

HULECOS PREMIUM SERVICE

SUMMARY OF TERMS AND CONDITIONS

- 12-months service contract renewable by tacit agreement

- Contract including: provision of one H1 product, H1-smart embedded software, online training, ongoing online support, warranty

- One Set-up fee & 12 monthly fees
 - o Set-up fee of €160
 - o Monthly fees of 25€/month if paid monthly or 20 €/month if paid 12 months in advance

- H1 is delivered to your address within 10 days of the date of payment of the set-up fee.

- Prices settled in Euro currency, unless expressly agreed otherwise

- Delivery of the Product by HULECOS

- Defective Product replacement within 10 days from date of acknowledgement of default

- License agreement for the embedded software, including any updates

- Return of the H1 device at the end of the contract at the customer's expense

HULECOS PREMIUM SERVICE

General Terms and conditions

- 1. Agreement.** These Terms and conditions of services, together with any other document(s) that Hulecos SA (the **Provider**) has attached hereto or executed that specifically reference these Terms and conditions (such as a purchase order confirmation, quotation or proposal) (collectively, **Agreement**) constitute the entire binding agreement between the Provider and you (the **Customer**) regarding the provision of the Premium Services, which shall include rental and use of the H1 (the **Product**), the embedded H1-smart software (the **Software**) as well as related training and support services relating to the use of such Product as well as updates of the integrated Software (together, the **Premium Service**), and supersede all other agreements and understandings, whether written or oral, between the parties. The Customer agrees to be bound by and accept the terms and conditions contained in the Agreement. No addition, condition, amendment, alteration, or modification by the Customer or any other person, whether oral or contained in any other documents submitted from the Customer to the Provider will be binding on the Provider, regardless of the Provider's failure to object or the Provider's shipment of Products, unless otherwise agreed to in writing and signed by the Provider. The Agreement will apply unless the Customer has a separate written agreement with the Provider that expressly replaces the Agreement.
- 2. Fees.** Unless specified otherwise in the Subscription Form, the Premium Services shall be subject to the payment of a set-up fee (the **Set-Up Fee**) and a monthly subscription fee (the **Monthly Fee**, together with the Set-Up Fee, the **Fees**). All Fees exclude applicable regional and local taxes as well as any applicable foreign taxes, which will be the responsibility of the Customer and unless the Customer is exempt therefrom and the Provider has received proper documentation therefore, such taxes will be added to the Fees or billed separately to the Customer where the Provider has the legal obligation to collect the taxes.
- 3. Payment Terms.** Provided that the Customer meets the Provider's credit requirements, payment of the Set-Up Fee shall be due upon submission of the Subscription Form and the

Monthly Fee shall be due for the first-time net thirty (30) days after the date of submission of the Subscription form and on the same date of the following month thereafter, unless the Customer agreed to prepay in advance 12 Monthly Fees at a discounted price, which shall then be due simultaneously to the Set-Up Fee. If the Customer fails to fulfil the terms of payment or does not meet the Provider's continuing credit requirements, the Provider will have the option to do one or more of the following: (i) decline to accept orders or fulfil pending orders; (ii) delay any shipment until payment is received by the Provider or further assurances asked for by the Provider are received; (iii) declare all outstanding sums immediately due and payable; or (iv) require payment for all Products delivered hereunder to be made by irrevocable letter of credit in a form approved by the Provider. Nothing contained herein will release the Customer from any previous obligation. The Customer will be liable to the Provider for all costs incurred by the Provider in its collection of any amounts owing by the Customer which are not paid when due, including collection agencies' and attorneys' fees and expenses, regardless of whether a lawsuit is commenced. All orders are subject to current credit approval. From time to time, the Provider may review the Customer's creditworthiness. The Customer agrees to provide the Provider with all credit information reasonably requested, and the Customer represents and warrants to the Provider now, and each time the Customer places an order, that all information the Customer has provided is true, correct and updated.

- 4. Currency.** Unless expressly agreed otherwise in the subscription Form, all Fees are payable in EUROS.
- 5. Force Majeure.** Neither party assume liability or will be liable to the other party for any failure or any delay in fulfilling its obligations hereunder caused, in whole or in part, directly or indirectly, by fires, natural disasters, strikes, shortages of raw materials, supplies or components, retooling, upgrading of technology, delays of carriers, embargoes, government orders or directives, terrorist activities, pandemic or any other circumstance beyond the reasonable control of such party. The Provider may at its option suspend deliveries while such event or

circumstance continues or terminate the Agreement with immediate effect by written notice to the Customer.

- 6. Entry into force, term and termination.** This Agreement shall enter into force upon submission of a Subscription Form by the Customer, in any format deemed acceptable by the Provider. It shall remain in force for an initial term of 12 months (the **Initial Term**) and shall be automatically renewed for additional 12 months period unless terminated by either party with a [1-month] advance written notice (the **Additional Terms**, together with the Initial Term, the **Services Term**). At the end of the Services Term, the Customer shall return at its own costs the Products at the address communicated by the Provider, or if nothing has been specified, at the Provider's registered set at Rue du Prébarreau 17, 2000 Neuchatel, Switzerland and all services as set forth in this Agreement shall end on the last day of the Services Term. The Provider shall have the right to terminate this Agreement at anytime upon serious breach of the terms of this Agreement that is not resolved within 30 days from the date of notice of such breach or that can in any case not be resolved.
- 7. Delivery Terms; Title.** —The Provider will arrange for its freight forwarder and/or carrier(s) to transport the Products to the Customer's specified location. Title to and risk of loss or damage for all Products will pass to the Customer upon the Provider's delivery of the Products to the carrier. In all cases of damage and/or loss to Products in transit, the Customer will be responsible for making claim(s) against the carrier; provided, however, that the Provider will provide reasonable assistance with damage and/or loss claims. Loss or damage will not relieve the Customer of any obligations for payment or obligations under the Agreement. Delivery dates provided by the Provider are estimates only. Unless otherwise agreed by the Provider in writing, shipping, freight, handling, insurance, and related costs are the sole responsibility of the Customer and will be "pre-paid and add" or otherwise invoiced to the Customer.
- 8. Inspection/Acceptance; Returns.** The Customer must inspect delivered Products and report claims for defects, damages, shortages or receipt of wrong products which are discoverable on a visual inspection within forty-eight (48) hours of delivery or the Products will be deemed irrevocably accepted and such claims will be deemed waived. However,
- shipping damage claims must be made by the Customer directly with the shipping company in accordance with such company's policies, which generally require such claims to be made prior to the time the carrier of the Products leaves the delivery destination. The Customer will advise the Provider of such claims.
- 9. Training.** Upon submission of an Order, Provider will provide a one-hour online training session to the benefit of the Customer. Such session shall be provided in English, within a maximum period of [three] months following subscription to the Premium Services and to a maximum number of 10 individuals designated by the Customer. Training sessions can only take place between 9am and 5pm CET and the exact time shall be agreed upon with Customer following submission of an order.
- 10. Support and maintenance services.** During the Services Term, Provider shall provide online first level support to the Customer. Support requests must be send by electronic mail or via the electronic means specified on Supplier's website and shall be addressed between 8am and 6pm CET during weekdays (excluding Saturdays, Sundays and bank holidays). The support team shall provide its best efforts to assist the Customer in its request, without warranty of results nor that the request shall be addressed within a minimum timeframe. Customer shall further be notified of any upgrade or update of the Software embedded in the Product becoming available, such updates being governed by the terms of the EULA.
- 11. Changes.** After acceptance by the Provider, the Customer's order will not be subject to cancellation or reduction in any amount without the Provider's written consent. Any other changes to an order requested by the Customer will require the prior written approval of the Provider, which approval may be subject to price adjustments as determined on a case-by-case basis.
- 12. Trademarks.** The Customer may not use the Provider's name or any of the Provider trademarks, service marks, logos or for any purpose.
- 13. No License on patents or know-how.** The provision of the Premium Services does not constitute a license, implied or otherwise, for the use of any patents or know-how of third parties, nor does it constitute a license, implied or otherwise, on patents or know-how of the Provider.

14. Copyrighted works. The Product contains embedded Software and other copyrighted works. The Customer shall further be authorized to use such copyrighted works under the terms of the End User License Agreement attached hereto as **Schedule A**, which shall be deemed approved by the Customer upon submission of its order and accepted by each authorised individual operators / end-users of the Product on each activation of the Product.

15. Warranty for defects. The Provider warrants to the Customer that the Products made available to the Customer are free from defects in material and workmanship under normal use. In the event of a breakdown or malfunction (a **Defect**), the Product will be replaced within 10 days from acknowledgement of such Defect, at Provider's cost.

For the sake of clarity, any breaking of the needle by the Customer or any user authorized by the Customer shall not be deemed a Defect and shall not trigger any right for the Customer under this provision.

16. Ownership of data. The Customer acknowledges that the manufacturer of the Product: Hulecos SA (CHE-318.091.222), rue de Prébarreau 17, 2000 Neuchatel, Switzerland, shall remain the sole owner of all data generated by the Product, in particular by the embedded Software within the Product. Upon reasonable advance written notice, the Provider, or any third party designated by the Provider, shall have the right to access the Customer's premises for purpose of recovering such data. The Customer shall make the Product, its IT and communication systems, and all applicable records and logs, available for such data recovery during normal business hours at the Customer's place of storage of the Product.

17. Limited warranty. The warranty, as set forth under Section 12 above, does not cover and the Provider will have no warranty obligation whatsoever with respect to any damage to a Product caused by or associated with: (i) usage not in accordance with Product instructions or usage for a purpose not indicated on the labelling; (ii) abuse, misuse, neglect, improper maintenance or storage, accident, vandalism, or the negligence of any party other than the Provider; (iii) external causes, including natural disasters, acts of God, power failure, cosmetic damage or melting; (iv) use of unauthorised third party consumables and accessories with

the Product; or (v) modifications or alterations to a Product not authorised by the Provider. The Provider's obligations under this limited warranty are contingent on the Customer's full payment of the Product purchase price. THE PROVIDER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AS WELL AS WARRANTIES ARISING FROM COURSE OF DEALING AND USAGE OF TRADE, AND THE PROVIDER DOES NOT REPRESENT OR WARRANT THAT ANY PRODUCT WILL MEET THE CUSTOMER'S REQUIREMENTS.

18. Confidential Information. Except for information that the Customer demonstrates was in the Customer's possession prior to receipt from the Provider, the Customer agrees that all information of the Provider, whether written or oral, that is furnished by the Provider to the Customer concerning the business and affairs of the Provider or is learned by the Customer during discussions or communications between the Customer and the Provider, is proprietary to the Provider, and the Customer will hold such information in confidence and will not use or disclose such information without the Provider's prior written consent, except for the fulfilment of the Agreement.

19. Loss of Product; return. Should a Product become lost during the Services Term or should it not be returned to the Provider at the end of the Services Term, an indemnity of EUR 1'000.- per lost Product shall be due by the Customer to cover the loss of the Product and payable within 30 days from the end of the Services Term. Should a Product be returned with a broken needle, an indemnity of EUR 200.- shall be due by the Customer and payable within 30 days from the date of receipt of the broken Product.

20. Limitation of Liabilities and remedies. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR, AND EACH PARTY HEREBY EXPRESSLY WAIVES, ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES,

WHETHER ARISING OUT OF WARRANTY OR CONTRACT, NEGLIGENCE OR OTHER TORT, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, FORESEEABLE BUSINESS LOSSES, LOSS OF PROFITS, AND RELIANCE DAMAGES. THE CUSTOMER AGREES THAT UNDER NO CIRCUMSTANCES WILL THE PROVIDER'S LIABILITY RELATING TO ITS SALE OF PRODUCTS TO THE CUSTOMER FOR ANY CAUSE EXCEED THE PURCHASE PRICE PAID BY THE CUSTOMER FOR THE PARTICULAR PRODUCTS INVOLVED. NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, THE REMEDIES SET FORTH IN THE AGREEMENT WILL APPLY EVEN IF SUCH REMEDIES FAIL THEIR ESSENTIAL PURPOSE.

- 21. Indemnity of Customer.** To the fullest extent permitted by applicable law, the Customer will indemnify, defend, and hold harmless the Provider, including the Provider's officers, directors, agents, employees, subsidiaries, affiliates, parents, successors, and assigns, from and against any Liabilities that relates to: (i) the Customer's modification of or addition to any Product; (ii) the Customer's breach of the Agreement; (iii) the Customer's failure to abide by all applicable laws, rules, regulations, and orders that affect the Products; or (iv) the Customer's gross negligence or wilful misconduct, or intentional harm to any person or property caused by the Customer.
- 22. Independent Contractors.** No provision of the Agreement will be deemed to create a partnership, joint venture, or other combination between The Provider and the Customer. the Customer and The Provider are independent contractors. Neither party will make any warranties or representations or assume any obligations on the other party's behalf. Neither party is or will claim to be a legal representative, partner, agent, or employee of the other party. Each party is responsible for the direction and compensation, and is liable for the actions of, its employees and subcontractors.
- 23. Export.** the Customer acknowledges that the Products sold under this Agreement, and the transaction contemplated by this Agreement, are maybe subject to customs and export control laws and regulations The Customer acknowledges and agrees that it is the Customer's sole responsibility to comply with

and abide by those laws and regulations as applicable.

- 24. Headings.** The section headings used herein are for convenience of reference only and do not form a part of the Agreement, and no construction or inference will be derived therefrom.
- 25. Governing Law and jurisdiction.** The Agreement, any sales hereunder, and any claim, dispute, or controversy between the Customer and the Provider arising from or relating to the Agreement, its interpretation, or the breach, termination, or validity thereof, shall be governed by and construed in accordance with the laws of Switzerland, without regard to conflicts-of-law rules. Any dispute or difference arising out of or in relation to the Agreement shall be subject to the exclusive jurisdiction of the competent courts at the registered seat of the Provider.
- 26. Modification and Waiver.** Without prejudice of Section 1 above, no purported amendment or modification of any provision hereof will be binding unless set forth in writing and signed by an officer of each party. No waiver of any provision hereof will be effective unless in writing and signed by an officer of the waiving party. Any waiver will be limited to the circumstance or event specifically referenced in the written waiver document and will not be deemed a waiver of any other term of the Agreement or of the same circumstance or event upon any recurrence thereof. The failure of either party to enforce any provision of this Agreement at any time will not be construed to be a waiver of such provision nor of the right of such party thereafter to enforce such provision.
- 27. Validity.** If any provision of the Agreement is held to be invalid or unenforceable in any respect, the remaining terms and conditions of the Agreement will remain in full force and effect as if such invalid or unenforceable provision had not been included herein.

END USER LICENSE AGREEMENT

1. SCOPE

- 1.1 This End User License Agreement ("**EULA**") is a legal agreement between the user of the Licensed Products, as defined in Section 1.2 ("**Licensee**"), and **Hulecos SA** (CHE-318.091.222), rue de Prébarreau 17, 2000 Neuchatel, Switzerland ("**Licensor**", and each individually a "**Party**" and together the "**Parties**").
- 1.2 By (i) signing the present EULA; or (ii) activating and using the Licensor's product H1, its embedded Software, and/or documentation and any of their updates provided by Licensor to Licensee under this EULA (the "**Licensed Products**"), Licensee agrees to be bound by the terms of this EULA.
- 1.3 In the event of a conflict or contradiction between the terms of this EULA and any ordering document relating to the Licensed Products, the terms of this EULA will govern and control.

2. GRANT OF LICENSE

- 2.1 Subject to the terms and conditions of this EULA, Licensor grants to Licensee a revocable, personal, non-exclusive, with right of sublicense only to authorised individual operators / end-users to be designated from time to time in writing by Licensee to Licensor (the "**Authorised End User(s)**"), and non-transferable license to use the Licensed Products (the "**License**").
- 2.2 For the sake of clarity, any activation and/or use of the Licensed Products by an Authorised End User is deemed as an acceptance of the terms of this EULA by Licensee.
- 2.3 Absent Licensor's prior written agreement, Licensee is expressly prohibited from using the Licensed Products on behalf of, or for the benefit of, third parties not licensed to use the Licensed Products.
- 2.4 If Licensee acquired the Licensed Products subject to limited use restrictions (e.g. use limited to certain functionalities, modules or options) agreed to in any separate documentation, the License to use the Licensed Products shall be limited by such restrictions.

3. THIRD PARTY SOFTWARE

- 3.1 The Licensed Products may contain a computer program, computer software, computer font, including its code, objects including any images, photographs, templates, animations, video, audio, music, extensions, text and software incorporated into the Licensed Products, and electronic documentation developed, distributed and/or licensed by third parties ("**Third-Party Software**"). The terms and conditions associated with such Third-Party Software are expressly stated in the Licensed Products, and Licensee shall use such Third-Party Software under such terms and conditions. Such terms and conditions are made a part of this EULA and attached hereto in Appendix 1 for reference. By accepting this EULA, Licensee also accepts such terms and conditions.
- 3.2 Nothing in this EULA shall restrict, limit or otherwise affect any rights or obligations that Licensee may have, or conditions to which Licensee may be subject, under any applicable open source licenses to any open source code contained in the Licensed Products.

4. UPDATES

As long as Licensee complies with the terms of this EULA, Licensor shall provide to Licensee from time to time free of charge updates, which releases shall be solely determined by Licensor at its sole discretion.

5. INTELLECTUAL PROPERTY

- 5.1 Nothing in this EULA shall operate to assign or transfer any intellectual property rights from Licensor to Licensee.
- 5.2 Subject to Section 3 above, all right, title, interest in and to the Licensed Products, or any results, in any format or medium currently available and hereinafter to be invented, of any services performed by Licensor under this EULA (the "**Services**"), including all intellectual property rights thereto, shall remain the sole ownership of Licensor.
- 5.3 Should Licensee become aware of an infringement or of a serious risk of infringement by a third party of any intellectual property rights pertaining to the Licensed Products or the Services, Licensee shall immediately inform Licensor and provide all useful information on such infringement or risk of infringement.

Licensor shall have the exclusive power to decide on the initiation of any claims or proceedings at Licensor's expense for the purpose of protecting such intellectual property rights against third party infringers. Licensee shall, at its own costs, provide Licensor with all reasonable assistance which would be required in the course of legal proceedings for the purpose of protecting the said intellectual property rights according to the instructions that shall be given by Licensor.

5.4 For the term of this EULA, Licensor shall be authorized on a non-exclusive, royalty-free, worldwide, non-transferable, personal basis, to use Licensee's trade name, trademarks and logos for purpose of public promotion, marketing and advertising related directly or indirectly to the performance of this EULA, including the right for Licensor to use Licensee's trade name, trademarks and logos on its website, commercial presentations and public relation actions thereof.

5.5 To the extent permitted by applicable law, Licensee shall not reverse engineer, decompile or disassemble the Licensed Products, in particular the embedded Software within the Licensed Products.

6. LIMITED WARRANTY AND CONDITIONS

LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE LICENSED PRODUCTS IS AT THE LICENSEE'S SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH LICENSEE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LICENSED PRODUCTS AND ANY SERVICES PERFORMED OR PROVIDED BY LICENSOR ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND LICENSOR HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE LICENSED PRODUCTS AND ANY SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. LICENSOR DOES NOT WARRANT THAT THE FUNCTIONS

CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY LICENSOR WILL MEET LICENSEE'S REQUIREMENTS, THAT THE OPERATION OF THE LICENSED PRODUCTS OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED PRODUCTS OR SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY LICENSOR OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY.

7. CONFIDENTIALITY

7.1 Either Party agrees that it will (i) keep confidential; (ii) not use other than for the purposes contemplated by this EULA; and (iii) not disclose to any third party (and will use its best endeavours to prevent the disclosure or publication by its Authorized End Users) of any proprietary and/or non-public data or information relating to the activities of the other Party, trade secrets, documents, source codes, logos, images, business plans, database and statistics, software, reports, memorandum, know-how or technology, which is either marked "Confidential" or regarding which the information's confidential character is apparent under the circumstances ("Confidential Information").

7.2 Subject to Section 5.4 above, the Parties shall (i) keep all Confidential Information confidential at any time and shall not disclose Confidential Information, in whole or in part, to any third party, to the exception of the Authorized End Users provided they are bound by confidentiality rules as strict as those in this EULA; (ii) not publish, disclose or divulge Confidential Information to any other third party; (iii) not use Confidential Information for any commercial or other purpose whatsoever; (iv) use Confidential Information solely for the purpose of performing this EULA; and (vi) not copy any Confidential Information.

7.3 For the purpose of this EULA, Confidential Information shall be deemed to exclude information which a Party can demonstrate by documentary evidence: (i) is, or becomes, public information other than as the result of the violation of this EULA or other act or omission by such Party; (ii) was lawfully known to such Party without restriction on use or disclosure at the time of disclosure hereunder; (iii) is hereafter lawfully received by such Party from a

third party authorized to make such disclosure and without restriction on use or disclosure; (iv) is approved for release by prior written consent from the disclosing Party; or (v) which is required to be disclosed by law, a court order or competent government authority, provided that in such case the receiving Party shall promptly inform the disclosing Party of such requirement of disclosure prior to the disclosure such that the disclosing Party has an opportunity to object to the production or disclosure through seeking a protective order.

- 7.4 Upon expiration or termination of this EULA for whatever reason, or at the earlier request of the disclosing Party, the receiving Party shall, at its own costs and at the election of the disclosing Party, return or destroy all originals and copies of Confidential Information, or, in case of Confidential Information stored in electronic, magnetic or digital media, shall erase or render unreadable all materials furnished (including without limitation, working papers containing any Confidential Information or extracts therefrom) which contain Confidential Information.

8. DATA PROTECTION

- 8.1 The Parties shall comply with all applicable data protection or data privacy laws and regulations and Licensee undertakes without limitation to comply at all times with any notification and/or registration obligations set forth by the applicable data protection or data privacy laws and regulations.
- 8.2 Licensee shall ensure it has adopted and implemented all technical and organisational measures as required by applicable data protection or data privacy laws and regulations.

9. LIMITATION OF LIABILITY AND INDEMNIFICATION

- 9.1 Licensor's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this EULA shall be limited to the total amount paid by Licensee to acquire and purchase the Licensed Products from Licensor. Nothing in this provision shall limit or exclude Licensor's liability (i) for fraud (ii) gross negligence or (iii) any liability which cannot be excluded by applicable law.

- 9.2 To the extent permitted by applicable law, in no event shall the Licensor be liable for any of the following losses or damage (whether such losses were foreseen, foreseeable, known or otherwise): loss of use, interruption of business, loss of actual or anticipated profit (including, without limitation, loss of profit on contracts), loss of revenue, loss of the use of money, loss of anticipated savings, loss of opportunity, loss of goodwill, loss of reputation, loss of, damage to or corruption of data, or indirect, special, incidental, exemplary, or consequential loss or damage of any kind, regardless of the form of action, whether in contract, tort (including, without limitation, negligence), strict liability or otherwise.

- 9.3 Licensee is fully and solely responsible and liable for the activation and use of the Licensed Products, including by its Authorised End Users and for the strict compliance of such activation and use with applicable law, notably with regard to copyright. Licensee will defend, indemnify and hold Licensor harmless from and against all liability, loss, cost, damage or expense, including reasonable attorney's fees, arising from Licensee's and its Authorised End Users' installation and/or use of the Licensed Products, including any claims made by Licensee's customers or other third parties.

- 9.4 This limited liability under this Section 11 shall not apply and Licensor's liability shall be fully excluded, if (a) the Licensed Products are not used in accordance with applicable documentation; (b) a defect to the Licensed Products has been caused by Licensee's malfunctioning equipment and/or system; or (c) Licensee has made modifications to the Licensed Products not expressly authorized in writing by Licensor. No employee, agent, or representative of Licensor has the authority to bind Licensor to any oral representations, warranties or conditions concerning the Licensed Products. Any written representation, warranty or condition not expressly contained in this EULA shall not be enforceable.

10. AUDIT RIGHTS

Upon reasonable advance written notice, Licensor shall have the right to have a quarterly audit of Licensee's use of the Licensed Products to verify Licensee's compliance with this EULA. Licensee shall make its systems and all applicable books, records and transaction logs available for such inspection during normal business hours at Licensee's principal place of

business. Any audit shall be at Licensor's expense, unless it shows an underpayment by Licensee for the audited period in excess of 5%, in which case Licensee shall reimburse Licensor for such expenses.

11. ASSIGNMENT

Without prejudice to Section 2.1 above, neither this EULA nor any of Licensee's rights, licenses or obligations hereunder may be assigned or delegated by Licensee to any third party, including without limitation in connection with a merger, acquisition, reorganization, outsourcing, change of control or under any other circumstance. Any such purported assignment or delegation shall be void and of no effect and shall constitute an incurable breach of this EULA resulting in the automatic termination of this EULA and all rights and licenses granted to Licensee hereunder.

12. FORCE MAJEURE

Neither Party shall be liable for any breach of this EULA due to any circumstances outside Licensor's reasonable control (including but not limited to fire, acts of government, war, military operation or riot, accidents, embargo, industrial actions, terrorist threat), in which case each Party shall without delay notify and furnish the other Party in writing with all relevant information thereto.

13. WAIVER

The waiver by a Party of one breach or default by another Party under this EULA will not constitute the waiver of any subsequent breach or default. No waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

14. TERM AND TERMINATION

14.1 This EULA shall enter into force upon the first activation and/or use date of the Licensed Products ("**Effective Date**") and, subject to Section 16.2, shall remain valid for the Services Term, as defined in the Rental and Services GTCs.

14.2 Licensor shall have the right to terminate immediately the EULA at any time, if Licensee fails to comply with any terms of this EULA.

14.3 Upon termination of this EULA, the License shall also terminate and Licensee shall cease immediately all use of the Licensed Products, and at Licensor's discretion return or destroy, at its own costs, all copies, full or partial, of the embedded Software within the Licensed Products.

14.4 Licensor reserves expressly its right to revoke the License or deactivate the embedded Software within the Licensed Products.

14.5 Sections 5, 10.5, 11, 12, 16.5, 17 and 19 shall survive expiration and/or termination of this EULA.

15. SEVERABILITY

If any provision of the EULA is held to be void, invalid or inoperative, the remaining provisions of the EULA shall not be affected and shall continue in effect and the invalid provision shall be deemed modified to the least degree necessary to remedy such invalidity.

16. ENTIRE AGREEMENT AND AMENDMENTS

This EULA and any documents referred to in this EULA contain the entire agreement between the Parties with respect to the subject matter hereof and supersede all previous agreements and understandings between the Parties with respect hereto. No amendment or modification of the EULA shall be made except by a written document signed by the Parties to be bound thereby.

17. GOVERNING LAW, MEDIATION AND ARBITRATION

17.1 This EULA and the License shall be governed by and interpreted according to Swiss substantive laws, without reference to its conflict of laws provisions.

17.2 Any dispute, controversy or claim arising under, out of or relating to this EULA, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules in effect at that date.

17.3 If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within ninety (90) days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules in effect at that date. Alternatively, if, before the expiration of the said period of ninety (90) days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The arbitral tribunal shall consist of a sole arbitrator. The place of any mediation or arbitration shall be Lausanne, Switzerland. The language to be used in any mediation or arbitral proceedings shall be English.