General Terms and Conditions of Tsetinis Software GmbH

1. Scope

1.1. The present General Terms and Conditions of Contract ("Terms & Conditions") shall apply to all services rendered by TSET within the framework of a contractual relationship between Tsetinis Software GmbH, A-5431 Kuchl, Kellau 151, FN 491399x (hereinafter referred to as "TSET") and the principal (hereinafter referred to as "Principal"). Upon execution of the purchase order and the receipt of our confirmation and/or the acceptance of the services, the *Principal* accepts our Terms & Conditions. Deviating general terms and conditions of the *Principal* are not binding for *TSET*; they are herewith expressly rejected and thus do not form part of the contract, neither by the acceptance of the order nor by any other implied action.

1.2. *TSET* offers the *Principal* IT-services, in particular by providing a platform for managing costs and CO2 within the product development process (by means of leased Software as a Service, "SaaS") as well as, by separate order, the service of individualised software development and sale. The scope of the services to be provided by *TSET* and the fee to be paid for the respective services shall be agreed upon in the order placed by the *Principal* with *TSET*.

1.3. The present *Terms & Conditions* shall also apply to new orders or extensions of the order scope, unless otherwise agreed in writing.

1.4. In the event that a specific service agreement is concluded between *TSET* and the *Principal*, the more specific provisions of this service agreement shall prevail over the present *Terms & Conditions* in the event of a conflict. The remaining provisions of the present *Terms & Conditions* shall remain unaffected.

2. Information Obligation and Cooperation Duties of the *Principal*

2.1. After placing the order, the *Principal* is obliged to inform *TSET* <u>immediately about all information, documentation and facts which could be significant to the fulfilment of the order and to provide all documents necessary</u>. *TSET* is entitled to assume the correctness of all information, facts, original contracting parties and documents, unless the incorrectness is to be deemed obvious.

2.2. During the term of the contract, the *Principal* is obliged to inform *TSET* about all altered or newly arising circumstances that could be significant to the performance of the order, immediately after these circumstances have become known.

2.3. If the *Principal* becomes aware of attacks or relevant indications of attacks on the Software and/or the infrastructure used by the Software, they shall immediately notify *TSET* thereof in writing, but in any case not later than within 24 hours.

2.4. The *Principal* shall indemnify and hold *TSET* harmless for all delays in the performance of *TSET's* services resulting from the violation of the *Principal*´s duty to cooperate.

3. Definitions

3.1. "Standard Software" is the standard software package defined in the respective order, which is licensed to the *Principal* for the duration of the contractual term under a software lease and maintenance agreement as a service (online / SaaS).

The standard software has a modular structure and can contain one or more standard software modules including the individualisations defined below, depending on the scope of the order. *TSET* reserves the right to stop offering modules in general at any time and to terminate the provision for the *Principal* accordingly. In this case, *TSET* will provide a substitute for the terminated module, which will at least provide the same functionality as the terminated module. The migration costs for use of the new module will be charged separately.

For terminated modules, *TSET* will continue to provide support for a minimum of 12 months from the date of notification of the respective termination, after which time they will be terminated and can no longer be used.

3.2. "Individualisations" are modules or extensions (e.g. interfaces) to be developed individually for the Software, which are to be created by *TSET* for the *Principal* in accordance with the order and are to be sold subsequently or licensed to the *Principal* within the scope of the software lease.

3.3. In the event of an agreement on a software lease and maintenance contract, the term "Software" refers to the standard software, including any individualisations provided to the *Principal* as a Software as a Service solution in accordance with the present Terms & Conditions.

3.4. "Service" is the provision of programming and consulting services outside of a software lease and maintenance agreement or a software purchase (e.g. the individualisations made for the *Principal*). A service is deemed a "Service" in the sense of the present Terms & Conditions, if *TSET* does not owe a certain outcome (contract for work or lease agreement), but merely the rendering of a service (service contract).

4. Granting of Rights

4.1. After making the software available, the *Principal* shall be entitled to use the Software within the agreed scope (Werknutzungsbewilling / non-exclusive permission to use the work).

4.2. The *Principal* is prohibited from editing or modifying the Software. The *Principal* shall inform *TSET* immediately in writing of any possible need in terms of editing or modification of the Software. The *Principal* undertakes to commission *TSET* for the editing or modification of the Software against payment of an adequate fee.

4.3. The *Principal* must not - directly or indirectly through third parties - decompile, dismantle, reverse-engineer or attempt to reconstruct, determine or discover in any way the source code, underlying ideas, underlying techniques or algorithms of the user interfaces of the Software, or disclose the foregoing.

4.4. The *Principal* is prohibited from providing, renting, leasing or otherwise allowing third parties to use the Software, either directly or indirectly through third parties, for purposes other than those contractually agreed upon.

Use of the Software under the software lease is granted solely to *Authorised Users* and solely for activities that such *Authorised Users* perform for the *Principal*. *Authorised Users* are (i) employees, contractors, subcontractors, and outsourcing providers of the *Principal* and (ii) employees, contractors, subcontractors, and outsourcing providers of affiliated companies or of other companies designated by the parties in the order as authorised to access and use the Software. Any use by contractors, subcontractors or outsourcing providers acting on behalf of the *Principal* shall be subject to the present Conditions of Contract. The *Principal* shall be responsible for its obligations and for the activities and violations of the present Conditions of Contract by such third parties. The *Principal* shall prevent unauthorised access to or use of the Software and shall promptly notify, indemnify and hold harmless *TSET* of any unauthorised use of a password or account and of any other known or suspected breach of security.

5. Acceptance of Individualisations

5.1. In case that *TSET* programs or develops individualisations on behalf of the *Principal*, an acceptance of the individualisation shall take place after the first making-available of user clients not created for test purposes for the access to the software in the form of final acceptance. Ongoing tests by means of test clients only serve the purpose of checking the implementation and configuration progress. The acceptance test shall be recorded, and the respective test record shall be signed by the contracting parties.

5.2. Delivery dates shall be deemed to be met if the acceptance test has been completed by then without any errors, or if any errors occurred have been remedied before the respective date. Insofar as a delay is caused by a circumstance outside *TSET´s* control, the delivery date is postponed by the period of this delay.

5.3. During the acceptance test it is checked whether the individualisation fulfils the agreed functions and specifications. *TSET* is responsible for the performance of the acceptance test in the presence of the *Principal*. If the *Principal* refuses to participate in the acceptance test in spite of a grace period of two weeks, the individualisation shall be considered as accepted without defects.

5.4. If defects are detected during a test run, this test run shall be repeated after remedy of the defects by *TSET*, and if this is technically required in the opinion of the *Principal*, further test runs for the relevant subsystem and related subsystems will be carried out.

5.5. After the third unsuccessful repetition of the acceptance test, the *Principal* shall not be obliged to accept the individualisation, unless the defects are class 3 or 4 defects according to the present Terms & Conditions.

5.6. In case of a successful completion of the acceptance test, the *Principal* must declare the acceptance of the individualisation in writing. If the acceptance of the individualisation by the *Principal* does not take place exclusively for reasons outside of *TSET's* control, despite a written request with a grace period of two weeks after

successful completion of all tests, the individualisation is considered as accepted at the time of the successful completion.

5.7. The Standard Software is not subject to acceptance.

6.   Scope of Services (Software Lease and/or Maintenance)

6.1. Software lease and/or maintenance according to the present Terms & Conditions is the provision of the Software to the *Principal* as-a-Service against payment, the rendering of services by *TSET* in connection with the maintenance of the Software, and the application support for the persons employed with the *Principal* that work with the Software within the framework of a continuing obligation; this exclusively includes the following areas:

   a.   the elimination of errors in its own Software, provided that these are not defects subject to warranty;

   b.   the implementation of patches and bug fixes for the Software;

   c.   the implementation of updates for the Software; however, upgrades are not included in the scope of services (cf. 8.3.);

   d.   the application support, namely the provision of ad-hoc information and instructions on the operation of the Software as well as the answering of the *Principal*´s questions related to the Software;

7.   Service Level Agreement and Mainentance (Software Lease and/or Software Maintenance)

TSET will provide services in connection with the maintenance of the Software and the application support in accordance with the response times stated below during TSET's support hours.

- Principal must name a reasonable number of key users who are capable to answer technical and subject matter questions of the Authorised Users. The Principal shall take care for the necessary qualification of these key users.

- First-level support: First-level support to Authorised Users is provided by the Principal's key users and covers all questions regarding software functionality, error handling etc.

- Second-level support: TSET provides second-level support to the Principal's point of contact and a named group of key users (up to one key user per 20 user accounts) for all issues which they cannot resolve themselves. Such second-level support is capped at a maximum of 30 hours per year. Any further requests will be provided in accordance with the current price list. If no such price list exists exists, a fee in the amount of EUR 120 net per hour based on the actual effort.

- Third-level support: Complex issues may be forwarded from second-level support to third-level support provided by TSET if they require additional know-how.

7.1. **Service Level Agreement**

7.1.1. *TSET* shall fix all Software bugs duly notified by the *Principal* in accordance with the present Terms & Conditions. Bugs in the sense of the present Terms & Conditions are all malfunctions of the Software which would be qualified as defects (*Mängel*). Errors resulting from improper operation of the Software by the *Principal* or which do not affect the agreed scope of functions shall not be considered as bugs, and the elimination of these are not included in *TSET's* obligation to perform. *TSET* is not obliged to fix bugs attributable to the *Principal*, e.g. through interfaces of the *Principal*, their infrastructure or applications.

7.1.2. Error messages are accepted by *TSET* during support hours on working days from 8.00 a.m. to 12.00 p.m. and from 1.00 p.m. to 5.00 p.m. CET. Working day means a day (other than Saturday or Sunday or a public holiday) on which banks are open for general business in Vienna, Austria.

7.1.3. If a bug occurs, the *Principal* is obliged to immediately report a clear, comprehensible and exact error message to *TSET*, which must contain all information enabling *TSET* to narrow down the cause of the bug and to determine strategies for bug fixing. This includes, in particular, information about the type of error, the description of the system state at the time the bug occurred, the components affected by the bug, the frequency of occurrence of the bug and the *Principal*´s point of contact. This error message shall be reported to *TSET* via the online portal provided by *TSET* for this service or, if such a portal cannot be reached technically, via email (support@tset.com); if possible, further information (screenshots, error logs etc.) shall be included.

7.1.4. The service and response times agreed upon for the software maintenance are dependent on the specific product and result from the agreement between the *Principal* and *TSET*. The response time assured by *TSET* starts with the *Principal*´s complete error message.

7.1.5. Unless otherwise agreed in a service or performance agreement, the service classes shall be defined as follows:

- Minor (4): The intended use of the Software is possible without restriction. The bug has no or only insignificant influence on the functionality and/or the security of the Software. The use of the Software remains possible without restriction.

- Medium (3): The intended use of the Software is slightly restricted. The bug has an insignificant impact on the functionality and/or security of the Software and allows further use of the Software with only minor restrictions.

- High (2): The intended use of the Software is seriously restricted. The bug has a significant impact on the functions and/or security of the Software but allows further use of the Software and no procedural work-around exists.

- Critical (1): Use of the Software is not possible or is unreasonably restricted. The bug has a serious impact on essential functions and/or the security of the Software; it cannot be used any further and no procedural work-around exists.

7.1.6. The response times for the service classes during support hours according to Art. 7.1.2. start to run from the time of the error message according to Art. 7.1.3. and are as follows:

- Minor (4): 10 working days

- Medium (3): 5 working days

- High (2): 48 hours

- Critical (1): 8 hours

8. Availability (Software Lease and/or Maintenance)

8.1. *TSET* guarantees a certain availability for the services to be provided. Availability in this sense shall mean the calculated availability (365 days, 7 × 24) minus downtime.

8.2. However, a completely uninterrupted system cannot be guaranteed for technical reasons alone. When calculating the contractually owed availability, (i) cases of force majeure; (ii) periods of interruption of usability due to the interval-based maintenance and updating of the Software and systems or the servers and (iii) results from the poor performance of, of failure of, internet service or other outside service, software or equipment not within the control of *TSET* shall not be taken into account.

8.3. *TSET* guarantees an availability of 98% on average per service over the calendar quarter. Downtimes of the Software, systems or servers are considered individually in the calculation of the availability on an annual average and are not cumulated.

8.4. In case of a shortfall of the mentioned availabilities, the *Principal* is only entitled to an pro rata refund of the contractually owed fee for the duration of the downtime exceeding the guaranteed availability, unless *TSET* can prove that non-compliance with the guaranteed availability is a consequence of one or more of the following circumstances:

- grossly negligent or intentional acts carried out by the *Principal* or third parties;

- errors of hardware and/or software components whose maintenance or operation is not part of the subject matter of the contract;

- external forces, such as water damage, fire or damage caused by electricity and magnetism;

- force majeure

8.5. The assertion of claims for damages based on insufficient availability of the Software, systems, or servers beyond the pro rata reimbursement of the contractually owed fee is excluded, unless caused intentionally by *TSET*.

9. Block (Software Lease and/or Maintenance)

After a single written reminder without effect and a respective blocking notice setting a 7-day grace period, *TSET* is entitled to stop the contractual services completely or in parts in case of payment delay or breach of contract. The *Principal* shall not be entitled to any claims arising from a justified blocking of the services.

tset

10. Term of Contract and Termination

10.1. Unless explicitly agreed otherwise for a specific project, the contractual relationship shall be concluded for an indefinite period and may be terminated by either contracting party with six months' notice to the end of each calendar year. Unless otherwise agreed, termination in case of a Software lease may not be exercised earlier than 60 months after acceptance of the order.

10.2. The right of the contracting parties to terminate the contract for good cause shall remain unaffected by this provision. Blocking of services by *TSET* within the meaning of Art. 10 of the present Terms & Conditions shall never be a reason for extraordinary termination of the contractual relationship by the *Principal*.

10.3. Upon termination of the agreement, the *Principal* shall no longer be entitled to use any Software provided as SaaS in any form whatsoever.

10.4. In the event of termination or expiration of the term of contract (i) *TSET* shall end the *Principal's* access to the Software and cease to render the respective Services; in addition, (ii) the *Principal* shall immediately end all use of and access to the Software.

11. Costs

11.1. The amount and billing periods for the provision of services under a software lease and maintenance agreement derive from the scope of the order placed. If parameter-dependent billing is agreed, the underlying parameters shall be reviewed once per billing period and adjusted to the actual system usage (system measurement). If the agreed parameters are exceeded, the additional or exceeding parameters will be charged additionally from the next billing period. If the parameters offered at a flat rate are exceeded, the excess will be charged additionally in accordance with the fair-use principle in the next billing period. "Fair-use principle" means that the agreed parameters may be exceeded by a maximum of 10% for a period of 2 months. In the event of a longer-term or higher exceedance, the exceedance will be charged as agreed upon.

11.2. Agreed charges shall be adjusted upwards at the beginning of each calendar year in accord with the increase of the consumer price index (CPI 2020) in the last 12 months, with a minimum adjustment of at least 2%. The adjustment can also be claimed retrospectively for a period of 24 months.

11.3. If software products of third parties are to be used or implemented by *TSET* for the *Principal*, the costs connected therewith are only included in the agreed remuneration if and insofar this is explicitly agreed between the parties. All costs related to the use of these software products which are not included in the agreed remuneration, such as licence fees, expenses and other costs, must be reimbursed by the *Principal* within 7 days after invoicing or paid directly to the third party provider at *TSET's* discretion.

12. *TSET's* Liability and Warranty

12.1. <u>*TSET's* liability for defective performance or other violations of contractual obligations is limited to the sum insured by *TSET's* business liability insurance available for the concrete case of damage.</u>

12.2. If a specific case of damage is not covered by the liability insurance, *TSET's* liability is limited in every legally permissible case with the amount of the remuneration paid by the *Principal* in the current or previous calendar year for the services of *TSET*.

12.3. This respective maximum amount pursuant to 14.1. or 14.2. includes all claims against *TSET* on the grounds of defective performance and/or other violation of contractual obligations, especially for compensation and a reduction in price.

12.4. *TSET* is only liable for damages of intent or gross negligence. In case of slight negligence, *TSET* is only liable for personal injuries. *TSET* is not liable for indirect damages, loss of profit, loss of interest, missed savings, consequential damages and financial losses.

12.5. *TSET* is liable to warranty in accordance with §§ 922 ff ABGB. The existence of a defect must in any case be proven by the *Principal* whereby a material defect must in any case be reproducible; the presumption of defectiveness pursuant to § 924 ABGB (*Vermutung der Mangelhaftigkeit*) is not applicable.

12.6. In any case of material defects, *TSET* has at first the right to remedy the defect (repair or making good any deficiencies); for this purpose, *TSET* remedies the defect. Remedy of the defect is also said to occur if *TSET* shows the *Principal* reasonable possibilities to prevent the effects of the defect (reasonable work-around).

12.7. Furthermore, in the event of any defects of title, *TSET* has at first the right to provide warranty by repair and has the option to provide the *Principal* with a legally flawless opportunity to use the contractual object or the replaced or modified equivalent contractual object (reasonable work-around).

12.8. Within the scope of the warranty, the *Principal* shall accept a new or modified contractual object if the contractual scope of functions is maintained and the acceptance does not lead to significant disadvantages to be proven by the *Principal*.

12.9. If third parties assert claims which prevent or hinder the *Principal* from using the contractual object accordingly, the *Principal* shall immediately and comprehensively inform *TSET* thereof. If the *Principal* is sued by third parties on the basis of using the contractual object, the *Principal* shall coordinate all corresponding steps with *TSET* and may only take legal action, especially acknowledgements and settlements, with the consent of *TSET*. *TSET* is in this connection obliged to indemnify and hold harmless the *Principal*, insofar as the claims are not based on a violation of the *Principal*´s duties; in this event, the *Principal* shall indemnify and hold harmless *TSET*.

12.10. Insofar as a defect can be remedied by installing or otherwise making available a new or improved version of the Software, the *Principal* must accept such remedy, unless the *Principal* can invoke substantial grounds to the contrary.

13. Liability of TSET and Warranty for Calculations

13.1. As a general rule, the calculations generated by *TSET* and/or the Software represent individual calculations based on the data and information provided and selected by the *Principal*.

13.2. The *Principal* acknowledges that *TSET* does not check for completeness and correctness of the data and information generated or fed in/entered into by the *Principal* and/or obtained by the *Principal* via interfaces to third party service providers.

13.3. *TSET* is not obliged to check the calculations made by the *Principal* and, therefore, *TSET* is not liable for the suitability of the calculations for the purpose intended by the *Principal*. In particular, this also applies to the cost and CO_2 development of products and components during production based on calculations generated in the Software. The *Principal* alone is liable for the correctness of its dimensions and measurements, for the selection of parameters, and the performance of the calculation. Any disadvantages and damages incurred by the *Principal* as a result of an incorrect or unusable calculation shall be borne by the *Principal*.

13.4. With regard to the calculation modules of the Software, *TSET* is legally responsible only for providing an error-free function of the calculation logic (arithmetically correct linkage of input parameters, database values and the results of process parameter models). Furthermore, *TSET* must ensure that during the operation of the Software, the results of process parameter models can always be overwritten manually by the *Principal*. In other respects, any liability or warranty for the functionality of the calculation modules is excluded; furthermore the other limitations of liability according to clause 15 shall apply.

14. Copyrights, Data Protection and Project Data

14.1. Unless otherwise agreed in the Terms & Conditions or in the respective order itself, documents provided by *TSET,* digitally or physically, especially databases, sample documents, guidelines, source codes, test scripts and program codes, as well as other documents, shall remain *TSET's* intellectual property. Any use, especially the passing on, duplication and publication by the *Principal*, requires the explicit written consent of *TSET*. Unless otherwise agreed in writing, *TSET* grants the *Principal* a non-exclusive and non-transferable licence to use the Software.

14.2. *TSET* accesses databases and software products of third parties via the Software in regular intervals or in real time, which - depending on the agreed scope of services - are also accessible to the *Principal* when using the Software or can be used for calculations. In case of using databases or software products of third parties, the *Principal* is obliged to accept the licence conditions of the third party without restrictions and indemnifies and holds *TSET* harmless for use in compliance with the conditions. In any case, the *Principal* is not entitled to download databases of third parties in violation of the agreement and to use them for itself or to make them available to third parties.

14.3. Data uploaded by the *Principal* whilst using the Software shall remain the property of the *Principal*; *TSET* is not entitled to copy or use this data for its own purposes. However, *TSET* is entitled to derive its own findings from the data uploaded by the *Principal* whilst using the Software for its own purposes in anonymised form, to integrate these findings into its own databases and to make them available to third parties under the condition that no conclusions can be drawn by third parties with regard to the *Principal*.

14.4. All knowledge gathered in connection with the provision of the Software shall be the exclusive property of *TSET*. *TSET* needs these findings as part of its optimisation strategy for the continuous improvement and extension of the Software within the scope of the agreements concluded with the *Principal* and third parties.

14.5. After termination of the contractual relationship between *TSET* and the *Principal,* the calculations performed in the Software - but not the findings derived therefrom - shall be deleted, unless there are contractual or statutory

rights or obligations to keep the data, or the data is needed to assert claims or to defend against unjustified claims.

15. Applicable Law and Place of Jurisdiction

15.1. The Terms & Conditions and the contractual relationship governed by these Conditions shall be subject to Austrian substantive law, excluding the conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods.

15.2. For legal disputes arising out of or in connection with the contractual relationship regulated by the present Terms & Conditions, including disputes about its validity, the exclusive jurisdiction of the competent court at *TSET's* domicile is agreed, insofar as this is not

16. Final Provisions

16.1. Amendments or supplements to the present Terms & Conditions must be made in writing in order to be valid. This also includes a waiver of this written form requirement.

16.2. In case of a contradiction between the English and the German version of the present Terms & Conditions, the German version shall prevail.