedy them if the Licensor genuinely and definitively refuses to remedy the defect or takes

no appropriate measures to remedy the defect even after a reasonable grace period has expired.

11.7   If the Licensor demonstrates that there was no defect for which it is responsible according to the provisions in this clause 11, the Licensor may request the Licensee to reimburse the Licensor for its expenses related to its activities to remedy the alleged defect on a time and material basis at the generally applicable rates of the Licensor.

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for the types of claims exempted under clause 12.2 (i.e., willful misconduct or gross negligence, or personal injury), the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon twelve (12) months the original purchase of the Licensed Software. THEREFORE, UPON THE END OF THE FOREGOING TWELVE (12) MONTH PERIOD, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS" AND WAIVES ITS RIGHT TO SEEK ANY REMEDIES OR DAMAGES IN RELATION TO DEFECTS IN THE LICENSED SOFTWARE.

11.9   To the extent permitted by applicable law, and except when otherwise stated in Written Form, Licensed Software provided free of charge is provides "as is" without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

11.10   Clause 11 conclusively describes the scope of Licensor's warranty obligations.

12.   LIABILITY

12.1   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's willful misconduct or gross negligence or (b) Licensor's personal injury, Licensor will not be liable (whether in contract or tort) to Licensee for any consequential, incidental, indirect, or exemplary damages arising out of or relating to these Software License Terms.

12.2   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's willful misconduct or gross negligence or (b) personal injury caused by Licensor, Licensor's aggregate liability arising out of these Software License Terms will not exceed the fees paid by Licensee during the twelve (12) months preceding the incident giving rise to Licensor's liability (if Licensee received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

12.3   The Licensee is required to adequately back up data and for this purpose to make backup copies of all data and programs in machine-readable form at least once a day. If there is a data loss that is the fault of the Licensor, the Licensor's aggregate liability is limited to the reasonable and actual costs of restoring data that the Licensee could not have prevented the loss of by meeting the aforementioned obligation or by taking other reasonable measures.

12.4   For avoidance of doubt, this clause 12 applies to personal liability of employees, representatives and agents of the Licensor.

13. CONFIDENTIALITY

13.1 The Licensee shall maintain the confidentiality of any Confidential Information of the Licensor and not disclose it or make it accessible to third parties. This obligation survives for a period of five (5) years after the end of the relevant License Agreement and/or Maintenance Agreement.

13.2 Confidential Information does not include such information

a) that the Licensee verifiably already knew upon entering into the relevant License Agreement and/or Maintenance Agreement or that later becomes known from a third party without any infringement of a non-disclosure agreement, statutory provisions or official orders;

b) that is publicly known upon entering into the relevant License Agreement and/or Maintenance Agreement or later becomes publicly known, unless this is due to an infringement of these Software License Terms;

13.3 If Confidential Information has to be disclosed due to statutory obligations or by order of a court or an authority, the Licensee, insofar as legally admissible, shall first inform the Licensor and give it the opportunity to take action against the disclosure.

13.4 If the parties enter into a separate agreement on confidentiality before or after entering into the License Agreement, the relevant agreement takes precedence over the provisions of this clause 13 in the event of any contradictions.

14. DATA PRIVACY

14.1 In execution of the contract, the Licensor processes personal data of the Licensee and its involved employees (name, contact details, other personal data for contract execution), as well as of any other people (such as Users) to the extent this is necessary for proper performance of the contract taking into account the relevant licensing model.

14.2 The Licensor shall comply with the data protection laws applicable to the Licensor's services under these Software License Terms. Insofar as the Licensee receives personal data of the Licensor, the Licensee is likewise required to comply with the applicable data protection laws. Personal data of which the Licensee obtains knowledge may be processed by the Licensee only to execute the contract and shall in no event be shared, sold or otherwise made available to third parties for purposes other than the aforementioned ones.

15. CONTROL RIGHTS

15.1 The Licensor is entitled to take legally permissible technical measures to monitor and/or ensure the contractual use of the Licensed Software by the Licensee, e.g., license keys, dongles, license servers or logging of the Licensee's technical usage data. The Licensee undertakes not to disable, modify and/or circumvent such measures or to attempt to do any of the foregoing.

15.2 The Licensor is entitled to audit the Licensee solely for the purpose of verifying the use of the Licensed Software by the Licensee (but at most once every twelve (12) months), provided the Licensor has no other reasonable but equally effective

opportunity to verify the use of the Licensed Software by the Licensee. Such audit may only be carried out by an independent auditor who is subject to a professional or other non-disclosure obligation. The auditor may only provide information to the Licensor to the extent necessary for the assertion and enforcement of rights to the Licensor's intellectual property. The Licensor shall bear the costs of such audit unless the audit shows that the Licensee infringed the Licensor's intellectual property rights to a not just immaterial extent; in the latter case the Licensee shall pay the auditor's costs.

15.3   The Licensee shall cooperate with the Licensor in this regard; in particular, it shall (a) at the Licensor's request, produce a license report, (b) allow visits and/or audits on site by the auditor to monitor, assess and verify the use of the Licensed Software during normal business hours and with sufficient advance notice. When the audit is conducted, both parties must observe the applicable data protection laws. The Licensee must ensure that no personal data are provided to the auditor and/or the Licensor in connection with the audit. If and insofar as the audit cannot be carried out without providing personal data to the auditor, the Licensee shall take the necessary measures to ensure that only the personal data necessary for the audit to be conducted is provided.

16.   APPLICABLE LAWS; EXPORT AND RE-EXPORT CONTROL

16.1   The Licensee is responsible for ensuring that its use of the Licensed Software is compatible with all statutory and regulatory requirements applicable to the Licensee.

16.2   The Licensee is informed that the export of the Licensed Software, information and documentation according to the relevant export provisions of the Federal Republic of Germany, the countries in which the Licensor and/or the Licensee is located, the European Union and/or the United States of America (US (re-)export provisions) – e.g., due to its type or purpose or final location – may require authorization or may be excluded and any contravention subject to criminal prosecution. The Licensee is therefore responsible for strictly observing all nationally or internationally applicable (re-)export provisions and in any case the EU dual use and sanction law and obtaining any necessary permits. The Licensee therefore undertakes to check and ensure in particular that

a)   insofar as the Licensed Software, information and documentation may be supplied for defense-related, nuclear or weapon-related use or delivered to a military recipient with authorization from the relevant, in particular national, authorities, all authorizations must be obtained from the authorities and Licensor in advance of the supplying of the Licensed Software, information and documentation;

b)   the relevant UN resolutions, EU Regulations and German laws and other applicable laws and regulations of the competent authorities are observed;

c)   no Licensed Software, information and documentation is provided directly or indirectly to the persons and companies listed on the relevant sanction lists.

16.3   The supply and service obligations under the relevant License Agreement (contract performance) are subject to the condition that no obstacles or prohibitions based on national or international provisions, especially export control regulations, embargoes or other sanctions prevent performance. The parties undertake to provide all

information and documents needed for the export/shipment/import. Any delays due to export controls or authorization procedures nullify agreed deadlines and delivery times. If the necessary authorizations are not issued despite proper application by the party required to do so, with respect to the affected parts the License Agreement shall be deemed not concluded; damage claims in this respect and related of the aforementioned exceeding of deadlines are excluded.

16.4   The Licensor shall specify the relevant points of contact for further information to the Licensee on request.

16.5   If the Licensee infringes its obligations under this clause 16, it shall indemnify the Licensor upon first demand against all claims and compensate all damages that sub-suppliers of the Licensor, rights holders, other third parties or government and/or international authorities or organizations assert towards the Licensor, unless the Licensee is not responsible for the infringement.

17.   TERM AND TERMINATION

17.1   These Software License Terms shall continue to apply for as long as the Licensee is entitled to use the Licensed Software under a License Agreement.

17.2   Therefore, no term is provided for in the case of perpetually provided Licensed Software.

17.3   For temporarily provided Licensed Software and for maintenance and support services, the relevant License Agreement and/or Maintenance Agreement contains an initial term. Unless otherwise agreed, the initial term of a License Agreement for temporarily provided Licensed Software runs until the end of the calendar year in which it is purchased. The same applies for the initial term of a Maintenance Agreement.

17.4   The Licensor and Licensee may terminate any time-limited License Agreement and/or any Maintenance Agreement after the initial term and/or any Extension Period (as defined below) with three (3) months' notice prior to the expiry of the applicable term. If the relevant License Agreement and/or Maintenance Agreement is not terminated in time, it shall be extended by another twelve (12) months each ("Extension Period").

17.5   Each Party may terminate a time-limited License Agreement and/or a Maintenance Agreement in writing without notice for cause. A cause justifies termination by the Licensor particularly if the Licensee has infringed the rights of use of the Licensor by using the Licensed Software to an extent beyond that permitted in these Software License Terms and does not cease this infringement within fourteen (14) days of a warning by the Licensor.

17.6   If a time-limited License Agreement is terminated, the Licensee shall cease using the Licensed Software and remove all installed copies of this Licensed Software from its computers and return to the Licensor at its choice any backup copies made without delay. Upon corresponding written request by the Licensor, the Licensee shall, instead of returning them, irrevocably destroy all copies of the Licensed Software according to the appropriate instructions of the Licensor such that they cannot be restored. The Licensee shall confirm to the Licensor within thirty (30) days of receipt of the request that the Licensee has met the above obligations.

17.7 All notices regarding a party's intent to terminate a License Agreement and/or a Maintenance Agreement require Written Form to be valid.

17.8 The provisions of these Software License Terms which, by their terms, require performance after the termination or expiration of these Software License Terms, or have application to events that may occur after the termination or expiration of these Software License Terms, will survive the termination or expiration of these Software License Terms. The foregoing includes clauses 6.3, 10.8, 12, 13, 16, 18.1, and 18.2 - 18.7.

18. MISCELLANEOUS

18.1 Licensee's General Terms and Conditions do not apply.

18.2 Governing Law and Venue

18.2.1 Any License Agreement, Maintenance Agreement and these Software License Terms are governed exclusively by the laws of the Federal Republic of Germany. In this case, the Annex to Software License Terms – Local Terms GERMANY shall apply in addition to these Software License Terms.

18.2.2 Unless otherwise provided for in clause 18.2.3, all disputes arising from or in connection with any License Agreement, Maintenance Agreement and/or these Software License Terms or about its validity shall be definitively decided according to the arbitration rules of the German Institute of Arbitration (DIS) without the possibility of recourse to legal action. The place of arbitration is Cologne, Germany. The court of arbitration consists of three arbitrators. The language of the arbitral proceedings is English. However, if the Licensor has its principal place of business in Germany, in deviation from Clause 18.2.3 all disputes arising from or in connection with any License Agreement, Maintenance Agreement and/or these Software License Terms or about its validity shall be definitively decided under the Rules of Arbitration of the International Chamber of Commerce (ICC) without recourse to the ordinary courts of law. The place of arbitration is Cologne, Germany. The court of arbitration consists of three arbitrators. The language of the arbitral proceedings is English.

18.2.3 If the Licensee has its principal place of business in a certain country as listed hereinafter, this clause 18.2.3 sets forth the governing law for any License Agreement, Maintenance Agreement and these Software License Terms with that particular Licensee. For this purpose, the Licensor and the Licensee hereby agree that: (i) any such License Agreement, Maintenance Agreement and these Software License Terms shall be conclusively governed by and construed in accordance with the laws of the country set forth hereinafter, without reference to its conflict of laws provisions; and (ii) the courts set forth hereinafter shall have exclusive jurisdiction for any and all disputes arising out of or in connection with such License Agreement, Maintenance Agreement and these Software License Terms, including disputes about its validity.

Licensee's Location	Governing Law	Venue
Austria	The laws of Austria	Commercial Court of Vienna, Austria
Belgium	The laws of Belgium	Courts of Brussels, Belgium
Bulgaria	The laws of Bulgaria	Courts of Sofia, Bulgaria
China	The laws of China (for purpose of these Software License Terms, excluding Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan)	People's court located where the relevant agreement was signed. The Parties hereby agree that, each of the License Agreement, Maintenance Agreement and/or these Software License Terms (if applicable) shall be signed by the Parties in Jiangning District, Nanjing, China.
Croatia	The laws of Croatia	Arbitration under the Rules of Arbitration at the permanent arbitration court of the Croatian Chamber of Economy (*Zagreb Rules*). The place of arbitration is in Zagreb. The arbitral tribunal consists of three arbitrators. The language of the proceedings is Croatian.
Cyprus	The laws of the Republic of Cyprus	Courts of the Republic of Cyprus
Czech Republic	The laws of the Czech Republic	Courts of the Czech Republic
Denmark	The laws of Denmark	Sø- og Handelsretten (the Maritime and Commercial High Court) in Copenhagen, Denmark
Estonia	The laws of Estonia	Harju county court (in Estonian: *Harju Maakohus*), Estonia
Finland	The laws of Finland	Arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The seat of arbitration shall be Helsinki, Finland. The number of arbitrators shall be three. The language of the arbitration shall be English.
France	The laws of France	Courts of Paris, France
Greece	The laws of Greece	Courts of Athens, Greece
Hungary	The laws of Hungary	Hungarian courts having competence at the registered seat of the Licensor

Ireland	The laws of Ireland	Courts of Ireland
Italy	The laws of Italy	Courts of Milan, Italy
Japan	The laws of Japan	Yokohama District Court, Japan
Latvia	The laws of Latvia	Courts in Latvia determined in accordance with the rules of legal procedure prescribed by law
Lithuania	The laws of the Republic of Lithuania	Courts of the Republic of Lithuania
Luxemburg	The laws of Luxemburg	Competent courts of Luxembourg-Ville, the Grand-Duchy of Luxembourg
Malta	The laws of Malta	Courts of Malta
Netherlands	The laws of the Netherlands	Competent court of Gelderland, the Netherlands
Norway	The laws of Norway	Oslo tingrett/District Court, Norway
Poland	The laws of Poland	Polish common court relevant for the district Warsaw-Śródmieście (Warszawa-Śródmieście) in Warsaw, Poland
Portugal	The laws of Portugal	Competent court of Sintra, Portugal
Romania	The laws of Romania	Romanian Court of competent jurisdiction from the Licensor's registered seat
Slovakia	The laws of Slovakia	Competent Slovak court
Slovenia	The laws of Slovenia	Courts of Ljubljana, Slovenia
Spain	The laws of Spain	Courts of Madrid, Spain
Sweden	The laws of Sweden	Arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The place of arbitration shall be Stockholm, Sweden. The arbitral tribunal shall consist of three arbitrators. The language of the arbitral proceedings shall be English.
Switzerland	The laws of Switzerland	Swiss courts having competence at the registered seat of the Licensor
United Kingdom	The laws of England and Wales	Courts of England and Wales

United States of America	The laws of the commonwealth of Pennsylvania	Federal courts in Philadelphia County, Pennsylvania

18.2.4   The UN Convention on the International Sale of Goods of 11 April 1980 (UN sales law) is excluded.

18.3   All notices under these Software License Terms to Licensor will be given in Written Form and will refer to the relevant License Agreement and/or Maintenance Agreement and to these Software License Terms. Any notice provided in any other manner will be deemed NOT received by Licensor unless Licensor specifically acknowledges receipt of such notice in Written Form.

18.4   Licensee will not assign any License Agreement, Maintenance Agreement and/or these Software License Terms, in whole or in part, without Licensor's prior written consent. Any attempt to assign in violation of this clause is void in each instance. All the terms and conditions of the relevant License Agreement, Maintenance Agreement and these Software License Terms will be binding upon, will inure to the benefit of, and will be enforceable by the parties and their respective successors and permitted assigns.

18.5   If any provision of any License Agreement, Maintenance Agreement and/or these Software License Terms is to any extent held invalid or unenforceable by a court of competent jurisdiction, the remainder of such License Agreement or Maintenance Agreement (as the case may be) and of these Software License Terms will not be affected thereby, and each term and condition will be valid and enforceable to the fullest extent permitted by law.

18.6   These Software License Terms, together with all its associated exhibits and schedules, as well as the License Agreements and Maintenance Agreements, all of which are incorporated by this reference, constitute the complete and final agreement of the parties pertaining to the Licensed Software and related services and supersede the parties' prior agreements, understandings and discussions relating to the foregoing subject matter. No modification of any License Agreement, Maintenance Agreement and/or these Software License Terms is binding unless it is in Written Form and signed by both parties. This also applies to any amendment or waiver of this clause. Any License Agreement, Maintenance Agreement and/or these Software License Terms and amendments may be executed electronically and may be signed in counterparts (which may be scanned *or* faxed copies), which together will constitute one agreement. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of the relevant License Agreement, Maintenance Agreement or these Software License Terms. *NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THESE SOFTWARE LICENSE TERMS (WHETHER PROFFERED VERBALLY OR IN ANY QUOTATION, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.*

18.7　Except as otherwise expressly set forth in these Software License Terms, the failure of either party to enforce any provision of this Software License Terms will not constitute a waiver of the party's rights to subsequently enforce the provision. The remedies specified in these Software License Terms are in addition to any other remedies that may be available at law or in equity.

PART B – SPECIAL PROVISIONS FOR ON-PREMISE PRODUCTS

19.　SUPPLYING OR PROVIDING ACCESS TO ON-PREMISE PRODUCTS

19.1　The Licensor shall, at its discretion, either (i) make the Licensed Software available for downloading from a server, (ii) supply a copy of the Licensed Software in machine-executable object code on a physical data carrier (e.g., CD-ROM or flash drive) to the agreed delivery address or (iii) activate functions of the Licensed Software via a licensing mechanism. If the Licensed Software is made available on a data carrier, the Licensed Software is supplied FCA Licensor's principal place of business in accordance with INCOTERMS 2010.

19.2　The Licensor is not obliged to install and/or configure the Licensed Software and/or instruct the Users unless the Licensor and Licensee agree separately on the provision of such services by the Licensor.

19.3　If the time of provision of the Licensed Software is of relevance as between the Parties, the Licensed Software shall be deemed provided at the time the Licensor

　　a)　in the case of clause 19.1 (i), provides the Licensed Software for downloading on the corresponding server and informs the Licensee thereof;

　　b)　in the case of clause 19.1 (ii), hands over the Licensed Software to the carrier, freight forwarder etc.

　　c)　in the case of clause 19.1 (iii), gives the Licensee the necessary information for activation.

19.4　Unless explicitly specified otherwise in the License Agreement or third-party terms (e.g., OSS terms of use), the Licensee receives the Licensed Software solely in the machine-executable object code and receives no access to the Source Code.

19.5　If the Licensor provides the Licensee with Client Software to use the Licensed Software, clause 32 applies mutatis mutandis.

20.　LICENSE TYPES FOR ON-PREMISE PRODUCTS

20.1　There are different types of licenses for On-Premise Products. The relevant license type is specified in the License Agreement. Unless otherwise agreed in the License Agreement, the Licensor grants the Licensee a non-exclusive, limited, non-transferable (except as provided otherwise in clause 6.6, non-sublicensable right to use the Licensed Software according to this clause 20 and clause 5 in accordance with the relevant Product Description.

20.2　With the exception of the time-limited demo license (clause 20.4.2 b), rights to the Licensed Software in On-Premise Products are generally granted perpetually. However, the Licensor can state in the License Agreement that the Licensed

Software is provided to the Licensee not on a perpetual basis but for a limited period. In this case the rights are granted on a time-limited basis for the duration of the relevant License Agreement.

20.3   In the case of perpetually provided Licensed Software, the Licensee is granted the aforementioned rights of use on the condition precedent of full payment of the licenses in question. To ensure that the Licensee may lawfully use the Licensed Software in the time between receipt of the Licensed Software and payment of the remuneration in compliance with the contract (i.e., especially on time), the Licensor further grants the Licensee for such On-Premise Products the right to use the relevant Licensed Software according to these Software License Terms for a limited period until (i) the time of full payment of the relevant licenses or (ii) expiration of the payment term in accordance with clause 10.6, depending which of these two events occurs earlier.

20.4   The individual types of license are:

20.4.1   Workplace License

If the Licensee purchases a Workplace License, the Licensee is permitted to install, run and use the Licensed Software for the intended purposes on one (1) Workplace in accordance with the Product Description. If the Licensee purchases several Workplace Licenses, the number of installations must not exceed the number of Workplace Licenses purchased. Installation of the Licensed Software on a central Server for use in a network is not permitted in the case of the Workplace License.

With the free Workplace License, the Licensee receives the Licensed Software without a license key and without a dongle. The Licensed Software is then not tied to any particular hardware.

For the paid-for Workplace License (Single User License), the Licensed Software comes with a license key, may be protected with a dongle and may be dependent on certain hardware.

20.4.2   Demo License

Clause 20.4.1 applies correspondingly to a Demo License (free of charge), provided that:

a)   the scope of functions of the Licensed Software is limited compared with the Workplace License in accordance with the provisions of the License Agreement and/or the Product Description, or

b)   if the Licensed Software is provided to the Licensee for a fixed time period with the same scope of functions as the Workplace License; the Licensor grants the Licensee a correspondingly time-limited right to use the Licensed Software in accordance with the provisions of the License Agreement and/or the Product Description.

20.4.3   Network License

If the Licensee purchases a Network License, it is permitted to install the Licensed Software in the Network and to grant a certain number of Users access to the

Licensed Software ("Floating License"). In this case the Licensee is entitled to have the Licensed Software used simultaneously by a maximum number of Users equivalent to the number of licenses purchased ("Concurrent Users").

20.4.4   Server Parameter License

If the Licensee purchases a Server Parameter License, it is permitted to install the Licensed Software on one (1) central Server and to grant an unlimited number of Users access to the Licensed Software provided the Server does not exceed certain thresholds for technical parameters in accordance with the provisions of the License Agreement and/or the Product Description (e.g., number of processor cores, number of clients, etc.)

20.5   The number of licenses purchased is specified in the License Agreement. The Licensee may purchase more licenses in addition to the licenses originally purchased in the License Agreement. The Purchase of more licenses is done either by a corresponding order by the Licensee in text form or by use of the Licensed Software by additional Users according to the following provisions:

20.5.1   In the case of Workplace Licenses, each additional installation on a Workplace shall be deemed a Purchase of an additional Workplace License.

20.5.2   In the case of Network Licenses, use within the meaning of clause 20.4.3 beyond the number of permitted Concurrent Users shall be deemed a Purchase of an additional Network License.

20.5.3   In the case of Server Parameter Licenses, the following applies: If one or more parameters of the Server used exceed(s) the threshold given in the License Agreement and/or the Product Description, this shall be deemed an order of one or more new additional Server Parameter Licenses depending on the factor by which the Server exceeds the thresholds in question. If the Licensed Software is used on more than one Server, this shall be deemed an order of one or more new additional Server Parameter Licenses, depending what number of Servers the Licensed Software is used on.

20.5.4   In the case of On-Premise Products provided for a limited time, each additional license or license upgrade runs until expiration of the agreed term of the original license for the Product in question.

21.   HARDWARE ENVIRONMENT

Unless otherwise specified in the relevant Product Description, the Licensee is entitled subject to clause 8 to use On-Premise Products in conformity with the license while observing the agreed license volume on any available hardware and in any system environment, provided that this system environment corresponds to the specified machine type, if any. However, if the Licensee changes hardware, it is required to delete the previously installed On-Premise Product and the related license key from the previously used hardware.

PART C – SPECIAL PROVISIONS FOR MOBILE APPS

22.   DOWNLOADING MOBILE APPS

22.1   The Licensor makes the Licensed Software available for download from a Server via a designated website or a dedicated online marketplace (app store) of a third party.

22.2   Clauses 19.2 and 19.4 apply mutatis mutandis.

23.   GRANT OF RIGHTS TO MOBILE APPS

23.1   Unless otherwise agreed in the License Agreement, the Licensor grants the Licensee a limited, non-exclusive, non-transferable (except as provided otherwise in clause 6.6, non-sublicensable right to use the Licensed Software according to this clause 23 and clause 5 in accordance with the relevant Product Description.

23.2   The Licensee is permitted to install, run and use the Licensed Software for the intended purposes on a mobile device (smartphone, tablet) in accordance with the Product Description.

23.3   Rights to the Licensed Software in Mobile Apps are generally granted perpetually. However, the Licensor may specify in the License Agreement that the Licensed Software is provided to the Licensee not on a perpetual basis but for a limited period. In this case the rights are granted on a time-limited basis in accordance with the provisions of the relevant License Agreement and/or the Product Description.

24.   DEVICES

Clause 21 applies accordingly to Mobile Apps with the proviso that for Mobile Apps, the term "hardware" refers to the mobile device of the User.

PART D – SPECIAL PROVISIONS FOR EMBEDDED SOFTWARE

25.   GRANT OF RIGHTS FOR EMBEDDED SOFTWARE

25.1   If the Licensee purchases Embedded Software, the Licensor grants the Licensee a limited, non-exclusive, non-sublicensable right to use the Licensed Software as software integrated into the device in machine-executable object code according to this clause 25 and clause 5 for proper use of the respective device in accordance with the relevant Product Description ("Runtime License"). The use of the Licensed Software is limited to the respective device. The Licensee is therefore in particular not authorized to use the Licensed Software separately from this device (standalone) on other hardware.

25.2   In deviation from clause 6.6, for Embedded Software the Licensee is entitled to resell the Licensed Software as part of the respective device but solely in compliance with clause 25.1.

PART E – SPECIAL PROVISIONS FOR SDKS AND SOURCE CODE

26.   PROVISION AND GRANT OF RIGHTS FOR SDKS AND SOURCE CODE

26.1   Regarding the delivery and provision of access to SDKs and Source Code, clauses 19.1 - 19.3 apply mutatis mutandis.

26.2   If the subject matter of a License Agreement is a SDK, the Licensor grants the Licensee a perpetual, non-exclusive license to the object code of the Licensed

Software solely for the purposes of developing its own products for the named system of Phoenix Contact or of the End Customer. The specific scope of the permitted use of the relevant SDK and applicable restrictions, e.g., development environment and target systems, are set forth in a separate agreement between Licensor and Licensee (e.g., the License Agreement). If the SDK also contains Source Code, the Licensor grant the Licensee a perpetual, non-exclusive license for this Source Code solely for the purposes of internal debugging of the Licensed Software. The Licensee may compile the so-modified Licensed Software and integrate it into the respective devices of the Licensor. Any other use of the Source Code of the Licensed Software is strictly prohibited. In particular, the Licensee is not entitled to make functional modifications to the Licensed Software.

26.3   If the subject matter of a License Agreement is a Source Code, the Licensor grants the Licensee a perpetual, non-exclusive license to one (1) copy of the Source Code of the Licensed Software solely for the purposes of developing its own products for the named system of Phoenix Contact or of the End Customer. The specific scope of the permitted use of the relevant Source Code and applicable restrictions, e.g., development environment and target systems, are set forth in a separate agreement between Licensor and Licensee (e.g., the License Agreement).

26.4   Unless otherwise agreed, SDKs and/or Source Code are licensed as a Facility License.

26.5   If the Licensee wishes to resell a perpetually provided SDK or perpetually provided Source Code to a third party, clause 6.6 applies provided that the Licensee, in addition to the requirements stated therein, informs the Licensor in writing about the resale and the identity and address of the third party.

PART F – SPECIAL PROVISIONS FOR CLOUD PRODUCTS

27.   SPECIFICATION

27.1   Cloud Products within the meaning of these Software License Terms are web-based, multi-client-capable systems offered individually or in combination with other components and services.

27.2   It is specified in the License Agreement which Cloud Products the Licensee purchases. The quality of the Cloud Products is conclusively specified in the individual Product Descriptions available at http://www.phoenixcontact.com for each Cloud Product and in these Software License Terms.

27.3   The Licensor grants the Licensee access to the Cloud Products according to these Software License Terms in the version generally kept available by the Licensor.

27.4   The Licensor is obliged to maintain the Cloud Products available for the Licensee for use via the internet and to make them accessible. The Cloud Products are available to the Licensee via the internet according to these Software License Terms. The Cloud Products are 98 % available on a monthly average (30 days) unless another availability rate is agreed in the License Agreement. Availability of Cloud Products exceeding the period stated above is not part of the Cloud Products and the Licensor is not required to provide the relevant Cloud Product for any such additional period. The point at which the availability of the Cloud Products is measured is the WAN-side router output of the data center in which the relevant

Cloud Product is hosted. Maintenance times in accordance with clause 30 are to be deducted from the "target availability" when calculating availability.

27.5   If the Licensor's offer specifies that certain devices ("Devices") may be connected to the Cloud via the internet, such Devices can only be connected with the relevant Cloud Product. In this respect the option of connecting Devices with each other is not a feature of the Cloud Products.

27.6   Cross-customer visibility or accessibility of the Licensee's Devices by other Users on Devices of another customer is not a feature of the Cloud Products either.

27.7   The Licensee acknowledges that the Cloud Products are a multi-client system and the Licensee has no right to the benefit from a dedicated physical system for its own exclusive use.

27.8   The License Agreement for Cloud Products and these Software License Terms do not include any internet access for the Licensee, but solely the internet connection of the Cloud Products.

28.   USE OF CLOUD PRODUCTS

28.1   The Licensor provides the Licensee after its registration with the necessary data for access (User name, password). The Licensee undertakes to keep its access data and passwords confidential and to inform the Licensor without delay in writing or by email if third parties obtain knowledge of the usage data and/or passwords of the Licensee. Clause 4.5 remains unaffected.

28.2   To use the Cloud Products for a certain Device, it is necessary for the Licensee to register the Device in question in the relevant Cloud Product. The device is enabled for using this Cloud Product by such a registration. All enabled devices of the Licensee are described as "Active Devices" below.

28.3   The Licensee is entitled at any time to deregister an Active Device again and thus to disable it. All disabled devices of the Licensee are described as "Inactive Devices" below. In the case of Cloud Products that require a User account with a certain usage allocation, all Active Devices are automatically disabled and become Inactive Devices when the Licensee's account contains no more usage allocation.

28.4   To use the Cloud Products in a manner corresponding to the Product Description, certain technical system requirements must be met by the Licensee. The necessary browsers for using the Cloud Products are described in the latest Release Notes for each Cloud Product. Licensor is not responsible for any consequences of Licensee's failure to meet such technical system requirements.

28.5   The Licensor is entitled to amend the Release Notes at its discretion while ensuring that at least two (2) browsers available free on the market are always supported.

28.6   The Licensee is required to use the Cloud Products (i) only in the context of applicable law and any restrictions in the User manual and (ii) not in a manner that jeopardizes the safety or performance of the Cloud Products.

29.   RIGHTS OF USE FOR CLOUD PRODUCTS

29.1   If the Licensee orders Cloud Products, the Licensor grants the Licensee a non-transferable, non-exclusive, global right, limited to the term of the relevant License Agreement, to use the relevant Cloud Products online in accordance with this clause 29 and clause 5. This includes the right to access the web-based portal application and enable copies arising during such access of the program code in the unaided memory of the Licensee.

29.2   The Licensor maintains at any time a current version of the Product Description for the Cloud Products at http://www.phoenixcontact.com for electronic retrieval by the Licensee. The Licensor hereby grants the Licensee a non-exclusive right, limited to the term of the relevant License Agreement, to electronically retrieve and print out the Product Description once and to produce a backup copy.

30.   MAINTENANCE TIMES

The Licensor may carry out scheduled maintenance during scheduled maintenance times. These scheduled maintenance times are usually carried out between 6pm (CET) and 8pm (CET) and take a maximum of 2 hours per calendar month. The Licensor shall notify the Licensee of planned maintenance times with appropriate advance notice as far as possible and reasonable. In addition, the Licensor is entitled to carry out unplanned maintenance work of up to two (2) hours a month. During these times, the relevant Cloud Product will not be available.

31.   CUSTOMER DATA

31.1   As between the Licensor and Licensee, the Licensee is the sole owner of all property rights, ownership rights and claims to the Customer Data. The Licensee grants the Licensor and its vicarious agents a non-exclusive right to use the Customer Data for providing the Cloud Products. Additionally, the Licensor is entitled to make copies of Customer Data in anonymized form (i.e., without information identifying the customer) and to analyze the anonymized data on an aggregate basis with anonymized data of other customers, e.g., for statistical purposes and to improve and develop the Cloud Products. With reference to personal data, the prevailing provisions of clause 14 and the agreement on contract data processing remain unaffected.

31.2   The Licensee is prohibited from uploading Customer Data to the Cloud Products which:

   a)   infringe third parties' rights

   b)   violate applicable law;

   c)   may lead to an infringement of applicable law by the Licensor;

   d)   impair the security of the Cloud Products or

   e)   substantially impair the performance of the Cloud Products.

31.3   Upon request by the Licensor the Licensee shall delete from the Cloud Products any Customer Data that breaches clause 31.2 by a reasonable period of time set by the Licensor. Depending on the risk arising from the Customer Data breaching clause

31.2 for the Cloud Products or the Licensor, in individual cases a request for direct deletion may also constitute a reasonable period of time. The Licensor is entitled to delete or block from the Cloud Products any Customer Data that the Licensee does not delete from the Cloud Products by the aforementioned period of time. No period needs to be set where the Licensor would face more than merely immaterial disadvantages if the respective Customer Data is not immediately deleted or blocked. In this case the Licensor is entitled to delete or block the Customer Data in question immediately.

31.4 If the Licensee stores Customer Data in Cloud Products that infringe clause 31.2, the Licensee shall indemnify the Licensor against all resulting claims asserted against the Licensor and the Licensee shall bear the resulting costs unless it is not at fault. This also covers appropriate legal costs for the defense of such claims. The Licensor shall inform the Licensee of such third-party claims.

31.5 The Licensee (i) is solely responsible for the accuracy, quality, integrity and legality of the Customer Data and of the methods by which it procures the Customer Data, (ii) shall make commercially reasonable efforts to avoid unauthorized access to or unauthorized use of Cloud Products, and shall inform the Licensor without delay about every such unauthorized access or unauthorized use and (iii) shall use the services solely in accordance with the Product Description. The Licensor is under no obligation to check the legality of Customer Data.

31.6 The Licensee explicitly acknowledges that the Licensor does not monitor or control the content of communication or data of the Licensee or its Users that is uploaded to the Cloud Products or transferred via the Cloud Products, and that the Licensor is not liable for the content of the communication or transmissions.

32. CLIENT SOFTWARE FOR CLOUD PRODUCTS

32.1 If Client Software is needed for access to a certain Cloud Product, (i) the Licensor will provide the Licensee with the Client Software for the Cloud Product in question according to clause 19 and grant the Licensee during the term of the relevant License Agreement a non-exclusive, non-transferrable right to use the Client Software solely for accessing the related Cloud Product and for its use according to the terms and provisions of these Software License Terms.

32.2 If Client Software is needed according to the Licensor, the Licensee may only access the Cloud Product in question via the Client Software. Any other type of access is prohibited. The Licensor assumes no warranty and is not liable for access or attempts to access the Cloud Product in question by the Licensee in any way other than via the Client Software and is not responsible for defects or damage resulting from a breach of the aforementioned obligation by the Licensee.

32.3 The Licensee shall return all copies of the Client Software as soon as one of the following events occurs: (a) the termination of the License Agreement for the relevant Cloud Product or (b) communication by the Licensor that the Client Software is no longer necessary for accessing the relevant Cloud Product (e.g., in the case of updates or upgrades), together with a request by the Licensor to return the Client Software. Upon corresponding written request by the Licensor, the Licensee shall definitively destroy all copies of the Client Software instead of returning them according to the appropriate instructions of the Licensor such that

they cannot be restored. The Licensee shall confirm to the Licensor within thirty (30) days of receipt of the request that the Licensee has met the above obligations.

PART G – SPECIAL PROVISIONS FOR MAINTENANCE AND SUPPORT

33. MAINTENANCE AND SUPPORT SERVICES

33.1 If the Licensor and Licensee agree on maintenance and support services for perpetually provided Licensed Software by entering into a corresponding Maintenance Agreement, the Licensor shall provide these maintenance and support services in accordance with these Software License Terms and the Maintenance Agreement. In case of contradictions between the provisions of these Software License Terms and the provisions of the Maintenance Agreement, the provisions of the Maintenance Agreement shall prevail. This clause 33 shall apply accordingly to SW Updates and SW Upgrades that the Licensor provides to the Licensee in accordance with clause 11.1 in a warranty case in the context of remedying defects.

33.2 The maintenance and support services comprise correcting defects, telephone and/or electronic User support as well as the provision of updates of the Licensed Software. In particular, Licensor shall provide, if available, SW Updates and SW Upgrades of the Licensed Software (and the updated documentation in each case) in accordance with the Maintenance Agreement. The Licensee is not entitled to modules, components or other products for which the Licensor issues separate licenses or charges additional fees. Unless otherwise agreed, the provision of Major Releases is not part of the maintenance and support services and requires a separate agreement between Licensor and Licensee.

33.3 The Licensee shall install all SW Updates and SW Upgrades without delay after receiving them or as soon as they become available and the Licensee is notified by the Licensor of the availability of SW Updates and SW Upgrades, in order to cease an infringement of a third-party intellectual property right or to remove a defect in the Licensed Software.

33.4 The maintenance and support services are provided for the current version of the Licensed Software and for a period of twelve (12) months maximum from when the current version is made for the previous version (n-1) unless the use of the latest version is unreasonable for the Licensee, e.g., if the current version contains defects or security risks; other version qualify for maintenance and support only if separately agreed between the Licensor and Licensee.

33.5 Further details on the scope of the maintenance and support services are set forth in the Maintenance Agreement. The Licensor may adapt, modify, reduce and/or amend the scope therein of maintenance and support services in accordance with clause 4.4.

33.6 Clause 11 of these Software License Terms applies only to maintenance and support services, insofar as the services in question are subject to mandatory statutory provisions related to contracts for work, leases or purchase contracts.

Local Terms

(A)   The following local terms ("**Local Terms**") set forth in the Annexes below apply **only** if the Licensee has its principal place of business in **the country stated in the particular Local Terms Annex**.

(B)   Where the applicable Local Terms refer to a certain clause of the Software License Terms, the wording of that particular clause in the Software License Terms is <u>replaced</u> by the corresponding wording set forth in the applicable Local Terms.

(C)   Unless otherwise provided for in the applicable Local Terms, all terms and conditions of the Software License Terms remain unaffected. This applies also for clauses that are represented in the applicable Local Terms by a "[…]" placeholder.

Annex to Software License Terms – Local Terms AUSTRIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Austria**.

CLAUSE 10 "**PRICES AND PAYMENT TERMS**"

[…]

10.8   If the Licensee defaults on payment, the Licensor is entitled to charge default interest at the statutory rate pursuant to Section 456 Austrian Commercial Code. Other rights of the Licensor, especially compensation claims, remain unaffected.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRENTY (*GEWÄHRLEISTUNG*) AND INTELECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

11.1   The Licensor warrants (*gewährleistet*) for Licensed Software provided for a fee, but in relation to the Cloud Products only within the period of the agreed availability (clause 27.4), that the Licensed Software performs as described in the Product Description. If this requirement is not met, the Licensor is entitled at its discretion to remedy this defect by repairing it or by supplying defect-free Licensed Software. In particular, the Licensor may remedy the defect by providing an SW Update or SW Upgrade. The Licensor bears no responsibility for the Licensed Software that meets the expectations of the Licensee.

[…]

11.4   If third parties assert claims before expiration of the warranty period (clause 11.8) against the Licensee for infringement of intellectual property rights within one of the territories listed in clause 11.3, the Licensor may remedy this defect at its choice by (i) acquiring the necessary rights for the Licensee so that the Licensed Software no longer infringes any third-party intellectual property rights, (ii) replacing the Licensed Software wholly or partly with another product with similar functionality that causes no infringement, or (iii) modifying the Licensed Software in such a way that no third-party intellectual property rights are infringed while maintaining similar functionality; this can be done by providing an SW Update or SW Upgrade.

[…]

11.8 Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, and except in cases under clause 12.2, Licensee's claims due to a defect in the Licensed Software in accordance with this clause 11 for which the Licensee has been granted a perpetual right of use for a fee become time-barred within twelve (12) months of provision of the Licensed Software.

[…]

CLAUSE 12 "LIABILITY"

12.1 If the Licensed Software is provided to the Licensee for a fee, the Licensor's liability for any compensation or reimbursement of expenses of the Licensee is governed by this clause 12. If the Licensed Software is provided to the Licensee free of charge, only clauses 12.6 – 12.9 apply; apart from that the statutory provisions apply.

12.2 The Licensor is liable without limitation only in the cases listed below (a-e):

a) for a wilful or grossly negligent breach;

b) in the event of injury to body, life and health;

c) in the event of default, to the extent a fixed delivery and/or fixed performance date was agreed;

d) in the event of the assumption of a guarantee for the quality of the goods or the existence of successful performance;

e) in case of liability under the Austrian Product Liability Act or other mandatory statutory liability provisions.

12.3 The Parties agree that the typically foreseeable damage or typically foreseeable expenses and the related liability under the relevant License Agreement or Maintenance Agreement do not exceed the remuneration that (i) for software sales contracts, equals the purchase price for the Licensed Software, and/or (ii) for software leasing contracts and/or maintenance and support services, the Licensee has paid the Licensor in accordance with the relevant License Agreement or Maintenance Agreement for the Contractual Year preceding the Contractual Year in which the damaging event occurs. If the damaging event occurs within the first Contractual Year, for the purposes of this clause 12.4, the remuneration paid until then by the Licensee to the Licensor is extrapolated to twelve (12) months in accordance with the relevant License Agreement and/or Maintenance Agreement.

12.4 Any further liability of the Licensor, in particular in cases of slight negligence, shall be excluded.

12.5 Liability for indirect damage, consequential damage, lost profit, business failure damage, business interruption damage, claims of third parties or damage to reputation is excluded unless clause 12.2 applies.

12.6   The Licensee is required to adequately back up data and for this purpose to make backup copies of all data and programs in machine-readable form at least once a day. If there is a data loss that is the fault of the Licensor, the Licensor's liability is limited to the costs of restoring data that the Licensee could not have prevented the loss of by meeting the aforementioned obligation or other reasonable measures.

12.7   Notwithstanding clause 11.8, claims by the Licensee become time-barred, except in cases of clause 12.2, within one year of the claim arising and knowledge or negligent ignorance by the Licensee of the circumstances giving rise to the claim.

12.8   The above limitation of liability also apply to personal liability of employees, representatives and agents of the Licensor.

CLAUSE 18 "MISCELLANEOUS"

[…]

18.3   All notices under these Software License Terms to Licensor shall be given in Written Form and shall refer to the relevant License Agreement and/or Maintenance Agreement and to these Software License Terms.

[…]

18.5   If any provision of these Software License Terms is or becomes invalid/null and void or unenforceable in whole or in part, the validity of the other provisions of these Software License Terms shall remain unaffected thereby. The parties shall replace the invalid, legally ineffective or void provision with a new and valid provision that approximates as nearly as possible the overall purpose of these Software License Terms.

18.6   These Software License Terms, together with all its associated exhibits and schedules, as well as the License Agreements and Maintenance Agreements, all of which are incorporated by this reference, constitute the complete and final agreement of the parties pertaining to the Licensed Software and related services and supersede the parties' prior agreements, understandings and discussions relating to the foregoing subject matter. No modification of any License Agreement, Maintenance Agreement and/or these Software License Terms is binding unless it is in Written Form and signed by both parties. This also applies to any amendment or waiver of this clause. Any License Agreement, Maintenance Agreement and/or these Software License Terms and amendments may be executed electronically and may be signed in counterparts (which may be scanned *or* faxed copies), which together will constitute one agreement. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of the relevant License Agreement, Maintenance Agreement or these Software License Terms.

[…]

Annex to Software License Terms – Local Terms BELGIUM

The following Local Terms apply **only** if the Licensee has its principal place of business in **Belgium**.

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for the types of claims exempted under clause 12.1 (i.e., wilful misconduct or personal injury), the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon twelve (12) months the original purchase of the Licensed Software. THEREFORE, UPON THE END OF THE FOREGOING TWELVE (12) MONTH PERIOD, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS" AND WAIVES ITS RIGHT TO SEEK ANY REMEDIES OR DAMAGES IN RELATION TO DEFECTS IN THE LICENSED SOFTWARE. This clause 11.8 applies to the extent allowed by applicable laws or statutes.

[…]

CLAUSE 12 "LIABILITY"

12.1   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct or (b) Licensor's personal injury, Licensor will not be liable (whether in contract or tort) to Licensee for any consequential, incidental, indirect, or exemplary damages arising out of or relating to these Software License Terms.

12.2   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct or (b) personal injury caused by Licensor, Licensor's aggregate liability arising out of these Software License Terms will not exceed the fees paid by Licensee during the twelve (12) months preceding the incident giving rise to Licensor's liability (if Licensee received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

[…]

Annex to Software License Terms – Local Terms BULGARIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Bulgaria**.

CLAUSE 1 "APPLICABILITY"

1.1   These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually. Whenever the Software License Terms and/or a License Agreement refer to a "**perpetual**" license, such license is granted for a period of ten (10) years and will automatically renew at the end of each term for a further term of ten (10) years unless either party gives the other written notice of termination at least thirty (30) days prior to the end of the relevant term.

[…]

Annex to Software License Terms – Local Terms CROATIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Croatia**.

CLAUSE 2 "DEFINITIONS"

[…]

2.11   **"License Agreement**" means any contractual agreement between Licensor and Licensee about the paid-for or free-of-charge provision of software by which the Licensor establishes the right of use of the Licensed Software for the Licensee. Depending on the product, such an Agreement can arise in different ways, especially by conclusion of a License Sheet between Licensor and Licensee, downloading of the software by the Licensee from a location specified by the Licensor for that purpose (e.g., website of the Licensor, its Affiliate or authorized partner or a cloud marketplace used for distribution by the Licensor, such as an app store) and/or purchase of a device with integrated Embedded Software by the Licensee.

[…]

CLAUSE 5 "GRANT OF RIGHTS"

5.1   If the Licensee is an <u>Authorized Distributor</u>, Phoenix Contact grants the Authorized Distributor the right to distribute the Licensed Software to End Customers in accordance with the agreements between Phoenix Contact and the Authorized Distributor (e.g., in a distribution agreement), provided the Authorized Distributor shall not and cannot in any case grant an End Customer any other or further rights to the Licensed Software other than the rights granted to the Licensee under these Software License Terms. The right of the Authorized Distributor to use the Licensed Software is limited to the right of distribution described above. The Authorized Distributor is not permitted to use the Licensed Software in any other manner and the following provisions of clause 5 do not apply unless otherwise agreed between Phoenix Contact and the Authorized Distributor (e.g., demo version for presentations at the End Customer). The right of distribution granted under this clause 5 shall not be exclusive, unless otherwise specified in the License Agreement.

If the <u>End Customer</u> as Licensee has the right of use of the Licensed Software, the grant of rights to the End Customer as Licensee is set forth in the provisions of this clause 5 and the relevant provisions in Parts B to F, depending on the type of Licensed Software.

5.2   The Licensor establishes for the Licensee a right to use the Licensed Software according to these Software License Terms and the License Agreement. This right to use applies solely to the Licensed Software named in the License Agreement even if it is technically possible for the Licensee to access and/or use other software too. The Licensor establishes for the Licensee only the rights of use explicitly named in these Software License Terms and the License Agreement. The Licensee is not entitled to use the Licensed Software in any additional way.

5.3.   The Licensor offers Licensed Software under various types depending on the product. The individual types of rights are described in Parts B to F of these Software License Terms and apply to the products named there. The relevant right of use for a particular product is specified in the License Agreement and/or these Software License Terms. The authorization for usage constitutes specifications and restrictions of the grant of rights of use for the Licensed Software, which the Licensee must strictly adhere to.

5.4   The Licensee may only use the Licensed Software for its internal business purposes, or for commercial use according to this clause 5.4. For the purpose of this clause 5.4. "Commercial use" means usage of the Licensed Software for the purposes of producing, developing or refining, marketing and/or offering goods, services or data or other services to third parties with or without the intention to make a profit. However, even if commercial use is permitted, the Licensee shall not distribute market, sell, lease, rent, make publicly available or otherwise publicly display the Licensed Software to third parties in whole or in part, nor the Licensee shall not distribute, make publicly available or otherwise publicly display the Product Description. Any other provisions of these Software License Terms, including without limitation clauses 5 to 6, remain unaffected.

[…]

5.8.3   The software pre-release versions may only be deployed by Licensee in accordance with the approved purpose and at the approved location. Even upon approval as a pre-release version, the software has not been sufficiently tested to be used in a company under all conditions. The software pre-release versions must therefore be used in protected conditions in a secure test environment to avoid damage to other objects or people and must not be used in real operations (production facilities). Additionally, the software pre-release versions must only be used so that uninvolved third parties and their employees cannot be harmed even if the prototypes fail. The software pre-release versions are only to be used by persons with the necessary expertise in a physically separate area and using protective devices. The personnel used must be instructed accordingly by the Licensee and informed of the dangers due to lack of series maturity and functional restrictions. The Licensor shall not be held liable for any damages which occur if Licensee does not use Software pre-release versions in accordance with the instruction stated in clause 5.8 of this Software License Terms.

[…]

CLAUSE 6 "RESTRICTIONS"

[…]

6.2   Unless specified otherwise in these Software License Terms, the Licensee is not permitted to provide the Licensed Software or Product Description and other accompanying documentation to third parties, display it publicly or make it publicly available, whether for a fee or free of charge and whether temporarily or permanently.

[…]

6.4   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from accessing or trying to access the Source Code of the Licensed Software by its own means or via third parties by reverse engineering, decompiling, disassembly or other measures. The Licensee may take such measures to achieve interoperability of the Licensed Software with other, independently created computer programs solely insofar as the information in question is essential for achieving interoperability and provided the Licensee informs the Licensor accordingly in writing beforehand giving the Licensor the opportunity to provide the Licensee with the necessary information within a reasonable time period and the Licensor fails to do so. The Licensee may make one safety copy of the Licensed Software if that is necessary for usage of the Licensed Software.

[…]

6.7   The Licensee is not entitled to use the trademarks of the Phoenix Contact or any company which is part of the Phoenix Contact Group for commercial and other purposes without prior written consent.

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.8   If the Licensee is in delay with payment, the Licensor is entitled to charge default interest prescribed by applicable law. Other rights of the Licensor, especially compensation claims, remain unaffected.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

11.1   The Licensor warrants for the Licensed Software, yet for the Cloud Products only within the agreed availability period (Clause 27.4), that the Licensed Software has the characteristics described in the Product Description. If the performance standard in this clause 11.1 is not met, the Licensee's sole and exclusive remedy is to request a repair of the defect from Licensor pursuant to clause 11.2. Upon Licensor's receipt of the foregoing request, Licensor may at its solely discretion remedy this defect by repairing it or by supplying defect-free Licensed Software. The Licensor also may remedy the defect by providing an SW Update or SW Upgrade. The Licensor bears no responsibility for the Licensed Software that meets the expectations of the Licensee.

[…]

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, any claims related to any failure by the Licensed Software which has to meet performance standards or other performance expectations of the Licensee for which the Licensee has acquired a permanent right of use shall become statute-barred within twelve (12) months after the date of acquiring of the Licensed Software.

[…]

CLAUSE 12 "LIABILITY"

12.1   The Licensor's liability shall be determined in accordance with the provisions on liability for product defect prescribed by applicable law.

12.2   In case of an unintentional or grossly negligent breach of an obligation which is essential for the achievement of the purpose of the contract the liability of the Licensor shall be limited in the amount of foreseeable damage or reimbursement of expenses. Foreseeable loss or expense and associated liability under the applicable License Agreement or Maintenance Agreement will not exceed (i) the fee which the Licensee paid for Licensed Software for perpetually usage; or (ii) the fee which the Licensee paid to the Licensor for rental of the Licensed Software pursuant to the relevant Licensed Agreement for Contractual Year which is prior to the Contractual Year in which the harmful event occurs. If the harmful event occurs within the first year of the License Agreement, for the purposes of this clause the reimbursement will not exceed the fee which Licensee paid to the Licensor for usage of the Licensed Software in Contractual Year, increased with the number of months which are left.

12.3.   To the extent allowed by applicable law, the Licensor will not be liable to Licensee for any incidental damages, indirect damages, loss of profit and damages for violations of image.

12.4.   The Licensee is required to adequately back up data and for this purpose to make backup copies of all data and programs in machine-readable form at least once a day. If there is a data loss that is the fault of the Licensor, the Licensor's aggregate liability is limited to the reasonable and actual costs of restoring data that the Licensee could not have prevented the loss of by meeting the aforementioned obligation or by taking other reasonable measures.

12.5.   The above limitation of liability also applies to the personal liability of the employees, representatives and bodies of the Licensor.

Annex to Software License Terms – Local Terms CZECH REPUBLIC

The following Local Terms apply **only** if the Licensee has its principal place of business in the **Czech Republic**.

CLAUSE 1 "APPLICABILITY"

1.1   These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually. For the purpose of this Annex a "**perpetual license**" shall mean "for the entire duration of the proprietary rights".

CLAUSE 5 "RESTRICTIONS"

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the

Licensee violates this obligation, the Licensee hereby undertakes to assign in writing to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. Should such a transfer not be legally admissible, the Licensee undertakes to grant the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) in writing the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available.

[…]

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.3   In the case of Licensed Software provided perpetually for a fee, the Licensor invoices the purchase price upon delivery of or granting of access to the Licensed Software, unless otherwise agreed. It is explicitly agreed by the Parties that the purchase price shall to be paid by the Licensee shall be considered one lump sum paid for the purchase of the Licensed Software the license regardless on the duration of the license.

[…]

Annex to Software License Terms – Local Terms FINLAND

The following Local Terms apply **only** if the Licensee has its principal place of business in **Finland**.

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.5   Subject to Licensee's compliance with these Software License Terms, the Licensor shall indemnify the Licensee against any claims of third parties within the meaning of clause 11.3 awarded by a court provided that the Licensee (i) informs the Licensor in writing without delay about such a claim; (ii) provides the Licensor with all reasonable support requested by the Licensor, and (iii) gives the Licensor as between the parties the sole control and decision-making power about defending and settling such a claim at the Licensor's expense. The Licensor will indemnify the Licensee in this respect against reasonable attorney's fees for the Licensee's lawyer necessary to defend against claims up to a value determined by Licensor in Written Form. Any lawyer's fees exceeding that amount shall be assumed only with the prior written consent of the Licensor. The indemnification obligation does not apply if the Licensor is not responsible for the infringement of intellectual property rights.

[…]

Annex to Software License Terms – Local Terms FRANCE

The following Local Terms apply **only** if the Licensee has its principal place of business in **France**.

CLAUSE 1 "APPLICABILITY"

1.1   These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually. For the purpose of this Annex, "perpetual" means "for the duration of the copyright".

[…]

CLAUSE 2 "DEFINITIONS"

[…]

2.1   "**Affiliate**" is any company controlled by the relevant party to the License Agreement or that controls the relevant party or that is under the joint control of a third party along with the relevant party. For the purpose of this provision, "control" means (i) holding over 50% of the voting shares in the relevant company or (ii) having the legal and/or actual option of determining the management and/or the major business actions of the relevant company pursuant to Article L233-3 of the French Commercial Code.

[…]

CLAUSE 6 "RESTRICTIONS"

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee hereby assigns to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms, including without limitation, all copyrights and other intellectual property rights contained therein. Licensee agrees to execute, at Licensor's request and expense, all documents and other instruments necessary or desirable to confirm such assignment, including without limitation, the copyright assignment set forth as Schedule 1 to this Annex. Should such a transfer not be legally admissible, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available.

6.4   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from accessing or trying to access the Source Code of the Licensed Software by its own means or via third parties by reverse engineering, decompiling, disassembly or other measures. The Licensee may take such measures to achieve interoperability of the Licensed Software with other, independently created computer programs solely insofar as the information in question is essential for achieving interoperability and provided the Licensee informs the Licensor accordingly in writing beforehand giving the Licensor the opportunity to provide the Licensee with the necessary information within a reasonable time period and the Licensor fails to do so.

[…]

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.1   Unless the Licensor provides the Licensee with the Licensed Software free of charge, the Licensee shall pay the respective price for the purchased Licensed Software and for maintenance and support services. The price is specified in the License Agreement and/or Maintenance Agreement. If the License Agreement does not include prices, the prices on the Licensor's price list set forth in Schedule 2 to this Annex shall apply.

[…]

10.10   Overdue amounts will also be subject to the legally required fixed collection charge of 40 Euros per overdue invoice.

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.5   Subject to Licensee's compliance with these Software License Terms, the Licensor shall indemnify the Licensee against any claims of third parties within the meaning of clause 11.3 awarded by a court provided that the Licensee (i) informs the Licensor in writing without delay about such a claim; (ii) provides the Licensor with all reasonable support requested by the Licensor, and (iii) gives the Licensor as between the parties the sole control and decision-making power about defending and settling such a claim at the Licensor's expense. The Licensor will indemnify the Licensee in this respect against any court fees and a reasonable amount of fees for the Licensee's lawyer necessary to defend against claims. The indemnification obligation does not apply if the Licensor is not responsible for the infringement of intellectual property rights.

[…]

CLAUSE 12 "LIABILITY"

12.1   Neither Party will be liable to the other Party for loss of profits, business or data arising out of a breach of these Software License Terms or for any other damages

that are not the direct and foreseeable result of a breach of these Software License Terms.

12.2   Except for liabilities resulting from (a) Licensor's wilful misconduct or gross negligence or (b) personal injury caused by Licensor, Licensor's aggregate liability arising out of these Software License Terms will not exceed the fees paid by Licensee during the twelve (12) months preceding the incident giving rise to Licensor's liability (if Licensee received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

[…]

12.4   *not applicable*

CLAUSE 17 "TERM AND TERMINATION"

[…]

17.5   In the event of a breach of a provision of a License Agreement and/or a Maintenance Agreement by a Party, which is not cured within fourteen (14) days of receipt of written notice describing the breach, the other Party may terminate such License Agreement and/or Maintenance Agreement for cause upon written notice to the breaching Party.

[…]

CLAUSE 18 "MISCELLANEOUS"

[…]

18.6   These Software License Terms, together with all its associated exhibits and schedules, as well as the License Agreements and Maintenance Agreements, all of which are incorporated by this reference, constitute the complete and final agreement of the parties pertaining to the Licensed Software and related services and supersede the parties' prior agreements, understandings and discussions relating to the foregoing subject matter. No modification of any License Agreement, Maintenance Agreement and/or these Software License Terms is binding unless it is in Written Form and signed by both parties. This also applies to any amendment or waiver of this clause. Any License Agreement, Maintenance Agreement and/or these Software License Terms and amendments may be executed electronically and shall be signed in two originals. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of the relevant License Agreement, Maintenance Agreement or these Software License Terms. *NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THESE SOFTWARE LICENSE TERMS (WHETHER PROFFERED VERBALLY OR IN ANY QUOTATION, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.*

[…]

18.8   The Licensor will comply with applicable law on concealed work (including, if applicable, articles L.8221-3 and L.8221-5 of the French Labour Code) and foreign workers (including, if applicable, articles L.5221-8, L.5221-11 and L.8251-1 of the French Labour Code) regarding its personnel, and warrants that its subcontractors will comply with such applicable Laws. The Licensor will also provide Licensee with all documents required by applicable labour regulations, including, if applicable, documents listed under articles D.8222-5, D.8254-2, D.8254-4 and D.8254-5 of the French Labour Code.

18.9   The personnel of each Party shall in all circumstances remain under the sole managerial and disciplinary authority of that Party, which shall be solely responsible for the administrative, social and tax management of its personnel, and costs, payments, charges and other disbursements incurred or owing to its personnel as a result of the performance of these Software License Terms. In no case shall one Party give instructions to the personnel of another Party.

18.10   If the Licensor intends to utilize a subcontractor to perform any of its obligations under these Software License Terms, the Licensor will inform the Licensee of such intention and the identity and qualifications of the proposed subcontractor. The Licensee may hire subcontractors only with the Licensee's prior written consent which shall not be unjustifiably withheld. Nothing in this section shall relieve the Licensor of its responsibility for the performance of any of its obligations under these Software License Terms.

SCHEDULE 1 to Local Terms France – ASSIGNMENT OF COPYRIGHT

For good and valuable consideration which has been received, the undersigned sells, assigns and transfers to Licensor and its successors and assigns, the copyright in and to the following work, which was created by the following indicated author(s):

Title:

Author(s):

Copyright Office Identification No. (if any):

and all of the right, title and interest of the undersigned, vested and contingent, therein and thereto.

The assigned copyright notably includes:

   (i).   the right of use, which is the right to use all or parts of the work described above, to whatever purpose (commercial, free of charge, advertising, promotional, etc.);

   (ii).   the right of reproduction, which is the right to copy or obtain a copy of all or parts of the work described above, including the right to download, display, operate, transmit or store software that constitute the work described above where it requires a reproduction of such software, to whatever purpose (commercial, free of charge, advertising, promotional, etc.);

(iii).   the performance right, which is the right to display or have displayed, publicly or not, all or parts of the work described above, to whatever purpose (commercial, free of charge, advertising, promotional, etc.);

(iv).   the right of modification, which is the right to modify or have modified all or parts of the work described above, including the right to adapt, adjust, correct, improve, digitize, decompile, integrate all or parts in existing or future works, to translate all or parts of the work described above in any language (including computer language) and the right to proceed to any other modifications of the work described above, as well as the right to reproduce any software resulting from such modifications, to whatever purpose (commercial, free of charge, advertising, promotional, etc.);

(v).   the right to launch the work described above on the market, which is the right to make it available to third parties, notably through an assignment, a license or any kind of agreement, under any format, temporarily or definitively, to whatever purpose (commercial, free of charge, advertising, promotional, etc.).

(vi).   The abovementioned rights are assigned for all media, technologies, formats, whether known or unknown, present or future, public or not, in particular but not limited to:

(vii).   any written medium (notably but not limited to, newspapers, periodicals, magazines, brochures, leaflets, postcards, posters, promotional and advertising materials, books and other media of presentation, information or image, an on any data format of any nature such as digital, electronic, magnetic, all kinds of videos such as video tapes including Digital Video Tape, MiniDV, HDV, DVD, HD-DVD and/or Blu-Ray, laser disks, video on demand, video CD, mini-CDs, USB device, hard disks, etc.);

(viii).   any type of broadcasting (and notably terrestrial, by satellite, cable, optic fibre, pay-per-view or free television, by computer, Internet, DSL, cloud computing, by video-sharing platforms, by web TV and video signals, streaming, MMDS television, cellular phone television, catch-up television, etc.);

(ix).   any kind of product (notably but not limited to publications, educational products, games and toys, videogames, etc.), including any kind of IT product (in particular CD-ROM, CD-I, DVD, pictures, icons, wallpapers, screensaver, Internet services and associated online services, interactive and digital formats, etc.);

(x).   any distribution network (including but not limited to bookshops, supermarkets, specialized shops, direct sale, sale at a distance, Internet distribution, etc.).

(xi).   The assignment of rights defined above is effective worldwide and at any time for the period of legal protection of the copyright on the work described above according to the law governing the Software License Terms and foreign legislations or international conventions.

Executed as of _____.

Licensor: Licensee:

_____   _____

Representative: Representative:

_____   _____

Annex to Software License Terms – Local Terms GERMANY

The following Local Terms apply **only** if the Licensee has its principal place of business in **Germany** and in case Clause 18.2.1 is applicable.

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.8   If the Licensee defaults on payment, the Licensor is entitled to charge default interest at the statutory rate pursuant to Section 288 German Civil Code. Other rights of the Licensor, especially compensation claims, remain unaffected.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INtelLectual PROPERTY RIGHTS OF THIRD PARTIES"

PERFORMANCE STANDARDS, WARRANTY (*GEWÄHRLEISTUNG*) AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES

11.1   The Licensor warrants (*gewährleistet*) for Licensed Software provided for a fee, but in relation to the Cloud Products only within the period of the agreed availability (clause 27.4), that the Licensed Software performs as described in the Product Description. If this requirement is not met, the Licensor is entitled at its discretion to remedy this defect by repairing it or by supplying defect-free Licensed Software. In particular, the Licensor may remedy the defect by providing an SW Update or SW Upgrade. The quality of the Licensed Software owed is conclusively set forth in the Product Description. The Licensor bears no responsibility for the Licensed Software meeting the expectations of the Licensee.

[...]

11.4   If third parties assert claims before expiration of the warranty period (clause 11.8) against the Licensee for infringement of intellectual property rights within one of the territories listed in clause 11.3, the Licensor may remedy this defect at its choice by (i) acquiring the necessary rights for the Licensee so that the Licensed Software no longer infringes any third-party intellectual property rights, (ii) replacing the Licensed

Software wholly or partly with another product with similar functionality that causes no infringement, or (iii) modifying the Licensed Software in such a way that no third-party intellectual property rights are infringed while maintaining similar functionality; this can also be done by providing an SW Update or SW Upgrade.

[...]

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, and except in cases under clause 12.2, Licensee's claims due to a defect in the Licensed Software in accordance with this clause 11 for which the Licensee has been granted a perpetual right of use become time-barred within twelve (12) months of provision of the Licensed Software.

[...]

CLAUSE 12 "LIABILITY"

12.1   If the Licensed Software is provided to the Licensee for a fee, the Licensor's liability for any compensation or reimbursement of expenses (*Aufwendungsersatz*) of the Licensee is governed by this clause 12. If the Licensed Software is provided to the Licensee free of charge, only clauses 12.6 – 12.9 apply; apart from that the statutory provisions apply.

12.2   The Licensor is liable without limitation only in the cases listed below (a-e):

   a)   for a wilful or grossly negligent breach;

   b)   in the event of injury to body, life and health;

   c)   in the event of default, to the extent a fixed delivery and/or fixed performance date was agreed;

   d)   in the event of the assumption of a guarantee for the quality of the goods or the existence of successful performance, or the assumption of a procurement risk within the meaning of section 276 German Civil Code;

   e)   in case of liability under the German Product Liability Act or other mandatory statutory liability provisions.

12.3   In case of a non-wilful or non-grossly negligent breach of an obligation that is material to achieving the contractual purpose and in the fulfilment of which the Licensee may normally trust (major obligation), the liability shall be limited to the contractually typical and foreseeable damage or reimbursement of expenses.

12.4   The Parties agree that the typically foreseeable damage or typically foreseeable expenses and the related liability under the relevant License Agreement or Maintenance Agreement do not exceed the remuneration that (i) for software sales contracts, equals the purchase price for the Licensed Software, and/or (ii) for software leasing contracts and/or maintenance and support services, the Licensee has paid the Licensor in accordance with the relevant License Agreement or Maintenance Agreement for the Contractual Year preceding the Contractual Year in which the damaging event occurs. If the damaging event occurs within the first Contractual Year, for the purposes of this clause 12.4, the remuneration paid until

then by the Licensee to the Licensor is extrapolated to twelve (12) months in accordance with the relevant License Agreement and/or Maintenance Agreement.

12.5   Any further liability of the Licensor shall be excluded. In particular, the Licensor shall have no liability for initial defects that are not its fault in accordance with section 536a (1) alt. 1 German Civil Code, unless clause 12.2 applies.

12.6   Liability for indirect damage, consequential damage, lost profit, business failure damage, business interruption damage, claims of third parties or damage to reputation is excluded unless clause 12.2 applies.

12.7   The Licensee is required to adequately back up data and for this purpose to make backup copies of all data and programs in machine-readable form at least once a day. If there is a data loss that is the fault of the Licensor, the Licensor's liability is limited to the costs of restoring data that the Licensee could not have prevented the loss of by meeting the aforementioned obligation or other reasonable measures.

12.8   Notwithstanding clause 11.8, claims by the Licensee become time-barred, except in cases of clause 12.2, within one year of the claim arising and knowledge or negligent ignorance by the Licensee of the circumstances giving rise to the claim.

12.9   The above limitation of liability also apply to personal liability of employees, representatives and agents of the Licensor.

CLAUSE 16 "APPLICABLE LAWS; EXPORT AND RE-EXPORT CONTROL"

[...]

16.3   The supply and service obligations under the relevant License Agreement (contract performance) are subject to the condition that no obstacles or prohibitions based on national or international provisions, especially export control regulations, embargoes or other sanctions prevent performance. The parties undertake to provide all information and documents needed for the export/shipment/import. Any delays due to export controls or authorization procedures nullify agreed deadlines and delivery times. If the necessary authorizations are not issued despite proper application by the party required to do so, with respect to the affected parts the License Agreement shall be deemed not concluded; damage claims in this respect and related of the aforementioned exceeding of deadlines are excluded, provided the party required to perform has not assumed a performance guarantee or a procurement risk under section 276 German Civil Code.

[...]

CLAUSE 18 "MISCELLANEOUS"

[...]

18.3   *not applicable*

[...]

18.6   These Software License Terms, together with all its associated exhibits and schedules, as well as the License Agreements and Maintenance Agreements, all of

which are incorporated by this reference, constitute the complete and final agreement of the parties pertaining to the Licensed Software and related services and supersede the parties' prior agreements, understandings and discussions relating to the foregoing subject matter. Any License Agreement, Maintenance Agreement and/or these Software License Terms and amendments may be executed electronically or may be signed in counterparts (which have to be in written form within the meaning of Sec. 126 German Civil Code, i.e. handsigned), which together will constitute one agreement. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of the relevant License Agreement, Maintenance Agreement or these Software License Terms.

[…]

CLAUSE 33 "Support and Maintenance Services"

[…]

33.6   All maintenance and support services by the Licensor are services within the meaning of section 611 et seqq. German Civil Code. Clause 11 of these Software License Terms applies only to maintenance and support services, insofar as the services in question are subject to mandatory statutory provisions related to contracts for work, leases or purchase contracts.

Annex to Software License Terms – Local Terms GREECE

The following Local Terms apply **only** if the Licensee has its principal place of business in **Greece**.

Clause 10 "PRICES AND PAYMENT TERMS"

[…]

10.2   All prices shall be final including any statutory value-added tax, customs duties and other taxes or fees. These are payable by the Licensee.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

11.1   Solely for Licensed Software provided for a fee, the Licensor covenants that the Licensed Software will perform as described in the Product Description. For the Cloud Products, the foregoing covenant will apply only during the period of the agreed availability (clause 27.4). If the performance standard in this clause 11.1 is not met, the Licensee will be entitled to the remedies provided by the Greek Civil Code and Law 2251/1994 for the Protection of Consumers as in force.

[…]

11.8 Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for the types of claims exempted under clause 12.1 (i.e., wilful misconduct or gross negligence, or personal injury), the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon twenty four (24) months the original purchase of the Licensed Software. THEREFORE, UPON THE END OF THE FOREGOING twenty four (24) MONTH PERIOD, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS" AND WAIVES ITS RIGHT TO SEEK ANY REMEDIES OR DAMAGES IN RELATION TO DEFECTS IN THE LICENSED SOFTWARE.

[…]

CLAUSE 33 "MAINTENANCE AND SUPPORT SERVICES"

[..]

33.6 All maintenance and support services by the Licensor are services within the meaning of Articles 681 *et seq.* of the Greek Civil Code. Clause 11 of these Software License Terms applies only to maintenance and support services, insofar as the services in question are subject to mandatory statutory provisions related to contracts for work, leases or purchase contracts.

Annex to Software License Terms – Local Terms HUNGARY

The following Local Terms apply **only** if the Licensee has its principal place of business in **Hungary**.

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.3 In the case of Licensed Software provided perpetually for a fee, the Licensor invoices the purchase price upon delivery of or granting of access to the Licensed Software, unless otherwise agreed.

10.4 In the case of software provided for a limited time for a fee, remuneration is due and payable without deduction

   a) in the case of fixed prices, in advance by the 3rd working day of the agreed regular billing period at the latest;

   b) in the case of varying, e.g., User-dependent prices

   either (i) within ten (10) days of expiration of the regular billing period and invoicing; the amount of remuneration is determined by the number of licenses existing in the regular billing period to be invoiced;

or (ii) in advance within ten (10) days of invoicing for the agreed regular billing period, whereby the price for this billing period is calculated from the actual quantity used during the previous billing period;

if a varying price calculation is agreed, but not a due-date rule, variant (i) applies.

Unless otherwise agreed, the regular billing period is quarterly.

[…]

10.7 **For Cloud Products, other Licensed Software provided for a limited period, and maintenance and support services, the Licensor is entitled once per Contractual Year beginning upon the second Contractual Year, with three (3) months' advance notice, to increase the prices agreed for the current contract with effect for the future**, in order to adjust the price structure to altered costs for the procurement and provision of the Licensed Software and/or the maintenance and support services, including price increases of third-party suppliers or service providers, higher wage costs and increases in the tax to be paid upon procurement, but by a maximum of ten per cent (10 %) in comparison with the price valid at the time in question.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

11.1 Solely for Licensed Software provided for a fee, the Licensor covenants that the Licensed Software will perform as described in the Product Description. For the Cloud Products, the foregoing covenant will apply only during the period of the agreed availability (clause 27.4). If the performance standard in this clause 11.1 is not met, **the Licensee's sole and exclusive remedy is to request a repair of the defect from Licensor pursuant to clause 11.2. Upon Licensor's receipt of the foregoing request, Licensor may at its solely discretion remedy this defect by repairing it or by supplying defect-free Licensed Software**. The Licensor also may remedy the defect by providing an SW Update or SW Upgrade. The Licensor bears no responsibility for the Licensed Software that meets the expectations of the Licensee.

11.2 The Licensee must notify the Licensor of defects in writing without delay and at least within ten (10) days and describe the error symptoms in detail. This period starts (i) for obvious defects, upon provision of the Licensed Software, (ii) for other defects, upon discovery of the defect. For perpetually provided Licensed Software, **the warranty for defects not reported on time shall be excluded**.

[…]

CLAUSE 12 "LIABILITY"

12.1 To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct or gross negligence or (b) Licensor's personal injury, resulting in loss of life, or harm to health, **Licensor will not be liable** (whether in contract or tort) to Licensee for any consequential, incidental,

indirect, or exemplary damages arising out of or relating to these Software License Terms.

12.2   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct or gross negligence or (b) personal injury, loss of life, or harm to health caused by Licensor, Licensor's aggregate liability arising out of these Software License Terms **will not exceed the fees paid by Licensee during the twelve (12) months** preceding the incident giving rise to Licensor's liability (if Licensee received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

[…]

12.4   For avoidance of doubt, this clause 12 also applies to personal liability of employees, representatives and agents of the Licensor.

CLAUSE 20 "LICENSE TYPES FOR ON-PREMISE PRODUCTS"

[…]

20.5   The number of licenses purchased is specified in the License Agreement. **The Licensee may purchase more licenses in addition to the licenses originally purchased** in the License Agreement. The Purchase of more licenses is done either by a corresponding order by the Licensee in text form or **by use of the Licensed Software by additional Users according to the following provisions:**

[…]

CLAUSE 28 "USE OF CLOUD PRODUCTS"

[…]

28.3   The Licensee is entitled at any time to deregister an Active Device again and thus to disable it. All disabled devices of the Licensee are described as "Inactive Devices" below. **In the case of Cloud Products that require a User account with a certain usage allocation, all Active Devices are automatically disabled and become Inactive Devices when the Licensee's account contains no more usage allocation.**

[…]

Annex to Software License Terms – Local Terms IRELAND

The following Local Terms apply **only** if the Licensee has its principal place of business in **Ireland.**

CLAUSE 6 "RESTRICTIONS"

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, and subject to clause 6.4 the Licensee is prohibited from modifying, translating, arranging or otherwise changing

the Licensed Software unless the Licensee does so in accordance with s80-82 of the Copyright and Related Rights Act 2000 in achieving interoperability of the Licensed Software with other, independently created computer programs. If the Licensee violates this obligation, the Licensee hereby assigns to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. Should such a transfer not be legally admissible, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available.

6.4   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from accessing or trying to access the Source Code of the Licensed Software by its own means or via third parties by reverse engineering, decompiling, disassembly or other measures. The Licensee may take such measures to achieve interoperability of the Licensed Software with other, independently created computer programs solely insofar as the information in question is essential for achieving interoperability in accordance with s.80-82 of the Copyright and Related Rights Act 2000. The Licensee shall inform the Licensor in writing giving the Licensor the opportunity to provide the Licensee with the necessary information within a reasonable time period and the Licensor fails to do so.

[…]

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.8   If the Licensee defaults on payment, the Licensor is entitled to charge default interest (i) at 8 % above the European Central Bank main refinancing rate, or (ii) of nine per cent (9 %) p.a., depending on which is lesser. Other rights of the Licensor, especially compensation claims, remain unaffected.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.5   Subject to Licensee's compliance with these Software License Terms, the Licensor shall indemnify the Licensee against any claims of third parties within the meaning of clause 11.3 awarded by a court of competent jurisdiction provided that the Licensee (i) informs the Licensor in writing without delay about such a claim; (ii) provides the Licensor with all reasonable support requested by the Licensor, and (iii) gives the Licensor as between the parties the sole control and decision-making power about defending and settling such a claim at the Licensor's expense. The

Licensor will indemnify the Licensee in this respect against any court fees and fees for the Licensee's reasonable professional legal fees necessary to defend against claims. The indemnification obligation does not apply if the Licensor is not responsible for the infringement of intellectual property rights.

[…]

11.10   Clause 11 conclusively describes the scope of Licensor's warranty obligations. All warranties, conditions or other undertakings implied by law or otherwise, and not described in Clause 11, are expressly excluded to the fullest extent permitted by applicable law.

CLAUSE 12 "LIABILITY"

12.1.   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct or gross negligence, (b) personal injury or death caused by Licensor's negligence, and/or (c) Licensor's fraud or fraudulent misrepresentation, Licensor will not be liable (whether in contract, tort (including negligence) or otherwise) to Licensee for any consequential, incidental, indirect, or exemplary damages arising out of or relating to these Software License Terms.

12.2   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct or gross negligence, (b) personal injury or death caused by Licensor's negligence and/or (c) Licensor's fraud or fraudulent misrepresentation, Licensor's aggregate liability arising out of or in connection with these Software License Terms will not exceed the fees paid by Licensee during the twelve (12) months preceding the incident giving rise to Licensor's liability (if Licensee received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

[…]

CLAUSE 17 "TERM AND TERMINATION"

[…]

17.5   Each Party may terminate a time-limited License Agreement and/or a Maintenance Agreement in writing without notice for cause. A cause justifies termination by the Licensor particularly if the Licensee has infringed the rights of use of the Licensor by using the Licensed Software to an extent beyond that permitted in these Software License Terms and does not cease this infringement within fourteen (14) days of a warning by the Licensor. Either party may terminate a License Agreement and/or Maintenance Agreement immediately during the initial term or any Extension Period if the other party becomes insolvent, ceases to carry on its business, has a receiver, examiner, liquidator, administrative receiver, administrator, trustee in bankruptcy or other similar officer appointed over the whole or part of its assets, or an order is made or a resolution is passed for the winding up of the other party (save for a solvent winding up as part of a bona fide reconstruction or amalgamation, the terms of which are approved in advance by the other party, such approval not to be unreasonably withheld or delayed) or if an administration order is made in respect of the other party (or documents for the appointment of an administrator in respect of either party are filed with any court) or if it makes an arrangement or assignment for

the benefit of its creditors or if any analogous event to any of the foregoing occurs in respect of either party."

[…]

Annex to Software License Terms – Local Terms ITALY

The following Local Terms apply **only** if the Licensee has its principal place of business in **Italy**.

CLAUSE 11 "Performance STANDARDS, WARRANTY AND INtelLectual PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for wilful misconduct, the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon twelve (12) months the original purchase of the Licensed Software. THEREFORE, UPON THE END OF THE FOREGOING TWELVE (12) MONTH PERIOD, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS" AND WAIVES ITS RIGHT TO SEEK ANY REMEDIES OR DAMAGES IN RELATION TO DEFECTS IN THE LICENSED SOFTWARE.

[…]

CLAUSE 17 "TERM AND TERMINATION"

[…]

17.5   Each Party may terminate a time-limited License Agreement and/or a Maintenance Agreement in writing without notice in case of serious breach of the respective License Agreement and/or Maintenance Agreement, in particular in case of serious breach of one or more of the following clauses, pursuant to article 1456 of Italian Civil Code: Clause 5, 6, 10, 13, 14, 16. A cause justifies termination by the Licensor particularly if the Licensee has infringed the rights of use of the Licensor by using the Licensed Software to an extent beyond that permitted in these Software License Terms and does not cease this infringement within fourteen (14) days of a warning by the Licensor.

CLAUSE 33 "MAINTENANCE AND SUPPORT SERVICES"

[…]

33.7   The parties acknowledge that pursuant to and to the effects of Section 26, Paragraph 3, of Legislative Decree no. 81/2008 there will not be working interference between the Licensor and the Licensee during the performance of any Maintenance Agreement and/or these Software License Terms, therefore (i) it will not be necessary to prepare a 'single risk assessment document' ("D.U.V.R.I.") indicating the measures adopted to eliminate possible working interference and (ii)

the costs relating to workplace safety with specific reference to any interference, pursuant to Article 26, Paragraph 5, of Legislative Decree no. 81/2008, are equal to EUR0 (zero). At any time during the performance of any Maintenance Agreement and/or these Software License Terms, in case of prospective working interference between the Licensor and the Licensee, the Licensee shall timely (i) prepare a D.U.V.R.I. (ii) define the costs relating to workplace safety.

Pursuant to article 1341 of Italian Civil Code, the Licensee expressly accepts the following clauses:

- clause 4.1 with respect to the limitation of liability contained therein;

- clause 7.2 with respect to the suspension of the access to the Licensed Software contained therein;

- clause 8 with respect to the disclaimer of warranty contained therein;

- clause 10.7 with respect to price increases contained therein;

- clause 10.9 with respect to the limitation for the Licensee to offset or withhold payments contained therein;

- clause 11.1 with respect to the limited warranty contained therein;

- clause 11.2 with respect to the forfeiture term contained therein;

- clause 11.3 with respect to the limited warranty contained therein;

- clauses 11.4 and 11.5 with respect to the indemnification contained therein;

- clause 11.6 with respect to the means to remedy defects contained therein;

- clause 11.8 with respect to the warranty period contained therein;

- clause 12 with respect to the limitation of liability contained therein;

- clause 15 with respect to control rights contained therein;

- clause 16.3 with respect to the limitations to the parties' obligations contained therein;

- clause 17.4 with respect to the withdrawal right and automatic renewal contained therein;

- clause 18.3 with respect to the exclusive competence of the Courts on Milan contained therein.

Executed as of _____.

Licensee:

Representative:

_____

Annex to Software License Terms – Local Terms JAPAN

The following Local Terms apply **only** if the Licensee has its principal place of business in **Japan**.

CLAUSE 6 "RESTRICTIONS"

[...]

6.3   Unless specified otherwise in the License Agreement, third-party license terms or the Copyright Act of Japan and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee hereby assigns to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. Should such a transfer not be legally admissible or constitute a violation of applicable law, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the non-exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available. Further, in case of the grant of the right mentioned above, the Licensee shall not grant the right to any third party without the Licensor's consent.

[...]

CLAUSE 12 "LIABILITY"

12.1   To the extent allowed by applicable laws or statutes, Licensor will not be liable (whether in contract or tort) to Licensee for any consequential, incidental, indirect, or exemplary damages arising out of or relating to these Software License Terms.

[...]

12.4   For avoidance of doubt, this clause 12 applies to personal liability of employees, representatives and agents of the Licensor, and the Licensee shall not seek their personal liabilities beyond the scope described in this clause 12.

CLAUSE 26 "PROVISION AND GRANT OF RIGHTS FOR SDKS AND SOURCE CODE"

[...]

26.2   If the Licensee purchases an SDK, it receives from the Licensor the object code of the Licensed Software solely for the purposes of developing its own products for the named system of Phoenix Contact or of the End Customer. The specific scope of the permitted use of the relevant SDK and applicable restrictions, e.g., development environment and target systems, are set forth in a separate agreement between Licensor and Licensee (e.g., the License Agreement). If the SDK also contains Source Code, the Licensee receives these Source Code from the Licensor solely for the purposes of internal debugging of the Licensed Software. The Licensee may compile the so-modified Licensed Software and integrate it into the respective devices of the Licensor. Any other use of the Source Code of the Licensed Software is strictly prohibited unless otherwise permitted under the Copyright Act of Japan. In particular, the Licensee is not entitled to make functional modifications to the Licensed Software unless otherwise permitted under the Copyright Act of Japan.

[...]

Annex to Software License Terms – Local Terms LATVIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Latvia**.

CLAUSE 18 "MISCELLANEOUS"

[..]

18.6   These Software License Terms, together with all its associated exhibits and schedules, as well as the License Agreements and Maintenance Agreements, all of which are incorporated by this reference, constitute the complete and final agreement of the parties pertaining to the Licensed Software and related services and supersede the parties' prior agreements, understandings and discussions relating to the foregoing subject matter. No modification of any License Agreement, Maintenance Agreement and/or these Software License Terms is binding unless it is in Written Form and signed by both parties. This also applies to any amendment or waiver of this clause. Any License Agreement, Maintenance Agreement and/or these Software License Terms and amendments may be executed electronically (with a secure electronic signature) may be signed in counterparts, which together will constitute one agreement. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of the relevant License Agreement, Maintenance Agreement or these Software License Terms. *NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THESE SOFTWARE LICENSE TERMS (WHETHER PROFFERED VERBALLY OR IN ANY QUOTATION, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.*

Annex to Software License Terms – Local Terms LITHUANIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Lithuania**.

CLAUSE 3 "SUBJECT MATTER OF THESE SOFTWARE LICENSE TERMS"

[…]

3.2.　Further details such as the type of Licensed Software, duration of licensing, territory, type of license, number of licenses and price (unless provided free of charge) and third-party license terms and OSS software license terms are set forth in the relevant License Agreement. The provisions of these Software License Terms apply to every purchase agreed with binding effect between Licensor and Licensee. In case of any contradictions between these Software License Terms and the terms of the License Agreement, the provisions of the License Agreement shall prevail.

CLAUSE 33 "MAINTENANCE AND SUPPORT SERVICES"

[…]

33.6　*Not applicable.*

Annex to Software License Terms – Local Terms LUXEMBOURG

The following Local Terms apply **only** if the Licensee has its principal place of business in **Luxembourg**.

CLAUSE 1 "APPLICABILITY"

1.1　These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually. For the purpose of this Annex, "**perpetual**" or "**perpetually**" means "for the duration of the intellectual property rights attached to such Licensed Software".

[…]

CLAUSE 6 "RESTRICTIONS"

[…]

6.6　The Licensee is entitled to resell to third parties Licensed Software for which it has purchased a perpetual right of use, with simultaneous transfer of the rights of use granted under these Software License Terms, provided that

(a)　it is a final and not only temporary transfer;

(b)　the Licensee fully and irrevocably deletes all copies it has of the Licensed Software; and

(c)　the third party accepts in writing the applicability of these Software License Terms as between Licensor and third party.

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

11.1　Solely for Licensed Software provided for a fee, the Licensor covenants that the Licensed Software will perform as described in the Product Description. For the Cloud Products, the foregoing covenant will apply only during the period of the

agreed availability (clause 27.4). If the performance standard in this clause 11.1 is not met, and to the extent that the defect may be easily repaired and that the repair carried out by Licensor does not deprive Licensee from the use of the Licensed Software (or the Cloud Products, as the case may be) for an extended period, the Licensee's sole and exclusive remedy is to request a repair of the defect from Licensor pursuant to clause 11.2; in any other case, and pursuant to clause 11.2, Licensee may elect to (i) request a repair of the defect from Licensor, or to (ii) erase the Licensed Software (or cease to use the Cloud Products, as the case may be) and request to be fully reimbursed by Licensor for the price paid, or to (iii) keep the Licensed Software (or continue to use the Cloud Products, as the case may be) and request to be partially reimbursed by Licensor for the price paid, the determination of the part of the price to be reimbursed being subject to arbitration by qualified experts. Upon Licensor's receipt of the foregoing request for repair of the defect, Licensor may at its solely discretion remedy this defect by repairing it or by supplying defect-free Licensed Software. The Licensor also may remedy the defect by providing an SW Update or SW Upgrade. The Licensor bears no responsibility for the Licensed Software that meets the expectations of the Licensee.

11.2   The Licensee must notify the Licensor of defects in writing without delay and at least within ten (10) days and describe the error symptoms in detail. This period starts upon discovery of the defect. For perpetually provided Licensed Software, the warranty for defects not reported on time shall be excluded. Licensor bears no responsibility for obvious defects.

[…]

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9), for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for the types of claims exempted under clause 12.1 (i.e., wilful misconduct or gross negligence, or personal injury), the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon one (1) year from the notification of defect sent to Licensor pursuant to clause 11.2. THEREFORE, UPON THE END OF THE FOREGOING ONE (1) YEAR PERIOD, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS" AND WAIVES ITS RIGHT TO SEEK ANY REMEDIES OR DAMAGES IN RELATION TO DEFECTS IN THE LICENSED SOFTWARE.

[…]

CLAUSE 17 "TERM AND TERMINATION"

[…]

17.2   In the case of Licensed Software provided under a "perpetual license", these Software License Terms shall apply for the duration of the intellectual property rights attached to the Licensed Software.

[…]

CLAUSE 23 "GRANT OF RIGHTS TO MOBILE APPS"

[…]

23.3   Rights to the Licensed Software in Mobile Apps are generally granted perpetually. However, the Licensor may specify in the License Agreement that the Licensed Software is provided to the Licensee not on a perpetual basis but for a defined shorter period. In this case the rights are granted on a time-limited basis in accordance with the provisions of the relevant License Agreement and/or the Product Description.

[…]

Annex to Software License Terms – Local Terms MALTA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Malta**.

CLAUSE 4 "GENERAL"

4.1   As the Licensed Software is a standard product, the Licensor is not responsible to the Licensee for meeting industry-specific, legal or regulatory requirements, or any bespoke requirements of the Licensee, unless they apply directly to the Licensor by applicable mandatory law and/or unless otherwise specified in the License Agreement. It is therefore the obligation of the Licensee to check the suitability of the Licensed Software for use according to the applicable legal and regulatory requirements for the Licensee as well as its own particular, individualised requirements.

[…]

CLAUSE 5 "GRANT OF RIGHTS"

5.1   If the Licensee is an Authorized Distributor, Phoenix Contract grants the Authorized Distributor the right to distribute and licence the use of the Licensed Software to End Customers in accordance with the agreements between Phoenix Contact and the Authorized Distributor (e.g., in a distribution agreement), provided the Authorized Distributor shall not and cannot in any case grant an End Customer any other or further rights to the Licensed Software other than the rights granted to the Licensee under these Software License Terms. The right of the Authorized Distributor to use the Licensed Software is limited to the right of distribution and licensing described above. The Authorized Distributor is not permitted to use the Licensed Software in any other manner and the following provisions of clause 5 do not apply unless otherwise agreed between Phoenix Contract and the Authorized Distributor (e.g., demo version for presentations at the End Customer).

[…]

5.4   The Licensee may only use the Licensed Software for its internal business purposes, or for commercial use according to this clause 5.4. For the purpose of this clause 5.4 "Commercial use" means usage of the Licensed Software for the purposes of producing, developing or refining, marketing and/or offering goods, services or data or other services to third parties with or without the intention to make a profit. However, even if commercial use is permitted, the Licensee shall not distribute, market, sell, assign, lease, rent, make publicly available or otherwise publicly display the Licensed Software to third parties in whole or in part, or otherwise incorporate it into products and/or create derivative works from it which

are, or are intended to be, distributed, marketed, sold, leased, rented or made publicly available, in whole or in part, to such third parties. Any other provisions of these Software License Terms, including without limitation clauses 5 to 6, remain unaffected.

[…]

5.6   Unless the License Agreement states otherwise, the Licensee is entitled, subject to these Software License Terms (i.e., including without limitation the restrictions of this clause) to allow and authorise in the context of service contracts, e.g., data centre outsourcing or hosting, to allow the respective third-party service provider to use the Licensed Software strictly on the following terms and conditions (i) the Licensee informs the Licensor in writing in advance about such third-party use, giving the name and contact details of the third-party service provider, (ii), the third-party service provider uses the Licensed Software solely for the purposes and for the benefit of the Licensee under the relevant service contract and that the use occurs only for the duration of the service contract, (iii) the third-party use of the Licensed Software is and remains only as strictly necessary to provide services of the third-party service provider to the Licensee under the relevant service contracts, (iv) the third-party service provider agrees to tolerate, and cooperate with respect to, controls by the Licensor pursuant to clause 15 and (v) the third-party service provider is not a competitor of the Licensor (and/or a competitor of Phoenix Contact, if the Licensor is an Authorized Distributor). This right applies to both a Company License and a Group License; in the latter case, this clause 5.6 applies provided that the service agreement with the third-party service provider may also be entered into by an authorized Affiliate according to clause 5.5 instead of by the Licensee and/or the use by the third-party service provider may take place for the purposes of such an authorized Affiliate. The Licensee shall be responsible for monitoring and ensuring that these terms are complied with at all times by the third–party service provider, and shall assume full liability for any breaches or defaults thereof on the part of the said third-party service provider.

[…]

CLAUSE 6 "RESTRICTIONS"

6.1   If the Licensee is an <u>Authorized Distributor</u>, the following applies: The Authorized Distributor is entitled to distribute and license the use of the Licensed Software to End Customers according to the relevant License Agreement between Phoenix Contact and the Authorized Distributor; in this respect the clauses 6.2 and 6.5 (i) do not prevent distribution to End Customers permitted under the License Agreement and are not to be interpreted as a restriction on this right of distribution. Clause 6.6 does not apply to the Authorized Distributor. Clauses 6.3, 6.4 and 6.5 (ii) apply without restriction.

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing or creating derivative works to the Licensed Software. If the Licensee violates this obligation, the Licensee hereby assigns to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights, title and interest in and to all such

non-permitted modifications, translations, arrangements or other changes or derivative works made in contravention of these License Terms. Should such a transfer not be legally admissible, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make its own derivative works of, reproduce, use and exploit these modifications, translations, arrangements changes and/or derivative works made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available as well as the results of the exercise of such rights (including, its own derivative works and any reproductions). In such a case of assignment or licensing of all rights, title and interest in and to all such non-permitted modifications, translations, arrangements or other changes or derivative works made in contravention of these License Terms to Phoenix Contact, the amount due by Phoenix Contact by way of consideration would be one Euro (EUR 1) which would be payable upon written demand by the Licensee.

6.4   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from accessing or trying to access the Source Code of the Licensed Software by its own means or via third parties by reverse engineering, decompiling, disassembly or other measures. The Licensee may take such measures as allowed under Article 9(2)(b) of the Copyright Act (Chapter 415 of the Laws of Malta) to achieve interoperability of the Licensed Software with other , independently created computer programs solely insofar as the information in question is essential for achieving interoperability and provided the Licensee informs the Licensor accordingly in writing beforehand giving the Licensor the opportunity to provide the Licensee with the necessary information within a reasonable time period and the Licensor fails to do so.

[…]

6.7   In all circumstances, the Licensor (or if the Licensor is an Authorised Distributor, Phoenix Contract) shall retain all rights, title and interest in and to any and all intellectual property rights in the Licensed Software (including, the respective source code), whether existing now or arising in the future, in any part of the world. Nothing in these Licence Terms or the relative Licence Agreement shall be construed as being departed from this clause.

CLAUSE 12 "LIABILITY"

12.1   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct, fraudulent conduct or gross negligence or (b) personal injury of the Licensee resulting from the Licensor's own acts or inactions, Licensor will not be liable (whether in contract or tort) to Licensee for any consequential, incidental, indirect, or exemplary damages arising out of or relating to these Software License Terms and/or the use of the Licensed Software.

12.2   To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's wilful misconduct, fraud or gross negligence or (b) personal injury caused by Licensor, Licensor's aggregate liability arising out of these Software License Terms will not exceed the fees paid by Licensee during the twelve (12) months preceding the incident giving rise to Licensor's liability (if Licensee

received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

[…]

CLAUSE 17 "TERM AND TERMINATION"

[…]

17.5   Without prejudice to clause 17.4, each Party may terminate a time-limited License Agreement and/or a Maintenance Agreement in writing without notice and with immediate effect for cause. A cause justifying termination arises where the Licensee commits a material breach of these Licence Terms or the Licence Agreement and/or Maintenance Agreement, such as where Licensee has infringed the rights of use of the Licensor by using the Licensed Software to an extent beyond that permitted in these Software License Terms, and does not cease this infringement within fourteen (14) days of a warning by the Licensor.

[…]

CLAUSE 31 "CUSTOMER DATA"

[…]

31.2   The Licensee is prohibited from uploading Customer Data to the Cloud Products which:

   a) infringe third parties' rights;

   b) has been procured or processed without the appropriate consent or otherwise not in accordance with a legal basis established under applicable data protection legislation;

   c) violate applicable law;

   d) may lead to an infringement of applicable law by the Licensor;

   e) impair the security of the Cloud Products or

   f) substantially impair the performance of the Cloud Products.

[…]

Annex to Software License Terms – Local Terms NETHERLANDS

The following Local Terms apply **only** if the Licensee has its principal place of business in **the Netherlands**.

CLAUSE 5 "GRANT OF RIGHTS"

[…]

5.6   Unless the License Agreement states otherwise, the Licensee is entitled in accordance with these Software License Terms (i.e., including without limitation the

restrictions of this clause 5) in the context of service contracts, e.g., data centre outsourcing or hosting, to allow the respective third-party service provider to use the Licensed Software provided that (i) the Licensee informs the Licensor in writing in advance about such third-party use, giving the name and contact details of the third-party service provider, (ii), the third-party service provider uses the Licensed Software solely for the purposes and for the benefit of the Licensee under the relevant service contract and that the use occurs only for the duration of the service contract, (iii) the third-party use of the Licensed Software is and remains only as strictly necessary to provide services of the third-party service provider to the Licensee under the relevant service contracts, (iv) the third-party service provider agrees to tolerate, and cooperate with respect to, controls by the Licensor pursuant to clause 15 and (v) the third-party service provider is not a competitor of the Licensor (and/or a competitor of Phoenix Contact, if the Licensor is an Authorized Distributor) provided that this limitation will not be in effect for a term longer than five (5) Contractual Years as per the start date of the License Agreement and/or Maintenance Agreement. This right applies to both a Company License and a Group License; in the latter case, this clause 5.6 applies provided that the service agreement with the third-party service provider may also be entered into by an authorized Affiliate according to clause 5.5 instead of by the Licensee and/or the use by the third-party service provider may take place for the purposes of such an authorized Affiliate.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for the types of claims exempted under clause 12.1 (i.e., wilful misconduct or gross negligence, or personal injury), the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon twelve (12) months from the original purchase of the Licensed Software. THEREFORE, UPON THE END OF THE FOREGOING TWELVE (12) MONTH PERIOD AND TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAWS AND STATUTES (including the circumstances exempted under clause 12.1, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS" AND WAIVES ITS RIGHT TO SEEK ANY REMEDIES OR DAMAGES IN RELATION TO DEFECTS IN THE LICENSED SOFTWARE.

[…]

CLAUSE 18 "MISCELLANEOUS"

[…]

18.6   To the maximum extent permitted by applicable law, these Software License Terms, together with all its associated exhibits and schedules, as well as the License Agreements and Maintenance Agreements, all of which are incorporated by this reference, constitute the complete and final agreement of the parties pertaining to

the Licensed Software and related services and supersede the parties' prior agreements, understandings and discussions relating to the foregoing subject matter. No modification of any License Agreement, Maintenance Agreement and/or these Software License Terms is binding unless it is in Written Form and signed by both parties. This also applies to any amendment or waiver of this clause. Any License Agreement, Maintenance Agreement and/or these Software License Terms and amendments may be executed electronically and may be signed in counterparts (which may be scanned *or* faxed copies), which together will constitute one agreement. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of the relevant License Agreement, Maintenance Agreement or these Software License Terms. *NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THESE SOFTWARE LICENSE TERMS (WHETHER PROFFERED VERBALLY OR IN ANY QUOTATION, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN WRITTEN FORM SIGNED BY BOTH PARTIES.*

[…]

Annex to Software License Terms – Local Terms NORWAY

The following Local Terms apply **only** if the Licensee has its principal place of business in **Norway**.

CLAUSE 6 "RESTRICTIONS"

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee hereby assigns to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms, including the right to make further changes and modifications to the foregoing as well as to assign, sublicense, and transfer it. Should such a transfer not be legally admissible, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.10 Clause 11 conclusively describes the scope of Licensor's warranty obligations. Nothing in this clause 11 or other elements relating to warranties, shall be construed to limit the generality of clause 12. Each party's total liability is therefore subject to the limitations in clause 12.

Annex to Software License Terms – Local Terms POLAND

The following Local Terms apply **only** if the Licensee has its principal place of business in **Poland**.

CLAUSE 1 "APPLICABILITY"

1.1 These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually. Any time the Software License Terms mention "**perpetual** license" in it is meant to be a non-exclusive indefinite license in the meaning of the Polish law with no right for termination, except as provided otherwise in the License Agreement and/or in these Software License Terms.

[…]

CLAUSE 5 "RESTRICTIONS"

[…]

6.3 Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee hereby undertakes to assign in writing to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. Should such a transfer not be legally admissible, the Licensee undertakes to grant the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) in writing the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available.

[…]

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.7 For Cloud Products, other Licensed Software provided for a limited period, and maintenance and support services, the Licensor is entitled once per Contractual Year beginning upon the second Contractual Year, with three (3) months' advance notice, to increase the prices agreed for the current contract with effect for the

future, in order to adjust the price structure to altered costs for the procurement and provision of the Licensed Software and/or the maintenance and support services, including price increases of third-party suppliers or service providers, higher wage costs and increases in the tax to be paid upon procurement, but by a maximum of ten per cent (10 %) in comparison with the price valid at the time in question. In case the price is increased in accordance with the preceding sentence, the Licensee shall have the right to terminate the License Agreement with three (3) months' advance notice as of the receipt of the notice on the increase of prices.

[…]

CLAUSE 14 "DATA PRIVACY"

14.1   In execution of the contract, the Licensor processes personal data of the Licensee and its involved employees (name, contact details, other personal data for contract execution), as well as of any other people (such as Users), obtained by signing the contact, to the extent and for the time this is necessary for proper performance of the contract taking into account the relevant licensing model. The Licensee, its involved employee and User has the right to access his or her data, correct them and request their removal, unless it affects the possibility of further execution of the contract.

[…]

CLAUSE 20 "LICENSE TYPES FOR ON-PREMISE PRODUCTS"

20.1   There are different types of licenses for On-Premise Products. The relevant license type is specified in the License Agreement. Unless otherwise agreed in the License Agreement, the Licensor grants the Licensee a non-exclusive, limited, non-transferable (except as provided otherwise in clause 6.6, non-sublicensable (except as provided otherwise in the License Agreement and/or in these Software License Terms) right to use the Licensed Software according to this clause 20 and clause 5 in accordance with the relevant Product Description.

[…]

CLAUSE 23 "GRANT OF RIGHTS TO MOBILE APPS"

23.1   Unless otherwise agreed in the License Agreement, the Licensor grants the Licensee a limited, non-exclusive, non-transferable (except as provided otherwise in clause 6.6, non-sublicensable (except as provided otherwise in the License Agreement and/or in these Software License Terms) right to use the Licensed Software according to this clause 23 and clause 5 in accordance with the relevant Product Description.

[…]

CLAUSE 25 "GRANT OF RIGHTS FOR EMBEDDED SOFTWARE"

25.1   If the Licensee purchases Embedded Software, the Licensor grants the Licensee a limited, non-exclusive, non-sublicensable (except as provided otherwise in the License Agreement and/or in these Software License Terms) right to use the Licensed Software as software integrated into the device in machine-executable

object code according to this clause 25 and clause 5 for proper use of the respective device in accordance with the relevant Product Description ("**Runtime License**"). The use of the Licensed Software is limited to the respective device. The Licensee is therefore in particular not authorized to use the Licensed Software separately from this device (standalone) on other hardware.

[…]

CLAUSE 31 "CUSTOMER DATA"

31.1   As between the Licensor and Licensee, the Licensee is the sole owner of all property rights, ownership rights and claims to the Customer Data. The Licensee hereby declares it has the right to process the Customers' personal data. The Licensee grants the Licensor and its vicarious agents a non-exclusive right to use the Customer Data for providing the Cloud Products. Additionally, the Licensor is entitled to make copies of Customer Data in anonymised form (i.e., without information identifying the customer) and to analyse the anonymised data on an aggregate basis with anonymised data of other customers, e.g., for statistical purposes and to improve and develop the Cloud Products. With reference to personal data, the prevailing provisions of clause 14 and the agreement on contract data processing remain unaffected.

[…]

Annex to Software License Terms – Local Terms PORTUGAL

The following Local Terms apply **only** if the Licensee has its principal place of business in **Portugal**.

CLAUSE 1 "APPLICABILITY"

1.1   These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually. For the purposes of these Software License Terms, the terms "**perpetual**" or "**perpetually**" shall mean without time limit.

[…]

CLAUSE 6 "RESTRICTIONS"

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee hereby assigns or shall procure that its employees assign to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively, for no consideration and for all jurisdictions, all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. Should such a transfer not be legally admissible, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make

derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available.

[…]

6.6 The Licensee is entitled to resell to third parties Licensed Software for which it has purchased a perpetual right of use, with simultaneous transfer of the rights of use granted under these Software License Terms, provided that

    a)   it is a perpetual and not only temporary transfer;

    b)   the Licensee fully and irrevocably deletes all copies it has of the Licensed Software; and

    c)   the third party accepts the applicability of these Software License Terms as between Licensor and third party and confirms this in writing to the Licensor.

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

11.1 Solely for Licensed Software provided for a fee, the Licensor covenants that the Licensed Software will perform as described in the Product Description. For the Cloud Products, the foregoing covenant will apply only during the period of the agreed availability (clause 27.4). If the performance standard in this clause 11.1 is not met, the Licensee's sole and exclusive remedy is to request a repair of the defect from Licensor pursuant to clause 11.2. Upon Licensor's receipt of the foregoing request, Licensor may at its solely discretion remedy this defect by repairing it or by supplying defect-free Licensed Software. The Licensor also may remedy the defect by providing an SW Update or SW Upgrade. The Licensor does not warrant that the Licensed Software meets the expectations of the Licensee.

[…]

11.4 If third parties assert claims before expiration of the warranty period (clause 11.8) against the Licensee for infringement of intellectual property rights within one of the territories listed in clause 11.3, to the maximum extent permitted by law, the Licensee's sole and exclusive remedy is to request Licensor to remedy this defect. Licensor may remedy this defect at its sole discretion by (i) acquiring the necessary rights for the Licensee so that the Licensed Software no longer infringes any third-party intellectual property rights, (ii) replacing the Licensed Software wholly or partly with another product with similar functionality that causes no infringement, or (iii) modifying the Licensed Software in such a way that no third-party intellectual property rights are infringed while maintaining similar functionality; this can be done by providing an SW Update or SW Upgrade.

11.5 Subject to Licensee's compliance with these Software License Terms, the Licensor shall indemnify the Licensee against any claims of third parties within the meaning of clause 11.3 awarded by a court provided that the Licensee (i) informs the Licensor in writing without delay about such a claim; (ii) provides the Licensor with all reasonable support requested by the Licensor, and (iii) gives the Licensor as

between the parties the sole control and decision-making power about defending and settling such a claim at the Licensor's expense. The Licensor will indemnify the Licensee in this respect against any court fees and reasonable fees for the Licensee's lawyer necessary to defend against claims. Any lawyer's fees exceeding that amount shall be assumed only with the prior written consent of the Licensor. The indemnification obligation does not apply if the Licensor is not responsible for the infringement of intellectual property rights.

[…]

11.8   Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9, for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for the types of claims exempted under clause 12.1 (i.e., wilful misconduct or gross negligence, or personal injury), the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon twelve (12) months the original purchase of the Licensed Software. THEREFORE, TO THE EXTENT PERMITTED BY LAW, UPON THE END OF THE FOREGOING TWELVE (12) MONTH PERIOD, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS" AND WAIVES ITS RIGHT TO SEEK ANY REMEDIES OR DAMAGES IN RELATION TO DEFECTS IN THE LICENSED SOFTWARE.

[…]

Annex to Software License Terms – Local Terms ROMANIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Romania**.

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.2   The Licensee must notify the Licensor for obvious defects in writing with undue delay upon provision of the Licensed Software as set forth by the Article 1690 of the Romanian Civil Code while for any other defects within at least ten (10) days and describe the error symptoms in detail. This period starts upon discovery of the defect. For perpetually provided Licensed Software, the warranty for defects not reported on time shall be excluded.

[…]

CLAUSE 18 "MISCELLANEOUS"

[…]

18.3   All notices under these Software License Terms to Licensor will be given in Written Form and will refer to the relevant License Agreement and/or Maintenance Agreement and to these Software License Terms. All such notices, and other communications required or permitted to be given under License Agreement and/or Maintenance Agreement and to these Software License Terms shall be deemed to

have been duly given if: (i) delivered personally or (ii) by courier with registered mail. In all cases when for the effectiveness of certain action (document) under the License Agreement and/or Maintenance Agreement and to these Software License Terms it is necessary its delivery to the other party, this action comes into effect upon the day of returned delivery of the mail (confirmation receipt) to the sender. Any notice provided in any other manner will be deemed NOT received by Licensor unless Licensor specifically acknowledges receipt of such notice in Written Form.

[…]

Annex to Software License Terms – Local Terms SLOVAKIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Slovakia**.

CLAUSE 5 "GRANT OF RIGHTS"

[…]

5.2   The Licensor grants the Licensee a license to use the Licensed Software according to these Software License Terms and the License Agreement. This license grant applies solely to the Licensed Software named in the License Agreement even if it is technically possible for the Licensee to access and/or use other software too. The Licensor grants the Licensee only the rights of use explicitly named in these Software License Terms and the License Agreement. The Licensee is not entitled to use the Licensed Software in any additional way, except in a way explicitly permitted by Sec. 89 Par. 2 Let. b) and c) of the Act No. 185/2015 Coll., Slovak Copyright Act.

[…]

5.7   The Licensed Software may only be sublicensed to third parties, made available to third parties, used by the Licensee for the purposes of third parties, or used by third parties for the purposes of the Licensee, if and to the extent explicitly permitted in these Software License Terms. Any other transfer of the license, sublicensing, making available to, or usage by third parties is prohibited. The Licensee is responsible for all actions and omissions by its sublicensees or third-party users in connection with the use of the Licensed Software to the same extent as for its own actions and omissions. The right to sublicense, make available to or use for third parties or use by third parties on the Licensee's behalf does not affect the number of licenses purchased by the Licensee. If the Licensee has reason to assume that a sublicensee or third-party user is using the Licensed Software contrary to the terms of licensing, the Licensee must inform the Licensor without delay and prevent any further use of the Licensed Software by the sublicensee and/or third-party user in question.

[…]

Annex to Software License Terms – Local Terms SLOVENIA

The following Local Terms apply **only** if the Licensee has its principal place of business in **Slovenia**.

CLAUSE 6 "RESTRICTIONS"

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee agrees to assign to the Licensor free of charge (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all its material copyrights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. The Licensee agrees to enter into a copyright agreement for granting the Licensor the aforementioned rights immediately upon the Licensor's request.

[…]

CLAUSE 17 "TERM AND TERMINATION"

[…]

17.4   The Licensor and Licensee may terminate any time-limited License Agreement and/or Maintenance Agreement after the initial term and/or any Extension Period (as defined below) with three (3) months' notice prior to the expiry of the applicable term. If the relevant License Agreement and/or Maintenance Agreement is not terminated in time, it shall be extended by another twelve (12) months each ("Extension Period"). The perpetually provided Licensed Software may be terminated by each party with three month's prior notice. The Licensor should not terminate the perpetually provided Licensed Software in the first year of the License Agreement. In case of termination of a perpetually provided Licensed Software the Licensee is not entitled to a pro-rata or entire refund of the fee paid for the Licensed Software.

[…]

Annex to Software License Terms – Local Terms SWEDEN

The following Local Terms apply **only** if the Licensee has its principal place of business in **Sweden**.

CLAUSE 6 "RESTRICTIONS"

[…]

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee hereby assigns to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. Should such a transfer not be legally admissible, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown

means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available. For the avoidance of doubt, other rights of the Licensor, especially compensation claims, remain unaffected.

[…]

CLAUSE 10 "PRICES AND PAYMENT TERMS"

[…]

10.8 If the Licensee defaults on payment, the Licensor is entitled to charge default interest (i) in accordance with applicable statutory law, or (ii) of nine per cent (9 %) p.a., depending on which is greater. Other rights of the Licensor, especially compensation claims, remain unaffected.

[…]

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.5 Subject to Licensee's compliance with these Software License Terms, the Licensor shall indemnify the Licensee against any claims of third parties within the meaning of clause 11.3 awarded by a court provided that the Licensee (i) informs the Licensor in writing without delay about such a claim; (ii) provides the Licensor with all reasonable support requested by the Licensor, and (iii) gives the Licensor as between the parties the sole control and decision-making power about defending and settling such a claim at the Licensor's expense. The Licensor will indemnify the Licensee in this respect against any court fees and any reasonable fees for the Licensee's lawyer necessary to defend against claims awarded against the Licensor or assumed with the prior written consent of the Licensor. The indemnification obligation does not apply if the Licensor is not responsible for the infringement of intellectual property rights.

[…]

CLAUSE 17 "TERM AND TERMINATION"

[…]

17.5 Each Party may terminate a time-limited License Agreement and/or a Maintenance Agreement in writing with immediate effect if (i) the other Party commits a material breach of any of the provisions of the License Agreement/Maintenance Agreement, which is not remedied within fourteen (14) days from written notice thereof, or (ii) the other Party commits a material breach of any of the provisions of the License Agreement/Maintenance Agreement, which is non-curable. For the avoidance of doubt, the Licensor shall particularly be entitled to terminate the License Agreement in accordance with this clause 17.5 if the Licensee has infringed the rights of use of the Licensor by using the Licensed Software to an extent beyond that permitted in these Software License Terms and does not cease this infringement within fourteen (14) days of a warning by the Licensor.

[…]

Annex to Software License Terms – Local Terms UNITED KINGDOM

The following Local Terms apply **only** if the Licensee has its principal place of business in the **United Kingdom**.

CLAUSE 11 "PERFORMANCE STANDARDS, WARRANTY AND INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES"

[…]

11.10   Clause 11 conclusively describes the scope of Licensor's warranty obligations. Other than the relevant provisions of these Software License Terms, all conditions, representations, warranties, terms and undertakings express or implied statutory or otherwise in respect of the Software and the provision of any services supplied hereunder are expressly excluded.

11.11   The intellectual property rights including but not limited to patents, rights to Inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world in the Licensed Software (other than the Open-Source Software) are, and shall remain, the property of Phoenix Contact, and Phoenix Contact reserves the right to grant a license to use such Licensed Software to any other party or parties.

CLAUSE 12 "LIABILITY"

12.1   Nothing in the agreement limits any liability which cannot legally be limited, including liability for:

a)   death or personal injury caused by negligence; and

b)   fraud or fraudulent misrepresentation.

12.2   Subject to clause 12.1 above, the Licensor shall not be liable for any consequential and or indirect loss or damage including but not limited to loss of profits, business, anticipated savings, data and goodwill. The aggregate liability of the Licensor arising from the License Agreement, and / or the Maintenance Agreement and / or these Software License Terms shall be limited to: the fees paid by the Licensee during the twelve (12) months preceding the incident giving rise to Licensor's liability; or, if Licensee received the Licensed Software free of charge, will not exceed EUR 5.

[…]

CLAUSE 18 "MISCELLANEOUS"

[…]

18.8   The remedies in these Software License Terms or as otherwise agreed in the License Agreement and / or Maintenance Agreement are the sole remedies available to the Licensee. All remedies implied by statute or otherwise are excluded from the License Agreement and / or Maintenance Agreement and these Software License Terms.

18.9   Nothing in these Software License Terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

Software License Terms for Russia

This document contains the terms and conditions for your use of the Licensed Software ("**Software License Terms**") if you are located in **Russia**.

1. APPLICABILITY

1.1 These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually, provided the Licensee has its principal place of business in **Russia**. For the purpose of these Software License Terms, the terms "**perpetual**" and "**perpetually**" shall mean" for the whole term of validity of exclusive rights to the Licensed Software"

1.2 Direct and indirect distribution

1.2.1 These Software License Terms apply both to cases where (1) a company of the Phoenix Contact Group provides the Licensed Software directly to an End Customer and to cases where (2) a company of the Phoenix Contact Group provides the Licensed Software by way of indirect distribution to an Authorized Distributor and an End Customer purchases this Licensed Software from this Authorized Distributor.

1.2.2 The "**End Customer**" is a company that purchases the Licensed Software directly from a Phoenix Contact

Условия ПРЕДОСТАВЛЕНИЯ лицензии на программное обеспечение (Россия)

В настоящем документе излагаются условия использования лицензионного программного обеспечения (далее – **«Условия лицензии на ПО»**) для пользователей, находящихся на территории **России**.

1. ПРИМЕНИМОСТЬ

1.1 Настоящие Условия лицензии на ПО применяются в тех случаях, когда Лицензиар предоставляет Лицензионное программное обеспечение Лицензиату как на ограниченный срок, так и бессрочно при условии, что основная хозяйственная деятельность Лицензиата ведется на территории **России**. Для целей настоящих Условий лицензии на ПО термины **«бессрочный»** и **«бессрочно»** означают «на весь срок действия исключительных прав на Лицензионное программное обеспечение».

1.2 Прямое и непрямое распространение

1.2.1 Настоящие Условия лицензии на ПО применяются в тех случаях, когда (1) компания Группы «Феникс Контакт» (Phoenix Contact Group) предоставляет Лицензионное ПО непосредственно Конечному пользователю, и когда (2) компания Группы «Феникс Контакт» (Phoenix Contact Group) предоставляет Лицензионное ПО Авторизованному дистрибьютору, используя каналы непрямого распространения, а Конечный потребитель приобретает данное Лицензионное ПО у такого Авторизованного дистрибьютора.

1.2.2 **«Конечный пользователь»** означает компанию, приобретающую Лицензионное ПО

company or indirectly via an Authorized Distributor and uses the Licensed Software for its own business purposes by certain designated natural persons (such persons, "**Users**").

напрямую у компании Группы «Феникс Контакт» (Phoenix Contact Group) или через Авторизованного дистрибьютора и использующую Лицензионное ПО для собственных коммерческих целей, при этом такое использование осуществляется через определенных физических лиц (далее - **«Пользователи»**).

1.2.3 The "**Authorized Distributor**" is a company authorized by a Phoenix Contact company to distribute certain Licensed Software to End Customers as an authorized reseller in its own name and on its own account. Authorization by Phoenix Contact may occur on the basis of a distributor contract between the Phoenix Contact company and the company in question or in another manner, as stipulated by Phoenix Contact.

1.2.3 **«Авторизованный дистрибьютор»** означает компанию, уполномоченную компанией Группы «Феникс Контакт» (Phoenix Contact Group) осуществлять распространение определенного Лицензионного ПО Конечным пользователям в качестве уполномоченного реселлера, действующего от своего имени и на свое усмотрение. Предоставление авторизованного статуса компанией «Феникс Контакт» (Phoenix Contact) может осуществляться на основании дистрибьюторского соглашения, заключаемого между компанией «Феникс Контакт» и рассматриваемой компанией или на других основаниях, предусмотренных «Феникс Контакт».

1.2.4 In the aforementioned case 1 in clause 1.2.1, i.e., direct distribution of Licensed Software by Phoenix Contact to the End Customer, the "**Licensor**" refers to the relevant company of the Phoenix Contact Group that provides the Licensed Software to the End Customer and that the "**Licensee**" refers to the relevant End Customer that purchases the Licensed Software.

1.2.4 В указанном выше в п. 1.2.1 случае 1, т.е. в случае прямой дистрибуции Лицензионного ПО компанией «Феникс Контакт» Конечному пользователю, термин **«Лицензиар»** относится к соответствующей компании Группы «Феникс Контакт», которая предоставляет Лицензионное ПО Конечному пользователю, а термин **«Лицензиат»** относится к соответствующему Конечному пользователю, который приобретает Лицензионное ПО.

1.2.5 In the aforementioned case 2 in clause 1.2.1, i.e., indirect distribution of Licensed Software via an Authorized

1.2.5 В указанном выше в п. 1.2.1 случае 2, т.е. в случае непрямой дистрибуции Лицензионного ПО

Distributor: (a) as between the Phoenix Contact company that provides the Licensed Software on one side and the Authorized Distributor on the other, the Phoenix Contact company is the "**Licensor**" and the Authorized Distributor is the "**Licensee**" and (b) as between this Authorized Distributor and the relevant End Customer, the Authorized Distributor is the "**Licensor**" and the End Customer is the "**Licensee**". For the avoidance of doubt, such indirect distribution via an Authorized Distributor does <u>not</u> constitute a contractual relationship between Phoenix Contact and the End Customer.

посредством Авторизованного дистрибьютора, (a) в отношениях между компанией «Феникс Контакт», предоставляющей Лицензионное ПО, с одной стороны, и Авторизованным дистрибьютором с другой стороны, компания «Феникс Контакт» является **«Лицензиаром»**, а Авторизованный дистрибьютор — **«Лицензиатом»**, и (b) в отношениях между таким Авторизованным дистрибьютором и соответствующим Конечным пользователем, Авторизованный дистрибьютор является **«Лицензиаром»**, а Конечный пользователь — **«Лицензиатом».** Во избежание разночтений такая непрямая дистрибуция через Авторизованного дистрибьютора <u>не означает</u> возникновения договорных отношений между «Феникс Контакт» и Конечным пользователем.

1.3	Part A of these Software License Terms contains general provisions that apply to all Licensed Software and to any agreed maintenance and support services.	
1.3	В Части А настоящих Условий лицензии на ПО приводятся общие условия, применяемые ко всему Лицензионному ПО и всем согласованным услугам поддержки и обслуживания.	

1.4 The special provisions in Part B apply only to On-Premise Products if and insofar as the Licensee purchases On-Premise Products.

1.4 Специальные положения Части В применяются только к Продуктам, устанавливаемым локально, если и в том объеме, в котором Лицензиат приобретает Продукты, устанавливаемые локально.

1.5 The special provisions in Part C apply only to Mobile Apps, if and insofar as the Licensee purchases Mobile Apps.

1.5 Специальные положения Части С применяются только к Мобильным приложениям, если и в том объеме, в котором Лицензиат приобретает Мобильные приложения.

1.6 The special provisions in Part D apply only to Embedded Software, if and insofar as the Licensee purchases Embedded Software.

1.6 Специальные положения Части D применяются только к Встроенному ПО, если и в том объеме, в котором Лицензиат приобретает Встроенное ПО.

1.7 The special provisions in Part E apply only to Software Development Toolkits (SDKs) and Source Code, if and insofar as the Licensee purchases SDKs or Source Code.

1.8 The special provisions in Part F apply only to Cloud Products if and insofar as the Licensee purchases Cloud Products.

1.9 The special provisions in Part G apply only to maintenance and support services, if and insofar as the Licensee purchases maintenance and support services.

1.10 The offer to purchase the Licensed Software on these Software License Terms is aimed only at legal entities and individual entrepreneurs that purchase the Licensed Software in exercise of their commercial activities.

PART A – GENERAL PROVISIONS

2. DEFINITIONS

In addition to the definitions in clause 1, for the purposes of interpreting these Software License Terms the following terms have the meanings ascribed to them here in clause 2.

2.1 "**Affiliate**" is any company controlled by the relevant party to the License Agreement or that controls the relevant party or that is under the joint control of a third party along with the relevant party. For the purpose of this provision, "control" means (i) holding over 50 % of the voting shares in the relevant company or (ii) having the legal and/or actual option of determining the

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1.7 Специальные положения Части E применяются только к Комплектам средств для разработки ПО (SDK) и Исходному коду, если и в том объеме, в котором Лицензиат приобретает SDK и Исходный код.

1.8 Специальные положения Части F применяются только к Облачным продуктам, если и в том объеме, в котором Лицензиат приобретает Облачные продукты.

1.9 Специальные положения Части G применяются только к услугам поддержки и обслуживания, если и в том объеме, в котором Лицензиат приобретает услуги поддержки и обслуживания.

1.10 Предложение приобрести Лицензионное ПО на настоящих Условиях лицензии на ПО предназначено только для юридических лиц и индивидуальных предпринимателей, которые приобретают Лицензионное ПО в ходе осуществления своей коммерческой деятельности.

ЧАСТЬ А. ОБЩИЕ ПОЛОЖЕНИЯ

2. ОПРЕДЕЛЕНИЯ

Дополнительно к определениям, приведенным в п. 1, для целей толкования настоящих Условий лицензии на ПО следующие термины имеют значение, установленное ниже в п. 2.

2.1 **«Аффилированное лицо»** означает любую компанию, контролируемую соответствующей стороной Лицензионного соглашения, или контролирующую соответствующую сторону, или находящуюся под общим с соответствующей стороной контролем третьего лица. Для целей настоящего положения

management and/or the major business actions of the relevant company.

«контроль» означает (i) владение свыше 50 % акций с правом голоса соответствующей компании или (ii) правовую и (или) фактическую возможность определения основных направлений деятельности и (или) управления деятельностью соответствующей компании.

2.2 "**Client Software**" means the application software (if available) in its latest version that the Licensee must install on a client to gain access to certain On-Premise Products or Cloud Products including the relevant user documentation, if available.

2.2 **«Клиентское программное обеспечение (Клиентское ПО)»** означает прикладное ПО (при наличии такового) в последней версии, которое Лицензиат должен установить клиенту для получения доступа к определенным Продуктам, устанавливаемым локально, или Облачным продуктам, включая соответствующую документацию пользователя, при наличии таковой.

2.3 "**Cloud Product**" means Licensed Software that does not require installation on the Licensee's servers for proper use but is operated on the systems of Phoenix Contact or third parties commissioned by it and which is accessed by the User by remote data transmission (internet, VPN, etc.).

2.3 **«Облачный продукт»** означает Лицензионное ПО, не требующее установки на сервера Лицензиата для надлежащего использования, но работающее на системах «Феникс Контакт» или третьих лиц, предоставленных в эксплуатацию, доступ Пользователя к которому осуществляется посредством дистанционной передачи данных (через сеть Интернет, VPN и пр.).

2.4 "**Company License**": If the Licensee purchases a Company License, it is entitled to use the Licensed Software according to these Software License Terms only for its own company and not in a group of companies.

2.4 **«Лицензия для компании»:** если Лицензиат приобретает Лицензию для компании, он получает право на использование Лицензионного ПО в соответствии с настоящими Условиями лицензии на ПО только для собственной компании, а не группы компаний.

2.5 "**Confidential Information**" is all information and documents of the other party designated as confidential or to be considered confidential based on the circumstances, especially information about business processes, business contacts and know-how.

2.5 **«Конфиденциальная информация»** означает любую информацию и документы другой стороны, обозначенные как конфиденциальные или считающиеся конфиденциальными в силу обстоятельств, особенно информация о бизнес-процессах,

деловых контактах и ноу-хау.

2.6 "**Contractual Year**" is a period of twelve (12) months from entering into the License Agreement and/or Maintenance Agreement and the period from the first day following expiry of the first or each subsequent 12-month period.

2.6 **«Контрактный год»** означает период, равный 12 (двенадцати) месяцам с момента заключения Лицензионного соглашения и (или) Соглашения об обслуживании, и период с первого дня после истечения первого или каждого последующего 12-месячного периода.

2.7 "**Customer Data**" means all electronic data or information transferred by or in the name of the Licensee or by the User - to or via Cloud Products, or to licensing systems (e.g., ticket number of a license) enabling activation of an On-Premise Product.

2.7 **«Данные клиента»** означают все электронные данные или информацию, пересылаемую Лицензиатом или от его имени, а также Пользователем в Облачные продукты или при помощи них, а также в лицензионные системы (например, номер лицензии), позволяющую активировать Продукт, устанавливаемый локально.

2.8 "**Embedded Software**" is Licensed Software that is integrated into a Phoenix Contact device or designed for integration into an End Customer device, e.g., in a control unit, an intelligent controller or a display and also encompasses runtime licenses for function block libraries and visualization libraries.

2.8 **«Встроенное программное обеспечение (Встроенное ПО)»** означает Лицензионное ПО, встроенное в устройство «Феникс Контакт» или разработанное для интеграции в устройство Конечного пользователя, например, блок управления, микроконтроллер или дисплей, а также включающее лицензии на выполнение для библиотек функционального блока и библиотек визуализации.

2.9 "**Facility License**": If the Licensee purchases a Facility License, it is entitled to use the Licensed Software according to these Software License Terms only at the facility named in the License Agreement.

2.9 **«Лицензия для объекта»:** если Лицензиат приобретает Лицензию для объекта, он получает право на использование Лицензионного ПО в соответствии с настоящими Условиями лицензии на ПО только на том объекте, который указан в Лицензионном соглашении.

2.10 "**Group License**": If the Licensee purchases a Group License, it is entitled to sublicense the Licensed Software according to these Software License Terms to Affiliates of the Licensee, to use it for such Affiliates or

2.10 **«Групповая лицензия»:** если Лицензиат приобретает Групповую лицензию, он получает право выдавать сублицензии на Лицензионное ПО Аффилированным лицам

to allow it to be used by such Affiliates for the benefit of the Licensee on condition that (i) the Licensee informs the Licensor in writing in advance about such sublicensing or third-party use in the group, giving the name and contact details of the Affiliate and (ii) the Affiliate agrees to tolerate, and cooperate with respect to, controls by the Licensor pursuant to clause 15.

Лицензиата в соответствии с настоящими Условиями лицензии на ПО для его использования для таких Аффилированных лиц или предоставления в пользование таким Аффилированным лицам в интересах Лицензиата при условии что (i) Лицензиат сообщает Лицензиару в письменном виде заблаговременно о таком сублицензировании или использовании третьими лицами внутри группы, с указанием наименования и контактных данных такого Аффилированного лица, и (ii) Аффилированное лицо дает согласие содействовать Лицензиару в осуществлении контроля согласно п. 15.

2.11 "**License Agreement**" means any contractual agreement between Licensor and Licensee about the paid-for or free-of-charge provision of software by the Licensor to the Licensee. Depending on the product, such an Agreement can arise in different ways, especially by conclusion of a License Sheet between Licensor and Licensee, downloading of the software by the Licensee from a location specified by the Licensor for that purpose (e.g., website of the Licensor, its Affiliate or authorized partner or a cloud marketplace used for distribution by the Licensor, such as an app store) and/or purchase of a device with integrated Embedded Software by the Licensee.

2.11 **«Лицензионное соглашение»** означает любой договор между Лицензиаром и Лицензиатом о возмездном или безвозмездном предоставлении программного обеспечения Лицензиаром Лицензиату. В зависимости от продукта, такое Соглашение может быть заключено разными способами, в частности, путем подписания Лицензионных условий Лицензиаром и Лицензиатом, скачивания программного обеспечения Лицензиатом с ресурса, указанного для этого Лицензиаром (например, веб-сайт Лицензиара, его Аффилированного лица или уполномоченного партнера или облачная площадка, используемая Лицензиаром для целей дистрибуции, например, магазин приложений) и (или) приобретения Лицензиатом устройства с интегрированным Встроенным ПО.

2.12 "**License Sheet**" is a document issued by the Licensor for certain Licensed Software as part of or in addition to a License Agreement and containing detailed provisions to be observed by the Licensee regarding the Licensed Software such as Licensor, name and

2.12 **«Лицензионные условия»** означают документ, выпущенный Лицензиаром для определенного Лицензионного ПО как часть Лицензионного соглашения или в качестве дополнения к нему и содержащий подробные положения

type of Licensed Software, licensed Users and duration of the license.

2.13 "**License Upgrade**" means an extension of the license scope on the basis of an existing license.

2.14 "**Licensed Software**" is the computer program in the object code and/or Source Code – depending on the product – including the related documentation in the agreed language that is the subject of the purchase by the Licensee from the Licensor. This includes all SW Updates, SW Upgrades and License Upgrades insofar as they are provided to the Licensee according to these Software License Terms, a License Agreement and a Maintenance Agreement. The Licensed Software can include third-party software, especially Open Source Software and/or be combined with such third-party software that is governed by the separate terms of use of the third party.

2.15 "**Login**" means registering or logging in by a User onto the system at the start, and as a requirement for, every use of the Licensed Software, when the User is required to enter certain individual information such as name, user name, password or client ID.

2.16 "**Maintenance Agreement**" means any contractual agreement between the Licensor and the Licensee about the

относительно Лицензионного ПО, которые должны соблюдаться Лицензиатом и которые включают Лицензиара, название и тип Лицензионного ПО, лицензированных Пользователей и срок действия лицензии.

2.13 **«Расширение лицензии»** означает расширение области действия существующей лицензии.

2.14 **«Лицензионное программное обеспечение (Лицензионное ПО)»** означает компьютерную программу в форме объектного кода и (или) Исходного кода (в зависимости от продукта), включая соответствующую документацию на согласованном языке, которую Лицензиат приобретает у Лицензиара. Сюда входят все Обновления ПО, Модернизации ПО и Расширения лицензии в том объеме, в котором они предоставляются Лицензиату в соответствии с Условиями лицензии на ПО, Лицензионным соглашением и Соглашением об обслуживании. Лицензионное ПО может включать стороннее ПО, в частности, Программное обеспечение с открытым исходным кодом, и (или) комбинироваться с таким сторонним ПО, которое регулируется отдельными условиями использования третьего лица.

2.15 **«Логин»** означает регистрацию или вход Пользователя в систему при запуске, а также, в обязательном порядке, при каждом использовании Лицензионного ПО, когда Пользователь должен ввести определенные личные данные, например, имя, имя пользователя, пароль или идентификационный номер клиента.

2.16 **«Соглашение об обслуживании»** означает любой договор между Лицензиаром и Лицензиатом о

provision of maintenance and support services by the Licensor for the Licensee.

предоставлении Лицензиаром услуг поддержки и обслуживания Лицензиату.

2.17 "**Maintenance Sheet**" is a document that may be issued by the Licensor for maintenance and support services as part of or in addition to a Maintenance Agreement and containing detailed provisions to be observed by the Licensee regarding the maintenance and support services. A Maintenance Sheet can also be combined with a License Sheet in one document.

2.17 **«Условия обслуживания»** означают документ об услугах поддержки и обслуживания, который может быть выпущен Лицензиаром как часть Соглашения об обслуживании или в виде дополнения к нему, содержащий подробные положения об услугах поддержки и обслуживания, которые Лицензиат обязан соблюдать. Условия обслуживания и Лицензионные условия могут быть объединены в один документ.

2.18 "**Major Release**" is a new version of the Licensed Software with comprehensive new functionality and/or on a new technological basis. The change in the version designation is expressed as **2**.4.0 to **3**.0.0, for example.

2.18 **«Основная версия»** означает новую версию Лицензионного ПО с новым функционалом и (или) на базе новых технологий. Изменение в обозначении версии может выглядеть, например, так: переход с версии **2**.4.0 на версию **3**.0.0.

2.19 "**Mobile App**" means an application specifically designed for use on mobile devices such as smartphones or tablets. This includes the enabling of additional functions of the Licensed Software via in-app transactions.

2.19 **«Мобильное приложение»** означает приложение, специально разработанное для использования на мобильных устройствах, таких как смартфоны и планшеты. В это определение также входит активация дополнительных функций Лицензионного ПО через встроенные в приложения операции.

2.20 "**Network**" means the linking of Workplaces and/or Servers within the Licensee's company.

2.20 **«Сеть»** означает соединение друг с другом Рабочих мест и (или) Серверов внутри компании Лицензиата.

2.21 "**On-Premise Product**" is Licensed Software that requires installation on a Workplace or Server of the Licensee. On-Premise Products therefore include desktop software and libraries that come within the above description.

2.21 **«Продукт, устанавливаемый локально»** означает Лицензионное ПО, требующее установки на Рабочем месте или Сервере Лицензиата. Поэтому Продукты, устанавливаемые локально, включают программное обеспечение для настольных компьютеров и библиотеки согласно вышеуказанному

2.22 "**Product Description**" means the description and technical specifications of the Licensed Software, which may also include the security, data backup and other relevant descriptions and which is provided to the Licensee upon Purchase of the Licensed Software or which is available to the Licensee on a website specified by the Licensor.

2.22 **«Описание продукта»** означает описание и технические спецификации Лицензионного ПО, которые могут также включать систему безопасности, резервного копирования данных и другие соответствующие описания и предоставляются Лицензиату после Приобретения Лицензионного ПО или доступны Лицензиату на веб-сайте, указанном Лицензиаром.

2.23 "**Purchase**", "**purchasing**" or variants thereof mean the gaining of access (whether paid-for or free) pursuant to Licensor's applicable terms, which may vary by the product.

2.23 **«Приобретение», «приобретать»** и другие варианты этого термина означают получение доступа (безвозмездно или за плату) в соответствии с определенными условиями Лицензиара, которые могут меняться в зависимости от продукта.

2.24 "**Server**" is a type of computer hardware that provides computer programs, data and/or other resources so that other computers and/or computer programs can access these via a network.

2.24 **«Сервер»** означает определенное компьютерное аппаратное обеспечение, которое предоставляет компьютерные программы, данные и (или) другие ресурсы таким образом, чтобы другие компьютеры и (или) компьютерные программы могли получить доступ к ним через сеть.

2.25 "**Software Development Toolkit (SDK)**" is a set of program libraries and programming tools for software development.

2.25 **«Комплект средств для разработки ПО (SDK)»** означает набор программных библиотек и средств программирования для разработки программного обеспечения.

2.26 "**Source Code**" is the text of a computer program written in a programming language and readable by humans.

2.26 **«Исходный код»** означает текст компьютерной программы, написанный на языке программирования, которые может быть прочтен человеком.

2.27 "**SW Update**" describes a version of the Licensed Software with the same or refined functions with minor improvements but with the intention of removing bugs, defects or malfunctions

2.27 **«Обновление ПО»** означает новую версию Лицензионного ПО с теми же или доработанными функциями с незначительными усовершенствованиями,

in the Licensed Software. The change in the version number, e.g., from 2.4.**1** to 2.4.**2** (corresponding to a bug fix or changes that do not contain any extended functionalities) determines classification as an Update.

предназначенную для устранения ошибок, дефектов и неисправностей Лицензионного ПО. Если номер версии изменяется, например, с 2.4.**1** на 2.4.**2** (была устранена ошибка или внесены изменения, не расширяющие функционал), это означает, что новая версия является Обновлением ПО.

2.28 "**SW Upgrade**" describes a higher-level version of the Licensed Software (new version) or a version with extended functionalities or features, possibly with a change to the version name, e.g., from 2.**4**.0 to 2.**5**.0 (higher configuration level).

2.28 **«Модернизация ПО»** означает версию Лицензионного ПО более высокого уровня (новую версию) или версию с расширенным функционалом или возможностями, для которой номер версии может быть изменен, например, с 2.**4**.0 на 2.**5**.0 (более высокий уровень конфигурации).

2.29 "**Use/usage**" designates any use of the Licensed Software, especially by reproduction, transfer or uploading to the memory (RAM) or installation on a permanent storage medium (e.g., hard disk, DVD-ROM or other storage media) and/or hardware for processing system instructions or information contained in this software and access by a User to the Licensed Software starting with Login of the User and ending with automatic or manual logout of the User regardless of whether and which activities the User performs in the period between Login and logout.

2.29 **«Использование»** означает любое применение Лицензионного ПО, в частности, путем воспроизведения, передачи или загрузки в память (RAM), установки на постоянный носитель для хранения (например, жесткий диск, DVD-ROM или другой информационный носитель) и (или) аппаратное обеспечение для системы обработки инструкций или информации, содержащихся в настоящем ПО, и доступ Пользователя к Лицензионному ПО, начиная с использования Логина Пользователя и заканчивая автоматическим или ручным выходом Пользователя из системы, независимо от того, какие действия выполняет Пользователь в периоде между входом под Логином и выходом.

2.30 "**Workplace Software**" is Licensed Software that may only be installed on one Workplace per license.

2.30 **«Программное обеспечение (ПО) рабочего места»** означает Лицензионное ПО, которое в рамках одной лицензии может быть установлено только на одно Рабочее место.

2.31 "**Workplace**" means an individual computer or computer workstation.

2.31 **«Рабочее место»** означает отдельный компьютер или

2.32 "**Written Form**" requires that the declaration of intent and/or declaration of knowledge, unless otherwise specified in the Software License Terms, be signed by duly authorized representative(s) of the respective party in writing.

2.32 Выражение **«в письменном виде»** означает, что декларация о намерениях и (или) знаниях должна быть подписана уполномоченными представителями соответствующей стороны в письменном виде, если иное не указано в Условиях лицензии на ПО.

3. SUBJECT MATTER OF THESE SOFTWARE LICENSE TERMS

3. ПРЕДМЕТ НАСТОЯЩИХ УСЛОВИЙ ЛИЦЕНЗИИ НА ПО

3.1 The subject of these Software License Terms is the temporary or perpetual Purchase of the Licensed Software and includes the license grants for such use in clause 5 and the specific granting of rights for the relevant products in Parts B to F. In addition, Licensor and Licensee may agree on the provision of maintenance and support services by the Licensor.

3.1 Предметом настоящих Условий лицензии на ПО является Приобретение на определенный срок или бессрочно Лицензионного ПО, включая предоставление лицензии на такое использование согласно п. 5 и особое предоставление прав на соответствующие продукты в Частях с B по F. Кроме того, Лицензиар и Лицензиат могут заключить соглашение о предоставлении Лицензиаром услуг обслуживания и поддержки.

3.2 Further details such as the type of Licensed Software, duration of licensing, type of license, licensed territory, number of licenses and price (unless provided free of charge) and third-party license terms and OSS software license terms are set forth in the relevant License Agreement. The provisions of these Software License Terms apply to every purchase agreed with binding effect between Licensor and Licensee. In case of any contradictions between these Software License Terms and the terms of the License Agreement, the provisions of the License Agreement shall prevail.

3.2 Более подробная информация, например тип Лицензионного ПО, срок действия лицензии, тип лицензии, территория, на которой действует лицензия, число лицензий и стоимость (если лицензия не предоставляется безвозмездно), условия сторонних поставщиков лицензии и условия лицензии на ПО с открытым исходным кодом приводятся в соответствующем Лицензионном соглашении. Положения настоящих Условий лицензии на ПО применяются к каждому приобретению, согласованному между Лицензиаром и Лицензиатом и носящему для них обязательный характер. В случае расхождений между настоящими Условиями лицензии на ПО и условиями Лицензионного

4. GENERAL

4.1 As the Licensed Software is a standard product, the Licensor is not responsible to the Licensee for meeting industry-specific, legal or regulatory requirements unless they apply directly to the Licensor by applicable mandatory law and/or unless otherwise specified in the License Agreement. It is therefore the obligation of the Licensee to check the suitability of the Licensed Software for use according to the applicable legal and regulatory requirements for the Licensee.

4.2 The Licensed Software is not designed for operating nuclear power plants, for use in cars or for flight navigation, air traffic control or flight communication.

4.3 Provided no explicit "security features" are listed in the Product Description, no such services are included.

4.4 The Licensor may at all times update the Licensed Software and make changes to it (such as infrastructure, security, technical configurations, application functions, etc.) and amend the Product Description accordingly, provided that the changes do not lead to a significant reduction in the functions and functionalities or of the performance, security or availability level of such Licensed Software that the Licensee has purchased before the

4. ОБЩИЕ ПОЛОЖЕНИЯ

4.1 Поскольку Лицензионное ПО является стандартным продуктом, Лицензиар не несет ответственность перед Лицензиатом за соблюдение отраслевых, правовых или нормативных требований, за исключением тех случаев, когда они применяются непосредственно к Лицензиару в соответствии с обязательными положениями законодательства и (или) если иное не указано в Лицензионном соглашении. Поэтому проверка пригодности Лицензионного ПО к использованию в соответствии с применимыми требованиями законодательства и нормами является обязанностью Лицензиата.

4.2 Лицензионное ПО не предназначено для использования на ядерных энергетических установках, в автомобилях, для аэронавигации, управления воздушным движением или авиасвязи.

4.3 Если какие-либо «функции безопасности» прямо не указаны в Описании продукта, такие функции отсутствуют.

4.4 Лицензиар может в любое время осуществлять обновление Лицензионного ПО и вносить в него изменения (затрагивающие его инфраструктуру, безопасность, техническую конфигурацию, функции приложения и т.д.) и изменять соответствующим образом Описание продукта при условии, что изменения не приведут к существенному сокращению функционала,

changes come into effect.

характеристик, уровня безопасности, доступности или эффективности такого Лицензионного ПО, которое Лицензиат приобрел до того, как указанные изменения вступили в силу.

4.5 The Licensee is required to secure the Licensed Software by appropriate measures against access by unauthorized third parties, in particular to store all copies of the Licensed Software in a protected location and to protect access passwords from access by unauthorized parties. Each access password may only be used by one natural person. The Licensee is prohibited from transferring or disclosing access passwords to other people. The Licensee must ensure that Users log out of their account at the end of each session. The Licensee is responsible for all activities in its account to the extent the activities were either authorized or tolerated by the Licensee, or were not authorized or tolerated by the Licensee but which could have been prevented by exercising due care.

4.5 Лицензиат обязан использовать соответствующие меры для защиты Лицензионного ПО от несанкционированного доступа третьих лиц, в частности, хранить все копии Лицензионного ПО в защищенном месте и предотвращать получение паролей доступа неуполномоченными лицами. Каждый пароль доступа может использоваться только одним физическим лицом. Лицензиату запрещается передавать или раскрывать пароли доступа другим лицам. Лицензиат обязан следить за тем, чтобы в конце каждой сессии Пользователи выходили из своих аккаунтов. Лицензиат несет ответственность за все действия, совершаемые посредством его учетной записи как в том случае, если они были санкционированы или допущены Лицензиатом, так и в том случае, если они не были санкционированы или допущены Лицензиатом, но их совершение можно было предотвратить, соблюдая осторожность.

5. GRANT OF RIGHTS

5. ПРЕДОСТАВЛЕНИЕ ПРАВ

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5.1 Если Лицензиат является <u>Авторизованным дистрибьютором</u>, «Феникс Контакт» предоставляет Авторизованному дистрибьютору право распространять Лицензионное ПО Конечным пользователям в соответствии с соглашениями, заключенными между «Феникс Контакт» и Авторизованным дистрибьютором (например, дистрибьюторским соглашением), при условии, что

rights granted to the Licensee under these Software License Terms. The scope of rights granted to the Authorized Distributor under the agreements between Phoenix Contact and the Authorized Distributor shall cover the scope of rights licensed to the End Customer by the Authorized Distributor. The right of distribution granted under this clause 5 shall not be exclusive, unless otherwise specified in the License Agreement.

If the Licensee is an End Customer, the grant of rights to the End Customer as Licensee is set forth in the provisions of this clause 5 and the relevant provisions in Parts B to F, depending on the type of Licensed Software purchased.

5.2 The Licensor grants the Licensee a license to use the Licensed Software according to these Software License Terms and the License Agreement. This license grant applies solely to the Licensed Software named in the License Agreement even if it is technically possible for the Licensee to access and/or use other software too. The Licensor grants the Licensee only the rights of use explicitly named in these Software License Terms and the License Agreement. The Licensee is not entitled to use the Licensed Software in any additional way.

Авторизованный дистрибьютор обязуется ни в коем случае не предоставлять Конечному пользователю какие-либо права на Лицензионное ПО, которые будут более широкими или отличаются от прав, предоставленных Лицензиату по настоящим Условиям лицензии на ПО. Объем прав, предоставленных Авторизованному дистрибьютору по соглашениям между «Феникс Контакт» и Авторизованным дистрибьютором, охватывает права, предоставленные по лицензии Конечному пользователю Авторизованным дистрибьютором. Права на распространение, предоставленные согласно настоящему п. 5, не носят эксклюзивного характера, если иное не предусмотрено Лицензионным соглашением.

Если Лицензиат является Конечным пользователем, предоставление прав Конечному пользователю как Лицензиату регулируется положениями настоящего пункта 5 и соответствующими положениями Частей B–F в зависимости от типа приобретенного Лицензионного ПО.

5.2 Лицензиар предоставляет Лицензиату лицензию на использование Лицензионного ПО в соответствии с настоящими Условиями лицензии на ПО и Лицензионным соглашением. Предоставленная лицензия распространяется исключительно на Лицензионное ПО, указанное в Лицензионном соглашении, даже если у Лицензиата имеется техническая возможность получить доступ и (или) использовать другое программное обеспечение. Лицензиар предоставляет Лицензиату только права пользования, прямо указанные в настоящих Условиях лицензии на

ПО и Лицензионном соглашении. Лицензиат не имеет права использовать Лицензионное ПО каким-либо другим способом.

5.3 The Licensor offers Licensed Software under various license types depending on the product. The individual types of license are described in Parts B to F of these Software License Terms and apply to the products named there. The relevant license type for a particular product is specified in the License Agreement and/or these Software License Terms. The licensing constitute specifications and restrictions of the grant of rights of use for the Licensed Software, which the Licensee must strictly adhere to.

5.3 Лицензиар предлагает Лицензионное ПО в рамках различных лицензий в зависимости от продукта. Отдельные типы лицензий описаны в Частях B–F настоящих Условий лицензии на ПО и применяются к указанным в них продуктам. Соответствующий конкретному продукту тип лицензии указывается в Лицензионном соглашении и (или) настоящих Условиях лицензии на ПО. Лицензирование предусматривает использование спецификации и установление ограничений на предоставление прав на использование Лицензионного ПО, которые Лицензиат обязан строго соблюдать.

5.4 The Licensee may only use the Licensed Software for its internal business purposes, or for commercial use according to this clause 5.4. For the purpose of this clause 5.4 "Commercial use" means usage of the Licensed Software for the purposes of producing, developing or refining, marketing and/or offering goods, services or data or other services to third parties with or without the intention to make a profit. However, even if commercial use is permitted, the Licensee shall not distribute, market, sell, lease, rent, make publicly available or otherwise publicly display the Licensed Software to third parties in whole or in part. Any other provisions of these Software License Terms, including without limitation clauses 5 to 6, remain unaffected.

5.4 Лицензиат может использовать Лицензионное ПО только для своих внутренних нужд или коммерческих целей в соответствии с настоящим п. 5.4. Для целей настоящего пункта 5.4 «использование для коммерческих целей» означает использование Лицензионного ПО для целей производства, разработки, усовершенствования, маркетинга и (или) предложения товаров, услуг, данных или других сервисов третьим лицам с намерением получить прибыль или без такового. Однако даже если коммерческое использование разрешено, Лицензиат обязуется воздержаться от дистрибуции, сбыта, продажи, предоставления в аренду, предоставления в открытом доступе или иной публичной демонстрации Лицензионного ПО третьим лицам как полностью, так и в любой его части. Любые другие положения настоящих Условий лицензии на ПО, включая, помимо прочего, пункты 5–6 остаются без

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5.5 Лицензии, перечисленные в Частях B–F, предоставляются в виде Лицензии для объекта, Лицензии для компании или Групповой лицензии. Действующие ограничения настоящих Условий лицензии на ПО, в частности число приобретенных лицензий и авторизованных Пользователей в любом случае не меняются в связи с этим. В Лицензионном соглашении указывается, приобретает ли Лицензиат Лицензию для объекта, Лицензию для компании или Групповую лицензию на Лицензионное ПО. Если в Лицензионном соглашении не указан тип лицензии, считается, что Лицензиат приобретает соответствующее Лицензионное ПО на условиях Лицензии для объекта для SDK, а в иных случаях — на условиях Лицензии для компании.

5.6 Unless the License Agreement states otherwise, the Licensee is entitled in accordance with these Software License Terms (i.e., including without limitation the restrictions of this clause 5) in the context of service contracts, e.g., data center outsourcing or hosting, to allow the respective third-party service provider to use the Licensed Software provided that (i) the Licensee informs the Licensor in writing in advance about such third-party use, giving the name and contact details of the third-party service provider, (ii), the third-party service provider uses the Licensed Software solely for the purposes and for the benefit of the Licensee under the relevant service contract and that the use occurs only for the duration of the service contract, (iii) the third-party use of the Licensed Software is and remains only as strictly necessary to provide services of the third-party service provider to the Licensee under the relevant service

5.6 Если Лицензионным соглашением не предусмотрено иное, Лицензиат имеет право в соответствии с настоящими Условиями лицензии на ПО (т.е. включая, помимо прочего, ограничения настоящего пункта 5) в контексте договоров об оказании услуг, например об аутсорсинге или хостинге дата-центров, позволить соответствующему стороннему поставщику услуг использовать Лицензионное ПО при условии, что (i) Лицензиат заблаговременно уведомит Лицензиара в письменном виде о таком использовании ПО сторонним лицом, с указанием названия и контактных данных стороннего поставщика услуг; (ii) сторонний поставщик услуг будет использовать Лицензионное ПО исключительно для целей и в интересах Лицензиата по соответствующему договору об

contracts, (iv) the third-party service provider agrees to tolerate, and cooperate with respect to, controls by the Licensor pursuant to clause 15 and (v) the third-party service provider is not a competitor of the Licensor (and/or a competitor of Phoenix Contact, if the Licensor is an Authorized Distributor). This right applies to both a Company License and a Group License; in the latter case, this clause 5.6 applies provided that the service agreement with the third-party service provider may also be entered into by an authorized Affiliate according to clause 5.5 instead of by the Licensee and/or the use by the third-party service provider may take place for the purposes of such an authorized Affiliate.

оказании услуг и такое использование будет происходить только в течение срока действия договора об оказании услуг; (iii) использование сторонним лицом Лицензионного ПО осуществляется и будет осуществляться только по мере необходимости для оказания услуг таким лицом Лицензиату по соответствующему договору об оказании услуг; (iv) сторонний поставщик услуг дает согласие содействовать Лицензиару в осуществлении контроля согласно п. 15, и (v) сторонний поставщик услуг не является конкурентом Лицензиара (и (или) конкурентом «Феникс Контакт», если Лицензиар является Авторизованным дистрибьютором). Данное право применяется и к Лицензиям для компании, и к Групповым лицензиям. В последнем случае настоящий пункт 5.6 применяется при условии, что соглашение об оказании услуг со сторонним поставщиком услуг также может быть заключено уполномоченным Аффилированным лицом согласно п. 5.5 вместо Лицензиата, и (или) использование ПО сторонним поставщиком услуг может осуществляться в интересах такого уполномоченного Аффилированного лица.

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5.7 Лицензионное ПО может быть предоставлено по сублицензии или иным образом третьим лицам, использоваться Лицензиатом для целей третьих лиц или третьими лицами для целей Лицензиата только в том случае и только в том объеме, в котором это разрешается в настоящих Условиях лицензии на ПО. Любое другое сублицензирование, предоставление или использование третьими лицами запрещается. Лицензиат отвечает за все действия и бездействие со стороны своих сублицензиатов или сторонних пользователей в связи с

parties or use by third parties on the Licensee's behalf does not affect the number of licenses purchased by the Licensee. If the Licensee has reason to assume that a sublicensee or third-party user is using the Licensed Software contrary to the terms of licensing, the Licensee must inform the Licensor without delay and prevent any further use of the Licensed Software by the sublicensee and/or third-party user in question.

использованием Лицензионного ПО как за свои собственные действия или бездействие. Право на сублицензирование, предоставление третьим лицам, использование для третьих лиц или использование третьими лицами по поручению Лицензиата не влияет на количество лицензий, приобретенных Лицензиатом. Если Лицензиат имеет основания предполагать, что сублицензиат или сторонний пользователь использует Лицензионное ПО с нарушением условий предоставления лицензии, Лицензиат обязан незамедлительно уведомить об этом Лицензиара и прекратить дальнейшее использование Лицензионного ПО таким сублицензиатом и (или) сторонним пользователем.

5.8 Pre-release software versions/prototypes

5.8 Предварительные версии / прототипы ПО

5.8.1 The Licensor and Licensee may agree on the provision of pre-release software versions. **Software pre-release versions** are marked especially as alpha, beta, release candidate, prototype or similar labels. Unless individual arrangements or other agreements have been made, the provision of software pre-release versions is conclusively set forth below:

5.8.1 Лицензиар и Лицензиат могут заключить соглашение о предоставлении предварительных версий ПО. **Предварительные версии ПО** обозначаются «альфа», «бета», «предвыпускная версия», «прототип» или имеют аналогичную маркировку. В случае отсутствия отдельных договоренностей или других соглашений предоставление предварительных версий ПО окончательно осуществляется согласно следующей процедуре:

5.8.2 The software pre-release versions are development versions, test versions, preliminary versions and/or built-in versions that were only partly tested, may be incomplete and are provided to the Licensee solely for test purposes. They are prototypes.

5.8.2 Предварительные версии ПО представляют собой пилотные версии, тестовые версии, предварительные версии и (или) встроенные версии, которые прошли лишь частичное тестирование, могут быть неполными и предоставляются Лицензиату исключительно для тестирования. Они являются

прототипами.

5.8.3 The software pre-release versions may only be deployed by Licensee in accordance with the approved purpose and at the approved location. Even upon approval as a pre-release version, the software has not been sufficiently tested to be used in a company under all conditions. The software pre-release versions must therefore be used in protected conditions in a secure test environment to avoid damage to other objects or people and must not be used in real operations (production facilities). Additionally, the software pre-release versions must only be used so that uninvolved third parties and their employees cannot be harmed even if the prototypes fail. The software pre-release versions are only to be used by persons with the necessary expertise in a physically separate area and using protective devices. The personnel used must be instructed accordingly by the Licensee and informed of the dangers due to lack of series maturity and functional restrictions.

5.8.3 Предварительные версии ПО могут быть развернуты Лицензиатом только для использования в утвержденных целях и на утвержденной площадке. Даже после утверждения в качестве предварительной версии такое ПО еще не прошло тестирование в достаточном объеме, чтобы в полном масштабе использоваться в корпоративной среде. Поэтому предварительные версии ПО должны использоваться в защищенных условиях, в безопасной тестовой среде во избежание нанесения ущерба людям или другим объектам, и они не должны использоваться для совершения реальных операций (на производственных объектах). Кроме того, предварительные версии ПО должны использоваться только таким образом, чтобы исключить нанесение вреда не имеющим к ним отношения третьим лицам и их персоналу в случае сбоя в работе прототипов. Предварительные версии ПО должны использоваться только лицами, обладающими необходимыми знаниями, на физически изолированной площадке, с применением средств защиты. Персонал должен получить соответствующие инструкции от Лицензиата и информацию о возможных рисках, связанных с неготовностью ПО, и функциональных ограничениях.

5.8.4 The information provided at the same time does not rule out the Licensee's own testing under its own responsibility, especially with regard to suitability, and must not be used without testing.

5.8.4 Предоставленная информация в то же время не исключает возможность проведения Лицензиатом собственного тестирования под свою ответственность, в частности, в отношении пригодности ПО, и не должна использоваться без проверки.

5.8.5	The Licensee must not pass on the transferred software pre-release versions and any accompanying documentation to third parties in full, as excerpts, or as a copy.	5.8.5	Лицензиату запрещается передавать предоставленные предварительные версии ПО и сопроводительную документацию каким-либо третьим лицам полностью, в виде выдержки или копии.

6. RESTRICTIONS

6. ОГРАНИЧЕНИЯ

6.1 If the Licensee is an <u>End Customer</u>, the provisions of this clause 6 apply without any restriction.

6.1 Если Лицензиат является <u>Конечным пользователем</u>, положения настоящего пункта 6 применяются без каких-либо ограничений.

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Если Лицензиат является <u>Авторизованным дистрибьютором</u>, применяются следующие положения: Авторизованный дистрибьютор имеет право распространять Лицензионное ПО среди Конечных пользователей в соответствии с Лицензионным соглашением между «Феникс Контакт» и Авторизованным дистрибьютором. В связи с этим пункты 6.2 и 6.5 (i) не препятствуют сбыту Конечным пользователям, которым такое распространение разрешено согласно Лицензионному соглашению, и не должны истолковываться в качестве ограничения такого права на распространение. Пункт 6.6 не применяется в отношении Авторизованного дистрибьютора. Пункты 6.3, 6.4 и 6.5 (ii) применяются без ограничений.

6.2 Unless specified otherwise in these Software License Terms, the Licensee is not permitted to provide the Licensed Software to third parties, display it publicly or make it publicly available, whether for a fee or free of charge and whether temporarily or permanently.

6.2 Если в настоящих Условиях лицензии на ПО не указано иное, Лицензиату не разрешается предоставлять Лицензионное ПО третьим лицам, публично демонстрировать его или выкладывать в открытый доступ, как безвозмездно, так и за плату и как на ограниченный, так и на неограниченный срок.

6.3   Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from modifying, translating, arranging or otherwise changing the Licensed Software. If the Licensee violates this obligation, the Licensee hereby assigns to the Licensor (or if the Licensor is an Authorized Distributor, to Phoenix Contact) in full and extensively all rights to all such non-permitted modifications, translations, arrangements or other changes made in contravention of these License Terms. Should such a transfer not be legally admissible, the Licensee grants the Licensor (or if the Licensor is an Authorized Distributor, Phoenix Contact) the exclusive, irrevocable, transferrable, sublicensable, royalty-free and worldwide right to make derivative works of, reproduce, use and exploit the modifications, translations, arrangements and/or changes made in contravention of these License Terms by all known and unknown means and without any restriction in terms of time, space and content, especially to copy, distribute or make publicly by wire or wireless means, including the right to make these publicly available.

6.3   Если в Лицензионном соглашении или лицензионных условиях третьих лиц не указано иное и (или) при условии, что Лицензионное ПО не является ПО с открытым кодом, Лицензиату запрещается модифицировать, переводить, конфигурировать или иным образом изменять Лицензионное ПО. Если Лицензиат нарушает данное обязательство, Лицензиат настоящим отчуждает Лицензиару (или если Лицензиар является Авторизованным дистрибьютором компании «Феникс Контакт») все без исключения права на такие несанкционированные модификации, переводы, конфигурации или другие изменения, выполненные в нарушение настоящих Условий лицензии на ПО. Если такая передача недопустима по закону, Лицензиат предоставляет Лицензиару (или если Лицензиар является Авторизованным дистрибьютором компании «Феникс Контакт») исключительное, безотзывное, подлежащее передаче и сублицензированию, безвозмездное и действующее на территории всех стран мира право на создание производных произведений, воспроизведение, использование и эксплуатацию модификаций, переводов, конфигураций и (или) изменений, выполненных в нарушение настоящих Условий лицензии на ПО, всеми известными и неизвестными способами, без ограничений по времени, пространству и контенту, в частности права на копирование, распространение, доведение до всеобщего сведения с использованием проводных или беспроводных средств, включая право предоставления неограниченному кругу лиц.

6.4 Unless specified otherwise in the License Agreement or third-party license terms and/or provided it is not Open Source Software, the Licensee is prohibited from accessing or trying to access the Source Code of the Licensed Software by its own means or via third parties by reverse engineering, decompiling, disassembly or other measures. The Licensee may take such measures to achieve interoperability of the Licensed Software with other, independently created computer programs solely insofar as the information in question is essential for achieving interoperability and provided the Licensee informs the Licensor accordingly in writing beforehand giving the Licensor the opportunity to provide the Licensee with the necessary information within a reasonable time period and the Licensor fails to do so.

6.5 The Licensee is also prohibited, without the prior written consent of the Licensor, (i) subject to clause 5.6, from granting third parties access to or use of the Licensed Software in the context of services, application service provision, software as a service, outsourcing, time sharing or in a similar way, whether or not it is a matter of corresponding activities by the Licensee for third parties or such activities by third parties for the Licensee, or (ii) from removing, changing or disguising any references to industrial property rights, labels or trademarks on the Licensed Software or documentation.

6.4 Если в Лицензионном соглашении или лицензионных условиях третьих лиц не указано иное и (или) при условии, что Лицензионное ПО не является ПО с открытым кодом, Лицензиату запрещается получать или пытаться получить доступ к Исходному коду Лицензионного ПО собственными силами или с привлечением третьих лиц посредством обратного инжиниринга, декомпиляции, дизассемблирования или другими способами. Лицензиат может предпринять меры для обеспечения совместимости Лицензионного ПО с другими, независимо разработанными компьютерными программами, исключительно в том объеме, в котором рассматриваемая информация необходима для достижения совместимости, при условии, что Лицензиат заблаговременно уведомит об этом Лицензиара в письменном виде, давая Лицензиару возможность предоставить Лицензиату необходимую информацию в разумные сроки, и Лицензиар не сделал этого.

6.5 Лицензиату также запрещается без предварительного письменного согласия Лицензиара (i) и в соответствии с п. 5.6 предоставлять третьим лицам доступ или возможность использования Лицензионного ПО в контексте сервисов, предоставления служб приложений, программного обеспечения как сервиса, аутсорсинга, использования в режиме разделения времени или аналогичным образом, независимо от того, является ли это предметом соответствующей деятельности Лицензиата для третьих лиц или деятельности третьих лиц для Лицензиата; или (ii) удалять, изменять или скрывать какие-либо

		ссылки на права на промышленную собственность, этикетки или товарные знаки на Лицензионном ПО или документации.

6.6 The Licensee is entitled to resell to third parties Licensed Software for which it has purchased a perpetual right of use, with simultaneous transfer of the rights of use granted under these Software License Terms, provided that

    a) it is a perpetual and not only temporary transfer;

    b) the Licensee fully and irrevocably deletes all copies it has of the Licensed Software; and

    c) the third party accepts the applicability of these Software License Terms as between Licensor and third party.

6.6 Лицензиат имеет право перепродавать третьим лицам Лицензионное ПО, на которое Лицензиат приобрел бессрочное право пользования, с одновременной передачей прав пользования, предоставленных согласно настоящим Условиям лицензии на ПО, при условии, что:

    a) Это бессрочная передача, а не передача на какой-либо срок;

    b) Лицензиат полностью и окончательно удаляет все экземпляры Лицензионного ПО, которые у него имеются; и

    c) Такое третье лицо соглашается с тем, что на отношения между таким третьим лицом и Лицензиаром распространяются настоящие Условия лицензии на ПО.

7. INFRINGEMENT OF RIGHTS OF USE

7. НАРУШЕНИЕ ПРАВ ПОЛЬЗОВАНИЯ

7.1 In the event of an infringement of the provisions of clauses 5 to 6 by the Licensee, the Licensee shall pay a contractual penalty to the Licensor in the amount of: (i) 10 % of the total fees paid and payable under the affected License Agreement, or (ii) EUR 25,000, whichever is higher. Any other rights of Licensor, including without limitation damage claims, shall remain unaffected.

7.1 В случае нарушения положений пунктов 5–6 Лицензиатом последний выплачивает Лицензиару договорную неустойку в сумме: (i) 10 % общей суммы, уплаченной и подлежащей уплате по соответствующему Лицензионному соглашению, или (ii) 25 000 евро, в зависимости от того, какая сумма больше. Все прочие права Лицензиара, включая, помимо прочего, требования компенсации убытков остаются без изменений.

7.2 In the case of Cloud Products and other Licensed Software provided for a limited time, the Licensor may, in the event of an infringement by the Licensee of a material provision of these Software License Terms and Licensee's failure to cure this infringement within thirty (30) days of receipt of a written warning notice, suspend access to the Licensed Software until the infringement is cured. This includes but is not limited to Licensee's infringement by its breach of any terms in clauses 5, 6 or 10.

7.2 В случае с Облачными продуктами и другим Лицензионным ПО, предоставляемым на ограниченный срок, Лицензиар может в случае нарушения Лицензиатом существенных положений настоящих Условий лицензии на ПО и неустранения Лицензиатом такого нарушения в течение 30 (тридцати) дней после получения письменного предупреждения приостановить доступ к Лицензионному ПО до устранения нарушений. Это положение распространяется, в том числе, и на нарушение Лицензиатом любых положений пунктов 5, 6 или 10.

8. SYSTEM REQUIREMENTS AND COMPATIBILITY

The Product Description may contain certain system requirements and compatibility information for the use of the Licensed Software. In particular, it may contain information on which hardware, operating environment and operating systems the Licensed Software is designed for and/or to what extent it is compatible with such components. If the Licensee does not use the Licensed Software in accordance with the system requirements or compatibility information given in the Product Description, the Licensor assumes no warranty for such use and the functioning of the Licensed Software in this respect and is not liable for any consequences of such use.

8. СИСТЕМНЫЕ ТРЕБОВАНИЯ И СОВМЕСТИМОСТЬ

Описание продукта может содержать определенные системные требования и информацию о совместимости для использования Лицензионного ПО. В частности, оно может содержать информацию о том, для какого аппаратного обеспечения, какой операционной среды и операционных систем разработано Лицензионное ПО и (или) в каком объеме оно совместимо с такими компонентами. Если Лицензиат не использует Лицензионное ПО в соответствии с системными требованиями или информацией о совместимости, указанной в Описании продукта, Лицензиар не дает никаких гарантий в отношении такого использования и функционирования Лицензионного ПО, а также не несет ответственности за любые последствия такого использования.

9. PROFESSIONAL SERVICES

If certain professional services, e.g., training, consulting, development or implementation services, are desired

9. ПРОФЕССИОНАЛЬНЫЕ УСЛУГИ

Если Лицензиат желает получить определенные профессиональные услуги, например в области

by the Licensee and such professional services are generally part of the Licensor's service portfolio, the Licensor and Licensee may agree that the Licensor shall provide the corresponding services on the agreed conditions. These Software License Terms do not apply to such services.

10. PRICES AND PAYMENT TERMS

10.1 Unless the Licensor provides the Licensee with the Licensed Software free of charge, the Licensee shall pay the respective price for the purchased Licensed Software and for maintenance and support services. The price is specified in the License Agreement and/or Maintenance Agreement. If the License Agreement and/or Maintenance Agreement does not include prices, the prices on the Licensor's price list current at the effective date of the License Agreement/Maintenance Agreement, or its successor (as the case may be), shall apply.

10.2 All prices are net of any statutory value-added tax, customs duties and other taxes or fees. These are payable by the Licensee.

10.3 In the case of Licensed Software provided perpetually for a fee, the Licensor invoices the purchase price upon delivery of or granting of access to the Licensed Software, unless otherwise agreed.

обучения, консультирования, разработки и внедрения, и такие профессиональные услуги входят в портфель услуг, предлагаемых Лицензиаром, Лицензиар и Лицензиат могут заключить соглашение о том, что Лицензиар будет оказывать соответствующие услуги на согласованных условиях. Настоящие Условия лицензии на ПО к таким услугам не применяются.

10. СТОИМОСТЬ И УСЛОВИЯ ОПЛАТЫ

10.1 Если Лицензионное ПО не было предоставлено Лицензиаром Лицензиату безвозмездно, Лицензиат обязуется выплатить соответствующую цену за приобретенное Лицензионное ПО и услуги поддержки и обслуживания. Стоимость указывается в Лицензионном соглашении и (или) Соглашении об обслуживании. Если в Лицензионном соглашении и (или) Соглашении об обслуживании стоимость не указывается, то применяются расценки, указанные в прайс-листе Лицензиара, действующем на момент вступления в силу Лицензионного соглашения и (или) Соглашения об обслуживании или заменяющих их документах (в зависимости от ситуации).

10.2 Стоимость указывается без учета предусмотренных законом налога на добавленную стоимость, таможенных пошлин и других налогов и сборов. Все вышеперечисленное оплачивается Лицензиатом.

10.3 Если Лицензионное ПО предоставляется бессрочно за плату, Лицензиар выставляет счет после доставки или предоставления доступа к Лицензионному ПО, если не

10.4 In the case of Licensed Software provided for a limited time for a fee, remuneration is due and payable without deduction

a) in the case of fixed prices, in advance by the 3rd working day of the agreed regular billing period at the latest;

b) in the case of varying, e.g., User-dependent prices

either (i) within ten (10) days of expiration of the regular billing period and invoicing; the amount of remuneration is determined by the number of licenses existing in the regular billing period to be invoiced;

or (ii) in advance within ten (10) days of invoicing for the agreed regular billing period, whereby the price for this billing period is calculated from the actual quantity used during the previous billing period;

if a varying price calculation is agreed, but not a due-date rule, variant (i) applies.

Unless otherwise agreed, the regular billing period is quarterly.

10.4 Если Лицензионное ПО предоставляется на ограниченный срок за плату, вознаграждение подлежит выплате без вычетов

a) в случае фиксированных цен — заблаговременно, не позднее 3-го рабочего дня согласованного регулярного периода, за который выставляется счет;

b) в случае меняющихся цен, например цен, зависящих от Пользователя —

(i) в течение 10 (десяти) дней с момента выставления счета и истечения регулярного периода, за который выставляется счет. Сумма вознаграждения зависит от количества лицензий, действующих в течение периода, за который выставляется счет;

или (ii) заблаговременно в течение 10 (десяти) дней после выставления счета за согласованный период, за который выставляется счет, при этом цена за такой период рассчитывается на основе фактического количества в периоде выставления счета;

если по условиям соглашения применяется плавающая цена, а не правило с использованием конкретного срока платежа, применяется вариант (i).

Если не согласовано иное, регулярный период, за который выставляется счет, равен одному кварталу.

10.5	Maintenance and support services are invoiced by the Licensor on a quarterly basis in advance.	10.5	Счет на услуги поддержки и обслуживания выставляется Лицензиаром заблаговременно каждый квартал.
10.6	The remuneration is due and payable without deductions within thirty (30) days net starting from the invoicing date. Except as provided for by mandatory applicable laws (e.g., in case of warranty claims subject to clause 11, or a pre-mature termination of a time-limited license by the Licensee pursuant to clause 17.5, all payment obligations under any and all License Agreements and/or Maintenance Agreement are non-cancellable and all payments made are non-refundable.	10.6	Вознаграждение подлежит выплате без вычетов в течение 30 (тридцати) дней с даты выставления счета. За исключением случаев, когда иное предусмотрено действующим законодательством (например, в случае гарантийных требований согласно п. 11 или досрочного расторжения ограниченной по времени лицензии Лицензиатом согласно п. 17.5), все платежные обязательства по всем без исключения Лицензионным соглашениям и (или) Соглашениям об обслуживании не подлежат отмене, а все внесенные платежи не подлежат возврату.
10.7	For Cloud Products, other Licensed Software provided for a limited period, and maintenance and support services, the Licensor is entitled once per Contractual Year beginning upon the second Contractual Year, with three (3) months' advance notice, to increase the prices agreed for the current contract with effect for the future, in order to adjust the price structure to altered costs for the procurement and provision of the Licensed Software and/or the maintenance and support services, including price increases of third-party suppliers or service providers, higher wage costs and increases in the tax to be paid upon procurement, but by a maximum of ten percent (10 %) in comparison with the price valid at the time in question.	10.7	Для Облачных продуктов, другого Лицензионного ПО, предоставляемого на ограниченный срок, и услуг поддержки и обслуживания Лицензиар вправе один раз в течение Контрактного года, начиная со второго Контрактного года и при условии направления соответствующего уведомления за 3 (три) месяца, повышать цены, установленные в текущем договоре, на будущий период, с целью корректировки ценовой структуры, чтобы отразить изменившиеся расходы на снабжение и предоставление Лицензионного ПО и (или) услуг поддержки и обслуживания, включая повышение цен независимыми поставщиками и повышение налогов, уплачиваемых с закупок, но не более чем на 10% (десять процентов) по сравнению с действующей ценой.
10.8	If the Licensee defaults on payment, the Licensor is entitled to charge default interest (i) at the maximum	10.8	Если Лицензиат не совершает платежи, Лицензиар вправе взимать неустойку (i) в

amount allowed by applicable statutory law, or (ii) of nine percent (9 %) p.a., depending on which is lesser. Other rights of the Licensor, especially compensation claims, remain unaffected.

10.9 The Licensee is only entitled to offset or withhold payments on the basis of claims that are undisputed by the Licensor, or claims that have been finally awarded by a competent court.

11. *INTENTIONALLY LEFT BLANK*

12. **LIABILITY**

12.1 To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's willful misconduct or gross negligence or (b) Licensor's personal injury, Licensor will not be liable (whether in contract or tort) to Licensee for any consequential, incidental, indirect, or exemplary damages arising out of or relating to these Software License Terms.

12.2 To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's willful misconduct or gross negligence or (b) personal injury caused by Licensor, Licensor's aggregate liability arising out of these Software License Terms will not exceed the fees paid by Licensee during the twelve (12) months preceding the incident giving rise to

максимальном размере, предусмотренным нормами действующего законодательства или (ii) в размере 9% (девяти процентов) годовых, в зависимости от того, какая сумма меньше. Прочие права Лицензиара, включая требования компенсации убытков, остаются без изменений.

10.9 Лицензиат имеет право лишь на зачет или удержание платежей в результате претензий, не оспариваемых Лицензиаром, или претензий, по которым компетентным судом вынесено окончательное решение.

11. *ПУСТОЕ МЕСТО ОСТАВЛЕНО СПЕЦИАЛЬНО*

12. **ОТВЕТСТВЕННОСТЬ**

12.1 В той степени, в которой это допустимо согласно применимому законодательству или нормативным актам, и за исключением обязательств, возникающих в связи с (a) умышленными или неосторожными действиями Лицензиара или (b) нанесением Лицензиаром вреда здоровью какому-либо лицу, Лицензиар не несет ответственности (в силу договора или деликта) перед Лицензиатом за любые условные, случайные, косвенные или штрафные убытки, возникающие в связи с настоящими Условиями лицензии на ПО.

12.2 В той степени, в которой это допустимо согласно применимому законодательству или нормативным актам, и за исключением обязательств, возникающих в связи с (a) умышленными или неосторожными действиями Лицензиара или (b) нанесением Лицензиаром вреда здоровью какому-либо лицу,

Licensor's liability (if Licensee received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

совокупная ответственность Лицензиара, возникающая на основании настоящих Условий лицензии на ПО, не превышает суммы платежей, внесенных Лицензиатом в течение 12 (двенадцати) месяцев, предшествующих такому происшествию, в результате которого возникла обязанность Лицензиара (если Лицензиат получает Лицензионное ПО безвозмездно, совокупная ответственность Лицензиара не превышает 5 евро).

12.3 The Licensee is required to adequately back up data and for this purpose to make backup copies of all data and programs in machine-readable form at least once a day. If there is a data loss that is the fault of the Licensor, the Licensor's aggregate liability is limited to the reasonable and actual costs of restoring data that the Licensee could not have prevented the loss of by meeting the aforementioned obligation or by taking other reasonable measures.

12.3 Лицензиат обязан обеспечивать резервное копирование всех данных и программ в машиночитаемой форме по крайней мере один раз в день. В случае потери данных по вине Лицензиара совокупная ответственность Лицензиара ограничивается обоснованными фактическими издержками на восстановление данных, потери которых Лицензиат не мог предотвратить, выполнив вышеуказанное обязательство или предприняв другие разумные меры.

12.4 For avoidance of doubt, this clause 12 applies to personal liability of employees, representatives and agents of the Licensor.

12.4 Во избежание разночтений, настоящий пункт 12 применяется к личной ответственности работников, представителей и агентов Лицензиара.

13. CONFIDENTIALITY

13. КОНФИДЕНЦИАЛЬНОСТЬ

13.1 The Licensee shall maintain the confidentiality of any Confidential Information of the Licensor and not disclose it or make it accessible to third parties. This obligation survives for a period of five (5) years after the end of the relevant License Agreement and/or Maintenance Agreement.

13.1 Лицензиат обязуется соблюдать конфиденциальность любой Конфиденциальной информации Лицензиара и не раскрывать ее и не предоставлять доступ к ней третьим лицам. Данное обязательство сохраняет свою силу в течение 5 (пяти) лет с момента истечения срока действия соответствующего Лицензионного соглашения и (или) Соглашения об

обслуживании.

13.2 Confidential Information does not include such information	13.2 Конфиденциальной информацией не является такая информация, которая

a) that the Licensee verifiably already knew upon entering into the relevant License Agreement and/or Maintenance Agreement or that later becomes known from a third party without any infringement of a non-disclosure agreement, statutory provisions or official orders;

a) уже была известна Лицензиату до заключения соответствующего Лицензионного соглашения и (или) Соглашения об обслуживании, что может быть подтверждено, или была получена в дальнейшем от третьего лица без нарушения условий соглашения о конфиденциальности, положений законодательства и официальных распоряжений;

b) that is publicly known upon entering into the relevant License Agreement and/or Maintenance Agreement or later becomes publicly known, unless this is due to an infringement of these Software License Terms;

b) является общеизвестной на момент заключения соответствующего Лицензионного соглашения и (или) Соглашения об обслуживании или стала общеизвестной в дальнейшем, за исключением тех случаев, когда это происходит вследствие нарушения настоящих Условий лицензии на ПО.

13.3 If Confidential Information has to be disclosed due to statutory obligations or by order of a court or an authority, the Licensee, insofar as legally admissible, shall first inform the Licensor and give it the opportunity to take action against the disclosure.

13.3 Если Конфиденциальная информация должна быть раскрыта согласно требований законодательства или по распоряжению суда или другого компетентного органа, Лицензиат обязан, если это разрешено законом, сначала уведомить об этом Лицензиара и дать ему возможность принять меры для предотвращения такого раскрытия.

13.4 If the parties enter into a separate agreement on confidentiality before or after entering into the License Agreement, the relevant agreement takes precedence over the provisions of this clause 13 in the event of any

13.4 Если стороны заключают отдельное соглашение о конфиденциальности до или после заключения Лицензионного соглашения, соответствующее соглашение о конфиденциальности

contradictions.

имеет преимущественную силу над положениями настоящего пункта 13 в случае разночтений.

14. DATA PRIVACY

14. ЗАЩИТА ПЕРСОНАЛЬНЫХ ДАННЫХ

14.1 In execution of the contract, the Licensor processes personal data of the Licensee and its involved employees (name, contact details, other personal data for contract execution), as well as of any other people (such as Users) to the extent this is necessary for proper performance of the contract taking into account the relevant licensing model.

14.1 В ходе исполнения соглашения Лицензиар обрабатывает персональные данные Лицензиата и привлеченных им сотрудников (ФИО, контактные данные, другие персональные данные, необходимые для выполнения условий соглашения), а также персональные данные других лиц (например, Пользователей) в том объеме, в каком это необходимо для надлежащего выполнения условий соглашения с учетом соответствующей модели лицензирования.

14.2 The Licensor shall comply with the data protection laws applicable to the Licensor's services under these Software License Terms. Insofar as the Licensee receives personal data of the Licensor, the Licensee is likewise required to comply with the applicable data protection laws. Personal data of which the Licensee obtains knowledge may be processed by the Licensee only to execute the contract and shall in no event be shared, sold or otherwise made available to third parties for purposes other than the aforementioned ones.

14.2 Лицензиар обязан соблюдать требования законодательства о защите персональных данных, предъявляемые к услугам Лицензиара по настоящим Условиям лицензии на ПО. Если Лицензиат получает персональные данные Лицензиара, Лицензиат аналогичным образом обязан соблюдать применимое законодательство о защите персональных данных. Персональные данные, которые становятся известны Лицензиату, могут обрабатываться Лицензиатом только с целью выполнения условий соглашения, и Лицензиат ни в коем случае не имеет права распространять, продавать или иным образом предоставлять такие данные третьим лицам для целей, отличных от вышеуказанных.

15. CONTROL RIGHTS

15. ПРАВА КОНТРОЛЯ

15.1 The Licensor is entitled to take legally permissible technical measures to monitor and/or ensure the contractual

15.1 Лицензиар имеет право использовать допустимые по закону технические меры для

use of the Licensed Software by the Licensee, e.g., license keys, dongles, license servers or logging of the Licensee's technical usage data. The Licensee undertakes not to disable, modify and/or circumvent such measures or to attempt to do any of the foregoing.

15.2 The Licensor is entitled to audit the Licensee solely for the purpose of verifying the use of the Licensed Software by the Licensee (but at most once every twelve (12) months), provided the Licensor has no other reasonable but equally effective opportunity to verify the use of the Licensed Software by the Licensee. Such audit may only be carried out by an independent auditor who is subject to a professional or other non-disclosure obligation. The auditor may only provide information to the Licensor to the extent necessary for the assertion and enforcement of rights to the Licensor's intellectual property. The Licensor shall bear the costs of such audit unless the audit shows that the Licensee infringed the Licensor's intellectual property rights to a not just immaterial extent; in the latter case the Licensee shall pay the auditor's costs.

15.3 The Licensee shall cooperate with the Licensor in this regard; in particular, it shall (a) at the Licensor's request, produce a license report, (b) allow visits and/or audits on site by the auditor to

мониторинга и (или) обеспечения использования Лицензионного ПО Лицензиатом в соответствии с условиями договора, например лицензионные ключи, физические электронные ключи, сервера лицензий или регистрацию технических данных об использовании ПО Лицензиатом. Лицензиат обязуется не деактивировать, не модифицировать и (или) не обходить такие меры, а также не предпринимать таких попыток.

15.2 Лицензиар вправе проводить аудит Лицензиата исключительно для проверки надлежащего использования Лицензионного ПО Лицензиатом (но не чаще одного раза каждые 12 (двенадцать) месяцев) при условии, что у Лицензиара нет другой эффективной возможности проверить использование Лицензионного ПО Лицензиатом, кроме аудита. Такой аудит может проводиться только независимым аудитором, на которого распространяются профессиональные обязательства о неразглашении информации. Аудитор может предоставлять информацию Лицензиару только в том объеме, который позволяет удостовериться в характере использования Лицензионного ПО и реализовать интеллектуальные права Лицензиара. Лицензиар берет на себя расходы на такой аудит, за исключением тех случаев, когда результаты аудита подтверждают нарушение Лицензиатом интеллектуальных прав Лицензиара в существенной степени — в таких случаях расходы на аудит несет Лицензиат.

15.3 Лицензиат обязан сотрудничать с Лицензиаром в этом направлении. В частности, Лицензиат (а) по требованию Лицензиара составляет лицензионный отчет,

monitor, assess and verify the use of the Licensed Software during normal business hours and with sufficient advance notice. When the audit is conducted, both parties must observe the applicable data protection laws. The Licensee must ensure that no personal data are provided to the auditor and/or the Licensor in connection with the audit. If and insofar as the audit cannot be carried out without providing personal data to the auditor, the Licensee shall take the necessary measures to ensure that only the personal data necessary for the audit to be conducted is provided.

16. APPLICABLE LAWS; EXPORT AND RE-EXPORT CONTROL

16.1 The Licensee is responsible for ensuring that its use of the Licensed Software is compatible with all statutory and regulatory requirements applicable to the Licensee.

16.2 The Licensee is informed that the export of the Licensed Software, information and documentation according to the relevant export provisions of the Russian Federation, the countries in which the Licensor and/or the Licensee is located, the European Union and/or the United States of America (US (re-)export provisions) – e.g., due to its type or purpose or final location – may require authorization or may be excluded and any contravention subject to criminal prosecution. The Licensee is therefore responsible for strictly observing all nationally or internationally applicable

(b) разрешает посещение своей площадки аудитором и (или) проведение аудита с целью мониторинга, оценки и проверки использования Лицензионного ПО в обычные рабочие часы и с заблаговременным уведомлением об аудите. При проведении аудита обе стороны обязаны соблюдать применимое законодательство о защите персональных данных. Лицензиат обязан гарантировать, что в связи с аудитом аудитору и (или) Лицензиару не будут предоставлены никакие персональные данные. Если аудит не может быть проведен без предоставления аудитору персональных данных, Лицензиат обязан предпринять необходимые меры, гарантирующие предоставление только необходимых для проведения аудита данных.

16. ПРИМЕНИМОЕ ЗАКОНОДАТЕЛЬСТВО, КОНТРОЛЬ ЭКСПОРТА И РЕЭКСПОРТА

16.1 Лицензиат обязан обеспечить использование Лицензионного ПО в соответствии с требованиями законодательства и нормативными требованиями, действующими в отношении Лицензиата.

16.2 Лицензиат осведомлен о том, что экспорт Лицензионного ПО, информации и документации в соответствии с экспортными правилами Российской Федерации, стран, в которых находятся Лицензиар и (или) Лицензиат, стран Европейского союза и (или) Соединенных Штатов Америки ((ре)экспортные правила США), например в связи с типом ПО, или целью экспорта, или конечным пунктом, может требовать получения разрешения или может быть запрещен, а любой обход таких правил будет основанием

(re-)export provisions and in any case the EU dual use and sanction law and obtaining any necessary permits. The Licensee therefore undertakes to check and ensure in particular that

a) insofar as the Licensed Software, information and documentation may be supplied for defense-related, nuclear or weapon-related use or delivered to a military recipient with authorization from the relevant, in particular national, authorities, all authorizations must be obtained from the authorities and Licensor in advance of the supplying of the Licensed Software, information and documentation;

b) the relevant UN resolutions, EU Regulations and Russian laws and other applicable laws and regulations of the competent authorities are observed;

c) no Licensed Software, information and documentation is provided directly or indirectly to the persons and companies listed on the relevant sanction lists.

16.3 The supply and service obligations under the relevant License Agreement (contract performance) are subject to the condition that no obstacles or prohibitions based on national or international provisions, especially export control regulations, embargoes or other sanctions prevent

для уголовного преследования. Поэтому Лицензиат обязан строго соблюдать все национальные или международные (ре)экспортные правила, в частности, законодательство ЕС о двойном назначении и санкциях, и получать все необходимые разрешения. В частности, Лицензиат обязуется проверять и гарантировать следующее:

a) если Лицензионное ПО, информация и документация могут поставляться для использования, связанного с обороной, ядерной или оружейной промышленностью, или военному получателю с разрешения соответствующих, в частности национальных, компетентных органов, все разрешения от компетентных органов и Лицензиара должны быть получены до поставки Лицензионного ПО, информации и документации;

b) (b)соответствующие резолюции ООН, Регламенты ЕС, российское и иное законодательство и предписания компетентных органов соблюдаются в полном объеме;

c) (c)Лицензионное ПО, информация и документация не предоставляются прямо или косвенно лицам и компаниям, находящимся в санкционных списках.

16.3 Обязательства по поставке и обслуживанию по соответствующему Лицензионному соглашению (выполнение соглашения) зависят от условия, что никакие запреты и ограничения на основании национальных или международных положений,

performance. The parties undertake to provide all information and documents needed for the export/shipment/import. Any delays due to export controls or authorization procedures nullify agreed deadlines and delivery times. If the necessary authorizations are not issued despite proper application by the party required to do so, with respect to the affected parts the License Agreement shall be deemed not concluded; damage claims in this respect and related of the aforementioned exceeding of deadlines are excluded.

особенно правил экспортного контроля, эмбарго и других санкций, не препятствуют исполнению Соглашения. Стороны обязуются предоставлять всю информацию и документы, необходимые для экспорта / отгрузки / импорта. Любые задержки в связи с экспортным контролем или получением разрешений отменяют согласованные сроки и периоды поставок. Если необходимые разрешения не будут выданы, несмотря на надлежащее обращение ответственной за это стороны, Лицензионное соглашение в части затронутых компонентов считается незаключенным. При этом исключаются любые требования компенсации убытков в связи с этим, а также продлением сроков, как указано выше.

16.4 The Licensor shall specify the relevant points of contact for further information to the Licensee on request.

16.4 Лицензиар обязан по запросу указывать контактных лиц для дальнейшего информирования Лицензиата.

16.5 If the Licensee infringes its obligations under this clause 16, it shall indemnify the Licensor upon first demand against all claims and compensate all damages that sub-suppliers of the Licensor, rights holders, other third parties or government and/or international authorities or organizations assert towards the Licensor, unless the Licensee is not responsible for the infringement.

16.5 Если Лицензиат нарушает свои обязательства по настоящему пункту 16, он обязан по первому требованию Лицензиара оградить его от любых требований и компенсировать Лицензиару все убытки и претензии, предъявляемые ему субпоставщиками, держателями прав, третьими лицами, правительственными органами, национальными и (или) международными органами и организациями, за исключением тех случаев, когда Лицензиат не несет ответственности за нарушение.

17. TERM AND TERMINATION

17.1 These Software License Terms shall continue to apply for as long as the Licensee is entitled to use the Licensed Software under a License Agreement.

17.2 Intentionally left blank

17.3 For temporarily provided Licensed Software and for maintenance and support services, the relevant License Agreement and/or Maintenance Agreement contains an initial term. Unless otherwise agreed, the initial term of a License Agreement for temporarily provided Licensed Software runs until the end of the calendar year in which it is purchased. The same applies for the initial term of a Maintenance Agreement.

17.4 The Licensor and Licensee may terminate any time-limited License Agreement and/or any Maintenance Agreement after the initial term and/or any Extension Period (as defined below) with three (3) months' notice prior to the expiry of the applicable term. If the relevant License Agreement and/or Maintenance Agreement is not terminated in time, it shall be extended by another twelve (12) months each ("Extension Period").

17.5 Each Party may terminate a time-limited License Agreement and/or a Maintenance Agreement in writing without notice for cause. A cause

17. СРОК ДЕЙСТВИЯ И РАСТОРЖЕНИЕ

17.1 Настоящие Условия лицензии на ПО продолжают действовать на протяжении всего периода пока Лицензиат вправе использовать Лицензионное ПО в рамках Лицензионного соглашения.

17.2 Пустое место оставлено специально

17.3 Для временно предоставленного Лицензионного ПО, а также для услуг поддержки и обслуживания в соответствующем Лицензионном соглашении и (или) Соглашении об обслуживании указан первоначальный срок. Если не согласовано иное, первоначальный срок Лицензионного соглашения для временно предоставленного Лицензионного ПО длится до конца календарного года, в котором Лицензионное ПО было приобретено. Аналогичное положение действует в отношении первоначального срока Соглашения об обслуживании.

17.4 Лицензиар и Лицензиат могут расторгнуть любое Лицензионное соглашение и (или) Соглашение об обслуживании с ограниченным сроком после истечения первоначального срока и (или) любого Периода продления (см. ниже), направив уведомление не позднее чем за 3 (три) месяца до истечения соответствующего срока. Если Лицензионное соглашение и (или) Соглашение об обслуживании не расторгнуты в срок, они могут быть продлены на следующие 12 (двенадцать) месяцев каждое (далее «Период продления»).

17.5 Каждая сторона вправе расторгнуть Лицензионное соглашение и (или) Соглашение об обслуживании с ограниченным

justifies termination by the Licensor particularly if the Licensee has infringed the rights of use of the Licensor by using the Licensed Software to an extent beyond that permitted in these Software License Terms and does not cease this infringement within fourteen (14) days of a warning by the Licensor.

сроком в письменном виде без уведомления при наличии основания. Основание для расторжения у Лицензиара, в частности, возникает в том случае, если Лицензиат нарушил права Лицензиара, используя Лицензионное ПО способом, который не разрешен настоящими Условиями лицензии на ПО, и не устраняет такое нарушение в течение 14 (четырнадцати) дней с момента получения соответствующего извещения от Лицензиара.

17.6 If a time-limited License Agreement is terminated, the Licensee shall cease using the Licensed Software and remove all installed copies of this Licensed Software from its computers and return to the Licensor at its choice any backup copies made without delay. Upon corresponding written request by the Licensor, the Licensee shall, instead of returning them, irrevocably destroy all copies of the Licensed Software according to the appropriate instructions of the Licensor such that they cannot be restored. The Licensee shall confirm to the Licensor within thirty (30) days of receipt of the request that the Licensee has met the above obligations.

17.6 Если Лицензионное соглашение с ограниченным сроком будет расторгнуто, Лицензиат прекращает использование Лицензионного ПО и удаляет все установленные экземпляры Лицензионного ПО со своих компьютеров, а также без промедления возвращает Лицензиару все резервные копии по усмотрению последнего. По соответствующему письменному запросу Лицензиара Лицензиат обязан вместо возврата окончательно уничтожить все экземпляры Лицензионного ПО в соответствии с указаниями Лицензиара таким образом, чтобы их нельзя было восстановить. Лицензиат подтверждает Лицензиару выполнение указанных обязательств в течение 30 (тридцати) дней с момента получения запроса.

17.7 All notices regarding a party's intent to terminate a License Agreement and/or a Maintenance Agreement require Written Form to be valid.

17.7 Все уведомления о намерении стороны расторгнуть Лицензионное соглашение и (или) Соглашение об обслуживании считаются действительными, если они выполнены в письменном виде.

17.8 The provisions of these Software License Terms which, by their terms, require performance after the termination or expiration of these Software License Terms, or have

17.8 Положения настоящих Условий лицензии на ПО, которые по своему характеру предусматривают сохранение в силе после расторжения или

application to events that may occur after the termination or expiration of these Software License Terms, will survive the termination or expiration of these Software License Terms. The foregoing includes clauses 6.3, 10.8, 12, 13, 16, 18.1, and 18.2 - 18.7.

истечения срока действия настоящих Условий лицензии на ПО или действуют в отношении событий, которые могут возникнуть после расторжения или истечения срока действия настоящих Условий лицензии на ПО, продолжают действовать после расторжения или истечения срока действия настоящих Условий лицензии на ПО. Вышеуказанное распространяется на пункты 6.3, 10.8, 12, 13, 16, 18.1 и 18.2–18.7.

18. MISCELLANEOUS

18. ПРОЧИЕ УСЛОВИЯ

18.1 Licensee's General Terms and Conditions do not apply.

18.1 Общие условия Лицензиата не применяются.

18.2 Governing Law and Venue

18.2 Применимое законодательство и место рассмотрения споров

18.2.1 Any License Agreement, Maintenance Agreement and these Software License Terms are governed exclusively by the laws of the Russian Federation.

18.2.1 Любое Лицензионное соглашение, Соглашение об обслуживании и настоящие Условия лицензии на ПО регулируются исключительно законодательством Российской Федерации.

18.2.2 All disputes arising from or in connection with any License Agreement, Maintenance Agreement and/or these Software License Terms or about its validity shall be definitively settled in the Commercial *Arbitrazh* Court of Moscow.

18.2.2 Все споры, возникающие в связи с каким-либо Лицензионным соглашением, Соглашением об обслуживании и (или) настоящими Условиями лицензии на ПО или их действительностью, окончательно разрешаются в Арбитражном суде города Москвы.

18.2.3 The UN Convention on the International Sale of Goods of 11 April 1980 (UN sales law) is excluded.

18.2.3 Конвенция ООН о договорах международной купли-продажи товаров от 11 апреля 1980 года не применяется.

18.3 All notices under these Software License Terms to Licensor will be given in Written Form and will refer to the relevant License Agreement and/or Maintenance Agreement and to these Software License Terms. Any notice provided in any other manner will be deemed NOT received by Licensor unless Licensor specifically

18.3 Все уведомления, направляемые Лицензиару согласно настоящим Условиям лицензии на ПО, должны быть составлены в письменном виде и содержать ссылку на соответствующее Лицензионное соглашение, Соглашение об обслуживании и настоящие Условия лицензии на ПО. Любое

acknowledges receipt of such notice in Written Form.

18.4 Licensee will not assign any License Agreement, Maintenance Agreement and/or these Software License Terms, in whole or in part, without Licensor's prior written consent. Any attempt to assign in violation of this clause is void in each instance. All the terms and conditions of the relevant License Agreement, Maintenance Agreement and these Software License Terms will be binding upon, will inure to the benefit of, and will be enforceable by the parties and their respective successors and permitted assigns.

18.5 If any provision of any License Agreement, Maintenance Agreement and/or these Software License Terms is to any extent held invalid or unenforceable by a court of competent jurisdiction, the remainder of such License Agreement or Maintenance Agreement (as the case may be) and of these Software License Terms will not be affected thereby, and each term and condition will be valid and enforceable to the fullest extent permitted by law.

18.6 These Software License Terms, together with all its associated exhibits and schedules, as well as the License Agreements and Maintenance Agreements, all of which are

уведомление, сделанное иным образом, считается НЕ полученным Лицензиаром, за исключением случаев, когда Лицензиар признает получение такого уведомления в письменном виде.

18.4 Лицензиат не может уступать свои права по Лицензионному соглашению, Соглашению об обслуживании и (или) настоящим Условиям лицензии на ПО полностью или частично без предварительного письменного согласия Лицензиара. Любая попытка осуществить уступку в нарушение настоящего пункта в любом случае не будет иметь юридической силы. Все условия соответствующего Лицензионного соглашения, Соглашения об обслуживании и настоящих Условий лицензии на ПО носят обязательный характер и служат интересам сторон и их законных преемников и цессионариев, а также могут быть принудительно исполнены только указанными лицами.

18.5 Если какое-либо положение Лицензионного соглашения, Соглашения об обслуживании и (или) настоящих Условий лицензии на ПО признается в какой-либо степени недействительным или неисполнимым судом компетентной юрисдикции, это не влияет на остальные положения такого Лицензионного соглашения, Соглашения об обслуживании и настоящих Условий лицензии на ПО (в зависимости от обстоятельств), которые будут действовать в максимальном объеме, допустимом по закону.

18.6 Настоящие Условия лицензии на ПО, включая все сопутствующие дополнения и приложения, а также Лицензионные соглашения и Соглашения об обслуживании,

incorporated by this reference, constitute the complete and final agreement of the parties pertaining to the Licensed Software and related services and supersede the parties' prior agreements, understandings and discussions relating to the foregoing subject matter. No modification of any License Agreement, Maintenance Agreement and/or these Software License Terms is binding unless it is in Written Form and signed by both parties. This also applies to any amendment or waiver of this clause. Any License Agreement, Maintenance Agreement and/or these Software License Terms and amendments may be executed electronically and may be signed in counterparts (which may be scanned or faxed copies), which together will constitute one agreement. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of the relevant License Agreement, Maintenance Agreement or these Software License Terms. *NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THESE SOFTWARE LICENSE TERMS (WHETHER PROFFERED VERBALLY OR IN ANY QUOTATION, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.*

которые считаются включенными в настоящий документ посредством отсылки, представляют собой полный и окончательный объем договоренностей между сторонами относительно Лицензионного ПО и связанных услуг и заменяют предшествующие договоренности и обсуждения сторон по данному предмету. Любые изменения в Лицензионное соглашение, Соглашение об обслуживании и (или) настоящие Условия лицензии на ПО могут быть внесены только в письменном виде и действительны при условии подписания обеими сторонами. Это положение также применяется к любым поправкам в настоящий пункт или отказу от него. Любое Лицензионное соглашение, Соглашение об обслуживании и (или) настоящие Условия лицензии на ПО, а также поправки к ним могут быть оформлены в электронной форме и подписаны в нескольких экземплярах (в том числе на сканированных копиях или направленных по факсу), которые совокупно представляют собой одно соглашение. Стороны могут использовать стандартные деловые формы или другие сообщения, но такие формы используются исключительно для удобства и не изменяют положения соответствующего Лицензионного соглашения, Соглашения об обслуживании или настоящих Условий лицензии на ПО. *ЛЮБЫЕ ПОЛОЖЕНИЯ, ОТЛИЧНЫЕ ОТ НАСТОЯЩИХ УСЛОВИЙ ЛИЦЕНЗИИ НА ПО ИЛИ ДОПОЛНЯЮЩИЕ ИХ (ЗАЯВЛЕННЫЕ УСТНО ИЛИ УКАЗАННЫЕ В ЛЮБОМ ЦЕНОВОМ ПРЕДЛОЖЕНИИ, СЧЕТЕ, ОТГРУЗОЧНОМ ДОКУМЕНТЕ, ОНЛАЙН-УСЛОВИЯХ, ПОДТВЕРЖДЕНИИ, АКЦЕПТЕ, ПЕРЕПИСКЕ ИЛИ В ИНОМ МЕСТЕ), НЕ ЯВЛЯЮТСЯ ОБЯЗАТЕЛЬНЫМИ ДЛЯ СТОРОН*

18.7 Except as otherwise expressly set forth in these Software License Terms, the failure of either party to enforce any provision of this Software License Terms will not constitute a waiver of the party's rights to subsequently enforce the provision. The remedies specified in these Software License Terms are in addition to any other remedies that may be available at law or in equity.

18.7 За исключением тех случаев, когда в настоящих Условиях лицензии на ПО указано иное, неспособность любой из сторон принудительно реализовать любое положение Условий не является отказом от права такой стороны реализовать его впоследствии. Средства защиты прав, указанные в настоящих Условиях лицензии на ПО, дополняют любые другие средства защиты прав, которые могут быть доступны сторонам по закону или по праву справедливости.

18.8 These Software License Terms contain in two columns a Russian and an English text. In the event of any discrepancies between the Russian and English texts of these Software License Terms, the Russian text shall prevail.

18.8 Настоящие Условия лицензии на ПО содержат русский и английский текст в двух колонках. В случае каких-либо расхождений между русским и английским текстами преимущественную силу имеет текст Условий лицензии на ПО на русском языке.

PART B – SPECIAL PROVISIONS FOR ON-PREMISE PRODUCTS

ЧАСТЬ B. ОСОБЫЕ ПОЛОЖЕНИЯ ДЛЯ ПРОДУКТОВ, УСТАНАВЛИВАЕМЫХ ЛОКАЛЬНО

19. SUPPLYING OR PROVIDING ACCESS TO ON-PREMISE PRODUCTS

19. ПОСТАВКА ИЛИ ПРЕДОСТАВЛЕНИЕ ДОСТУПА К ПРОДУКТАМ, УСТАНАВЛИВАЕМЫМ ЛОКАЛЬНО

19.1 The Licensor shall, at its discretion, either (i) make the Licensed Software available for downloading from a server, (ii) supply a copy of the Licensed Software in machine-executable object code on a physical data carrier (e.g., CD-ROM or flash drive) to the agreed delivery address or (iii) activate functions of the Licensed Software via a licensing mechanism. If

19.1 Лицензиар по своему усмотрению (i) обеспечивает возможность скачивания Лицензионного ПО с сервера, (ii) поставляет экземпляр Лицензионного ПО в форме объектного машинного кода на физическом носителе данных (например, CD-ROM или флеш-накопитель), используя согласованный адрес поставки, или

the Licensed Software is made available on a data carrier, the Licensed Software is supplied FCA Licensor's principal place of business in accordance with INCOTERMS 2010.

19.2 The Licensor is not obliged to install and/or configure the Licensed Software and/or instruct the Users unless the Licensor and Licensee agree separately on the provision of such services by the Licensor.

19.3 If the time of provision of the Licensed Software is of relevance as between the Parties, the Licensed Software shall be deemed provided at the time the Licensor

a) in the case of clause 19.1 (i), provides the Licensed Software for downloading on the corresponding server and informs the Licensee thereof;

b) in the case of clause 19.1 (ii), hands over the Licensed Software to the carrier, freight forwarder etc.

c) in the case of clause 19.1 (iii), gives the Licensee the necessary information for activation.

19.4 Unless explicitly specified otherwise in the License Agreement or third-party terms (e.g., OSS terms of use), the Licensee receives the Licensed Software solely in the machine-executable object code and receives no access to the Source Code.

(iii) активирует функции Лицензионного ПО через механизм лицензирования. Если Лицензионное ПО предоставляется на носителе, оно поставляется на условиях FCA местонахождение Лицензиата в соответствии с INCOTERMS 2010.

19.2 Лицензиар не обязан устанавливать и (или) настраивать конфигурацию Лицензионного ПО и (или) инструктировать Пользователей, за исключением тех случаев, когда Лицензиар и Лицензиат заключают отдельное соглашение об оказании таких услуг Лицензиаром.

19.3 Если стороны договариваются о том, что время предоставления Лицензионного ПО имеет значение, оно считается предоставленным в тот момент, когда Лицензиар:

a) в случае пункта 19.1(i) — предоставляет Лицензионное ПО для скачивания на соответствующий сервер и информирует об этом Лицензиата;

b) в случае пункта 19.1(ii) — передает Лицензионное ПО перевозчику, экспедитору и т.д.;

c) в случае пункта 19.1(iii) — предоставляет Лицензиату необходимую информацию по активации.

19.4 Если иное явно не указано в Лицензионном соглашении или условиях третьей стороны (например, условия использования ПО с открытым кодом), Лицензиат получает Лицензионное ПО исключительно в форме объектного машинного кода и не получает доступа к Исходному коду.

19.5 If the Licensor provides the Licensee with Client Software to use the Licensed Software, clause 32 applies mutatis mutandis.

20. LICENSE TYPES FOR ON-PREMISE PRODUCTS

20.1 There are different types of licenses for On-Premise Products. The relevant license type is specified in the License Agreement. Unless otherwise agreed in the License Agreement, the Licensor grants the Licensee a non-exclusive, limited, non-transferable (except as provided otherwise in clause 6.6, non-sublicensable right to use the Licensed Software according to this clause 20 and clause 5 in accordance with the relevant Product Description.

20.2 With the exception of the time-limited demo license (clause 20.4.2 b), rights to the Licensed Software in On-Premise Products are generally granted perpetually. However, the Licensor can state in the License Agreement that the Licensed Software is provided to the Licensee not on a perpetual basis but for a limited period. In this case the rights are granted on a time-limited basis for the duration of the relevant License Agreement.

20.3 In the case of perpetually provided Licensed Software, the Licensee is granted the aforementioned rights of use on the condition precedent of full payment of the licenses in question. To ensure that the Licensee may lawfully use the Licensed Software in the time

19.5 Если Лицензиар предоставляет Лицензиату Клиентское ПО для использования Лицензионного ПО, пункт 32 применяется с соответствующими изменениями.

20. ТИПЫ ЛИЦЕНЗИЙ ДЛЯ ПРОДУКТОВ, УСТАНАВЛИВАЕМЫХ ЛОКАЛЬНО

20.1 Для Продуктов, устанавливаемых локально, существуют разные типы лицензий. Соответствующий тип лицензии указывается в Лицензионном соглашении. Если в Лицензионном соглашении не указано иное, Лицензиар предоставляет Лицензиату неисключительное, ограниченное, не подлежащее передаче (кроме предусмотренного пунктом 6.6) и сублицензированию право на использование Лицензионного ПО в соответствии с настоящим пунктом 20 и пунктом 5, а также Описанием продукта.

20.2 За исключением ограниченных по времени демонстрационных лицензий (пункт 20.4.2 b), права на Лицензионное ПО в Продуктах, устанавливаемых локально, как правило, предоставляются на неограниченный срок. Однако Лицензиар может указать в Лицензионном соглашении, что Лицензионное ПО предоставляется Лицензиату не бессрочно, а на ограниченный период времени. В таком случае права предоставляются на ограниченный срок, равный сроку действия соответствующего Лицензионного соглашения.

20.3 В случае с бессрочным предоставлением Лицензионного ПО Лицензиат получает указанные выше права пользования при условии полной оплаты соответствующих лицензий. Для того чтобы гарантировать, что

between receipt of the Licensed Software and payment of the remuneration in compliance with the contract (i.e., especially on time), the Licensor further grants the Licensee for such On-Premise Products the right to use the relevant Licensed Software according to these Software License Terms for a limited period until (i) the time of full payment of the relevant licenses or (ii) expiration of the payment term in accordance with clause 10.6, depending which of these two events occurs earlier.

Лицензиат сможет на законных основаниях использовать Лицензионное ПО в период между получением Лицензионного ПО и выплатой вознаграждения в соответствии с договором (т.е. в течение этого периода), Лицензиар далее предоставляет Лицензиату для таких Продуктов, устанавливаемых локально, право использовать соответствующее Лицензионное ПО согласно настоящим Условиям лицензии на ПО на ограниченный срок до (i) полной оплаты соответствующих лицензий или (ii) истечения срока оплаты в соответствии с пунктом 10.6, в зависимости от того, какое из этих событий наступит раньше.

20.4   The individual types of license are:

20.4   Отдельные типы лицензий:

20.4.1 Workplace License

20.4.1 Лицензия для рабочего места

If the Licensee purchases a Workplace License, the Licensee is permitted to install, run and use the Licensed Software for the intended purposes on one (1) Workplace in accordance with the Product Description. If the Licensee purchases several Workplace Licenses, the number of installations must not exceed the number of Workplace Licenses purchased. Installation of the Licensed Software on a central Server for use in a network is not permitted in the case of the Workplace License.

Если Лицензиат приобретает Лицензию для рабочего места, Лицензиату разрешается устанавливать, запускать и использовать Лицензионное ПО по прямому назначению на 1 (одном) Рабочем месте в соответствии с Описанием продукта. Если Лицензиат приобретает несколько Лицензий для рабочего места, количество установок не должно превышать число приобретенных Лицензий для рабочего места. Установка Лицензионного ПО на центральный Сервер для использования в сети в случае приобретения Лицензии для рабочего места не допускается.

With the free Workplace License, the Licensee receives the Licensed Software without a license key and without a dongle. The Licensed Software is then not tied to any particular hardware.

С безвозмездной Лицензией для рабочего места Лицензиат получает Лицензионное ПО без лицензионного ключа и физического электронного ключа. Лицензионное ПО в этом случае не привязано к какому-то конкретному

For the paid-for Workplace License (Single User License), the Licensed Software comes with a license key, may be protected with a dongle and may be dependent on certain hardware.

аппаратному устройству.

В случае платной Лицензии для рабочего места (Лицензия на одного пользователя) Лицензионное ПО поставляется в комплекте с лицензионным ключом, может быть защищено физическим электронным ключом и может привязываться к конкретному аппаратному устройству.

20.4.2 Demo License

20.4.2 Демонстрационная лицензия

Clause 20.4.1 applies correspondingly to a Demo License (free of charge), provided that:

Пункт 20.4.1 применяется соответствующим образом к Демонстрационной лицензии (предоставляемой безвозмездно) при условии, что:

a) the scope of functions of the Licensed Software is limited compared with the Workplace License in accordance with the provisions of the License Agreement and/or the Product Description, or

a) объем функций Лицензионного ПО ограничен по сравнению с Лицензией для рабочего места в соответствии с положениями Лицензионного соглашения и (или) Описания продукта, или

b) if the Licensed Software is provided to the Licensee for a fixed time period with the same scope of functions as the Workplace License; the Licensor grants the Licensee a correspondingly time-limited right to use the Licensed Software in accordance with the provisions of the License Agreement and/or the Product Description.

b) если Лицензионное ПО предоставляется Лицензиату на фиксированный срок с тем же набором функций, что и Лицензия для рабочего места. Лицензиар предоставляет Лицензиату соответствующее ограниченное по времени право на использование Лицензионного ПО в соответствии с положениями Лицензионного соглашения и (или) Описания продукта.

20.4.3 Network License

20.4.3 Сетевая лицензия

If the Licensee purchases a Network License, it is permitted to install the Licensed Software in the Network and to grant a certain number of Users access to the Licensed Software ("Floating License"). In this case the

Если Лицензиат приобретает Сетевую лицензию, ему разрешается устанавливать Лицензионное ПО в Сети и предоставлять определенному числу Пользователей доступ к

Licensee is entitled to have the Licensed Software used simultaneously by a maximum number of Users equivalent to the number of licenses purchased ("Concurrent Users").

Лицензионному ПО («Плавающая лицензия»). В таком случае Лицензиат имеет право на то, чтобы Лицензионное ПО одновременно использовалось максимальным числом Пользователей, равным числу приобретенных лицензий («Одновременные пользователи»).

20.4.4   Server Parameter License

20.4.4   Лицензия по параметрам сервера

If the Licensee purchases a Server Parameter License, it is permitted to install the Licensed Software on one (1) central Server and to grant an unlimited number of Users access to the Licensed Software provided the Server does not exceed certain thresholds for technical parameters in accordance with the provisions of the License Agreement and/or the Product Description (e.g., number of processor cores, number of clients, etc.)

Если Лицензиат приобретает Лицензию по параметрам сервера, ему разрешается установить Лицензионное ПО на 1 (один) центральный Сервер и предоставить неограниченному числу Пользователей доступ к Лицензионному ПО при условии, что технические параметры Сервера не превышают определенные пороговые значения в соответствии с положениями Лицензионного соглашения и (или) Описанием продукта (например, количество ядер процессора, количество клиентов и т.д.).

20.5   The number of licenses purchased is specified in the License Agreement. The Licensee may purchase more licenses in addition to the licenses originally purchased in the License Agreement. The Purchase of more licenses is done either by a corresponding order by the Licensee in text form or by use of the Licensed Software by additional Users according to the following provisions:

20.5   Число приобретаемых лицензий указывается в Лицензионном соглашении. Лицензиат может приобрести новые лицензии дополнительно к уже приобретенным ранее по Лицензионному соглашению. Приобретение дополнительных лицензий осуществляется либо путем направления Лицензиатом соответствующего заказа в письменном виде, либо посредством использования Лицензионного ПО дополнительными Пользователями на следующих условиях:

20.5.1   In the case of Workplace Licenses, each additional installation on a Workplace shall be deemed a Purchase of an additional Workplace License.

20.5.1   В случае Лицензий для рабочего места — каждая дополнительная установка на Рабочем месте считается Приобретением дополнительной Лицензии для

20.5.2 In the case of Network Licenses, use within the meaning of clause 20.4.3 beyond the number of permitted Concurrent Users shall be deemed a Purchase of an additional Network License.

20.5.3 In the case of Server Parameter Licenses, the following applies: If one or more parameters of the Server used exceed(s) the threshold given in the License Agreement and/or the Product Description, this shall be deemed an order of one or more new additional Server Parameter Licenses depending on the factor by which the Server exceeds the thresholds in question. If the Licensed Software is used on more than one Server, this shall be deemed an order of one or more new additional Server Parameter Licenses, depending what number of Servers the Licensed Software is used on.

20.5.4 In the case of On-Premise Products provided for a limited time, each additional license or license upgrade runs until expiration of the agreed term of the original license for the Product in question.

21. HARDWARE ENVIRONMENT

Unless otherwise specified in the relevant Product Description, the Licensee is entitled subject to clause 8 to use On-Premise Products in

20.5.2 В случае Сетевой лицензии — использование согласно пункту 20.4.3 с количеством Параллельных пользователей, превышающем разрешенное, считается Приобретением дополнительной Сетевой лицензии.

20.5.3 В случае с Лицензиями по параметрам сервера применяются следующие положения: если один или несколько параметров используемого Сервера превышают пороговые значения, установленные в Лицензионном соглашении и (или) Описании продукта, это считается заказом на одну или несколько дополнительных Лицензий по параметрам сервера в зависимости от значения, на которое Сервером превышены пороговые значения. Если Лицензионное ПО используется более чем на одном Сервере, это считается заказом на одну или несколько дополнительных Лицензий по параметрам сервера в зависимости от того, на каком количестве Серверов используется Лицензионное ПО.

20.5.4 В случае с Продуктами, устанавливаемыми локально, предоставленных на ограниченный срок, каждая дополнительная лицензия или расширение лицензии действуют до истечения согласованного срока первоначальной лицензии на соответствующий Продукт.

21. АППАРАТНАЯ СРЕДА

Если в соответствующем Описании продукта не указано иное, Лицензиат имеет право с учетом пункта 8 использовать Продукты,

conformity with the license while observing the agreed license volume on any available hardware and in any system environment, provided that this system environment corresponds to the specified machine type, if any. However, if the Licensee changes hardware, it is required to delete the previously installed On-Premise Product and the related license key from the previously used hardware.

устанавливаемые локально, в соответствии с лицензией, соблюдая согласованный в лицензии объем, на любом доступном аппаратном обеспечении и в любой системной среде при условии, что такая системная среда соответствует типу оборудования. Однако если Лицензиат изменяет аппаратные средства, он обязан удалить ранее установленный Продукт, устанавливаемый локально, и соответствующий лицензионный ключ с ранее используемого аппаратного средства.

PART C – SPECIAL PROVISIONS FOR MOBILE APPS

22. DOWNLOADING MOBILE APPS

22.1 The Licensor makes the Licensed Software available for download from a Server via a designated website or a dedicated online marketplace (app store) of a third party.

22.2 Clauses 19.2 and 19.4 apply mutatis mutandis.

23. GRANT OF RIGHTS TO MOBILE APPS

23.1 Unless otherwise agreed in the License Agreement, the Licensor grants the Licensee a limited, non-exclusive, non-transferable (except as provided otherwise in clause 6.6, non-sublicensable right to use the Licensed Software according to this clause 23 and clause 5 in accordance with the relevant Product Description.

23.2 The Licensee is permitted to install, run and use the Licensed Software for the intended purposes on a mobile device (smartphone, tablet) in accordance with

ЧАСТЬ C. СПЕЦИАЛЬНЫЕ ПОЛОЖЕНИЯ ДЛЯ МОБИЛЬНЫХ ПРИЛОЖЕНИЙ

22. СКАЧИВАНИЕ МОБИЛЬНЫХ ПРИЛОЖЕНИЙ

22.1 Лицензиар обеспечивает возможность скачивания Лицензионного ПО с Сервера через указанный веб-сайт или специальную онлайн платформу (магазин приложений) третьего лица.

22.2 Пункты 19.2 и 19.4 применяются с соответствующими изменениями.

23. ПРЕДОСТАВЛЕНИЕ ПРАВ НА МОБИЛЬНЫЕ ПРИЛОЖЕНИЯ

23.1 Если в Лицензионном соглашении не указано иное, Лицензиар предоставляет Лицензиату неисключительное, ограниченное, не подлежащее передаче (кроме предусмотренного пунктом 6.6) и сублицензированию право на использование Лицензионного ПО в соответствии с настоящим пунктом 23 и пунктом 5, а также Описанием продукта.

23.2 Лицензиату разрешается устанавливать, запускать и использовать Лицензионное ПО по прямому назначению на

the Product Description.

23.3 Rights to the Licensed Software in Mobile Apps are generally granted perpetually. However, the Licensor may specify in the License Agreement that the Licensed Software is provided to the Licensee not on a perpetual basis but for a limited period. In this case the rights are granted on a time-limited basis in accordance with the provisions of the relevant License Agreement and/or the Product Description.

24. DEVICES

Clause 21 applies accordingly to Mobile Apps with the proviso that for Mobile Apps, the term "hardware" refers to the mobile device of the User.

PART D – SPECIAL PROVISIONS FOR EMBEDDED SOFTWARE

25. GRANT OF RIGHTS FOR EMBEDDED SOFTWARE

25.1 If the Licensee purchases Embedded Software, the Licensor grants the Licensee a limited, non-exclusive, non-sublicensable right to use the Licensed Software as software integrated into the device in machine-executable object code according to this clause 25 and clause 5 for proper use of the respective device in accordance with the relevant Product Description ("Runtime License"). The use of the Licensed Software is limited to the respective device. The Licensee is

мобильном устройстве (смартфоне, планшете) в соответствии с Описанием продукта.

23.3 Права на Лицензионное ПО в Мобильных приложениях, как правило, предоставляются на неограниченный срок. Однако Лицензиар может указать в Лицензионном соглашении, что Лицензионное ПО предоставляется Лицензиату не бессрочно, а на ограниченный период времени. В таком случае права предоставляются на ограниченный срок в соответствии с положениями соответствующего Лицензионного соглашения и (или) Описания продукта.

24. УСТРОЙСТВА

Пункт 21 применяется соответствующим образом к Мобильным приложениям с оговоркой, что для Мобильных приложений термин «аппаратные средства» относится к мобильному устройству Пользователя.

ЧАСТЬ D. СПЕЦИАЛЬНЫЕ ПОЛОЖЕНИЯ ДЛЯ ВСТРОЕННОГО ПРОГРАММНОГО ОБЕСПЕЧЕНИЯ

25. ПРЕДОСТАВЛЕНИЕ ПРАВ НА ВСТРОЕННОЕ ПРОГРАММНОЕ ОБЕСПЕЧЕНИЕ

25.1 Если Лицензиат приобретает Встроенное ПО, Лицензиар предоставляет Лицензиату ограниченное, неисключительное, не подлежащее сублицензированию право на использование Лицензионного ПО как программного обеспечения, интегрированного в устройство, в соответствии с настоящим пунктом 25 и пунктом 5 по прямому назначению соответствующего устройства согласно Описанию

therefore in particular not authorized to use the Licensed Software separately from this device (standalone) on other hardware.

25.2 In deviation from clause 6.6, for Embedded Software the Licensee is entitled to resell the Licensed Software as part of the respective device but solely in compliance with clause 25.1.

PART E – SPECIAL PROVISIONS FOR SDKS AND SOURCE CODE

26. PROVISION AND GRANT OF RIGHTS FOR SDKS AND SOURCE CODE

26.1 Regarding the delivery and provision of access to SDKs and Source Code, clauses 19.1 - 19.3 apply mutatis mutandis.

26.2 If the subject matter of a License Agreement is a SDK, the Licensor grants the Licensee a perpetual, non-exclusive license to the object code of the Licensed Software solely for the purposes of developing its own products for the named system of Phoenix Contact or of the End Customer. The specific scope of the permitted use of the relevant SDK and applicable restrictions, e.g., development environment and target systems, are set forth in a separate agreement between Licensor and Licensee (e.g., the License Agreement). If the SDK also contains Source Code, the Licensor grant the Licensee a perpetual, non-exclusive license for this Source Code solely for the purposes of internal debugging of the Licensed Software. The Licensee may compile the so-modified Licensed Software and integrate it into the

продукта (далее «Лицензия на использование»). Использование Лицензионного ПО ограничивается соответствующим устройством. Поэтому Лицензиат не может, в частности, использовать Лицензионное ПО отдельно от устройства (автономно) на других аппаратных средствах.

25.2 В отличие от пункта 6.6, в случае со Встроенным ПО Лицензиат имеет право перепродавать Лицензионное ПО как часть соответствующего устройства, но только в соответствии с пунктом 25.1.

ЧАСТЬ E. СПЕЦИАЛЬНЫЕ ПОЛОЖЕНИЯ ДЛЯ SDK И ИСХОДНОГО КОДА

26. ПРЕДОСТАВЛЕНИЕ ПРАВ НА SDK И ИСХОДНЫЙ КОД

26.1 В отношении поставки и предоставления доступа к SDK и Исходному коду пункты 19.1–19.3 применяются с соответствующими изменениями.

26.2 Если предметом Лицензионного соглашения является Комплект средств для разработки ПО (SDK), Лицензиар предоставляет Лицензиату бессрочную неисключительную лицензию на объектный код Лицензионного ПО исключительно для целей разработки собственных продуктов для указанной системы «Феникс Контакт» или Конечного пользователя. Определенный разрешенный объем использования соответствующего SDK и применимые ограничения, например в отношении среды разработки и целевых систем, устанавливаются в отдельном соглашении между Лицензиаром и Лицензиатом (например, в Лицензионном соглашении). Если SDK также содержит Исходный код, Лицензиар предоставляет

respective devices of the Licensor. Any other use of the Source Code of the Licensed Software is strictly prohibited. In particular, the Licensee is not entitled to make functional modifications to the Licensed Software.

Лицензиату бессрочную неисключительную лицензию на такой Исходный код исключительно для целей внутренней отладки Лицензионного ПО. Лицензиат может скомпилировать измененное таким образом Лицензионное ПО и интегрировать его в соответствующие устройства Лицензиара. Любое другое использование Исходного кода Лицензионного ПО строго запрещается. В частности, Лицензиату не разрешается вносить функциональные изменения в Лицензионное ПО.

26.3 If the subject matter of a License Agreement is a Source Code, the Licensor grants the Licensee a perpetual, non-exclusive license to one (1) copy of the Source Code of the Licensed Software solely for the purposes of developing its own products for the named system of Phoenix Contact or of the End Customer. The specific scope of the permitted use of the relevant Source Code and applicable restrictions, e.g., development environment and target systems, are set forth in a separate agreement between Licensor and Licensee (e.g., the License Agreement).

26.3 Если предметом Лицензионного соглашения является Исходный код, Лицензиар предоставляет Лицензиату бессрочную неисключительную лицензию на 1 (один) экземпляр Исходного кода Лицензионного ПО исключительно для целей разработки собственных продуктов для указанной системы «Феникс Контакт» или Конечного пользователя. Определенный разрешенный объем использования соответствующего Исходного кода и применимые ограничения, например в отношении среды разработки и целевых систем, устанавливаются в отдельном соглашении между Лицензиаром и Лицензиатом (например, в Лицензионном соглашении).

26.4 Unless otherwise agreed, SDKs and/or Source Code are licensed as a Facility License.

26.4 Если не согласовано иное, SDK и (или) Исходный код предоставляются на основании Лицензии для объекта.

26.5 If the Licensee wishes to resell a perpetually provided SDK or perpetually provided Source Code to a third party, clause 6.6 applies provided that the Licensee, in addition to the requirements stated therein, informs the Licensor in writing about the resale and the identity and address of the third

26.5 Если Лицензиат желает перепродать предоставленные в бессрочное пользование SDK или Исходный код третьему лицу, применяется пункт 6.6 при условии, что Лицензиат дополнительно к указанным требованиям сообщает Лицензиару в письменном виде о перепродаже, с указанием имени /

party.

названия и адреса такого третьего лица.

PART F – SPECIAL PROVISIONS FOR CLOUD PRODUCTS

ЧАСТЬ F. СПЕЦИАЛЬНЫЕ ПОЛОЖЕНИЯ ДЛЯ ОБЛАЧНЫХ ПРОДУКТОВ

27. SPECIFICATION

27. СПЕЦИФИКАЦИЯ

27.1 Cloud Products within the meaning of these Software License Terms are web-based, multi-client-capable systems offered individually or in combination with other components and services.

27.1 В рамках настоящих Условий лицензии на ПО Облачные продукты являются многоклиентными системами с доступом через Интернет, предлагаемыми индивидуально или в сочетании с другими компонентами и услугами.

27.2 It is specified in the License Agreement which Cloud Products the Licensee purchases. The quality of the Cloud Products is conclusively specified in the individual Product Descriptions available at http://www.phoenixcontact.com for each Cloud Product and in these Software License Terms.

27.2 В Лицензионном соглашении указывается, какие Облачные продукты приобретает Лицензиат. Качество Облачных продуктов окончательно устанавливается в отдельных Описаниях продукта, доступных по адресу: http://www.phoenixcontact.com для каждого Облачного продукта и в настоящих Условиях лицензии на ПО.

27.3 The Licensor grants the Licensee access to the Cloud Products according to these Software License Terms in the version generally kept available by the Licensor.

27.3 Лицензиар предоставляет Лицензиату доступ к Облачным продуктам в соответствии с настоящими Условиями лицензии на ПО в версии, предоставленной Лицензиаром.

27.4 The Licensor is obliged to maintain the Cloud Products available for the Licensee for use via the internet and to make them accessible. The Cloud Products are available to the Licensee via the internet according to these Software License Terms. The Cloud Products are 98 % available on a monthly average (30 days) unless another availability rate is agreed in the License Agreement. Availability of Cloud Products exceeding the period stated above is not part of the Cloud Products and the Licensor is not required to provide the relevant Cloud Product for any such additional period.

27.4 Лицензиар обязан обеспечивать и поддерживать доступ к Облачным продуктам для Лицензиата для пользования ими через сеть Интернет. Облачные продукты доступны Лицензиату через сеть Интернет в соответствии с Условиями лицензии на ПО. Облачные продукты имеют коэффициент доступности 98 % в среднем в течение месяца (30 дней), если в Лицензионном соглашении не согласовано иное. Доступность Облачных продуктов, превышающая указанный выше период, не является частью

The point at which the availability of the Cloud Products is measured is the WAN-side router output of the data center in which the relevant Cloud Product is hosted. Maintenance times in accordance with clause 30 are to be deducted from the "target availability" when calculating availability.

27.5 If the Licensor's offer specifies that certain devices ("Devices") may be connected to the Cloud via the internet, such Devices can only be connected with the relevant Cloud Product. In this respect the option of connecting Devices with each other is not a feature of the Cloud Products.

27.6 Cross-customer visibility or accessibility of the Licensee's Devices by other Users on Devices of another customer is not a feature of the Cloud Products either.

27.7 The Licensee acknowledges that the Cloud Products are a multi-client system and the Licensee has no right to the benefit from a dedicated physical system for its own exclusive use.

27.8 The License Agreement for Cloud Products and these Software License Terms do not include any internet access for the Licensee, but solely the internet connection of the Cloud Products.

Облачных продуктов, и Лицензиар не обязан предоставлять соответствующие Облачные продукты на любой такой дополнительный период. Точка, в которой измеряется доступность Облачных продуктов, находится на выходе роутера со стороны WAN в дата-центре, который обеспечивает хостинг соответствующего Облачного продукта. Периоды технического обслуживания согласно пункту 30 должны вычитаться из показателя «целевой доступности» при расчете показателя фактической доступности.

27.5 Если в предложении Лицензиара указано, что конкретные устройства («Устройства») могут быть подсоединены к Облаку через сеть Интернет, то такие Устройства могут быть подсоединены только к соответствующему Облачному продукту. В связи с этим Облачные продукты не имеют опции соединения Устройств друг с другом.

27.6 Облачные продукты также не имеют опций видимости клиентов друг для друга или доступа к Устройствам Лицензиата другими Пользователями на Устройствах другого клиента.

27.7 Лицензиат признает, что Облачные продукты — это многоклиентная система, и Лицензиат не имеет права использовать предназначенную для строго определённой цели физическую систему исключительно в своих целях.

27.8 Лицензионное соглашение на Облачные продукты и настоящие Условия лицензии на ПО не предусматривают предоставление доступа к сети Интернет для Лицензиата, и в них говорится только, что Облачные продукты

28. USE OF CLOUD PRODUCTS

28.1 The Licensor provides the Licensee after its registration with the necessary data for access (User name, password). The Licensee undertakes to keep its access data and passwords confidential and to inform the Licensor without delay in writing or by email if third parties obtain knowledge of the usage data and/or passwords of the Licensee. Clause 4.5 remains unaffected.

28.2 To use the Cloud Products for a certain Device, it is necessary for the Licensee to register the Device in question in the relevant Cloud Product. The device is enabled for using this Cloud Product by such a registration. All enabled devices of the Licensee are described as "Active Devices" below.

28.3 The Licensee is entitled at any time to deregister an Active Device again and thus to disable it. All disabled devices of the Licensee are described as "Inactive Devices" below. In the case of Cloud Products that require a User account with a certain usage allocation, all Active Devices are automatically disabled and become Inactive Devices when the Licensee's account contains no more usage allocation.

28. ИСПОЛЬЗОВАНИЕ ОБЛАЧНЫХ ПРОДУКТОВ

28.1 После регистрации Лицензиар предоставляет Лицензиату необходимые данные для доступа (имя Пользователя, пароль). Лицензиат обязуется хранить в тайне данные для получения доступа и пароли и немедленно уведомить Лицензиара в письменном виде или по электронной почте, если третьим лицам станут известные данные и (или) пароли Лицензиата. Пункт 4.5 остается без изменений.

28.2 Для использования Облачных продуктов на определенном Устройстве Лицензиату необходимо зарегистрировать такое Устройства в соответствующем Облачном продукте. После регистрации Устройство будет активировано для работы с Облачным продуктом. Все активированные устройства Лицензиата ниже описываются как «Активные устройства».

28.3 Лицензиат имеет право в любое время деактивировать Активное устройство через функцию отмены регистрации. Все деактивированные устройства Лицензиата ниже описываются как «Неактивные устройства». В случае с Облачными продуктами, требующими наличия аккаунта Пользователя и определенного распределения среди пользователей, все Активные устройства автоматически деактивируются и становятся Неактивными устройствами, когда аккаунт Лицензиата не предусматривает дополнительного распределения среди

28.4 To use the Cloud Products in a manner corresponding to the Product Description, certain technical system requirements must be met by the Licensee. The necessary browsers for using the Cloud Products are described in the latest Release Notes for each Cloud Product. Licensor is not responsible for any consequences of Licensee's failure to meet such technical system requirements.

28.4 Для использования Облачных продуктов таким образом, который соответствует Описанию продукта, Лицензиат должен обеспечить выполнение определенных требований к технической системе. Необходимые браузеры для использования Облачных продуктов указаны в последних Примечаниях к версии для каждого Облачного продукта. Лицензиар не несет ответственности за любые последствия несоблюдения Лицензиатом таких требований.

28.5 The Licensor is entitled to amend the Release Notes at its discretion while ensuring that at least two (2) browsers available free on the market are always supported.

28.5 Лицензиар вправе внести изменения в Примечания к версии по своему усмотрению, гарантируя поддержку по крайней мере для 2 (двух) бесплатных браузеров, доступных на рынке.

28.6 The Licensee is required to use the Cloud Products (i) only in the context of applicable law and any restrictions in the User manual and (ii) not in a manner that jeopardizes the safety or performance of the Cloud Products.

28.6 Лицензиат обязан использовать Облачные продукты (i) только в рамках применимого права и любых ограничений, установленных Руководством пользователя, и (ii) таким способом, который не ставит под угрозу безопасность или эффективность Облачных продуктов.

29. RIGHTS OF USE FOR CLOUD PRODUCTS

29. ПРАВА ИСПОЛЬЗОВАНИЯ ОБЛАЧНЫХ ПРОДУКТОВ

29.1 If the Licensee orders Cloud Products, the Licensor grants the Licensee a non-transferable, non-exclusive, global right, limited to the term of the relevant License Agreement, to use the relevant Cloud Products online in accordance with this clause 29 and clause 5. This includes the right to access the web-based portal application and enable copies arising during such access of the program code in the unaided memory of the Licensee.

29.1 Если Лицензиат заказывает Облачные продукты, Лицензиар предоставляет Лицензиату не подлежащее передаче, неисключительное, действующее на территории всех стран мира право, ограниченное сроком соответствующего Лицензионного соглашения, использования Облачных продуктов в режиме онлайн в соответствии с настоящим пунктом 29 и пунктом 5. Сюда входит право доступа к приложениям на веб-портале и

29.2 The Licensor maintains at any time a current version of the Product Description for the Cloud Products at http://www.phoenixcontact.com for electronic retrieval by the Licensee. The Licensor hereby grants the Licensee a non-exclusive right, limited to the term of the relevant License Agreement, to electronically retrieve and print out the Product Description once and to produce a backup copy.

30. MAINTENANCE TIMES

The Licensor may carry out scheduled maintenance during scheduled maintenance times. These scheduled maintenance times are usually carried out between 6pm (CET) and 8pm (CET) and take a maximum of 2 hours per calendar month. The Licensor shall notify the Licensee of planned maintenance times with appropriate advance notice as far as possible and reasonable. In addition, the Licensor is entitled to carry out unplanned maintenance work of up to two (2) hours a month. During these times, the relevant Cloud Product will not be available.

активации копий программного кода, непроизвольно запомненных Лицензиатом в результате такого доступа.

29.2 Лицензиар обеспечивает постоянное наличие последних версий Описания продукта для Облачных продуктов по адресу: http://www.phoenixcontact.com, где Лицензиат может получить их, используя электронные средства. Лицензиар настоящим предоставляет Лицензиату неисключительное право, ограниченное сроком соответствующего Лицензионного соглашения, с помощью электронных средств извлечь и распечатать Описание продукта один раз, а также сделать резервную копию.

30. ПЕРИОДЫ ТЕХНИЧЕСКОГО ОБСЛУЖИВАНИЯ

Лицензиар может проводить запланированное техническое обслуживание в установленные сроки. Запланированное время для технического обслуживания — между 18 часами (центральноевропейское время CET) и 20 часами (центральноевропейское время CET). Техническое обслуживание не может занимать более 2 часов в течение календарного месяца. Лицензиар уведомляет Лицензиата о запланированном обслуживании заранее, насколько это возможно и целесообразно. Кроме того, Лицензиар вправе проводить внеплановые технические работы в течение срока, не превышающего 2 (два) часа в месяц. В периоды технического обслуживания соответствующий Облачный продукт будет недоступен.

31. CUSTOMER DATA

31.1 As between the Licensor and Licensee, the Licensee is the sole owner of all property rights, ownership rights and claims to the Customer Data. The Licensee grants the Licensor and its vicarious agents a non-exclusive right to use the Customer Data for providing the Cloud Products. Additionally, the Licensor is entitled to make copies of Customer Data in anonymized form (i.e., without information identifying the customer) and to analyze the anonymized data on an aggregate basis with anonymized data of other customers, e.g., for statistical purposes and to improve and develop the Cloud Products. With reference to personal data, the prevailing provisions of clause 14 and the agreement on contract data processing remain unaffected.

31.2 The Licensee is prohibited from uploading Customer Data to the Cloud Products which:

   a) infringe third parties' rights

   b) violate applicable law;

   c) may lead to an infringement of applicable law by the Licensor;

   d) impair the security of the Cloud Products or

   e) substantially impair the performance of the Cloud Products.

31. КЛИЕНТСКИЕ ДАННЫЕ

31.1 В отношениях Лицензиара и Лицензиата последний является единственным владельцем всех имущественных прав, прав собственности и прав требования в отношении Клиентских данных. Лицензиат предоставляет Лицензиару и его доверенным лицам неисключительное право использования Клиентских данных для предоставления Облачных продуктов. Кроме того, Лицензиар вправе делать копии Клиентских данных в обезличенной форме (т.е. без информации, идентифицирующей заказчика) и анализировать такие данные, агрегировав их с данными других клиентов, например в целях ведения статистики для усовершенствования и развития Облачных продуктов. В отношении персональных данных имеющие преимущественную силу положения пункта 14 и соглашение об обработке данных остаются без изменений.

31.2 Лицензиату запрещается загружать в Облачные продукты Клиентские данные, которые:

   a) нарушают права третьих лиц;

   b) нарушают применимое законодательство;

   c) могут привести к нарушению законодательства Лицензиаром;

   d) подрывают безопасность Облачных продуктов; или

   e) существенно ухудшают работу Облачных продуктов.

31.3 Upon request by the Licensor the Licensee shall delete from the Cloud Products any Customer Data that breaches clause 31.2 by a reasonable period of time set by the Licensor. Depending on the risk arising from the Customer Data breaching clause 31.2 for the Cloud Products or the Licensor, in individual cases a request for direct deletion may also constitute a reasonable period of time. The Licensor is entitled to delete or block from the Cloud Products any Customer Data that the Licensee does not delete from the Cloud Products by the aforementioned period of time. No period needs to be set where the Licensor would face more than merely immaterial disadvantages if the respective Customer Data is not immediately deleted or blocked. In this case the Licensor is entitled to delete or block the Customer Data in question immediately.

31.4 If the Licensee stores Customer Data in Cloud Products that infringe clause 31.2, the Licensee shall indemnify the Licensor against all resulting claims asserted against the Licensor and the Licensee shall bear the resulting costs unless it is not at fault. This also covers appropriate legal costs for the defense of such claims. The Licensor shall inform the Licensee of such third-party claims.

31.5 The Licensee (i) is solely responsible for the accuracy, quality, integrity and legality of the Customer Data and of the methods by which it procures the Customer Data, (ii) shall make commercially reasonable efforts to

31.3 По требованию Лицензиара Лицензиат удаляет из Облачных продуктов любые Клиентские данные, которые нарушают пункт 31.2, в разумные сроки, установленные Лицензиаром. В зависимости от риска, связанного с нарушением пункта 31.2 о Клиентских данных в отношении Облачных продуктов или Лицензиара, в отдельных случаях в требовании об удалении может также быть указан разумный срок. Лицензиар имеет право удалить или заблокировать в Облачных продуктах любые Клиентские данные, которые не удалены Лицензиатом из Облачных продуктов в указанный срок. Срок удаления не устанавливается, если в отсутствие немедленного удаления или блокировки соответствующие Клиентские данные могут нанести существенный ущерб Лицензиару. В этом случае Лицензиар вправе немедленно удалить или заблокировать соответствующие Клиентские данные.

31.4 Если Лицензиат хранит в Облачных продуктах Клиентские данные, нарушающие пункт 31.2, Лицензиат обязуется оградить Лицензиара от всех связанных с этим претензий и требований и понести соответствующие затраты, за исключением тех случаев, когда вина Лицензиата отсутствует. Данное положение также распространяется на юридические и судебные издержки на защиту от таких претензий и требований. Лицензиар обязуется сообщать Лицензиату о таких претензиях и требованиях третьих лиц.

31.5 Лицензиат (i) несет единоличную ответственность за точность, качество, целостность и законность Клиентских данных и методы, которыми он получает Клиентские данные, (ii) обязан приложить

avoid unauthorized access to or unauthorized use of Cloud Products, and shall inform the Licensor without delay about every such unauthorized access or unauthorized use and (iii) shall use the services solely in accordance with the Product Description. The Licensor is under no obligation to check the legality of Customer Data.

31.6 The Licensee explicitly acknowledges that the Licensor does not monitor or control the content of communication or data of the Licensee or its Users that is uploaded to the Cloud Products or transferred via the Cloud Products, and that the Licensor is not liable for the content of the communication or transmissions.

32. CLIENT SOFTWARE FOR CLOUD PRODUCTS

32.1 If Client Software is needed for access to a certain Cloud Product, (i) the Licensor will provide the Licensee with the Client Software for the Cloud Product in question according to clause 19 and grant the Licensee during the term of the relevant License Agreement a non-exclusive, non-transferrable right to use the Client Software solely for accessing the related Cloud Product and for its use according to the terms and provisions of these Software License Terms.

разумные с экономической точки зрения усилия, чтобы исключить несанкционированный доступ к Облачным продуктам или их несанкционированное использование, и обязуется незамедлительно уведомлять Лицензиара о таком несанкционированном доступе или использовании, и (iii) обязуется использовать сервисы исключительно в соответствии с Описанием продукта. Лицензиар не обязан проверять законность Клиентских данных.

31.6 Лицензиат в прямой форме признает, что Лицензиар не осуществляет мониторинг и контроль в отношении содержания коммуникаций или данных Лицензиата или его Пользователей, которые загружаются в Облачные продукты или передаются с помощью Облачных продуктов, и что Лицензиар не несет ответственности за содержание коммуникаций или передаваемых данных.

32. КЛИЕНТСКОЕ ПРОГРАММНОЕ ОБЕСПЕЧЕНИЕ ДЛЯ ОБЛАЧНЫХ ПРОДУКТОВ

32.1 Если для доступа к определенному Облачному продукту требуется Клиентское ПО, (i) Лицензиар предоставляет Лицензиату Клиентское ПО для Облачного продукта в соответствии с пунктом 19 и предоставляет Лицензиату на срок действия соответствующего Лицензионного соглашения неисключительное, не подлежащее передаче право использования Клиентского ПО исключительно для доступа к Облачному продукту и его использования в соответствии с настоящими Условиями лицензии на ПО.

32.2 If Client Software is needed according to the Licensor, the Licensee may only access the Cloud Product in question via the Client Software. Any other type of access is prohibited. The Licensor assumes no warranty and is not liable for access or attempts to access the Cloud Product in question by the Licensee in any way other than via the Client Software and is not responsible for defects or damage resulting from a breach of the aforementioned obligation by the Licensee.

32.2 Если Лицензиар устанавливает, что для доступа требуется Клиентское ПО, Лицензиат может получить доступ к Облачному продукту только через Клиентское ПО. Любой другой тип доступа запрещен. Лицензиар не несет ответственности за доступ или попытки доступа к Облачному продукту, совершаемые Лицензиатом другими способами (без применения Клиентского ПО), а также за дефекты или ущерб, возникающие по причине нарушения указанного выше обязательства со стороны Лицензиата.

32.3 The Licensee shall return all copies of the Client Software as soon as one of the following events occurs: (a) the termination of the License Agreement for the relevant Cloud Product or (b) communication by the Licensor that the Client Software is no longer necessary for accessing the relevant Cloud Product (e.g., in the case of updates or upgrades), together with a request by the Licensor to return the Client Software. Upon corresponding written request by the Licensor, the Licensee shall definitively destroy all copies of the Client Software instead of returning them according to the appropriate instructions of the Licensor such that they cannot be restored. The Licensee shall confirm to the Licensor within thirty (30) days of receipt of the request that the Licensee has met the above obligations.

32.3 Лицензиат обязуется вернуть все экземпляры Клиентского ПО, как только наступает одно из следующих событий: (a) Лицензионное соглашение в отношении соответствующего Облачного продукта расторгается; (b) Лицензиар сообщает о том, что Клиентское ПО более не требуется для доступа к Облачному продукту (например, в случае обновлений или модернизаций), и направляет Лицензиату запрос на возврат Клиентского ПО. По соответствующему письменному запросу Лицензиара Лицензиат обязан уничтожить без возможности их восстановления все экземпляры Клиентского ПО вместо его возврата в соответствии с указаниями Лицензиара. Лицензиат подтверждает Лицензиару выполнение указанных обязательств в течение 30 (тридцати) дней с момента получения запроса.

PART G – SPECIAL PROVISIONS FOR MAINTENANCE AND SUPPORT

33.   MAINTENANCE AND SUPPORT SERVICES

33.1   If the Licensor and Licensee agree on maintenance and support services for perpetually provided Licensed Software by entering into a corresponding Maintenance Agreement, the Licensor shall provide these maintenance and support services in accordance with these Software License Terms and the Maintenance Agreement. In case of contradictions between the provisions of these Software License Terms and the provisions of the Maintenance Agreement, the provisions of the Maintenance Agreement shall prevail. This clause 33 shall apply accordingly to SW Updates and SW Upgrades that the Licensor provides to the Licensee in accordance with clause 1 in a warranty case in the context of remedying defects.

33.2   The maintenance and support services comprise correcting defects, telephone and/or electronic User support as well as the provision of updates of the Licensed Software. In particular, Licensor shall provide, if available, SW Updates and SW Upgrades of the Licensed Software (and the updated documentation in each case) in accordance with the Maintenance Agreement. The Licensee is not entitled to modules, components or other products for which the Licensor issues separate licenses or charges additional fees. Unless otherwise agreed, the provision of Major Releases is not part of the maintenance and support services and requires a separate agreement

ЧАСТЬ G. СПЕЦИАЛЬНЫЕ ПОЛОЖЕНИЯ ДЛЯ УСЛУГ ПОДДЕРЖКИ И ОБСЛУЖИВАНИЯ

33.   УСЛУГИ ПОДДЕРЖКИ И ОБСЛУЖИВАНИЯ

33.1   Если Лицензиар и Лицензиат заключают соглашение об оказании услуг поддержки и обслуживания предоставленного в бессрочное пользование Лицензионного ПО, заключив Соглашение об обслуживании, Лицензиар оказывает такие услуги в соответствии с настоящими Условиями лицензии на ПО и положениями Соглашения об обслуживании. В случае расхождений между настоящими Условиями лицензии на ПО и положениями Соглашения об обслуживании преимущественную силу имеют положения Соглашения об обслуживании. Настоящий пункт 33 применяется соответствующим образом к Обновлениям ПО и Модернизациям ПО, которые Лицензиар предоставляет Лицензиату в соответствии с пунктом 1 в гарантийных случаях в связи с устранением дефектов.

33.2   Услуги поддержки и обслуживания включают исправление дефектов, службу поддержки Пользователей по телефону и (или) с использованием электронных средств связи, а также предоставление обновлений Лицензионного ПО. В частности, Лицензиар предоставляет, при наличии, Обновления и Модернизации для Лицензионного ПО (и обновленную документацию в каждом случае) в соответствии с Соглашением об обслуживании. Лицензиат не имеет права на получение модулей, компонентов или других продуктов, на которые Лицензиар выпускает отдельные лицензии или за которые взимает

between Licensor and Licensee.

дополнительную плату. Если не согласовано иное, предоставление Основных версий не входит в услуги поддержки и обслуживания и требует заключения отдельного соглашения между Лицензиаром и Лицензиатом.

33.3 The Licensee shall install all SW Updates and SW Upgrades without delay after receiving them or as soon as they become available and the Licensee is notified by the Licensor of the availability of SW Updates and SW Upgrades, in order to cease an infringement of a third-party intellectual property right or to remove a defect in the Licensed Software.

33.3 Лицензиат обязуется незамедлительно устанавливать все Обновления ПО и Модернизации ПО после их получения или как только они станут доступны, и Лицензиат будет получать уведомление от Лицензиара о доступности Обновлений ПО и Модернизаций ПО с целью прекращения нарушения интеллектуальных прав третьих лиц или удаления дефекта в Лицензионном ПО.

33.4 The maintenance and support services are provided for the current version of the Licensed Software and for a period of twelve (12) months maximum from when the current version is made for the previous version (n-1) unless the use of the latest version is unreasonable for the Licensee, e.g., if the current version contains defects or security risks; other version qualify for maintenance and support only if separately agreed between the Licensor and Licensee.

33.4 Услуги поддержки и обслуживания предоставляются в отношении действующей версии Лицензионного ПО на период, не превышающий 12 (двенадцать) месяцев с момента предоставления текущей версии для предыдущей версии (n-1), кроме тех случаев, когда использование последней версии для Лицензиата нецелесообразно, например, если текущая версия содержит дефекты или риски, связанные с безопасностью. Другая версия подлежит обслуживанию и поддержке только при наличии отдельного соглашения между Лицензиаром и Лицензиатом.

33.5 Further details on the scope of the maintenance and support services are set forth in the Maintenance Agreement. The Licensor may adapt, modify, reduce and/or amend the scope therein of maintenance and support services in accordance with clause 4.4.

33.5 Более подробная информация об объеме услуг поддержки и обслуживания приводится в Соглашении об обслуживании. Лицензиар может адаптировать, модифицировать, уменьшать и (или) изменять объем услуг поддержки и обслуживания в соответствии с пунктом 4.4.

33.6 Clause 1 of these Software License Terms applies only to maintenance and support services, insofar as the services in question are subject to mandatory statutory provisions related to contracts for work, leases or purchase contracts.

33.6 Пункт 1 настоящих Условий лицензии на ПО применяется только к услугам поддержки и обслуживания в том объеме, в каком на рассматриваемые услуги распространяются обязательные положения законодательства, регулирующие договоры подряда, аренды или купли-продажи.

Software License Terms for Turkey

This document contains the terms and conditions for your use of the Licensed Software ("**Software License Terms**") if you are located in **Turkey**.

1. APPLICABILITY

1.1 These Software License Terms apply to each case in which the Licensor provides Licensed Software to the Licensee, regardless of whether for a limited period or perpetually, provided the Licensee has its principal place of business in **Turkey**. For the purpose of these Software License Terms, the terms "**perpetual**" and "**perpetually**" shall mean" for the whole term of validity of exclusive rights to the Licensed Software"

1.2 Direct and indirect distribution

1.2.1 These Software License Terms apply both to cases where (1) a company of the Phoenix Contact Group provides the Licensed Software directly to an End Customer and to cases where (2) a company of the Phoenix Contact Group provides the Licensed Software by way of indirect distribution to an Authorized Distributor and an End Customer purchases this Licensed Software from this Authorized Distributor.

1.2.2 The "**End Customer**" is a company that purchases the Licensed Software directly from a Phoenix Contact company or indirectly via an Authorized Distributor and uses the Licensed Software for its own business purposes by certain designated natural persons (such persons, "**Users**").

1.2.3 The "**Authorized Distributor**" is a company authorized by a Phoenix Contact company to distribute certain

Türkiye için Yazılım Lisansı Koşulları

Bu belge, **Türkiye'deki** kullanıcılar için, Lisanslı Yazılım'ın kullanımına ilişkin hüküm ve koşulları ("**Yazılım Lisansı Koşulları**") içermektedir.

1. SÖZLEŞMENİN UYGULANMASI

1.1 Bu Yazılım Lisansı Koşulları, Lisans Alanın işyeri merkezinin **Türkiye'de** bulunması halinde, Lisans Verenin Lisans Alana, sınırlı bir süreyle veya daimi olarak verilmiş olduğuna bakılmaksızın, Lisanslı Yazılım sağladığı her halde uygulanır.

1.2 Doğrudan ve dolaylı dağıtım

1.2.1 Bu Yazılım Lisansı Koşulları hem (1) Phoenix Contact Grubunun bir şirketinin doğrudan bir Nihai Müşteriye Lisanslı Yazılım temin ettiği durumlarda hem de (2) Phoenix Contact Grubunun bir şirketinin Lisanslı Yazılımı dolaylı olarak bir Yetkili Distribütöre dağıtım yaptığı ve bir Nihai Müşterinin bu Lisanslı Yazılımı bu Yetkili Distribütör'den satın aldığı hallerde uygulanır.

1.2.2 "**Nihai Müşteri**" doğrudan bir Phoenix Contact şirketinden veya dolaylı olarak Yetkili Distribütör aracılığıyla Lisanslı Yazılım satın alan ve Lisanslı Yazılımı, belirlediği gerçek kişiler vasıtasıyla (bu kişiler, "**Kullanıcılar**") kendi işi için kullanan bir şirkettir.

1.2.3 "**Yetkili Distribütör**" Phoenix Contact şirketi tarafından belirli Lisanslı Yazılımlarını Nihai Müşterilere kendi

Licensed Software to End Customers as an authorized reseller in its own name and on its own account. Authorization by Phoenix Contact may occur on the basis of a distributor contract between the Phoenix Contact company and the company in question or in another manner, as stipulated by Phoenix Contact.

adına ve kendi hesabına yetkili satıcı sıfatıyla dağıtması için yetkilendirilen şirkettir. Phoenix Contact tarafından yetkilendirme, Phoenix Contact şirketi ile söz konusu şirket arasında bir distribütörlük sözleşmesi imzalanarak veya Phoenix Contact tarafından öngörülen başka bir şekilde yapılabilir.

1.2.4 In the aforementioned case 1 in clause 1.2.1, i.e., direct distribution of Licensed Software by Phoenix Contact to the End Customer, the "**Licensor**" refers to the relevant company of the Phoenix Contact Group that provides the Licensed Software to the End Customer and that the "**Licensee**" refers to the relevant End Customer that purchases the Licensed Software.

1.2.4 Yukarıda belirtilen madde 1.2.1'deki 1. durumda, yani Lisanslı Yazılımın Phoenix Contact tarafından Nihai Müşteriye doğrudan dağıtımında, "**Lisans Veren**" Phoenix Contact Grubunun Lisanslı Yazılımı Nihai Müşteriye temin eden ilgili şirketini ifade eder, "**Lisans Alan**" da Lisanslı Yazılımı satın alan ilgili Nihai Müşteriyi ifade eder.

1.2.5 In the aforementioned case 2 in clause 1.2.1, i.e., indirect distribution of Licensed Software via an Authorized Distributor: (a) as between the Phoenix Contact company that provides the Licensed Software on one side and the Authorized Distributor on the other, the Phoenix Contact company is the "**Licensor**" and the Authorized Distributor is the "**Licensee**" and (b) as between this Authorized Distributor and the relevant End Customer, the Authorized Distributor is the "**Licensor**" and the End Customer is the "**Licensee**". For the avoidance of doubt, such indirect distribution via an Authorized Distributor does not constitute a contractual relationship between Phoenix Contact and the End Customer.

1.2.5 Yukarıda belirtilen madde 1.2.1'deki 2. durumda, yani Lisanslı Yazılımın Yetkili Distribütör aracılığıyla dolaylı dağıtımında: (a) Lisanslı Yazılımı temin eden Phoenix Contact şirketi ile, diğer tarafta Yetkili Distribütör arasında, Phoenix Contact şirketi "**Lisans Veren**", Yetkili Distribütör de "**Lisans Alan**" konumundadır, ve (b) bu Yetkili Distribütör ile ilgili Nihai Müşteri arasında, Yetkili Distribütör "**Lisans Veren**", Nihai Müşteri de "**Lisans Alan**" konumundadır. Tereddüde mahal vermemek adına, Yetkili Distribütör aracılığıyla bu gibi bir dolaylı dağıtım nedeniyle, Phoenix Contact ile Nihai Müşteri arasında bir sözleşme ilişkisi kurulmaz.

1.3 Part A of these Software License Terms contains general provisions that apply to all Licensed Software and to any agreed maintenance and support services.

1.3 Bu Yazılım Lisansı Koşullarının A Bölümü, bütün Lisanslı Yazılımlar ve mutabık kalınan bakım ve destek hizmetleri için uygulanacak genel hükümleri içerir.

1.4 The special provisions in Part B apply only to On-Premise Products if and insofar as the Licensee purchases On-Premise Products.

1.5 The special provisions in Part C apply only to Mobile Apps, if and insofar as the Licensee purchases Mobile Apps.

1.6 The special provisions in Part D apply only to Embedded Software, if and insofar as the Licensee purchases Embedded Software.

1.7 The special provisions in Part E apply only to Software Development Toolkits (SDKs) and Source Code, if and insofar as the Licensee purchases SDKs or Source Code.

1.8 The special provisions in Part F apply only to Cloud Products if and insofar as the Licensee purchases Cloud Products.

1.9 The special provisions in Part G apply only to maintenance and support services, if and insofar as the Licensee purchases maintenance and support services.

1.10 The offer to purchase the Licensed Software on these Software License Terms is aimed only at natural and/or legal persons or partnerships that purchase the Licensed Software in exercise of their commercial or self-employed professional activities (entrepreneurs).

PART A – GENERAL PROVISIONS

2. DEFINITIONS

In addition to the definitions in clause 1, for the purposes of interpreting these Software License Terms the following terms have the meanings ascribed to them here in

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1.4 B Bölümündeki özel hükümler, Lisans Alanın İş-Yerinde Ürünler satın alması halinde, sadece İş-Yerinde Ürünler için uygulanır .

1.5 C Bölümündeki özel hükümler, Lisans Alanın Mobil Uygulamalar (Mobile App) satın alması halinde sadece Mobil Uygulamalar için uygulanır.

1.6 D Bölümündeki özel hükümler, Lisans Alanın Gömülü Yazılım satın alması halinde sadece Gömülü Yazılım için uygulanır.

1.7 E Bölümündeki özel hükümler, Lisans Alanın Yazılım Geliştirme Araç Setleri (SDK'lar) ve Kaynak kod satın alması halinde sadece Yazılım Geliştirme Araç Setleri (SDK'lar) ve Kaynak kod için uygulanır.

1.8 F Bölümündeki özel hükümler Lisans Alanın Bulut Ürünleri satın alması halinde sadece Bulut Ürünleri için uygulanır.

1.9 G Bölümündeki özel hükümler Lisans Alanın bakım ve destek hizmetleri satın alması halinde bakım ve destek hizmetleri için geçerlidir.

1.10 Bu Yazılım Lisansı Koşullarındaki Lisanslı Yazılım satın alma teklifi sadece kendi ticari veya serbest meslek (girişimcilik) faaliyetlerinde kullanmak amacıyla Lisanslı Yazılım satın alan gerçek ve/veya tüzel kişilere veya ortaklıklara yöneliktir.

BÖLÜM A – GENEL HÜKÜMLER

2. TANIMLAR

Madde 1'deki tanımlara ek olarak, bu Yazılım Lisansı Koşullarının yorumlanması bakımından, aşağıdaki terimler, işbu Madde 2'de belirtilen anlamlara gelir.

clause 2.

2.1 "**Affiliate**" is any company controlled by the relevant party to the License Agreement or that controls the relevant party or that is under the joint control of a third party along with the relevant party. For the purpose of this provision, "control" means (i) holding over 50 % of the voting shares in the relevant company or (ii) having the legal and/or actual option of determining the management and/or the major business actions of the relevant company.

2.2 "**Client Software**" means the application software (if available) in its latest version that the Licensee must install on a client to gain access to certain On-Premise Products or Cloud Products including the relevant user documentation, if available.

2.3 "**Cloud Product**" means Licensed Software that does not require installation on the Licensee's servers for proper use but is operated on the systems of Phoenix Contact or third parties commissioned by it and which is accessed by the User by remote data transmission (internet, VPN, etc.).

2.4 "**Company License**": If the Licensee purchases a Company License, it is entitled to use the Licensed Software according to these Software License Terms only for its own company and not in a group of companies.

2.5 "**Confidential Information**" is all information and documents of the other party designated as confidential or to be considered confidential based on the circumstances, especially information about business processes, business contacts and

2.1 "**İştirak**" Lisans Sözleşmesinin ilgili tarafınca kontrol edilen veya ilgili tarafı kontrolü altında bulunduran veya ilgili tarafla birlikte bir üçüncü şahsın ortak kontrolü altında olan bir şirketi ifade eder. Bu hüküm bakımından, "kontrol" (i) ilgili şirketin oy hakkına sahip hisselerinin %50'sinden fazlasını elinde bulundurmayı veya (ii) ilgili şirketin yönetimini ve/veya belirli başlı iş kararlarını vermek için yasal ve/veya fiili tercihe sahip olmayı ifade eder.

2.2 "**İstemci Yazılımı**" Lisans Alanın, varsa ilgili kullanıcı dokümantasyonuyla birlikte belli İş-Yerinde Ürünlere veya Bulut Ürünlerine erişim sağlamak için bir istemciye (varsa) en son versiyonunda kurması gereken uygulama yazılımını ifade eder.

2.3 "**Bulut Ürünü**" doğru kullanım için Lisans Alanın sunuculara yüklenmesi gerekmeyen, fakat Phoenix Contact'ın veya onun tarafından görevlendirilen üçüncü kişilerin sistemlerinde çalışan ve kullanıcının uzaktan veri iletimi (internet, VPN, vb.) yoluyla erişim sağladığı Lisanslı Yazılımı ifade eder.

2.4 "**Şirket Lisansı**": Yazılım Lisansı Koşullarına göre Lisans Alan bir Şirket Lisansı satın alması halinde, , Lisanslı Yazılımı şirketler grubunda değil, sadece kendi şirketi için kullanma hakkına sahiptir.

2.5 "**Gizli Bilgi**" diğer Tarafın gizli olarak belirlenmiş veya durumun gereklerine göre gizli sayılacak bütün bilgilerini ve belgelerini, özellikle iş süreçleri, iş irtibatları ve know-how hakkındaki bilgileri ifade eder.

know-how.

2.6 "**Contractual Year**" is a period of twelve (12) months from entering into the License Agreement and/or Maintenance Agreement and the period from the first day following expiry of the first or each subsequent 12-month period.

2.7 "**Customer Data**" means all electronic data or information transferred by or in the name of the Licensee or by the User - to or via Cloud Products, or to licensing systems (e.g., ticket number of a license) enabling activation of an On-Premise Product.

2.8 "**Embedded Software**" is Licensed Software that is integrated into a Phoenix Contact device or designed for integration into an End Customer device, e.g., in a control unit, an intelligent controller or a display and also encompasses runtime licenses for function block libraries and visualization libraries.

2.9 "**Facility License**": If the Licensee purchases a Facility License, it is entitled to use the Licensed Software according to these Software License Terms only at the facility named in the License Agreement.

2.10 "**Group License**": If the Licensee purchases a Group License, it is entitled to sublicense the Licensed Software according to these Software License Terms to Affiliates of the Licensee, to use it for such Affiliates or to allow it to be used by such Affiliates for the benefit of the Licensee on condition that (i) the Licensee informs the Licensor in writing in advance about such sublicensing or third-party use in the group, giving the name and contact details of the Affiliate and (ii) the Affiliate agrees to tolerate, and

2.6 "**Sözleşme Dönemi**" Lisans Sözleşmesinin ve/veya Bakım Sözleşmesinin imzalandığı tarihten itibaren on iki (12) aylık dönem, ve ilk veya sonraki her 12-aylık dönemin ilk gününden başlayan on iki (12) aylık dönemlerdir.

2.7 "**Müşteri Verisi**" bir İş-Yerinde Ürünün aktivasyonunu sağlamak için, Lisans Alan tarafından veya adına veya Kullanıcı tarafından, Bulut Ürünlerine veya Bulut Ürünleri aracılığıyla, veya lisanslama sistemlerine aktarılan bütün elektronik verileri veya bilgileri (ör., bir lisansın etiket numarası) ifade eder.

2.8 "**Gömülü Yazılım**" bir Phoenix Contact cihazına entegre edilmiş veya bir Nihai Müşteri cihazına, ör., bir kontrol birimine, akıllı kontrolöre veya ekrana entegre edilmek üzere tasarlanmış bir Lisanslı Yazılımı ifade eder, ve fonksiyon blok kütüphaneleri ve görselleştirme kütüphaneleri için runtime lisanslarını da kapsar.

2.9 "**Tesis Lisansı**": Lisans Alan bir Tesis Lisansı satın alması halinde, Lisanslı Yazılımı bu Yazılım Lisansı Koşullarına göre, sadece Lisans Sözleşmesinde adı belirtilen tesiste kullanma hakkına sahiptir.

2.10 "**Grup Lisansı**": Lisans Alan bir Grup Lisansı satın alması halinde, (i) İştirakin adını ve iletişim bilgilerini, alt-lisanslama veya gruptaki üçüncü-kişilerin kullanımını, önceden yazılı olarak Lisans Verene bildirmeyi ve (ii) ilgili İştirakin, madde 15 uyarınca Lisans Verenin kontroller yapmasına izin vermeyi ve bu konuda işbirliği yapmayı kabul etmesi şartıyla, Lisanslı Yazılımı bu Yazılım Lisansı Koşullarına göre, Lisans Alanın İştiraklerine alt-lisanslama, ilgili İştirakler için kullanma, veya o İştiraklerin Lisans Alanın yararına

cooperate with respect to, controls by the Licensor pursuant to clause 15.

2.11 "**License Agreement**" means any contractual agreement between Licensor and Licensee about the paid-for or free-of-charge provision of software by the Licensor to the Licensee. Depending on the product, such an Agreement can arise in different ways, especially by conclusion of a License Sheet between Licensor and Licensee, downloading of the software by the Licensee from a location specified by the Licensor for that purpose (e.g., website of the Licensor, its Affiliate or authorized partner or a cloud marketplace used for distribution by the Licensor, such as an app store) and/or purchase of a device with integrated Embedded Software by the Licensee.

2.12 "**License Sheet**" is a document issued by the Licensor for certain Licensed Software as part of or in addition to a License Agreement and containing detailed provisions to be observed by the Licensee regarding the Licensed Software such as Licensor, name and type of Licensed Software, licensed Users and duration of the license.

2.13 "**License Upgrade**" means an extension of the license scope on the basis of an existing license.

2.14 "**Licensed Software**" is the computer program in the object code and/or Source Code – depending on the product – including the related documentation in the agreed language that is the subject of the purchase by the Licensee from the Licensor. This includes all SW Updates, SW Upgrades and License Upgrades insofar as they are provided to the Licensee according to these Software License Terms, a

kullanmasına izin verme hakkına sahiptir..

2.11 "**Lisans Sözleşmesi**" Lisans Veren ile Lisans Alan arasında, yazılımın Lisans Veren tarafından ücretli veya ücretsiz temini konusunda anlaştıkları sözleşmeyi ifade eder. Ürüne bağlı olarak, böyle bir sözleşme farklı şekillerde ortaya çıkabilir, özellikle Lisans Veren ile Lisans Alan arasında Lisans Sayfası akdedilmesi, yazılımın Lisans Alan tarafından Lisans Verenin bu amaçla belirlediği bir lokasyondan (ör., Lisans Verenin, İştirakinin web sitesi veya yetkili partner veya Lisans Veren tarafından dağıtım için kullanılan bir bulut pazaryeri, ör app store) indirilmesi ve/veya entegre Gömülü Yazılımı olan bir cihazın Lisans Alan tarafından satın alınması şeklinde gerçekleşebilir.

2.12 "**Lisans Sayfası**" Lisans Veren tarafından belirli Lisanslı Yazılımlar için, bir Lisans Sözleşmesinin parçası olarak veya ona ek olarak düzenlenen, ve Lisans Verenin, Lisanslı Yazılımın adı ve türü, lisanslı kullanıcılar ve lisansın süresi gibi, Lisanslı Yazılıma ilişkin olarak Lisans Alanın uyması gereken detaylı hükümleri içeren dokümandır.

2.13 "**Lisans Yükseltme**" mevcut bir lisansa dayalı olarak lisans kapsamının genişletilmesini ifade eder.

2.14 "**Lisanslı Yazılım**" Lisans Alanın Lisans Verenden yaptığı alımın konusu olan, ve ürüne bağlı olarak hedef kod ve/veya Kaynak Kod halindeki bilgisayar programını, ve üzerinde anlaşılan dildeki dokümantasyonu ifade eder. Bu, Lisans Alana bu Yazılım Lisansı Koşulları, bir Lisans Sözleşmesi ve bir Bakım Sözleşmesi uyarınca temin edildikleri ölçüde bütün SW Güncellemelerini, SW Yükseltmelerini

License Agreement and a Maintenance Agreement. The Licensed Software can include third-party software, especially Open Source Software and/or be combined with such third-party software that is governed by the separate terms of use of the third party.

2.15 "**Login**" means registering or logging in by a User onto the system at the start, and as a requirement for, every use of the Licensed Software, when the User is required to enter certain individual information such as name, user name, password or client ID.

2.16 "**Maintenance Agreement**" means any contractual agreement between the Licensor and the Licensee about the provision of maintenance and support services by the Licensor for the Licensee.

2.17 "**Maintenance Sheet**" is a document that may be issued by the Licensor for maintenance and support services as part of or in addition to a Maintenance Agreement and containing detailed provisions to be observed by the Licensee regarding the maintenance and support services. A Maintenance Sheet can also be combined with a License Sheet in one document.

2.18 "**Major Release**" is a new version of the Licensed Software with comprehensive new functionality and/or on a new technological basis. The change in the version designation is expressed as **2**.4.0 to **3**.0.0, for example.

2.19 "**Mobile App**" means an application specifically designed for use on mobile devices such as smartphones or tablets. This includes the enabling of additional functions of the Licensed Software via in-app transactions.

ve Lisans Yükseltmeleri kapsar. Lisanslı Yazılımlar, üçüncü-kişi yazılımı, özellikle Açık Kaynak Yazılımları içerebilir ve/veya bir üçüncü şahsın ayrı kullanım koşullarına tabi üçüncü-kişi yazılımı ile birleştirilebilir.

2.15 "**Login**" başlangıçta bir Kullanıcının sisteme kaydolması veya giriş yapması, ve Lisanslı Yazılımın her kullanımı için zorunluluk olarak Kullanıcı tarafından girilmesi gereken, isim, kullanıcı adı, şifre veya müşteri ID gibi belli bireysel bilgileri ifade eder.

2.16 "**Bakım Sözleşmesi**" Bakım ve destek hizmetlerinin Lisans Veren tarafından Lisans Alan'a sağlanması hakkında, Lisans Veren ve Lisans Alan arasındaki herhangi bir sözleşmeyi ifade eder.

2.17 "**Bakım Sayfası**" Lisans Veren tarafından sağlanan bakım ve destek hizmetleri için, Bakım Sözleşmesi'nin bir parçası olarak ya da ona ek olarak düzenlenebilecek, bakım ve destek hizmetleri konusunda Lisans Alan'ın uyacağı detaylı hükümleri içeren belgedir. Bakım Sayfası, Lisans Sayfası ile aynı belgede birleştirilebilir.

2.18 "**Büyük Çaplı Sürüm**" Lisanslı Yazılımın, kapsamlı yeni fonksiyonları olan ve/veya yeni bir teknolojik temele dayalı yeni sürümünü ifade eder. Versiyondaki değişim, örneğin 2.4.0'ten 3.0.0'e olarak ifade edilir.

2.19 "**Mobil App**" özellikle akıllı telefonlar veya tabletler gibi mobil cihazlarda kullanılmak üzere tasarlanmış uygulamayı ifade eder. Bu uygulama, Lisanslı Yazılımın ek fonksiyonlarının, uygulama içi işlemlerde kullanıma açılmasını da kapsar.

2.20 "**Network**" means the linking of Workplaces and/or Servers within the Licensee's company.

2.21 "**On-Premise Product**" is Licensed Software that requires installation on a Workplace or Server of the Licensee. On-Premise Products therefore include desktop software and libraries that come within the above description.

2.22 "**Product Description**" means the description and technical specifications of the Licensed Software, which may also include the security, data backup and other relevant descriptions and which is provided to the Licensee upon Purchase of the Licensed Software or which is available to the Licensee on a website specified by the Licensor.

2.23 "**Purchase**", "**purchasing**" or variants thereof mean the gaining of access (whether paid-for or free) pursuant to Licensor's applicable terms, which may vary by the product.

2.24 "**Server**" is a type of computer hardware that provides computer programs, data and/or other resources so that other computers and/or computer programs can access these via a network.

2.25 "**Software Development Toolkit (SDK)**" is a set of program libraries and programming tools for software development.

2.26 "**Source Code**" is the text of a computer program written in a programming language and readable by humans.

2.27 "**SW Update**" describes a version of the Licensed Software with the same or refined functions with minor improvements but with the intention

2.20 "**Ağ**" Lisans Alanın şirketi içerisindeki İşyerlerinin ve/veya Sunucuların birbiri ile bağlantısını ifade eder.

2.21 "**On-Premise Ürün**" Lisans Alanın işyerine veya sunucusuna kurulması gereken Lisanslı Yazılımları ifade eder. On-Premise Ürünler, yukarıdaki belirtilen masaüstü yazılım ve kütüphaneleri içerir.

2.22 "**Ürün Açıklaması**" Lisanslı Yazılım satın alındığında Lisans Alan'a temin edilen veya Lisans Alan'ın Lisans Veren tarafından belirlenen web sitesinden ulaşabileceği, Lisanslı Yazılımın açıklama ve teknik özelliklerini ifade eder, güvenlik, veri yedekleme ve diğer ilgili açıklamaları da kapsayabilir.

2.23 "**Alım**", "**satın alma**" veya benzeri ifadeler, Lisans Verenin yürürlükteki koşulları uyarınca erişim hakkı kazanmayı (ücretli veya ücretsiz olarak) ifade eder. Bu ifadeler işlem konusu ürüne göre değişiklik gösterebilir.

2.24 "**Sunucu**" diğer bilgisayarların ve/veya bilgisayar programlarının bir ağ aracılığıyla erişim sağlayabilmesi için bilgisayar programları, veri ve/veya başka kaynaklar sağlayan bilgisayar donanımı türüdür.

2.25 "**Yazılım Geliştirme Araç Seti (SDK)**" yazılım geliştirmek için program kütüphaneleri ve programlama gereçleri setidir.

2.26 "**Kaynak Kod**" bilgisayar programının, programlama dilinde yazılı ve bireyler tarafından okunabilen metnini ifade eder.

2.27 "**SW Güncellemesi**" Lisanslı Yazılım ile aynı veya ondan gelişmiş fonksiyonlara sahip olan ve Lisanslı Yazılımdaki hata (bug), kusur veya

of removing bugs, defects or malfunctions in the Licensed Software. The change in the version number, e.g., from 2.4.**1** to 2.4.**2** (corresponding to a bug fix or changes that do not contain any extended functionalities) determines classification as an Update.

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4.3 Ürün Açıklamasında açıkça "güvenlik özellikleri" belirtilmedikçe, bu tür hizmetler dahil değildir.

4.4 Değişiklikler, Lisans Alanın değişiklikler uygulanmadan önce satın almış olduğu Lisanslı Yazılımın fonksiyonlarında ve işlevselliğinde veya performans, güvenlik veya uygunluk düzeyinde önemli oranda azalmaya yol açmadığı sürece, Lisans Veren her zaman Lisanslı Yazılımı güncelleyebilir ve üzerinde (altyapı, güvenlik, teknik konfigürasyonlar, uygulama fonksiyonları, vb. gibi) değişiklikler yapabilir ve Ürün Açıklamasını ona göre değiştirebilir.

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Lisans Alanın Nihai Müşteri olması halinde, Nihai Müşteriye Lisans Alan olarak tanınan haklar, bu madde 5'in hükümlerinde ve alınan Lisanslı Yazılımın türüne bağlı olarak B ile F Bölümleri arasındaki ilgili hükümlerinde belirtilmiştir.

5.2   Lisans Veren Lisans Alana, Lisanslı Yazılımı bu Yazılım Lisansı Koşullarına ve Lisans Sözleşmesine göre kullanması için bir lisans vermektedir. Bu lisans verme işlemi, Lisans Alanın diğer yazılımlara da erişmesi ve/veya kullanması teknik olarak mümkün olsa dahi sadece Lisans Sözleşmesinde belirtilen Lisanslı Yazılım için geçerlidir. Lisans

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Veren, Lisans Alana sadece bu Yazılım Lisansı Koşullarında ve Lisans Sözleşmesinde açıkça belirtilen kullanım haklarını vermektedir. Lisans Alan Lisanslı Yazılımı başka bir şekilde kullanma hakkına sahip değildir.

5.3 Lisans Veren, Lisanslı Yazılımı ürüne bağlı olarak çeşitli lisans türleri altında sunmaktadır. Münferit lisans türleri bu Yazılım Lisansı Koşullarının B ile F Bölümleri arasında belirtilmiş olup, bu kısımlarda belirtilen ürünler için geçerlidir. Belli bir ürün için ilgili lisans türü, Lisans Sözleşmesinde ve/veya bu Yazılım Lisansı Koşullarında belirtilmiştir. Lisanslama, Lisanslı Yazılım için Lisans Alanın kesinlikle uyması gereken kullanım haklarının verilmesinin özelliklerini ve kısıtlamalarını teşkil eder.

5.4 Lisans Alan Lisanslı Yazılımı sadece kendi işi için, veya bu madde 5.4'e göre ticari amaçla kullanabilir. Bu madde 5.4 bakımından "Ticari kullanım", Lisanslı Yazılımın kar elde etme amacıyla veya kar amacı gütmeksizin mallar, hizmetler veya veriler veya diğer hizmetler üretmek, geliştirmek veya düzeltmek, üçüncü kişilere pazarlamak ve/veya sunmak için kullanımını ifade eder. Ancak, ticari kullanıma izin verilse dahi, Lisans Alan Lisanslı Yazılımı tamamen veya kısmen üçüncü kişilere dağıtmayacak, pazarlamayacak, satmayacak, kiralamayacak, kiraya vermeyecek, kamuoyuna açmayacak veya başka bir surette kamuoyuna açık şekilde görüntülemeyecektir. Bu Yazılım Lisansı Koşullarının, 5. ve 6. maddeleri dahil ancak bunlarla sınırlı olmamak üzere diğer hükümleri etkilenmeksizin geçerli olmaya devam edecektir.

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5.6 Lisans Sözleşmesinde aksi belirtilmedikçe, (i) Lisans Alanın Lisans Vereni üçüncü-kişi hizmet sağlayıcının adını ve iletişim bilgilerini vererek, üçüncü-kişi kullanımı hakkında önceden yazılı olarak bilgilendirmesi, (ii) üçüncü-kişi hizmet sağlayıcının Lisanslı Yazılımı sadece ilgili hizmet sözleşmeleri kapsamında Lisans Alanın amaçları ve menfaati için ve sadece hizmet sözleşmelerinin süresi boyunca kullanması, (iii) Lisanslı Yazılımın üçüncü-kişilerce kullanımının, ilgili hizmet sözleşmeleri kapsamında üçüncü-kişi hizmet sağlayıcının Lisans Alana hizmet sağlaması için kesinlikle gerekli olması, (iv) üçüncü-kişi hizmet sağlayıcının, madde 15 uyarınca Lisans Veren tarafından kontroller yapılmasına tolerans göstermeyi ve bu konuda işbirliği yapmayı kabul etmesi ve (v) üçüncü-kişi hizmet sağlayıcının, Lisans Verenin bir rakibi (ve/veya eğer Lisans Veren bir Yetkili Distribütör ise, Phoenix Contact'ın rakibi) olmaması şartıyla Lisans Alan bu Yazılım Lisansı Koşullarına göre (bu madde 5'teki kısıtlamalar da dahil ancak bunlarla sınırlı olmamak kaydıyla) hizmet sözleşmeleri bağlamında, ör., veri merkezi outsourcing veya hosting, ilgili üçüncü-kişi hizmet sağlayıcının Lisanslı Yazılımları kullanmasına izin verme hakkına sahiptir. Bu hak hem Şirket Lisansı hem de Grup Lisansı için geçerlidir; Grup Lisansında,

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üçüncü-kişi hizmet sağlayıcıyla hizmet sözleşmesine Lisans Alan yerine, madde 5.5'e göre yetkili bir İştirakın taraf olması ve/veya üçüncü-kişi hizmet sağlayıcı tarafından söz konusu yetkili İştirak için kullanılması halinde bu madde 5.6 uygulanır.

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benzer etiketlerle işaretlenir. Münferit düzenlemeler veya diğer sözleşmeler yapılmış olmadıkça, yazılım ön-sürüm versiyonlarının temini kesin olarak aşağıda belirtildiği gibidir:

5.8.2 Yazılım ön-sürüm versiyonları, sadece kısmen test edilmiş, eksik olabilecek geliştirme versiyonları, test versiyonları, geçici versiyonlar ve/veya "built-in" versiyonlardır ve Lisans Alana sadece test amaçlı temin edilmektedir. Bunlar prototiptir.

5.8.3 Lisans Alan, yazılım ön-sürüm versiyonlarını sadece üzerinde anlaşılan amaçla ve onaylanmış lokasyonda kullanabilir. Ön-sürüm versiyon olarak onaylanması halinde dahi, yazılım bir şirkette bütün koşullar altında kullanılmak için yeterince test edilmemiştir. Dolayısıyla yazılım ön-sürüm versiyonları, diğer objelere veya kişilere zarar vermesini önlemek için korumalı koşullarda, güvenli test ortamında kullanılmalı ve gerçek operasyonlarda (üretim tesisleri) kullanılmamalıdır. Ek olarak, yazılım ön-sürüm versiyonları sadece, prototipler başarısız olsa dahi, dahil olmayan üçüncü kişilerin ve onların çalışanlarının zarar görmeyeceği şekilde kullanılmalıdır. Yazılım ön-sürüm versiyonları sadece gerekli uzmanlığa sahip kişilerce, koruyucu cihazlar kullanılarak ve fiziksel olarak ayrı alanlarda kullanılmalıdır. İlgili personele, Lisans Alan tarafından uygun talimatlar verilmeli ve yazılımın yeterli şekilde geliştirilmemesinden ve fonksiyonel kısıtlamalarından kaynaklanabilecek tehlikeler bildirilmelidir.

5.8.4 Aynı zamanda sağlanan bilgiler, Lisans Alanın kendi sorumluluğu uyarınca, özellikle uyumluluğa ilişkin, kendi testini yapmasına engel değildir, ve (ön-sürüm versiyonları) test etmeden kullanılmamalıdır.

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5.8.5 Lisans Alan, aktarılan yazılım ön-sürüm versiyonlarını ve beraberindeki dokümantasyonu üçüncü kişilere tamamen, alıntılar olarak veya kopya olarak iletmemelidir.

6. SINIRLAMALAR

6.1 Lisans Alanın bir <u>Nihai Müşteri</u> olması halinde, bu madde 6 hükümleri, sınırlanmaksızın uygulanır.

Lisans Alanın <u>Yetkili Distribütör</u> olması halinde, şu şartlar uygulanır: Yetkili Distribütör, Phoenix Contact ile Yetkili Distribütör arasındaki ilgili Lisans Sözleşmesine göre Lisanslı Yazılımı Nihai Müşterilere dağıtma hakkına sahiptir; bu bağlamda madde 6.2 ve 6.5 (i), Lisans Sözleşmesi kapsamında izin verilen Nihai Müşterilere dağıtımı engellemez ve bu dağıtım hakkının sınırlanması olarak yorumlanmaz. Madde 6.6 , Yetkili Distribütöre uygulanmaz. Madde 6.3, 6.4 ve 6.5 (ii), sınırlama olmaksızın uygulanacaktır.

6.2 Bu Yazılım Lisansı Koşullarında aksi belirtilmedikçe, Lisans Alanın Lisanslı Yazılımı, gerek ücret karşılığı gerekse ücretsiz olarak, ve gerek geçici veya kalıcı olarak üçüncü kişilere temin etmesine, kamuoyuna açık şekilde görüntülemesine veya kamuoyuna açmasına izin verilmemektedir.

6.3 Lisans Sözleşmesinde veya üçüncü-kişilerce lisans koşullarında aksi belirtilmedikçe ve/veya Açık Kaynak Yazılım olmaması şartıyla, Lisans Alanın Lisanslı Yazılımı işlemesi, tercüme etmesi, derlemesi veya başka bir değişiklik yapması yasaktır. Eğer Lisans Alan bu yükümlülüğü ihlal ederse, Lisans Alan, izin verilmeyen ve bu Lisans Koşullarına aykırı olarak yapılan bütün bu işlemeler, çeviriler, derlemeler veya diğer değişiklikler üzerindeki bütün hakların tamamını,

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tam kapsamlı olarak Lisans Verene (veya eğer Lisans Veren bir Yetkili Distribütörse, Phoenix Contact'a) temlik etmektedir. Bu gibi bir devrin kanunen mümkün olmaması halinde, Lisans Alan, Lisans Koşullarına aykırı olarak yapılan işlemelerin, çevirilerin, derlemelerin ve/veya değişikliklerin, bilinen ve bilinmeyen bütün yollarla ve zaman, yer ve içerik kısıtlaması olmaksızın türev çalışmalarını yapmak, çoğaltmak, kullanmak ve yararlanmak, ve özellikle kopyalamak, dağıtmak veya kablolu ya da kablosuz yollarla kamuoyuna açmak için münhasır, gayrikabili rücu, devredilebilir, alt-lisanslanabilir, telifsiz ve dünya çapındaki hakları, ve bunları kamuoyuna iletim hakkı ile birlikte, Lisans Verene (veya eğer Lisans Veren bir Yetkili Distribütörse, Phoenix Contact'a) vermektedir.

6.4 Lisans Sözleşmesinde veya üçüncü-kişilerce lisans koşullarında başka türlü belirtilmedikçe ve/veya Açık Kaynak Yazılım olmaması şartıyla, Lisans Alanın, Lisanslı Yazılımın Kaynak koduna kendi imkanlarıyla veya üçüncü kişiler aracılığıyla, tersine mühendislik yaparak, geri derleyerek, parçalara ayırarak veya diğer yollarla erişim sağlaması veya erişim sağlamaya çalışması yasaktır. Lisans Alan, Lisanslı Yazılımın, bağımsız şekilde yaratılmış başka bilgisayar programlarıyla birlikte çalışabilmesini sağlamak için gereken tedbirleri, söz konusu bilginin birlikte çalışabilirliği sağlamak için zorunlu olması, ve Lisans Alanın, Lisans Verenin gerekli bilgileri makul bir süre içinde Lisans Alana temin etmesi fırsatını vererek bunu Lisans Verene önceden yazılı olarak bildirmesi ve Lisans Verenin o bilgileri sağlayamaması şartıyla, alabilir.

6.5 Lisans Alanın ayrıca, Lisans Verenin önceden yazılı izni olmadan, (i) madde 5.6 uyarınca, Lisans Alan tarafından üçüncü kişiler için yapılan

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6.6 Lisans Alan, daimi kullanım hakkını satın almış olduğu Lisanslı Yazılımı, bu Yazılım Lisansı Koşulları kapsamında verilen kullanım haklarının eş zamanlı devriyle birlikte, üçüncü kişilere satma hakkına aşağıdaki şartlarda sahiptir:

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b) Lisans Alan, elindeki Lisanslı Yazılımın bütün kopyalarını, geri dönülemez şekilde ve tamamen silmelidir; ve

c) üçüncü kişiler bu Yazılım Lisansı Koşullarının, Lisans Veren ile üçüncü kişiler arasında uygulanabilirliğini kabul etmelidir.

7. KULLANIM HAKLARININ İHLALİ

7.1 Madde 5 ila 6 hükümlerinin Lisans Alan tarafından ihlali halinde, Lisans Alan Lisans Verene: (i) etkilenen Lisans Sözleşmesi kapsamında ödenmiş ve ödenecek toplam ücretlerin %10'u, veya (ii) 25,000 EUR (hangisi daha yüksekse) tutarında tazminata ek cezai şart olarak ödeyecektir. Lisans Verenin, tazminat talebi dahil ancak bununla sınırlı olmaksızın diğer hakları bundan etkilenmez.

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10.4 Bir ücret karşılığında sınırlı süreli temin edilen Lisanslı Yazılımlarda, ücretlendirme, herhangi bir kesinti yapılmaksızın,

    a) in the case of fixed prices, in advance by the 3rd working day of the agreed regular billing period at the latest;

    a) fiyatlar sabit ise, anlaşılan faturalandırma döneminin en geç 3. çalışma gününe kadar peşin olarak ödenmeli;

    b) in the case of varying, e.g., User-dependent prices

    b) fiyatlar değişken, ör., Kullanıcıya bağlı ise

    either (i) within ten (10) days of expiration of the regular billing period and invoicing; the

    ya (i) normal faturalandırma döneminin dolmasından ve faturalandırmadan sonraki on

amount of remuneration is determined by the number of licenses existing in the regular billing period to be invoiced;

or (ii) in advance within ten (10) days of invoicing for the agreed regular billing period, whereby the price for this billing period is calculated from the actual quantity used during the previous billing period;

if a varying price calculation is agreed, but not a due-date rule, variant (i) applies.

Unless otherwise agreed, the regular billing period is quarterly.

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(10) gün içinde (ücretlendirme tutarı, faturalandırılacak normal faturalandırma döneminde mevcut lisansların sayısına göre belirlenir);

ya da (ii) üzerinde anlaşılan normal faturalandırma dönemi için fatura düzenlenmesinden sonraki on (10) gün içinde peşin olarak ödenmelidir (bu faturalandırma döneminin fiyatı, önceki faturalandırma döneminde kullanılan fiili miktara göre hesaplanır);

eğer son ödeme tarihi kuralı üzerinde değil de, değişken fiyat hesaplaması üzerinde anlaşılırsa, (i) bendi uygulanır.

Aksine anlaşma yoksa, normal faturalandırma dönemi üç ayda birdir.

10.5 Bakım ve destek hizmetleri Lisans Veren tarafından üç aylık bazda peşin olarak faturalandırılır.

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10.7 Bulut Ürünleri, sınırlı bir süre için sağlanan diğer Lisanslı Yazılımlar, ve bakım ve destek hizmetleri için, Lisans Veren ikinci Sözleşme Döneminden başlayarak her Sözleşme Döneminde bir kez, fiyat yapısını üçüncü-kişi tedarikçilerin veya hizmet sağlayıcıların zamları, artan bordro giderleri ve tedarik üzerine ödenecek vergilere yapılan zamlar dahil olmak

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10.8 Eğer Lisans Alan ödemede temerrüde düşerse, Lisans Veren (i) yürürlükteki mevzuatın izin verdiği azami tutarda, veya (ii) yıllık yüzde dokuz (%9) (hangisi daha düşükse) oranında temerrüt faizi uygulama hakkına sahiptir. Lisans Verenin diğer hakları, özellikle tazminat talepleri, etkilenmeden kalacaktır.

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11.3 The Licensor warrants that the Licensed Software within the European Union, EFTA, US and China is not subject to third party claims for infringement of their intellectual property rights that impair the contractually agreed use of the Licensed Software in the aforementioned territories by Licensee.

11.4 If third parties assert claims before expiration of the warranty period (clause 11.8) against the Licensee for infringement of intellectual property rights within one of the territories listed in clause 11.3, the Licensee's sole and exclusive remedy is to request Licensor to remedy this defect. Licensor may remedy this defect at its sole discretion by (i) acquiring the necessary rights for the Licensee so that the Licensed Software no longer infringes any third-party intellectual property rights, (ii) replacing the Licensed Software wholly or partly with another product with similar functionality that causes no

ayıbı gidererek ya da ayıp içermeyen bir Lisanslı Yazılım temin ederek giderebilir. Lisans Veren ayrıca ayıp, SW Güncellemesi veya SW Yükseltmesi sağlayarak da giderebilir. Lisans Veren, Lisans Alanın beklentilerini karşılayan Lisanslı Yazılımdan sorumlu değildir.

11.2 Lisans Alan, açık ayıplar için gecikmeksizin fakat en geç iki (2) gün içinde, diğer ayıpları ise en az sekiz (8) gün içinde yazılı olarak Lisans Verene bildirmeli ve hataya sebep olan durumları detaylı olarak açıklamalıdır. Bu süre, (i) açık ayıplar için, Lisanslı Yazılımın temini üzerine, (ii) diğer ayıplar için, ayıbın fark edilmesiyle başlar. Daimi olarak temin edilen Lisanslı Yazılımlar için, zamanında bildirilmeyen ayıplar garanti kapsamı dışında tutulacaktır.

11.3 Lisans Veren, Avrupa Birliği, EFTA, ABD ve Çin'de Lisanslı Yazılımın, Lisanslı Yazılımın yukarıda belirtilen memleketlerde Lisans Alan tarafından akdi olarak mutabık kalınan kullanımına halel getirebilecek şekilde üçüncü kişilerin fikri mülkiyet hakkı ihlal iddiasına konu olmadığını garanti eder.

11.4 Eğer garanti süresi (madde 11.8) dolmadan önce, üçüncü kişiler Lisans Alan aleyhinde, madde 11.3'te belirtilen memleketlerden birisinde kendilerinin fikri mülkiyet haklarının ihlal edildiğini ileri sürerse, Lisans Alanın yegane ve münhasır çaresi, Lisans Verenin bu ayıbı gidermesini talep etmektir. Lisans Veren bu ayıbı tamamen kendi takdirine göre (i) Lisanslı Yazılımın üçüncü-kişi fikri mülkiyet haklarını artık ihlal etmeyeceği şekilde, Lisans Alan için gerekli hakları edinmek, (ii) Lisanslı Yazılımı, benzer işleve sahip ve herhangi bir ihlale yol açmayan başka bir ürünle tamamen veya kısmen değiştirmek, veya (iii) benzer işlevi

infringement, or (iii) modifying the Licensed Software in such a way that no third-party intellectual property rights are infringed while maintaining similar functionality; this can be done by providing an SW Update or SW Upgrade.

11.5 Subject to Licensee's compliance with these Software License Terms, the Licensor shall indemnify the Licensee against any claims of third parties within the meaning of clause 11.3 awarded by a court provided that the Licensee (i) informs the Licensor in writing without delay about such a claim; (ii) provides the Licensor with all reasonable support requested by the Licensor, and (iii) gives the Licensor as between the parties the sole control and decision-making power about defending and settling such a claim at the Licensor's expense. The Licensor will indemnify the Licensee in this respect against any court fees and fees for the Licensee's lawyer necessary to defend against claims up to the value of the statutory fees. Any lawyer's fees exceeding that amount shall be assumed only with the prior written consent of the Licensor. The indemnification obligation does not apply if the Licensor is not responsible for the infringement of intellectual property rights.

11.6 The Licensee is only entitled to remedy defects itself or have third parties remedy them if the Licensor genuinely and definitively refuses to remedy the defect or takes no appropriate measures to remedy the defect even after a reasonable grace period has expired.

11.7 If the Licensor demonstrates that there was no defect for which it is responsible according to the provisions in this clause 11, the Licensor may request the Licensee

korurken, üçüncü-kişilerin fikri mülkiyet haklarının ihlal edilmeyeceği şekilde Lisanslı Yazılımı düzeltmek suretiyle giderebilir; bu, bir SW Güncellemesi veya SW Yükseltmesi sağlayarak yapılabilir.

11.5 Lisans Alanın bu Yazılım Lisansı Koşulları uyması şartıyla ve (i) söz konusu hak talebinden Lisans Vereni gecikmeksizin yazılı olarak haberdar etmesi; (ii) Lisans Verenin talep edeceği bütün makul desteği Lisans Verene sağlaması, ve (iii) giderleri Lisans Verene ait olmak üzere o hak talebine karşı savunma ve uzlaşma konusunda, taraflar arasındaki tek kontrol ve karar verme yetkisini Lisans Verene vermesi halinde Lisans Veren Lisans Alanı, üçüncü kişilerin bir mahkeme tarafından karara bağlanan madde 11.3 anlamındaki hak taleplerine karşı tazmin edecektir. Lisans Veren, Lisans Alanın bu kapsamda yapacağı her türlü mahkeme masraflarını ve Lisans Alanın taleplere karşı yapılan savunmalarından doğacak avukatlık ücretlerini, yasal sınırları aşmamak kaydıyla tazmin etmeyi taahhüt eder. Bu tutarları aşan avukatlık ücretleri ancak Lisans Verenin önceden yazılı izniyle üstlenilir. Eğer fikri mülkiyet haklarının ihlalinden Lisans Veren sorumlu değilse, tazminat hükmü geçerli olmayacaktır.

11.6 Lisans Alan ancak Lisans Verenin açıkça ve kesin olarak kusuru gidermeyi reddetmesi veya makul bir süre geçtikten sonra dahi kusuru gidermek için uygun bir tedbir almaması halinde, kusuru kendisi giderme veya üçüncü kişilerce giderilmesini sağlama hakkına sahip olur.

11.7 Lisans Verenin bu madde 11 hükümleri uyarınca kendi sorumluluğunu gerektiren bir kusuru bulunmadığını ispat etmesi halinde, Lisans Veren, Lisans Alanın, iddia

to reimburse the Licensor for its expenses related to its activities to remedy the alleged defect on a time and material basis at the generally applicable rates of the Licensor.

11.8 Notwithstanding anything to the contrary in these Software License Terms (in particular without limitation clause 11.9), for any Licensee who has been granted a perpetual right of use the Licensed Software, and except for the types of claims exempted under clause 12.1 (i.e., willful misconduct or gross negligence, or personal injury), the Licensee's claims related to any failure by the Licensed Software to meet performance standards or other performance expectations become time-barred upon twelve (12) months the original purchase of the Licensed Software. THEREFORE, UPON THE END OF THE FOREGOING TWELVE (12) MONTH PERIOD, LICENSEE ACCEPTS THE LICENSED SOFTWARE "AS IS".

11.9 To the extent permitted by applicable law, and except when otherwise stated in Written Form, Licensed Software provided free of charge is provides "as is" without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

11.10 Clause 11 conclusively describes the scope of Licensor's warranty obligations.

12. LIABILITY

12.1 To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's willful misconduct or gross negligence or (b) Licensor's personal injury, Licensor will not be liable (whether in contract or tort) to

ettiği kusuru zamanında ve esaslı olarak gidermek için yaptığı masrafları, Lisans Verenin yürürlükteki genel ücret esasına göre iade etmesini talep edebilir.

11.8 Bu Yazılım Lisansı Koşulları (özellikle sınırlama olmaksızın madde 11.9'da) saklı kalmak kaydıyla, kendisine Lisanslı Yazılımı daimi kullanım hakkı verilmiş bir Lisans Alan için, ve madde 12.1 kapsamında hariç tutulan hak talebi türleri (yani, kast veya ağır kusur, veya bedensel zararlar) hariç, Lisanslı Yazılımın performans standartlarını veya diğer performans beklentilerini karşılamaması ile ilgili Lisans Alanın talepleri, Lisanslı Yazılımın aslen alınmasından on iki (12) ay sonra zamanaşımına uğrar. DOLAYISIYLA, YUKARIDAKİ ON İKİ (12) AYLIK DÖNEMİN SONUNDA, LİSANS ALAN LİSANSLI YAZILIMI "OLDUĞU GİBİ" KABUL ETMEKTEDİR.

11.9 Uygulanabilen kanunun izin verdiği ölçüde, ve Yazılı Şekilde başka türlüsünün belirtildiği durumlar hariç, ücretsiz sağlanan Lisanslı Yazılım, ticarete elverişliliğe ve belli bir amaca uygunluğa dair zımni garantiler dahil ancak bunlarla sınırlı olmaksızın, açık veya zımni hiçbir garanti olmaksızın "olduğu gibi" temin edilmektedir.

11.10 Madde 11'de, Lisans Verenin garanti yükümlülüklerinin kapsamı kesin olarak açıklanmaktadır.

12. SORUMLULUK

12.1 Yürürlükteki mevzuatın izin verdiği ölçüde, ve (a) Lisans Verenin kasıtlı eyleminden veya ağır kusurundan veya (b) Lisans Verene verdiği bedensel zararlardan doğan sorumluluklar haricinde, Lisans Veren bu Yazılım Lisansı Koşullarından

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kaynaklanan veya bununla ilgili arızi, tali, dolaylı, veya emsal niteliğinde hiçbir zarardan (gerek akdi herekse haksız fiil kapsamında) Lisans Alana karşı sorumlu olmayacaktır.

12.2 To the extent allowed by applicable laws or statutes, and except for liabilities resulting from (a) Licensor's willful misconduct or gross negligence or (b) personal injury caused by Licensor, Licensor's aggregate liability arising out of these Software License Terms will not exceed the fees paid by Licensee during the twelve (12) months preceding the incident giving rise to Licensor's liability (if Licensee received the Licensed Software free of charge, Licensor's aggregate liability will not exceed EUR 5).

12.2 Yürürlükteki mevzuatın izin verdiği ölçüde, ve (a) Lisans Verenin kasıtlı eyleminden veya ağır kusurundan veya (b) Lisans Verene verdiği bedensel zararlardan doğan sorumluluklar haricinde, Lisans Verenin bu Yazılım Lisansı Koşullarından kaynaklanan toplam yükümlülüğü, Lisans Verenin yükümlülüğüne sebebiyet veren olaydan önceki on iki (12) aylık dönemde Lisans Alan tarafından ödenmiş ücretlerden fazla olamaz (eğer Lisans Alan Lisanslı Yazılımı ücretsiz almışsa, Lisans Verenin toplam yükümlülüğü 5 Avrodan fazla olamaz).

12.3 The Licensee is required to adequately back up data and for this purpose to make backup copies of all data and programs in machine-readable form at least once a day. If there is a data loss that is the fault of the Licensor, the Licensor's aggregate liability is limited to the reasonable and actual costs of restoring data that the Licensee could not have prevented the loss of by meeting the aforementioned obligation or by taking other reasonable measures.

12.3 Lisans Alan en az günde bir kez verileri yeterince yedeklemek ve bu amaçla bütün verilerin ve programların makinede okunabilir formatta yedek kopyalarını almak zorundadır. Eğer Lisans Verenin bir hatası sonucu veri kaybı olursa, Lisans Verenin toplam yükümlülüğü, Lisans Alanın yukarıda belirtilen vecibeyi yerine getirerek veya diğer makul tedbirleri alarak kaybını önleyememiş olacağı verileri geri kurtarmanın makul ve fiili maliyetleriyle sınırlıdır.

12.4 For avoidance of doubt, this clause 12 applies to personal liability of employees, representatives and agents of the Licensor.

12.4 Tereddütlere mahal vermemek adına, bu madde 12, Lisans Verenin çalışanlarının, temsilcilerinin ve vekillerinin kişisel yükümlülüğü için geçerlidir.

13. CONFIDENTIALITY

13. GİZLİLİK

13.1 The Licensee shall maintain the confidentiality of any Confidential Information of the Licensor and not disclose it or make it accessible to third parties. This obligation survives

13.1 Lisans Alan, Lisans Verenin Gizli Bilgilerinin gizliliğini koruyacak ve bunları üçüncü kişilere açıklamayacak veya üçüncü kişilerin erişimine açmayacaktır. Bu hüküm, ilgili Lisans

for a period of five (5) years after the end of the relevant License Agreement and/or Maintenance Agreement.

13.2 Confidential Information does not include such information

a) that the Licensee verifiably already knew upon entering into the relevant License Agreement and/or Maintenance Agreement or that later becomes known from a third party without any infringement of a non-disclosure agreement, statutory provisions or official orders;

b) that is publicly known upon entering into the relevant License Agreement and/or Maintenance Agreement or later becomes publicly known, unless this is due to an infringement of these Software License Terms;

13.3 If Confidential Information has to be disclosed due to statutory obligations or by order of a court or an authority, the Licensee, insofar as legally admissible, shall first inform the Licensor and give it the opportunity to take action against the disclosure.

13.4 If the parties enter into a separate agreement on confidentiality before or after entering into the License Agreement, the relevant agreement takes precedence over the provisions of this clause 13 in the event of any contradictions.

14. DATA PRIVACY

14.1 In execution of the contract, the Licensor processes personal data of the Licensee and its involved employees (name, contact details,

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Sözleşmesinin ve/veya Bakım Sözleşmesinin sona ermesinden sonra beş (5) yıl süreyle yürürlükte kalacaktır.

13.2 Gizli Bilgiler aşağıdaki bilgileri kapsamaz

a) Lisans Alanın, ilgili Lisans Sözleşmesine ve/veya Bakım Sözleşmesine girerken zaten bildiğini ortaya koyabildiği, veya sonradan, açıklamama sözleşmesi, yasal hükümler veya resmi emirler ihlal edilmeden bir üçüncü kişilerden edindiği;

b) Lisans Sözleşmesine ve/veya Bakım Sözleşmesine girerken kamuya mal olmuş, veya bu Yazılım Lisansı Koşullarının ihlali nedeniyle olmadıkça, sonradan kamuya mal olan bilgiler;

13.3 Eğer Gizli Bilgilerin yasal yükümlülükler nedeniyle veya bir mahkemenin veya resmi makamın emriyle açıklanması zorunlu olursa, Lisans Alan, kanunen mümkün olduğu kadarıyla, öncelikle Lisans Verene haber verecek ve ifşaya karşı tedbir alma fırsatını ona tanıyacaktır.

13.4 Eğer taraflar, Lisans Sözleşmesine taraf olmadan önce veya sonra ayrı bir gizlilik sözleşmesi imzalarsa, çelişki halinde taraflar arasında imzalanan sözleşme bu madde 13 hükümlerinin yerine geçer.

14. VERİ GİZLİLİĞİ

14.1 Sözleşmeyi yerine getirirken, Lisans Veren Lisans Alanın ve ilgili çalışanlarının ve üçüncü kişilerin kişilerin (Kullanıcılar gibi) kişisel

other personal data for contract execution), as well as of any other people (such as Users) to the extent this is necessary for proper performance of the contract taking into account the relevant licensing model. For this purposes, Licensee shall obtain explicit consent of the data subjects regarding processing their data in light of the provisions of this agreement and makes the best efforts in order for the Licensor to comply with the personal data protection legislation in Turkey.

verilerini (isim, iletişim bilgileri, sözleşmenin ifası için diğer kişisel veriler), ilgili lisanslama modelini hesaba katarak sözleşmenin gereği gibi ifası için gerekli olduğu ölçüde işler. Bu amaçlarla, Lisans Alan, verileri işlenenlerin, bu Sözleşmenin hükümleri ışığında verilerinin işlenmesi konusunda açık muvafakatlerini alacak ve Lisans Verenin Türkiye'deki kişisel verilerin koruması mevzuatına uyması için en iyi gayretini sarf edecektir.

14.2 The Licensor shall comply with the data protection laws applicable to the Licensor's services under these Software License Terms. Insofar as the Licensee receives personal data of the Licensor, the Licensee is likewise required to comply with the applicable data protection laws. Personal data of which the Licensee obtains knowledge may be processed by the Licensee only to execute the contract and shall in no event be shared, sold or otherwise made available to third parties for purposes other than the aforementioned ones.

14.2 Lisans Veren, Lisans Verenin bu Yazılım Lisansı Koşulları kapsamındaki hizmetleri için geçerli olan veri koruma kanunlarına uyacaktır. Lisans Alan Lisans Verenden kişisel veriler aldığı ölçüde, Lisans Alan da benzer şekilde, uygulanabilen veri koruması kanunlarına uymak zorundadır. Lisans Alanın edindiği kişisel veriler, Lisans Alan tarafından sadece sözleşmeyi icra etmek için işlenecek ve hiçbir durumda yukarıda belirtilenlerin dışında hiçbir amaçla üçüncü kişilerle paylaşılmayacak, satılmayacak veya üçüncü kişilerin erişimine açılmayacaktır.

15. CONTROL RIGHTS

15. KONTROL HAKLARI

15.1 The Licensor is entitled to take legally permissible technical measures to monitor and/or ensure the contractual use of the Licensed Software by the Licensee, e.g., license keys, dongles, license servers or logging of the Licensee's technical usage data. The Licensee undertakes not to disable, modify and/or circumvent such measures or to attempt to do any of the foregoing.

15.1 Lisans Veren, Lisanslı Yazılımın Lisans Alan tarafından sözleşmeye uygun kullanıldığını izlemek ve/veya bundan emin olmak için kanunen izin verilen, ör., lisans anahtarları, dongle, lisans sunucuları veya Lisans Alanın teknik kullanım verilerinin kaydedilmesi gibi teknik tedbirler alma hakkına sahiptir. Lisans Alan bu tedbirleri engellememeyi, değiştirmemeyi ve/veya önlememeyi ve bunlara teşebbüs etmemeyi taahhüt eder.

15.2 The Licensor is entitled to audit the Licensee solely for the purpose of verifying the use of the Licensed

15.2 Lisans Verenin Lisanslı Yazılımın Lisans Alan tarafından kullanıldığını doğrulamak için makul fakat eşit

Software by the Licensee (but at most once every twelve (12) months), provided the Licensor has no other reasonable but equally effective opportunity to verify the use of the Licensed Software by the Licensee. Such audit may only be carried out by an independent auditor who is subject to a professional or other non-disclosure obligation. The auditor may only provide information to the Licensor to the extent necessary for the assertion and enforcement of rights to the Licensor's intellectual property. The Licensor shall bear the costs of such audit unless the audit shows that the Licensee infringed the Licensor's intellectual property rights to a not just immaterial extent; in the latter case the Licensee shall pay the auditor's costs.

15.3 The Licensee shall cooperate with the Licensor in this regard; in particular, it shall (a) at the Licensor's request, produce a license report, (b) allow visits and/or audits on site by the auditor to monitor, assess and verify the use of the Licensed Software during normal business hours and with sufficient advance notice. When the audit is conducted, both parties must observe the applicable data protection laws. The Licensee must ensure that no personal data are provided to the auditor and/or the Licensor in connection with the audit. If and insofar as the audit cannot be carried out without providing personal data to the auditor, the Licensee shall take the necessary measures to ensure that only the personal data necessary for the audit to be conducted is provided.

olarak etkin bir başka fırsatı olmaması şartıyla, Lisans Veren Lisans Alanı sadece, Lisanslı Yazılımın Lisans Alan tarafından kullanıldığını doğrulamak için (fakat her on iki (12) ayda en fazla bir kez) denetleme hakkına sahiptir. Bu denetim ancak profesyonel veya diğer bir açıklamama yükümlülüğüne tabi bir bağımsız denetçi tarafından yürütülebilir. Denetçi, Lisans Verene sadece Lisans Verenin fikri mülkiyeti üzerindeki hakların ileri sürülmesi ve icrası için gerektiği ölçüde bilgi verebilecektir. Denetim, Lisans Alanın Lisans Verene ait fikri mülkiyet haklarını önemsiz olmayan bir derecede ihlal ettiğini göstermedikçe, denetimin maliyetlerine Lisans Veren katlanacak; aksi halde denetçinin maliyetlerini Lisans Alan ödeyecektir.

15.3 Lisans Alan Lisans Verenle bu bağlamda işbirliği yapacaktır; özellikle, (a) Lisans Verenin talebi halinde, bir lisans raporu çıkaracak, (b) Lisanslı Yazılımın kullanımını izlemek, değerlendirmek ve doğrulamak için normal çalışma saatlerinde ve yeterli süre önceden bildirimle denetçinin ziyaretlerine ve/veya yerinde denetimlerine izin verecektir. Denetim yürütüldüğünde, iki taraf da uygulanabilen veri koruma kanunlarına uymalıdır. Lisans Alan, denetçiye ve/veya Lisans Verene denetimle ilgili olarak hiçbir kişisel veri verilmemesini sağlamalıdır. Eğer denetçiye kişisel veri temin etmeden denetim yürütülemezse ve yürütülemeyeceği ölçüde, Lisans Alan sadece denetimin yürütülmesi için gereken kişisel verilerin temin edilmesini sağlamak için gerekli tedbirleri alacaktır.

16. APPLICABLE LAWS; EXPORT AND RE-EXPORT CONTROL

16.1 The Licensee is responsible for ensuring that its use of the Licensed Software is compatible with all statutory and regulatory requirements applicable to the Licensee.

16.2 The Licensee is informed that the export of the Licensed Software, information and documentation according to the relevant export provisions of the Turkey, the countries in which the Licensor and/or the Licensee is located, the European Union and/or the United States of America (US (re-)export provisions) – e.g., due to its type or purpose or final location – may require authorization or may be excluded and any contravention subject to criminal prosecution. The Licensee is therefore responsible for strictly observing all nationally or internationally applicable (re-)export provisions and in any case the EU dual use and sanction law and obtaining any necessary permits. The Licensee therefore undertakes to check and ensure in particular that

a) insofar as the Licensed Software, information and documentation may be supplied for defense-related, nuclear or weapon-related use or delivered to a military recipient with authorization from the relevant, in particular national, authorities, all authorizations must be obtained from the authorities and Licensor in advance of the supplying of the Licensed Software, information and documentation;

b) the relevant UN resolutions, EU Regulations and Turkish laws and other applicable laws

16. UYGULANABİLEN KANUNLAR; İHRACAT VE REEKSPORT KONTROL

16.1 Lisans Alan, Lisanslı Yazılımı kullanmasının, Lisans Alanın tabi olduğu bütün yasal ve idari zorunluluklara uygun olmasını sağlamaktan sorumludur.

16.2 Lisans Alan, Türkiye'nin, Lisans Verenin ve/veya Lisans Alanın bulunduğu ülkelerin, Avrupa Birliği ve/veya Amerika Birleşik Devletlerinin ilgili ihracat hükümlerine (ABD ihracat/reeksport hükümleri) göre Lisanslı Yazılım, bilgi ve belgelerin ihracatının – ör., türü veya amacı veya nihai lokasyonu nedeniyle – izin gerektirebileceği veya men ve buna aykırılıkların cezai kovuşturmaya tabi olabileceği konusunda bilgilendirilmiştir. Dolayısıyla, bütün ulusal veya uluslararası çapta uygulanabilen bütün ihracat/reeksport hükümlerine ve her durumda AB çifte kullanım ve yaptırım kanununa mutlak surette uymaktan ve varsa gerekli izinleri almaktan Lisans Alan sorumludur. Dolayısıyla Lisans Alan özellikle aşağıdakileri kontrol etmeyi ve sağlamayı taahhüt eder

a) savunmayla ilgili, nükleer veya silahlarla ilgili kullanım için, özellikle ulusal olmak üzere ilgili makamlardan izinle askeri bir alıcıya Lisanslı Yazılım, bilgi ve belge temin veya teslim edilebileceği durumlar bakımından, Lisanslı Yazılım, bilgi ve belgenin temininden önce o makamlardan ve Lisans Verenden bütün izinlerin önceden alınması;

b) ilgili BM kararlarına, AB Yönetmeliklerine ve Türk kanunlarına ve yetkili

and regulations of the competent authorities are observed;

c) no Licensed Software, information and documentation is provided directly or indirectly to the persons and companies listed on the relevant sanction lists.

16.3 The supply and service obligations under the relevant License Agreement (contract performance) are subject to the condition that no obstacles or prohibitions based on national or international provisions, especially export control regulations, embargoes or other sanctions prevent performance. The parties undertake to provide all information and documents needed for the export/shipment/import. Any delays due to export controls or authorization procedures nullify agreed deadlines and delivery times. If the necessary authorizations are not issued despite proper application by the party required to do so, with respect to the affected parts the License Agreement shall be deemed not concluded; damage claims in this respect and related of the aforementioned exceeding of deadlines are excluded.

16.4 The Licensor shall specify the relevant points of contact for further information to the Licensee on request.

16.5 If the Licensee infringes its obligations under this clause 16, it shall indemnify the Licensor upon first demand against all claims and compensate all damages that sub-suppliers of the Licensor, rights holders, other third parties or government and/or international authorities or organizations assert towards the Licensor, unless the Licensee is not responsible for the

makamların diğer uygulanabilen kanunlarına ve yönetmeliklerine uyulması;

c) ilgili yaptırım listelerinde adı geçen kişilere ve şirketlere doğrudan veya dolaylı olarak hiçbir Lisanslı Yazılım, bilgi ve belgenin temin edilmemesi.

16.3 İlgili Lisans Sözleşmesi kapsamındaki temin ve hizmet yükümlülükleri (sözleşmenin ifası), ulusal veya uluslararası hükümlere istinaden hiçbir engel veya yasak, özellikle ihracat kontrol yönetmelikleri, ambargolar veya ifayı engelleyen diğer yaptırımlar performans olmaması şartına tabidir. Taraflar ihracat/sevkiyat/ithalat için gereken bütün bilgileri ve dokümanları temin etmeyi taahhüt eder. İhracat kontrolleri veya izin prosedürleri nedeniyle gecikme olması, üzerinde anlaşılan son tarihleri ve teslimat zamanlarını hükümsüz kılar. Eğer izni alması gereken tarafın doğru şekilde başvuru yapmasına rağmen gerekli izinler alınamazsa, Lisans Sözleşmesinin etkilenen bölümleri akdedilmemiş sayılacaktır; bu bağlamdaki tazminat talepleri ve bunla ilgili olarak yukarıda belirtildiği gibi son tarihlerin aşılması hariç tutulacaktır.

16.4 Lisans Veren, talep halinde Lisans Alana ilave bilgi vermek için irtibat kurulacak kişileri bildirecektir.

16.5 Eğer Lisans Alan bu madde 16 kapsamındaki yükümlülüklerini ihlal ederse, Lisans Vereni, Lisans Verenin alt-tedarikçilerinin, hak sahiplerinin, diğer üçüncü kişiler veya hükümet ve/veya uluslararası otoritelerin veya organizasyonların Lisans Verene karşı ileri sürdüğü bütün tazminat taleplerine karşı (ihlalden Lisans Alanın sorumlu olmadığı durumlar hariç) ilk talepte tazmin edecek ve beri

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17.3 Geçici olarak temin edilen Lisanslı Yazılımlar için ve bakım ve destek hizmetleri için, ilgili Lisans Sözleşmesi ve/veya Bakım Sözleşmesinin bir ilk süresi bulunmaktadır. Aksi üzerinde anlaşılmadıkça, geçici olarak temin edilen bir Lisanslı Yazılım için Lisans Sözleşmesinin ilk dönemi, alındığı takvim yılının sonuna kadardır. Aynı husus, Bakım Sözleşmesinin ilk dönemi için de geçerlidir.

17.4 Lisans Veren ve Lisans Alan, süre sınırlı bir Lisans Sözleşmesini ve/veya Bakım Sözleşmesini ilk dönemden ve/veya bir Uzatma Döneminden (aşağıda tanımlandığı üzere) sonra, ilgili sürenin dolmasından üç (3) ay önce yapılan ihbarla feshedebilir. Eğer ilgili Lisans Sözleşmesi ve/veya Bakım Sözleşmesi zamanında feshedilmezse, her seferinde on ikişer (12) aylık sürelerle uzatılacaktır ("Uzatma Dönemi").

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18.2.2 Lisans Sözleşmesinden, Bakım Sözleşmesinden ve/veya bu Yazılım Lisansı Koşullarından veya geçerliliğinden kaynaklanan veya bunlarla ilgili her türlü ihtilafın çözümünde İstanbul (Anadolu) Mahkemeleri ve İcra Müdürlükleri yetkilidir.

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BÖLÜM B – İŞ-YERİNDE ÜRÜNLER İÇİN ÖZEL HÜKÜMLER

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b) madde 19.1(ii) bakımından, Lisanslı Yazılımı taşıyıcıya, nakliyeciye vb. teslim ettiği

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20.4 Münferit lisans türleri şöyledir:

20.4.1 İşyeri Lisansı

Lisans Alanın İşyeri Lisansı satın alması halinde, Lisans Alanın, Ürün Açıklamasına göre bir (1) İşyerinde istenilen amaçlarla Lisanslı Yazılımı kurmasına, çalıştırmasına ve kullanmasına izin verilmektedir. Eğer Lisans Alan birden fazla İşyeri Lisansı satın alırsa, kurulum sayısı, alınan İşyeri Lisansları sayısını aşmamalıdır. İşyeri Lisansında, Lisanslı Yazılımın bir ağda kullanılmak üzere merkezi bir sunucuya kurulmasına izin verilmemektedir.

Ücretsiz İşyeri Lisansı ile, Lisans Alan Lisanslı Yazılımı lisans anahtarı olmadan ve dongle olmadan alır. Lisanslı Yazılım belli bir donanıma bağlı değildir.

Ödemeli İşyeri Lisansı (Tek kullanıcı Lisansı) için, Lisanslı Yazılım bir lisans anahtarıyla gelir, bir dongle ile korunabilir ve belli bir donanıma bağımlı olabilir.

20.4.2 Demo Lisansı

Madde 20.4.1 bir Demo Lisansı (ücretsiz) için de buna göre uygulanır, şu şartla ki:

a) Lisanslı Yazılımın fonksiyonlarının kapsamı, Lisans Sözleşmesinin ve/veya Ürün Açıklamasının hükümlerine uygun olarak, İşyeri Lisansına göre sınırlıdır, veya

b) eğer Lisanslı Yazılım Lisans Alana, İşyeri Lisansıyla aynı fonksiyon kapsamıyla sabit bir

scope of functions as the Workplace License; the Licensor grants the Licensee a correspondingly time-limited right to use the Licensed Software in accordance with the provisions of the License Agreement and/or the Product Description.

süre için temin edilirse; Lisans Veren Lisans Alana, Lisans Sözleşmesi ve/veya Ürün Açıklamasının hükümlerine uygun olarak Lisanslı Yazılımı sınırlı süreyle kullanma hakkını vermektedir.

20.4.3 Network License

20.4.3 Ağ Lisans

If the Licensee purchases a Network License, it is permitted to install the Licensed Software in the Network and to grant a certain number of Users access to the Licensed Software ("Floating License"). In this case the Licensee is entitled to have the Licensed Software used simultaneously by a maximum number of Users equivalent to the number of licenses purchased ("Concurrent Users").

Lisans Alanın Ağ Lisansı satın alması halinde, Lisanslı Yazılımı Ağa kurmasına ve belli bir sayıda kullanıcının Lisanslı Yazılıma erişimin sağlamasına izin verilmektedir ("Değişken Lisans"). Böyle bir durumda Lisans Alan Lisanslı Yazılımı en fazla, alınan lisansların sayısı kadar kullanıcıya eş zamanlı olarak kullandırtma ("Eşzamanlı Kullanıcılar") hakkına sahiptir.

20.4.4 Server Parameter License

20.4.4 Sunucu Parametre Lisansı

If the Licensee purchases a Server Parameter License, it is permitted to install the Licensed Software on one (1) central Server and to grant an unlimited number of Users access to the Licensed Software provided the Server does not exceed certain thresholds for technical parameters in accordance with the provisions of the License Agreement and/or the Product Description (e.g., number of processor cores, number of clients, etc.)

Lisans Alanın bir Sunucu Parametre Lisansı satın alması halinde, Sunucu Lisans Sözleşmesinin ve/veya Ürün Açıklamasının hükümlerine göre teknik parametreler için belli eşiklerini (ör., işlemci çekirdeği sayısı, istemci sayısı, vb.) aşmaması şartıyla Lisanslı Yazılımı bir (1) merkezi Sunucuya kurmasına ve sınırsız sayıda kullanıcının Lisanslı Yazılımı erişim sağlamasına izin verilir.

20.5 The number of licenses purchased is specified in the License Agreement. The Licensee may purchase more licenses in addition to the licenses originally purchased in the License Agreement. The Purchase of more licenses is done either by a corresponding order by the Licensee in text form or by use of the Licensed Software by additional Users

20.5 Alınan lisans sayısı Lisans Sözleşmesinde belirtilmiştir. Lisans Alan, Lisans Sözleşmesinde aslen satın alınan lisanslara ilaveten daha fazla lisans alabilir. Daha fazla lisansın alımı, Lisans Alan tarafından metin halinde sipariş verilmesiyle ya da Lisanslı Yazılımın aşağıdaki hükümlere göre ek kullanıcılar

according to the following provisions:

20.5.1 In the case of Workplace Licenses, each additional installation on a Workplace shall be deemed a Purchase of an additional Workplace License.

20.5.2 In the case of Network Licenses, use within the meaning of clause 20.4.3 beyond the number of permitted Concurrent Users shall be deemed a Purchase of an additional Network License.

20.5.3 In the case of Server Parameter Licenses, the following applies: If one or more parameters of the Server used exceed(s) the threshold given in the License Agreement and/or the Product Description, this shall be deemed an order of one or more new additional Server Parameter Licenses depending on the factor by which the Server exceeds the thresholds in question. If the Licensed Software is used on more than one Server, this shall be deemed an order of one or more new additional Server Parameter Licenses, depending what number of Servers the Licensed Software is used on.

20.5.4 In the case of On-Premise Products provided for a limited time, each additional license or license upgrade runs until expiration of the agreed term of the original license for the Product in question.

21. HARDWARE ENVIRONMENT

Unless otherwise specified in the relevant Product Description, the Licensee is entitled subject to clause 8 to use On-Premise Products in conformity with the license while observing the agreed license volume on any available hardware and in

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tarafından kullanımı yoluyla yapılabilir:

20.5.1 İşyeri Lisansları bakımından, bir İşyerine her ilave kurulum, ek bir İşyeri Lisansı alımı sayılır.

20.5.2 Ağ Lisansları bakımından, madde 20.4.3 anlamında, izin verilen Eşzamanlı kullanıcıların sayısından fazla kullanım, ek bir Ağ Lisansı alımı sayılır.

20.5.3 Sunucu Parametre Lisansları bakımından, şu şartlar uygulanır: eğer kullanılan sunucunun bir veya daha fazla parametresi, Lisans Sözleşmesinde ve/veya Ürün Açıklamasında belirtilen eşiği aşarsa, sunucunun söz konusu eşikleri aşma faktörüne bağlı olarak bu, bir veya daha fazla yeni ek sunucu Parametre Lisansı siparişi sayılır. Eğer Lisanslı Yazılım birden fazla Sunucuda kullanılırsa, Lisanslı Yazılımın kullanıldığı Sunucuların sayısına bağlı olarak bu, bir veya daha fazla yeni ek sunucu Parametre Lisansı için sipariş sayılacaktır.

20.5.4 Sınırlı süreyle temin edilen İş-Yerinde Ürünler bakımından, her ek lisans veya lisans yükseltmesi, söz konusu Ürün için orijinal lisansın üzerinde anlaşılan süresinin dolmasına kadar işler.

21. Donanım ORTAMI

İlgili Ürün Açıklamasında aksi belirtilmedikçe, Lisans Alan madde 8 uyarınca, İş-Yerinde Ürünleri, anlaşılan lisans hacmine uyarak, herhangi bir donanım ve sistem ortamında lisansa uygun şekilde bu sistem ortamının, varsa, belirli bir

any system environment, provided that this system environment corresponds to the specified machine type, if any. However, if the Licensee changes hardware, it is required to delete the previously installed On-Premise Product and the related license key from the previously used hardware.

PART C – SPECIAL PROVISIONS FOR MOBILE APPS

22. DOWNLOADING MOBILE APPS

22.1 The Licensor makes the Licensed Software available for download from a Server via a designated website or a dedicated online marketplace (app store) of a third party.

22.2 Clauses 19.2 and 19.4 apply mutatis mutandis.

23. GRANT OF RIGHTS TO MOBILE APPS

23.1 Unless otherwise agreed in the License Agreement, the Licensor grants the Licensee a limited, non-exclusive, non-transferable (except as provided otherwise in clause 6.6), non-sublicensable right to use the Licensed Software according to this clause 23 and clause 5 in accordance with the relevant Product Description.

23.2 The Licensee is permitted to install, run and use the Licensed Software for the intended purposes on a mobile device (smartphone, tablet) in accordance with the Product Description.

23.3 Rights to the Licensed Software in Mobile Apps are generally granted perpetually. However, the Licensor may specify in the License

makine türüne uygun olması şartıyla kullanma hakkına sahiptir. Ancak Lisans Alan donanımı değiştirirse, önceden kurulmuş İş-Yerinde Ürünü ve ilgili lisans anahtarını, önceden kullanılan donanımdan silmek zorundadır.

BÖLÜM C – MOBİL UYGULAMALAR İÇİN ÖZEL HÜKÜMLER

22. MOBİL UYGULAMALARIN İNDİRİLMESİ

22.1 Lisans Veren Lisanslı Yazılımı, belirlenmiş bir web sitesi veya bir üçüncü kişinin buna özel online pazaryeri (app store) aracılığıyla bir sunucudan indirilmeye hazır hale getirir.

22.2 Madde 19.2 ve 19.4 *gerekli değişiklikler yapıldıktan sonra* uygulanır.

23. MOBİL UYGULAMALAR ÜZERİNDEKİ HAKLARIN VERİLMESİ

23.1 Lisans Sözleşmesinde aksine hüküm yoksa, Lisans Veren Lisans Alana, Lisanslı Yazılımı bu madde 23 ve madde 5'e göre, ilgili Ürün Açıklamasına uygun olarak kullanmak için sınırlı, münhasır olmayan, devredilemez (madde 23 da öngörülenin haricinde), alt-lisanslanamaz hakkı vermektedir.

23.2 Lisans Alanının Lisanslı Yazılımı Ürün Açıklamasına uygun olarak bir mobil cihazda (smartphone, tablet) istenilen amaçlar için kurmasına, çalıştırmasına ve kullanmasına izin verilmektedir.

23.3 Mobil Uygulamalardaki Lisanslı Yazılım üzerindeki haklar genelde daimi olarak verilmektedir. Ancak Lisans Veren, Lisans Sözleşmesinde

Agreement that the Licensed Software is provided to the Licensee not on a perpetual basis but for a limited period. In this case the rights are granted on a time-limited basis in accordance with the provisions of the relevant License Agreement and/or the Product Description.

Lisanslı Yazılımın Lisans Alana sürekli olarak değil sınırlı bir süre için temin edildiğini belirtebilir. Böyle bir durumda haklar, ilgili Lisans Sözleşmesinin ve/veya Ürün Açıklamasının süresi boyunca süre-sınırlı esasa göre verilmiştir.

24. DEVICES

Clause 21 applies accordingly to Mobile Apps with the proviso that for Mobile Apps, the term "hardware" refers to the mobile device of the User.

24. CİHAZLAR

Madde 21, Mobil Uygulamalar için de buna göre uygulanacak olup, Mobil Uygulamalar için "donanım" terimi, Kullanıcının mobil cihazını ifade eder.

PART D – SPECIAL PROVISIONS FOR EMBEDDED SOFTWARE

BÖLÜM D – GÖMÜLÜ YAZILIM İÇİN ÖZEL HÜKÜMLER

25. GRANT OF RIGHTS FOR EMBEDDED SOFTWARE

25. GÖMÜLÜ YAZILIM İÇİN HAKLARIN VERİLMESİ

25.1 If the Licensee purchases Embedded Software, the Licensor grants the Licensee a limited, non-exclusive, non-sublicensable right to use the Licensed Software as software integrated into the device in machine-executable object code according to this clause 25 and clause 5 for proper use of the respective device in accordance with the relevant Product Description ("Runtime License"). The use of the Licensed Software is limited to the respective device. The Licensee is therefore in particular not authorized to use the Licensed Software separately from this device (standalone) on other hardware.

25.1 Eğer Lisans Alan Gömülü Yazılım satın alırsa, Lisans Veren Lisans Alana, Lisanslı Yazılımı bu madde 25 ve madde 5'e göre ve ilgili Ürün Açıklamasına uygun olarak; makinede çalıştırılabilir hedef kod olarak cihaza entegre yazılım olarak, sınırlı, münhasır olmayan, alt-lisanslanamaz kullanma hakkı vermektedir ("Runtime Lisansı"). Lisanslı Yazılımın kullanımı, ilgili cihazla sınırlıdır. Dolayısıyla Lisans Alan özellikle Lisanslı Yazılımı bu cihazdan (tek başına) ayrı olarak diğer bir donanımda kullanmaya yetkili değildir.

25.2 In deviation from clause 6.6, for Embedded Software the Licensee is entitled to resell the Licensed Software as part of the respective device but solely in compliance with clause 25.1.

25.2 Gömülü Yazılım için madde 'ya uyulmaması halinde Lisans Alan Lisanslı Yazılımı ilgili cihazın bir parçası olarak, fakat ancak madde 25.1'e uygun olarak tekrar satma hakkına sahiptir.

PART E – SPECIAL PROVISIONS FOR SDKS AND SOURCE CODE

26. PROVISION AND GRANT OF RIGHTS FOR SDKS AND SOURCE CODE

26.1 Regarding the delivery and provision of access to SDKs and Source Code, clauses 19.1 - 19.3 apply mutatis mutandis.

26.2 If the subject matter of a License Agreement is a SDK, the Licensor grants the Licensee a perpetual, non-exclusive license to the object code of the Licensed Software solely for the purposes of developing its own products for the named system of Phoenix Contact or of the End Customer. The specific scope of the permitted use of the relevant SDK and applicable restrictions, e.g., development environment and target systems, are set forth in a separate agreement between Licensor and Licensee (e.g., the License Agreement). If the SDK also contains Source Code, the Licensor grant the Licensee a perpetual, non-exclusive license for this Source Code solely for the purposes of internal debugging of the Licensed Software. The Licensee may compile the so-modified Licensed Software and integrate it into the respective devices of the Licensor. Any other use of the Source Code of the Licensed Software is strictly prohibited. In particular, the Licensee is not entitled to make functional modifications to the Licensed Software.

26.3 If the subject matter of a License Agreement is a Source Code, the Licensor grants the Licensee a perpetual, non-exclusive license to one (1) copy of the Source Code of the Licensed Software solely for the purposes of developing its own products for the named system of

BÖLÜM E – SDK'LAR VE KAYNAK KOD İÇİN ÖZEL HÜKÜMLER

26. SDK'LAR VE KAYNAK KODLARIN TEMİNİ VE HAKLARIN VERİLMESİ

26.1 SDK'ların ve Kaynak kodların teslimine ve erişim sağlanmasına ilişkin olarak, madde 19.1 – 19.3 *gerekli değişiklikler yapıldıktan sonra* uygulanır.

26.2 Lisans Sözleşmesinin konusu SDK ise, Lisans Veren, sadece Phoenix Contact'ın veya Nihai Müşterinin belirlenmiş sistemi için kendi ürünlerini geliştirme amacıyla Lisanslı Yazılımın hedef kodu üzerinde daimi, münhasır olmayan lisansı Lisans Alana vermektedir. İlgili SDK'nın izin verilen kullanımının spesifik kapsamı ve geçerli kısıtlamalar, ör., geliştirme ortamı ve hedef sistemler, Lisans Veren ve Lisans Alan arasındaki ayrı bir sözleşmede (ör., Lisans Sözleşmesi) belirtilmiştir. SDK aynı zamanda Kaynak kod da içeriyorsa, Lisans Veren Lisans Alana, kendi içinde Lisanslı Yazılımın hatalarını gidermek için bu Kaynak kodun daimi, münhasır olmayan lisansını da vermektedir. Lisans Alan modifiye edilen o Lisanslı Yazılımı derleyebilir ve Lisans Verenin ilgili cihazlarına entegre edebilir. Lisanslı Yazılımın Kaynak kodunun diğer kullanımları kesinlikle yasaktır. Özellikle, Lisans Alan Lisanslı Yazılımda fonksiyonel modifikasyonlar yapma hakkına sahip değildir.

26.3 Lisans Sözleşmesinin konusu bir Kaynak kod ise, Lisans Veren sadece Phoenix Contact'ın veya Nihai Müşterinin belirlenmiş sistemi için kendi ürünlerini geliştirme amacıyla Lisanslı Yazılımın Kaynak kodunun bir (1) kopyası üzerinde daimi, münhasır olmayan lisansı Lisans Alana

Phoenix Contact or of the End Customer. The specific scope of the permitted use of the relevant Source Code and applicable restrictions, e.g., development environment and target systems, are set forth in a separate agreement between Licensor and Licensee (e.g., the License Agreement).

26.4 Unless otherwise agreed, SDKs and/or Source Code are licensed as a Facility License.

26.5 If the Licensee wishes to resell a perpetually provided SDK or perpetually provided Source Code to a third party, clause 6.6 applies provided that the Licensee, in addition to the requirements stated therein, informs the Licensor in writing about the resale and the identity and address of the third party.

PART F – SPECIAL PROVISIONS FOR CLOUD PRODUCTS

27. SPECIFICATION

27.1 Cloud Products within the meaning of these Software License Terms are web-based, multi-client-capable systems offered individually or in combination with other components and services.

27.2 It is specified in the License Agreement which Cloud Products the Licensee purchases. The quality of the Cloud Products is conclusively specified in the individual Product Descriptions available at http://www.phoenixcontact.com for each Cloud Product and in these Software License Terms.

27.3 The Licensor grants the Licensee access to the Cloud Products according to these Software License Terms in the version generally kept

vermektedir. İlgili Kaynak kodun izin verilen kullanımının spesifik kapsamı ve geçerli kısıtlamalar, ör., geliştirme ortamı ve hedef sistemler, Lisans Veren ve Lisans Alan arasındaki ayrı bir sözleşmede (ör., Lisans Sözleşmesi) belirtilmiştir.

26.4 Başka türlü üzerinde anlaşılmadıkça, SDK'lar ve/veya Kaynak kod, Tesis Lisansı olarak lisanslanır.

26.5 Lisans Alan, daimi olarak sağlanan bir SDK veya daimi olarak sağlanan Kaynak kodu bir üçüncü şahsa satmak isterse, Lisans Alan, o satışta belirtilen zorunluluklara ilaveten, satış ve üçüncü şahsın kimliği ve adresi hakkında Lisans Vereni yazılı olarak bildirmesi şartıyla madde 6.6 uygulanır.

BÖLÜM F – BULUT ÜRÜNLERİ İÇİN ÖZEL HÜKÜMLER

27. ÖZELLİKLER

27.1 Bu Yazılım Lisansı Koşulları anlamında Bulut Ürünleri, münferiden veya diğer bileşenlerle ve hizmetlerle birlikte sunulan, web-tabanlı, çok istemciye hitap eden sistemlerdir.

27.2 Lisans Alanın hangi Bulut Ürünlerini aldığı, Lisans Sözleşmesinde belirtilmiştir. Bulut Ürünlerinin kalitesi, her Bulut Ürünü için http://www.phoenixcontact.com adresinden ulaşılabilecek münferit Ürün Açıklamalarında ve bu Yazılım Lisansı Koşullarında kesin olarak belirtilmiştir.

27.3 Lisans Veren, genel olarak Lisans Veren tarafından sağlanan versiyonda Bulut Ürünlerine bu Yazılım Lisansı Koşullarına göre erişim hakkını Lisans

available by the Licensor.

Alana vermektedir.

27.4 The Licensor is obliged to maintain the Cloud Products available for the Licensee for use via the internet and to make them accessible. The Cloud Products are available to the Licensee via the internet according to these Software License Terms. The Cloud Products are 98 % available on a monthly average (30 days) unless another availability rate is agreed in the License Agreement. Availability of Cloud Products exceeding the period stated above is not part of the Cloud Products and the Licensor is not required to provide the relevant Cloud Product for any such additional period. The point at which the availability of the Cloud Products is measured is the WAN-side router output of the data center in which the relevant Cloud Product is hosted. Maintenance times in accordance with clause 30 are to be deducted from the "target availability" when calculating availability.

27.4 Lisans Veren Bulut Ürünlerini internet üzerinden kullanılmak üzere Lisans Alana sağlamak ve bunları erişilebilir hale getirmek zorundadır. Bulut Ürünlerine Lisans Alan tarafından bu Yazılım Lisansı Koşullarına göre internet üzerinden erişilebilecektir. Lisans Sözleşmesinde başka bir erişilebilirlik oranı üzerinde anlaşılmadıkça Bulut Ürünleri aylık ortalama (30 gün) %98 erişilebilir olacaktır. Bulut Ürünlerinin yukarıda belirtilen süreyi aşan erişilebilirliği, Bulut Ürünlerinin bir parçası değildir ve Lisans Veren ek süre için ilgili Bulut Ürününü temin etmek zorunda değildir. Bulut Ürünlerinin erişilebilirliğinin ölçüldüğü nokta, ilgili Bulut Ürününün barındırıldığı veri merkezinin WAN-tarafı yönlendirici çıkışıdır. Erişilebilirliği hesaplarken, madde 30'a göre bakım süreleri "hedef erişilebilirlik"ten düşülecektir.

27.5 If the Licensor's offer specifies that certain devices ("Devices") may be connected to the Cloud via the internet, such Devices can only be connected with the relevant Cloud Product. In this respect the option of connecting Devices with each other is not a feature of the Cloud Products.

27.5 Eğer Lisans Verenin teklifinde, Buluta internet üzerine belli cihazların ("Cihazlar") bağlanabileceği belirtilmişse, o Cihazlar sadece ilgili Bulut Ürünüyle bağlanabilir. Bu bağlamda, Cihazları birbirine bağlama seçeneği, Bulut Ürünlerinin bir özelliği değildir.

27.6 Cross-customer visibility or accessibility of the Licensee's Devices by other Users on Devices of another customer is not a feature of the Cloud Products either.

27.6 Lisans Alanın Cihazlarının, başka bir müşterinin Cihazlarındaki diğer kullanıcılarla çapraz-müşteri görünürlüğü veya erişilebilirliği de Bulut Ürünlerinin bir özelliği değildir.

27.7 The Licensee acknowledges that the Cloud Products are a multi-client system and the Licensee has no right to the benefit from a dedicated physical system for its own exclusive use.

27.7 Lisans Alan Bulut Ürünlerinin çok-istemcili bir sistem olduğunu ve Lisans Alanın kendi münhasır kullanımı için buna özel bir fiziksel sistemden yararlanma hakkı olmadığını tasdik eder.

27.8 The License Agreement for Cloud Products and these Software License Terms do not include any internet access for the Licensee, but solely the internet connection of the Cloud Products.

28. USE OF CLOUD PRODUCTS

28.1 The Licensor provides the Licensee after its registration with the necessary data for access (User name, password). The Licensee undertakes to keep its access data and passwords confidential and to inform the Licensor without delay in writing or by email if third parties obtain knowledge of the usage data and/or passwords of the Licensee. Clause 4.5 remains unaffected.

28.2 To use the Cloud Products for a certain Device, it is necessary for the Licensee to register the Device in question in the relevant Cloud Product. The device is enabled for using this Cloud Product by such a registration. All enabled devices of the Licensee are described as "Active Devices" below.

28.3 The Licensee is entitled at any time to deregister an Active Device again and thus to disable it. All disabled devices of the Licensee are described as "Inactive Devices" below. In the case of Cloud Products that require a User account with a certain usage allocation, all Active Devices are automatically disabled and become Inactive Devices when the Licensee's account contains no more usage allocation.

28.4 To use the Cloud Products in a manner corresponding to the Product Description, certain technical system requirements must be met by the Licensee. The necessary browsers for using the Cloud Products are described in the latest Release Notes for each Cloud Product.

27.8 Bulut Ürünleri için Lisans Sözleşmesi ve bu Yazılım Lisansı Koşulları, Lisans Alan için internet erişimini değil, sadece Bulut Ürünlerinin internet bağlantısını içermektedir.

28. BULUT ÜRÜNLERİNİN KULLANIMI

28.1 Lisans Veren kayıttan sonra erişim için gerekli verileri (Kullanıcı adı, şifre) Lisans Alana temin eder. Lisans Alan, erişim verilerini ve şifrelerini gizli tutmayı ve eğer Lisans Alanın kullanım verileri ve/veya şifreleri üçüncü kişilerin eline geçerse gecikmeksizin Lisans Vereni yazılı olarak veya e-postayla haberdar etmeyi taahhüt eder. Madde 4.5 bundan etkilenmez.

28.2 Belli bir Cihaz için Bulut Ürünlerini kullanmak üzere, Lisans Alanın sözkonusu Cihazı ilgili Bulut Ürününe kaydettirmesi gerekmektedir. O kayıtla Cihazın bu Bulut Ürününü kullanmasına izin verilecektir. Lisans Alanın izin verilen bütün cihazları aşağıda "Aktif Cihazlar" olarak adlandırılacaktır.

28.3 Lisans Alan herhangi bir zamanda aktif bir Cihazın kaydını sildirme, yani pasifleştirme hakkına sahiptir. Lisans Alanın pasifleştirilen bütün cihazları aşağıda "İnaktif Cihazlar" olarak adlandırılacaktır. Belli bir kullanım tahsisi için kullanıcı hesabı gerektiren Bulut Ürünlerinde, Lisans Alanın hesabında artık kullanım tahsisi kalmadığında, bütün aktif Cihazlar otomatik olarak pasif hale getirilecek ve İnaktif Cihazlar haline gelecektir.

28.4 Bulut Ürünlerini Ürün Açıklamasına uyan bir şekilde kullanmak için, Lisans Alan belli teknik sistem ge-reksinimlerini karşılamalıdır. Bulut Ürünlerini kullanmak için gereken tarayıcılar, her Bulut Ürünü için en son Sürüm Notlarında belirtilmiştir. Lisans Alanın bu teknik sistem

Licensor is not responsible for any consequences of Licensee's failure to meet such technical system requirements.

28.5 The Licensor is entitled to amend the Release Notes at its discretion while ensuring that at least two (2) browsers available free on the market are always supported.

28.6 The Licensee is required to use the Cloud Products (i) only in the context of applicable law and any restrictions in the User manual and (ii) not in a manner that jeopardizes the safety or performance of the Cloud Products.

29. RIGHTS OF USE FOR CLOUD PRODUCTS

29.1 If the Licensee orders Cloud Products, the Licensor grants the Licensee a non-transferable, non-exclusive, global right, limited to the term of the relevant License Agreement, to use the relevant Cloud Products online in accordance with this clause 29 and clause 5. This includes the right to access the web-based portal application and enable copies arising during such access of the program code in the unaided memory of the Licensee.

29.2 The Licensor maintains at any time a current version of the Product Description for the Cloud Products at http://www.phoenixcontact.com for electronic retrieval by the Licensee. The Licensor hereby grants the Licensee a non-exclusive right, limited to the term of the relevant License Agreement, to electronically retrieve and print out the Product Description once and to produce a backup copy.

gereksinimlerini karşılamamasının olası sonuçlarından Lisans Veren sorumlu değildir.

28.5 Lisans Veren, piyasada ücretsiz bulunabilen en az iki (2) tarayıcının her zaman desteklenmesini sağlamak şartıyla, Sürüm Notlarını kendi takdirine göre güncelleme hakkına sahiptir.

28.6 Lisans Alan, Bulut Ürünlerini (i) sadece uygulanabilen kanun ve kullanıcı kılavuzundaki kısıtlamalar bağlamında ve (ii) Bulut Ürünlerinin güvenliğini veya performansını tehlikeye atmayan bir şekilde kullanmak zorundadır.

29. BULUT ÜRÜNLERİ İÇİN KULLANIM HAKLARI

29.1 Eğer Lisans Alan Bulut Ürünleri sipariş ederse, Lisans Veren, ilgili Bulut Ürünlerini bu madde 29 ve madde 5 'e uygun olarak çevrimiçi kullanmak için ilgili Lisans Sözleşmesinin süresiyle sınırlı, devredilemez, münhasır olmayan, global hakkı Lisans Alana vermektedir. Bu, web-tabanlı portal uygulamasına erişim hakkını ve bu erişim sırasında ortaya çıkan program kodunun kopyalarını Lisans Alanın kendi başına kullandığı hafıza ortamına alma hakkını içerir.

29.2 Lisans Veren Bulut Ürünleri için Ürün Açıklamasının güncel versiyonunu, Lisans Alanın elektronik olarak indirebilmesi için http://www.phoenixcontact.com adresinde her zaman bulundurmaktadır. Lisans Veren, ilgili Lisans Sözleşmesinin süresiyle sınırlı olarak, elektronik olarak ulaşma ve Ürün Açıklamasının bir kez çıktısını alma ve bir yedek kopyasını üretmek için münhasır olmayan hakkı Lisans Alana vermektedir.

30. MAINTENANCE TIMES

The Licensor may carry out scheduled maintenance during scheduled maintenance times. These scheduled maintenance times are usually carried out between 6pm (CET) and 8pm (CET) and take a maximum of 2 hours per calendar month. The Licensor shall notify the Licensee of planned maintenance times with appropriate advance notice as far as possible and reasonable. In addition, the Licensor is entitled to carry out unplanned maintenance work of up to two (2) hours a month. During these times, the relevant Cloud Product will not be available.

31. CUSTOMER DATA

31.1 As between the Licensor and Licensee, the Licensee is the sole owner of all property rights, ownership rights and claims to the Customer Data. The Licensee grants the Licensor and its vicarious agents a non-exclusive right to use the Customer Data for providing the Cloud Products. Additionally, the Licensor is entitled to make copies of Customer Data in anonymized form (i.e., without information identifying the customer) and to analyze the anonymized data on an aggregate basis with anonymized data of other customers, e.g., for statistical purposes and to improve and develop the Cloud Products. With reference to personal data, the prevailing provisions of clause 14 and the agreement on contract data processing remain unaffected.

31.2 The Licensee is prohibited from uploading Customer Data to the Cloud Products which:

a) infringe third parties' rights

30. BAKIM SÜRELERİ

Lisans Veren planlı bakım zamanlarında planlı bakım yapabilir. Bu planlı bakımlar normalde akşam 6 (CET) ve akşam 8 (CET) saatleri arasında yapılır ve bir takvim ayında maksimum 2 saat sürer. Lisans Veren planlı bakım zamanlarını, olası ve makul olduğu kadarıyla uygun süre önceden Lisans Alana bildirecektir. Ek olarak, Lisans Veren ayda en fazla iki (2) saate kadar, planlanmamış bakım çalışması yapma hakkına sahiptir. Bu sürelerde, ilgili Bulut Ürünü erişilebilir olmayacaktır.

31. Müşteri Verisi

31.1 Lisans Veren ve Lisans Alan arasında, Müşteri Verisinin bütün mülkiyet hakları, sahiplik hakları ve hak taleplerinin tek sahibi Lisans Alandır. Lisans Alan, Bulut Ürünlerini sağlamak için Müşteri verisini kullanma hakkını münhasır olmamak üzere Lisans Verene ve onun vekillerine vermektedir. Lisans Veren ayrıca, Müşteri verilerinin anonimleştirilmiş halde (yani, müşteri kimliğini belli eden bilgiler olmadan) kopyalarını çıkarma ve anonimleştirilmiş verileri, diğer müşterilerin anonimleştirilmiş verileriyle toplulaştırılmış esasa göre, ör., istatistiksel amaçla ve Bulut Ürünlerini iyileştirme ve geliştirme amacıyla analiz etme hakkına sahiptir. Kişisel verilere ilişkin olarak, madde 14'ün amir hükümleri ve veri işleme sözleşmesi etkilenmeden kalacaktır.

31.2 Lisans Alanın, Bulut Ürünlerine:

a) üçüncü kişilerin haklarını ihlal

eden

b)	violate applicable law;	b)	yürürlükteki mevzuatı ihlal eden;

c) may lead to an infringement of applicable law by the Licensor;

c) yürürlükteki mevzuatın Lisans Veren tarafından ihlaline yol açabilecek;

d) impair the security of the Cloud Products or

d) Bulut Ürünlerinin güvenliğini bozan veya

e) substantially impair the performance of the Cloud Products.

e) Bulut Ürünlerinin performansını önemli ölçüde düşüren Müşteri verileri yüklemesi yasaktır.

31.3 Upon request by the Licensor the Licensee shall delete from the Cloud Products any Customer Data that breaches clause 31.2 by a reasonable period of time set by the Licensor. Depending on the risk arising from the Customer Data breaching clause 31.2 for the Cloud Products or the Licensor, in individual cases a request for direct deletion may also constitute a reasonable period of time. The Licensor is entitled to delete or block from the Cloud Products any Customer Data that the Licensee does not delete from the Cloud Products by the aforementioned period of time. No period needs to be set where the Licensor would face more than merely immaterial disadvantages if the respective Customer Data is not immediately deleted or blocked. In this case the Licensor is entitled to delete or block the Customer Data in question immediately.

31.3 Lisans Verenin talebi halinde Lisans Alan, madde 31.2'yi ihlal eden Müşteri verilerini, Lisans Verenin belirleyeceği makul bir süre içinde Bulut Ürünlerinden silecektir. Madde 31.2'yi ihlal eden Müşteri verilerinin Bulut Ürünleri veya Lisans Veren için doğurduğu riske bağlı olarak, münferit durumlarda doğrudan silme talebi de makul süre teşkil edebilir. Lisans Alanın yukarıda belirtilen süre içinde Bulut Ürünlerinden silmediği Müşteri verileri olursa, Lisans Veren bunları Bulut Ürünlerinden silme veya bloke etme hakkına sahiptir. İlgili Müşteri verisi derhal silinmez veya bloke edilmezse Lisans Verenin önemsiz dezavantajlardan çok daha fazlasıyla karşılaşacak ise, süre belirlenmesi gerekmez. Böyle bir durumda Lisans Veren söz konusu Müşteri verilerini derhal silme veya bloke etme hakkına sahiptir.

31.4 If the Licensee stores Customer Data in Cloud Products that infringe clause 31.2, the Licensee shall indemnify the Licensor against all resulting claims asserted against the Licensor and the Licensee shall bear the resulting costs unless it is not at fault. This also covers appropriate legal costs for the defense of such

31.4 Lisans Alan, Bulut Ürünlerinde madde 31.2'yi ihlal eden Müşteri verileri saklarsa, Lisans Alan bunun sonucunda Lisans Verene karşı ileri sürülen bütün taleplere karşı Lisans Vereni tazmin edecek ve bundan doğan masraflara, kendi hatası olmadığı durumlar hariç Lisans Alan katlanacaktır. Bu, taleplerine karşı

claims. The Licensor shall inform the Licensee of such third-party claims.

31.5 The Licensee (i) is solely responsible for the accuracy, quality, integrity and legality of the Customer Data and of the methods by which it procures the Customer Data, (ii) shall make commercially reasonable efforts to avoid unauthorized access to or unauthorized use of Cloud Products, and shall inform the Licensor without delay about every such unauthorized access or unauthorized use and (iii) shall use the services solely in accordance with the Product Description. The Licensor is under no obligation to check the legality of Customer Data.

31.6 The Licensee explicitly acknowledges that the Licensor does not monitor or control the content of communication or data of the Licensee or its Users that is uploaded to the Cloud Products or transferred via the Cloud Products, and that the Licensor is not liable for the content of the communication or transmissions.

32. CLIENT SOFTWARE FOR CLOUD PRODUCTS

32.1 If Client Software is needed for access to a certain Cloud Product, (i) the Licensor will provide the Licensee with the Client Software for the Cloud Product in question according to clause 19 and grant the Licensee during the term of the relevant License Agreement a non-exclusive, non-transferrable right to use the Client Software solely for accessing the related Cloud Product and for its use according to the terms and provisions of these Software License Terms.

yargılama masraflarını ve avukatlık ücretlerini de kapsar. Lisans Veren, üçüncü-kişi hak iddialarını/taleplerini Lisans Alana haber verecektir.

31.5 Lisans Alan (i) Müşteri verilerinin ve Müşteri Verilerini temin etme yöntemlerinin doğruluğundan, kalitesinden, bütünlüğünden ve yasallığından tek başına sorumludur, (ii) Bulut Ürünlerine yetkisiz erişim, veya yetkisiz kullanımını önlemek için ticari anlamda makul gayret sarf edecek, ve bu yetkisiz erişim veya yetkisiz kullanımların her biri hakkında gecikmeksizin Lisans Vereni haberdar edecek ve (iii) hizmetleri sadece Ürün Açıklamasına uygun olarak kullanacaktır. Lisans Veren, Müşteri Verilerinin yasallığını kontrol etme yükümlülüğü altında değildir.

31.6 Lisans Alan, Lisans Verenin, Lisans Alana veya onun kullanıcılarına ait olan, Bulut Ürünlerine yüklenen veya Bulut Ürünleri aracılığıyla aktarılan iletişim veya verilerinin içeriğini izlemediğini ve kontrol etmediğini, ve iletişim veya aktarımların içeriğinden Lisans Verenin sorumlu olmadığını açıkça bildiğini kabul eder.

32. BULUT ÜRÜNLERİ İÇİN MÜŞTERİ YAZILIMI

32.1 Belirli bir Bulut Ürününe erişim için İstemci Yazılımı gerekirse, (i) Lisans Veren söz konusu Bulut Ürünü için madde 19'a uyarınca İstemci Yazılımını Lisans Alana temin edecek ve ilgili Lisans Sözleşmesinin süresi boyunca ilgili Bulut Ürününe erişim için ve bu Yazılım Lisansı Koşullarının hüküm ve koşullarına göre kullanması için İstemci Yazılımının münhasır olmayan, devredilemez kullanma hakkını Lisans Alana verecektir.

32.2 If Client Software is needed according to the Licensor, the Licensee may only access the Cloud Product in question via the Client Software. Any other type of access is prohibited. The Licensor assumes no warranty and is not liable for access or attempts to access the Cloud Product in question by the Licensee in any way other than via the Client Software and is not responsible for defects or damage resulting from a breach of the aforementioned obligation by the Licensee.

32.2 Lisans Verene göre İstemci Yazılımı gerekirse, Lisans Alan sözkonusu Bulut Ürününe sadece İstemci Yazılımı aracılığıyla erişebilir. Diğer tür erişimler yasaktır. Lisans Veren, Lisans Alanın İstemci Yazılımı aracılığıyla olanın dışında herhangi bir yolla sözkonusu Bulut Ürününe erişimi veya erişim teşebbüsü için hiçbir garanti üstlenmez ve yükümlü değildir, ve Lisans Alanın yukarıda belirtilen vecibeyi ihlalinden doğan hasar veya kusurlardan sorumlu değildir.

32.3 The Licensee shall return all copies of the Client Software as soon as one of the following events occurs: (a) the termination of the License Agreement for the relevant Cloud Product or (b) communication by the Licensor that the Client Software is no longer necessary for accessing the relevant Cloud Product (e.g., in the case of updates or upgrades), together with a request by the Licensor to return the Client Software. Upon corresponding written request by the Licensor, the Licensee shall definitively destroy all copies of the Client Software instead of returning them according to the appropriate instructions of the Licensor such that they cannot be restored. The Licensee shall confirm to the Licensor within thirty (30) days of receipt of the request that the Licensee has met the above obligations.

32.3 Lisans Alan, aşağıdaki olaylardan birisi gerçekleşir gerçekleşmez İstemci Yazılımının bütün kopyalarını iade edecektir: (a) ilgili Bulut Ürünü için Lisans Sözleşmesinin feshi veya (b) ilgili Bulut Ürününe erişim için İstemci Yazılımının artık gerekli olmadığına dair Lisans Verence yapılan bildirim (ör., güncellemeler veya yükseltmeler durumunda), ve Lisans Verenin İstemci Yazılımını iade etmesi talebi. Lisans Verenin buna dair yazılı talebi üzerine Lisans Alan, Lisans Verenin talimatlarına göre iade etmek yerine, İstemci Yazılımının bütün kopyalarını, geri kurtarılamayacak şekilde kesin olarak imha edecektir. Lisans Alan, talebi almasından itibaren otuz (30) gün içinde, Lisans Alanın yukarıdaki yükümlülükleri yerine getirdiğini Lisans Verene teyit edecektir.

PART G – SPECIAL PROVISIONS FOR MAINTENANCE AND SUPPORT

BÖLÜM G – BAKIM VE DESTEK İÇİN ÖZEL HÜKÜMLER

33. MAINTENANCE AND SUPPORT SERVICES

33. BAKIM VE DESTEK HİZMETLERİ

33.1 If the Licensor and Licensee agree on maintenance and support services for perpetually provided Licensed Software by entering into a corresponding Maintenance Agreement, the Licensor shall provide these maintenance and

33.1 Eğer Lisans Veren ve Lisans Alan, daimi olarak sağlanan Lisanslı Yazılım için, bir Bakım Sözleşmesine akdederek bakım ve destek hizmetleri üzerinde anlaşırsa, Lisans Veren bu bakım ve destek hizmetlerini bu Yazılım Lisansı Koşulları ve Bakım

support services in accordance with these Software License Terms and the Maintenance Agreement. In case of contradictions between the provisions of these Software License Terms and the provisions of the Maintenance Agreement, the provisions of the Maintenance Agreement shall prevail. This clause 33 shall apply accordingly to SW Updates and SW Upgrades that the Licensor provides to the Licensee in accordance with clause 1 in a warranty case in the context of remedying defects.

Sözleşmesine göre temin edecektir. Bu Yazılım Lisansı Koşullarının hükümleri ile Bakım Sözleşmesinin hükümleri arasında farklılık olması halinde, Bakım Sözleşmesi hükümleri uygulanacaktır. Kusurların giderilmesi bağlamında garanti durumunda madde 33'e göre Lisans Verenin Lisans Alana temin ettiği SW Güncellemeleri ve SW Yükseltmeleri için de bu madde 1 uygulanacaktır.

33.2 The maintenance and support services comprise correcting defects, telephone and/or electronic User support as well as the provision of updates of the Licensed Software. In particular, Licensor shall provide, if available, SW Updates and SW Upgrades of the Licensed Software (and the updated documentation in each case) in accordance with the Maintenance Agreement. The Licensee is not entitled to modules, components or other products for which the Licensor issues separate licenses or charges additional fees. Unless otherwise agreed, the provision of Major Releases is not part of the maintenance and support services and requires a separate agreement between Licensor and Licensee.

33.2 Bakım ve destek hizmetleri, kusurların giderilmesinden, telefon ve/veya elektronik kullanıcı desteğinden ve Lisanslı Yazılımın güncellemelerinin sağlanmasından oluşmaktadır. Özellikle, Lisans Veren, Lisanslı Yazılımın eğer varsa SW Güncellemelerini ve SW Yükseltmelerini (ve her durumda güncel dokümantasyon) Bakım Sözleşmesine uygun olarak sağlanacaktır. Lisans Alan, Lisans Verenin ayrı lisanslar düzenlediği veya ek ücretler uyguladığı modüller, bileşenler veya diğer ürünler üzerinde hak sahibi değildir. Üzerinde başka türlü anlaşılmadıkça, Büyük Çaplı Sürümlerin temini, bakım ve destek hizmetlerinin parçası değildir ve Lisans Veren ile Lisans Alan arasında ayrı bir sözleşme gerektirir.

33.3 The Licensee shall install all SW Updates and SW Upgrades without delay after receiving them or as soon as they become available and the Licensee is notified by the Licensor of the availability of SW Updates and SW Upgrades, in order to cease an infringement of a third-party intellectual property right or to remove a defect in the Licensed Software.

33.3 Lisans Alan, üçüncü-kişi fikri mülkiyet haklarının ihlaline son vermek veya Lisanslı Yazılımdaki bir kusuru gidermek için, bütün SW Güncellemelerini ve SW Yükseltmelerini, almasından itibaren gecikmeksizin, veya SW Güncellemelerinin ve SW Yükseltmelerinin erişilebilir hale gelip Lisans Alana Lisans Veren tarafından bildirilir bildirilmez yükleyecektir.

33.4 The maintenance and support services are provided for the current version of the Licensed Software and

33.4 Bakım ve destek hizmetleri, en son versiyonun kullanımının Lisans Alan için makul olmadığı, ör., güncel

for a period of twelve (12) months maximum from when the current version is made for the previous version (n-1) unless the use of the latest version is unreasonable for the Licensee, e.g., if the current version contains defects or security risks; other version qualify for maintenance and support only if separately agreed between the Licensor and Licensee.

versiyonun kusurlar veya güvenlik riskleri içerdiği durumlar haricinde, Lisanslı Yazılımın güncel versiyonu için ve önceki versiyon (n-1) için güncel versiyonun yapılmasından itibaren maksimum on iki (12) ay süreyle sağlanmaktadır; diğer versiyon ancak eğer Lisans Veren ve Lisans Alan arasında ayrıca anlaşmaya varılmışsa bakım ve destek almak için gereken şartlara sahiptir.

33.5 Further details on the scope of the maintenance and support services are set forth in the Maintenance Agreement. The Licensor may adapt, modify, reduce and/or amend the scope therein of maintenance and support services in accordance with clause 4.4.

33.5 Bakım ve destek hizmetlerinin kapsamının diğer detayları, Bakım Sözleşmesinde belirtilmiştir. Lisans Veren, bakım ve destek hizmetlerinin kapsamını madde 4.4'e göre adapte edebilir, değiştirebilir, azaltabilir ve/veya tadil edebilir.

33.6 Clause 1 of these Software License Terms applies only to maintenance and support services, insofar as the services in question are subject to mandatory statutory provisions related to contracts for work, leases or purchase contracts.

33.6 Bu Yazılım Lisansı Koşullarının 1. Maddesi sadece bakım ve destek hizmetleri için, söz konusu hizmetlerin, iş sözleşmeleri, kiralar veya alım sözleşmeleri ile ilgili mecburi yasal hükümlere tabi olduğu ölçüde geçerlidir.