General Terms and Conditions

1   Scope, Parts of the Contract, Amendment to Contract, and Definitions

1.1   The following terms and conditions (the "**Terms**") exclusively apply to contracts between MAGMA Engineering Asia-Pacific Pte Ltd for the product SIGMASOFT Virtual Molding (hereafter referred to as "**SIGMA**") on the one side and its customer(s) ("**Customer**" or "**Customers**"). Such contracts ("**Contracts**") are regarding the grant of rights of use for software ("**Software**") in the form of the **Standard Software** as further defined hereafter and/or the provision of services by SIGMA ("**Services**"). If the Customer also uses its own general terms and conditions, the Contract shall also be deemed concluded without explicit agreement on the inclusion of the Customer's general terms and conditions. Insofar as the content of the different general terms and conditions is identical, these shall be deemed to have been agreed. Conflicting individual provisions shall be replaced by the provisions of dispositive law. The same applies in the event that the Customer's general terms and conditions contain provisions that are not contained in these Terms. If these Terms contain regulations that are not contained in the Customer's general terms and conditions, SIGMA's Terms shall apply. Any standardised reference to Customers' own terms and conditions is hereby expressly rejected.

1.2   The Software supplied by SIGMA may partly contain software components that are developed and licensed by other manufacturers. If this is the case, the terms of use of the respective manufacturer apply to these software components. Upon conclusion of the Contract, SIGMA will - at SIGMA's discretion - provide the Customer with either originals of the license terms in printed or digital form or with links to the license terms of the respective manufacturers available on the Internet or in the software.

1.3   With the conclusion of the Contract, all previous arrangements, agreements, understandings, conventions and settlements between SIGMA and the Customer (both herein also referred as "**Parties**") concerning the subject matter of the Contract lose their validity. The Contract and its annexes and these Terms constitute the sole contractual basis for the undertakings specified in the Contract. Amendments or supplements to these Terms require a separate written agreement. They must be marked as such and require the prior written consent of the authorised representatives of SIGMA to be effective. Should any provision of these Terms be or become invalid, this shall not affect the validity of the remaining provisions.

1.4   **Definitions**

1.4.1   "**Confidential Information**" means all information, documents and data which has been brought to the knowledge of one Party by the other Party or which has come to the knowledge of the other Party in the course of the co-operation and which is marked or declared as 'Confidential'. Confidential Information includes in particular the source code of the Software. This must always be regarded as confidential within the meaning of this provision and, notwithstanding the rights and obligations of the Customer described in the Contract, shall not be made accessible to third parties, nor may third parties, in particular competitors of SIGMA, be given the opportunity to deduce the source code.

1.4.2   "**Delivery**" means, according to the individual contractual agreement of the Parties, the point of time after (i) the delivery to the Customer, be it in physical form on electronic data media or downloadable in machine-readable form, of the Standard Software (as defined) for (ii) Customer's download or upload, as the case may be, on its System Environment (as defined), (iii) the subsequent installation by the Customer himself or installation by SIGMA at the Customer's premises, and (iv) the creation of secure backup(s) in the form of a DVD, similar data medium or the storage on a separate hard disk;

1.4.3   "**Documentation**" is the operating manual for the Software handed over or made accessible to the Customer, consisting of printed or machine-readable user information, specifications and descriptions published by SIGMA;

1.4.4   "**Hotfix**" means a program version developed by SIGMA to correct or circumvent errors in the Standard Software which is made available to the Customer by SIGMA and which has undergone only limited functional, system, regression or other test procedures which SIGMA otherwise uses as part of normal quality assurance. The goal of a Hotfix is to provide an error correction as quickly as possible. Each Hotfix is uniquely identifiable by its Hotfix number;

1.4.5   "**Location**" means the particular site address of the Customer for which the Customer is granted rights to use the Standard Software in accordance with the Contract;

1.4.6   "**Patch**" means a new program version which contains an increase in performance and/or functionality compared to the previous program version of the Standard Software. Patches are made available to the Customer at regular intervals by SIGMA if the Customer has concluded a maintenance contract with SIGMA. Patches are subject to extensive functional, system, regression, application or other test procedures within the scope of quality assurance. Each Patch is uniquely identifiable by its patch number;

1.4.7   "**Release**" means a program version which contains a significant increase in performance and/or functionality compared to the previous program version of the Standard Software. Releases are made available to the Customer at regular intervals by SIGMA if the Customer has concluded a maintenance contract with SIGMA. Each Release is subject to extensive functional, system, regression, application, or other test procedures within the scope of quality assurance. Each Release is uniquely identifiable by its Release number;

1.4.8   "**Standard Software**" is the personalised software for each Customer and shall mean the Release of the Software made available to the Customer at the time of conclusion of the Contract and precisely specified in the corresponding quotation;

1.4.9   "**System Environment**" means the hardware and software required to operate the supplied Standard Software. The current system requirements as stated in the quotation on the website, shall apply;

1.4.10   "**Territory**" means the territory for which the Customer is granted rights to use the Standard Software in accordance with the Contract – in case where this is not indicated in the Contract, any purchase order or invoice, Territory shall mean the country where the license will be or has been installed.

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2 Services Provided by SIGMA, Transfer of Risk, Customer's Duties to Cooperate

2.1 SIGMA supplies the Customer with the programs listed in the quotation in object code form together with the agreed Documentation. If contractually agreed, SIGMA will install the Software at the Customer's site and perform a functional test. SIGMA is entitled to partial deliveries and partial services and can use the assistance of third parties to fulfil its obligations, as far as this is reasonable for the Customer.

2.2 If the Customer is granted temporary usage rights to the Standard Software under the Contract, the Standard Software will be continuously updated and further developed by SIGMA for the duration of the Contract. Changes to the System Environment are covered by the respective Contract as far as changes to the operating system platform, as set out in the performance description (e. g. Microsoft Windows 10 etc.), are concerned. If SIGMA makes new Releases of the Standard Software available and their operation changes, SIGMA will provide the Customer with an updated Documentation. Details are regulated in Section 12.

2.3 The subject matter of the Contract is exclusively the Standard Software described in the Contract with the properties, features, intended and possible uses specified in the product description as well as the Documentation. Descriptions in test programs, product or project descriptions, also on the Internet, are expressly not descriptions of the product quality - not least because the Standard Software is subject to constant further development, so that all rights are reserved to change specifications at any time and for any reason.

2.4 The risk of accidental loss shall be borne by the Customer upon Delivery of the Software. In the case of physical shipment of the Software as 'goods', the risk shall pass to the Customer upon transfer of the 'goods' to the forwarding agent, the carrier or other messenger selected by SIGMA at its reasonable discretion.

3 SIGMA Employees

3.1 SIGMA undertakes to use only qualified and reliable personnel for the provision of its Services. SIGMA shall be responsible for the selection and assignment of employees and other agents (hereinafter referred to collectively as "**Employees**") used to perform the agreed Services. The performance of Services, induction and task-related training of Employees shall take place under the responsible management of SIGMA. SIGMA shall have sole disciplinary powers concerning such Employees, regardless of the place of work performance.

3.2 For the duration of their work at a Customer site, Employees shall be granted the right to stay on the Customer's premises during normal working hours. The Customer is entitled to refuse access to the Customer's premises to individual Employees only on important grounds. If the refusal is not based on an important ground for which only SIGMA is responsible, SIGMA is entitled to demand an adjustment of the agreed dates and remuneration, as far as these have become necessary due to the refusal of access and are otherwise reasonable.

3.3 The technical supervision of Employees is the exclusive responsibility of SIGMA. If the Customer requests the replacement of an Employee with a reason that is objectively reasonable, SIGMA is obliged to replace the Employee within a reasonable time frame.

3.4 SIGMA is solely responsible for the fulfilment of contractual, legal, official and trade association obligations to the Employees. SIGMA will indemnify the Customer from any claims asserted against the Customer. In particular, this includes all wage and salary payments as well as all other payment obligations resulting from employment or service relationships, such as social security contributions. It is exclusively the task of SIGMA to make agreements and take measures that regulate its relationship with Employees.

3.5 The Customer shall provide SIGMA with all data, documents and information about the Software to be delivered and its System Environment that are necessary for the performance of the Services and, in addition, shall provide SIGMA with the necessary support, to be specified in the respective Contract, for the fulfilment of the agreed Services free of charge. In the case of development Services, this shall in particular include a complete description of services and procedures, as well as test data, in particular for the acceptance test. The final version of the descriptions must be available to SIGMA at the agreed time. The Customer is liable for the correctness of the documents, information and data provided by him. If the Customer wishes a change of the final version of his documents, information and data or accepted individual services, the change only becomes binding if SIGMA has agreed in writing.

3.6 The compliance of the Customer with the co-operation obligations specified in the Contract and/or its appendices and/or these Terms (in particular the preceding Sub-paragraph 2.6) is essential for the performance of SIGMA in accordance with a quotation or Contract. If it is evident to SIGMA that the Customer does not fulfil his obligation to co-operate in accordance with the Contract, SIGMA will inform the Customer in writing (by post, fax or e-mail) and point out the consequences of any further delay. SIGMA will not be in default as long as the Customer does not fulfil his obligations to co-operate according to the Contract.

4 Quotations, Terms of Payment

4.1 Quotations and Offers to Customers by SIGMA shall be binding only if made in writing and be binding on SIGMA for a period of 60 days unless stated otherwise in the Quotation or Offer. The contents of SIGMA offers are and shall be treated as confidential in nature (even if not specifically so designated) and shall remain so until a formal contract has been concluded between SIGMA and the Customer.

4.2 The Customer shall pay SIGMA fees in the amount(s) of and on the terms as set forth herein or in the respective SIGMA order confirmation or invoice.

4.3 Payments of the full invoice amount(s) shall be made strictly in the currency as stated in the invoice to SIGMA's account with a SIGMA-designated bank, without deductions (e.g. of bank or remittance charges, commissions, etc.) and, unless a longer period

had been agreed and set in writing, within thirty (30) days from the date of a SIGMA invoice. Payment is only considered made after SIGMA's bank account(s) has/have been fully and irrevocably credited. Unless agreed for any specific circumstance, the Customer shall at no time be allowed to any set-off with a claim or claims which it may have, or alleges to have, against SIGMA (except for adjudicated claims).

4.4 Fees and other charges described or provided for do not include any federal, state or local sales, VAT, GST (or similar) taxes, any foreign withholding, use, property, excise, service, or similar taxes ("**Taxes**") now or hereafter levied, and these shall be and remain the responsibility of the Customer. Should SIGMA be required to pay Taxes, the Customer shall immediately upon SIGMA's request reimburse SIGMA for such amounts. The Customer hereby agrees to indemnify SIGMA for any Taxes and related costs, interest and penalties paid or which SIGMA is or was forced to pay.

4.5 Unless otherwise agreed, invoices will be issued upon Delivery. The amount of the remuneration and the reimbursement of other expenses (incidental costs, expenses etc.) shall depend on the individual agreement between the Parties. All payment modalities such as partial payments, rebates, discounts etc. are regulated in individual contracts or invoices. The same applies to travel costs and expenses.

4.6 Upon conclusion of a Contract, all fees shall be invoiced for a specified period of time and shall be paid in advance for the respective period and according to the agreed payment terms.

4.7 If the Customer fails to effect payment according to the foregoing by the due date or any specifically agreed or stipulated date, SIGMA may impose late payment interest charges from the day on which payment had become due. The rate of interest shall be as agreed between SIGMA and the Customer. If no such rate of interest had been agreed, it shall be ten (10) percentage points above the rate of the main refinancing facility of OCBC Bank (Singapore) in force on the initial due date.

5 Rights of Use

5.1 The subject matter of the license part of the Terms is the Standard Software in the Release valid at the time of the conclusion of the Contract, consisting of a copy of the respective computer program in object code and a copy of the associated Documentation. In addition, these Terms shall apply to all versions of the Standard Software, including Releases, Patches and Hotfixes, created later and made available to the Customer under a software rental agreement, the warranty period or a separately concluded maintenance contract. In addition, these Terms apply accordingly to all other copyrighted works provided to the Customer by SIGMA as part of its deliveries and services, in particular but not limited to graphical user interfaces, project or product descriptions, visualisations, or logos.

5.2 Reservations regarding the Transfer of Rights of Use and Ownership

5.2.1 If the Customer is to be granted perpetual rights of use to the Standard Software under the contract, the Customer shall be granted only a temporary right of use to the delivered Standard Software until full payment of all claims existing at the time of the Delivery from this contractual relationship (hereinafter referred to as "**Fulfilment of Conditions**") by SIGMA. The transfer of unlimited rights of use only takes place after the Fulfilment of Conditions; if payment is made by check or bill of exchange, the Fulfilment of Conditions is deemed to be the redemption of the same.

5.2.2 If SIGMA asserts the reservation, the right of the Customer to further use the Standard Software expires, unless SIGMA informs the Customer otherwise. In this case, all program copies made by the Customer must be deleted.

5.2.3 Physically delivered goods are subject to retention of title until the payment claim resulting from the respective order has been paid in full.

5.2.4 In case of seizure or other possible impairment of the rights of SIGMA to the Standard Software or the physically delivered goods within the meaning of this provision, the Customer must immediately point out the conflicting rights of SIGMA. In addition, the Customer is obligated to inform SIGMA immediately by telephone, e-mail or fax as well as to subsequently inform SIGMA in writing about the processes that have led or could lead to an impairment of the rights of SIGMA.

5.3 The rights of use shall be transferred in accordance with the Contract perpetually, or for a limited term, as specified in the Contract. The limitations of the above clause 5.2 remain unaffected.

5.4 According to the agreement of the Parties, the Customer acquires licenses to the Standard Software by the Contract with the following license scope:

5.4.1 MAGMASOFT® node locked is a single-user license and entitles the Customer to perpetually and temporarily copy and use the Standard Software on a single computer for license server and application. This license is limited to the agreed Territory and the agreed Location. The Customer shall in no circumstances be allowed to transfer the Standard Software by way of leasing or other sublicensing to any third parties, regardless of these being natural or legal persons or these being affiliated companies or otherwise connected with the Customer. Any of the Customer's agents exercising their right of use exclusively on his behalf shall not be deemed third parties.

5.4.2 SIGMAfloat territory is a network license and entitles the Customer to the perpetual and temporary duplication and intended use of the Standard Software on one license server as well as on a number of client computers. This license is geographically limited to the Territory and the agreed Location.

5.4.3 SIGMAsite licenses entitle the Customer to the temporary relocation of licensed modules to specified contractually agreed client sites and computers. For SIGMAsite Standard, modules may be exchanged between the connected licenses limited to the contractually agreed Territory or Territories and the agreed locations; for SIGMAsite General licensed modules may – notwithstanding Section 11– be temporarily shifted to existing client site(s) that has/have a local support agreement(s).

5.4.4 The Standard Software can and may only be used simultaneously by the number of simultaneous users based on the license configuration defined in the Contract. Remote access and any means of circumventing this will result in a breach of the license and allow SIGMA suspension of the license use. Use means the volatile storage of the Standard Software in the main computer memory required for the use of the functions of the Standard Software.

5.4.5 Redundant License Server
Irrespective of the agreed license (Sub-paragraphs 5.4.1, 5.4.2 and 5.4.3), the Customer may acquire additional server licenses with the purpose of increasing the reliability of the Standard Software (Redundant License Server). These additional server licenses entitle the Customer to the perpetual and temporary duplication and intended use of the Standard Software on the agreed number of license servers, whereby productive use is only permitted in cases where the primary license server fails. The licenses are geographically limited to the Territory and the agreed Location.

5.5 The Customer making backup copies of the Standard Software, Updates, Patches or Releases and to securely store these on a computer or an external data carrier remains unaffected.

5.6 The Customer shall not be entitled to modify, edit, translate, port, reverse engineer, disassemble, decompile or otherwise interfere with the source code of the Standard Software. The Customer is not entitled to correct occurring program errors himself as long as SIGMA or authorised third parties offer the error correction at market conditions. If, in addition to the information contained in the Documentation, the Customer needs further information for the interoperability of the Standard Software with independently created other computer programs, he will first send a request to SIGMA. SIGMA reserves the right to provide the necessary information.

5.7 The Customer shall likewise under no circumstances be allowed the use of the Standard Software within the framework of virtualization services, in which the programs can be accessed remotely and used to achieve certain calculations, without the Standard Software having to be loaded into the main memory of a computer.

5.8 The Customer shall not be entitled to change, remove or circumvent any proprietary notices attached to the Standard Software and the Documentation, in particular copyright notices or trademarks as well as serial numbers, license codes or security mechanisms. The Customer shall take appropriate precautions to protect the Standard Software from unauthorised access by third parties. He shall keep any original data carriers and data carriers with (backup) copies made by him in accordance with the Contract as well as the Documentation at a secure location. He shall point out and alert his employees that they shall not permitted to make copies beyond the contractual scope and that the other requirements of this Section 5 must be strictly complied with.

5.9 All other rights to the Standard Software shall remain with SIGMA or its licensor(s). SIGMA remains entitled to the joint use and other arbitrary use of the concepts underlying the programs, whereby any know-how acquired by the Customer within the scope of the Delivery must be kept secret.

5.10 SIGMA provides the Customer with databases containing particularly material data. The Customer is only entitled to reproduce, distribute and publicly reproduce the database or content of the database to the extent that this is essential for the contractual use of the Standard Software including the necessary evaluation of the database or parts of the database.

6 **Obligation to Give Notice of Defects**

6.1 The Customer shall examine the Standard Software on the basis of the product description and Documentation sent to him immediately after Delivery, i.e. shall test the most important functionality of the Standard Software on a test system with real data and notify SIGMA of any defaults or defects within a reasonable period of time.

6.2 The Customer shall also notify SIGMA immediately of any defaults or defects occurring after Delivery without prejudice to Sub-para 6.1.

6.3 When investigating and formulating a complaint according to foregoing 6.1 and 6.2, the Customer must take into account the information provided by SIGMA regarding the problem analysis within the scope of what is reasonable and pass on to SIGMA all information available to him that is necessary for the evaluation and elimination of the defect.

6.4 If the Customer does not notify SIGMA of a default or defect that is recognisable during a proper examination or those which he in fact identifies, or does not notify SIGMA of a defect within a reasonable period of time, the Customer assert any claims based on this defect.

7 **Warranty**

7.1 SIGMA warrants as follows (Sub-paras 7.2 through 7.8) that the Standard Software licensed or the Services provided by SIGMA are free from defects that prevent or significantly reduce the agreed use of the Standard Software when used by the Customer in accordance with the terms and conditions of the Contract. This warranty shall however not apply (i) if the Software is not used in accordance with the Documentation or SIGMA materials or (ii) if the defect or default is caused by a modification or add-on (other than a modification or add-on made by SIGMA which is provided through SIGMA or under warranty), or by other Customer-installed software or any third-party software. SIGMA does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Licensee's business requirements.

7.2 In the event of material defects, SIGMA provides warranty through subsequent performance. For this purpose, SIGMA will provide the Customer with a new, defect-free version of the Standard Software or remedy at its discretion; it shall also be deemed to be remedy of the defect if SIGMA provides the Customer with reasonable replacement solutions through the delivery of new software or workarounds, which avoid the effects of the defect if their use is reasonable for the Customer. In particular, SIGMA is entitled to modify the Standard Software for the purpose of subsequent improvement, provided that the performance features and operation of the Standard Software do not change for the Customer and no costs are associated with the modification.

7.3   The foregoing shall be the Customer's sole and exclusive remedies under this warranty.

7.4   The limitation period for other warranty claims, if any, is 6 months and starts with the Delivery of the Software in the case of the granting of perpetual rights of use; in the case of the granting of temporary rights of use, the limitation period starts at the moment in which the Customer has become aware of the defect or should reasonably have become aware of it; the same period applies to other claims of any kind against SIGMA. This does not apply to claims for damages that are asserted as a result of a defect in the Standard Software that was caused intentionally or through gross negligence, fraudulent concealment of the defect, damages to life, limb and health, as well as damages that arise as a result of a breach of warranty promises.

7.5   SIGMA provides warranty services within the scope of the warranty on working days from 9:00 a.m. to 5:00 p.m. The time zone of the contracting SIGMA branch or the contracting SIGMA partner applies. No warranty services will be provided on public holidays at the Headquarters of the contracting SIGMA branch or contracting SIGMA partner.

7.6   Error correction is carried out by the responsible local SIGMA site office or representative, or, if separately so agreed, also at the installation location of the Standard Software. If the defect is rectified on the Customer's system at the installation site, the Customer's computer system is to be made available to SIGMA free of charge during normal business hours.

7.7   If SIGMA can prove that there is no warranty claim for reported defects, the expenses for troubleshooting as well as for services provided by SIGMA according to para 7.2 shall be borne by the Customer.

8   Copyright and Property Right Infringements

8.1   SIGMA shall hold harmless the Customer against any legally determined payment obligations which are caused by the violation of a copyright or intellectual property right by the Software delivered by SIGMA. The prerequisite for this is that the Customer informs SIGMA in writing of all claims raised against him and the subsequent proceedings, grants SIGMA the authority to independently conduct and terminate the legal dispute, and supports SIGMA appropriately. The obligation of SIGMA shall cease if SIGMA did not know and did not have to know of this copyright or intellectual property right at the time of conclusion of the Contract.

8.2   If copyrights or intellectual property rights are asserted by third parties, SIGMA has the right at its discretion to

•   obtain the rights which allow the Customer to continue using the Software,
•   replace the Software or modify it in such a way that this copyright or intellectual property infringement no longer exists, or,
•   if the above measures are not possible for SIGMA under economically reasonable conditions, to take back the Software at the invoice price, less an appropriate amount for a past successful uses.

8.3   SIGMA shall not liable according to this Section 8 if the Customer has caused the violation of the copyright or intellectual property right by acting in contravention of the Contract.

8.4   SIGMA reserves the right to take action against violators of copyrights or intellection property rights to the Software. The Customer shall immediately inform SIGMA of such copyright or intellectual property infringements. He will support SIGMA appropriately in the action against infringers.

9   Default, Impossibility of Performance, Force Majeure

Any delay or non-performance of any obligation or provision (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing Party or whether these circumstances occur in the area of SIGMA or in the area of SIGMA's suppliers, shall not constitute a contractual breach and the time for performance of such provision, if any, shall be deemed to be extended to a reasonable extent, but by a maximum period of eight weeks, if the delivery or Service does not become impossible. If a Service remains impossible even after the expiration of the aforementioned period due to the same uninterrupted event of Force Majeure, performance shall be considered impossible. If the delivery or Service becomes impossible due to the above-mentioned circumstances, SIGMA shall be released from its performance obligations. The Customer's right to terminate the Contract or to withdraw from the Contract remains unaffected if otherwise unacceptable disadvantages arose.

10   Limitation of Liability

10.1   SIGMA shall not be liable for damages (i) for lost profits or (ii) for consequences from the use of the Software, namely data losses or damage to the Customer's data storage media that is due to the fact that the Customer cannot work productively with the Standard Software, insofar as these damages are caused by the Customer's failure to back up the Standard Software and the data processed with it at reasonable intervals using current and reliable state-of-the-art means. This does not apply if and to the extent that SIGMA has expressly assumed the obligation to back up the Customer's data itself.

10.2   The Customer remains obliged to check all results achieved by means of use of the Standard Software for their correctness, accuracy and completeness with engineering care. The use of the Standard Software does not release the Customer from his own professional duties of care. SIGMA shall not be liable for damages or in any other way, if due to defective testing by the Customer his services are defective and the Customer is exposed to claims of his customers.

10.3   Anything to the contrary in these Terms notwithstanding, except for damages resulting from an unauthorised use or the disclosure of Confidential Information or death or personal injury arising from either Party's gross negligence or wilful misconduct, under no circumstances and regardless of the nature of any claim shall SIGMA, its licensors, or Licensee, be liable to each other or any other person or entity for (i) any amount of damages in excess of the paid license fees for the Software directly causing the damages or (ii) be liable to any amount typically foreseeable at the time of conclusion of the Contract for special, incidental,

consequential or indirect damages, loss of good will or business profits or opportunities, work stoppage, data loss, computer failure or malfunction, attorneys' fees, court costs or interest. These provisions allocate the risks between SIGMA and Licensee. The license fees reflect this allocation of risk and the limitations of liability herein. Any such claims shall expire 6 months after the date of Delivery.

10.4 The compatibility of the Standard Software with existing hardware and software configurations of the Customer is only warranted for the System Environment expressly mentioned in the respective quotation or Contract. SIGMA assumes no liability for the compatibility of the Standard Software with other hardware or software configurations of the Customer or those that were changed by the Customer after posting the order. Neither does SIGMA accept any liability for the compatibility of systems that may be put into operation by other suppliers at the same time as SIGMA's performance at the Customer's site. Deviations are to be agreed separately. If the Customer changes the System Environment required for the proper functioning of the Standard Software and/or hardware after installation or acceptance without the consent of SIGMA, the Customer shall bear the burden of proof that any default or damage had not been caused by the change of the System Environment. The same applies if the Customer has changed the Standard Software proper by, or initiated by, himself.

11 Confidentiality

11.1 The contractual relationship between the Parties is based on mutual trust. The Parties assure each other that during the term of the Contract and two years thereafter they will treat all Confidential Information as trade secrets entrusted to them and will not pass it on to third parties or exploit it. This shall not apply as long as and to the extent that such information, documents and data

- were already known to the Parties before without any obligation to maintain secrecy, or
- are or become generally known without one of the Parties being responsible for this, or
- are lawfully told or provided to one of them by a third party that is not bound by a confidentiality obligation, or have been released for publication in writing by the disclosing company, or
- must be disclosed in accordance with statutory or administrative provisions or by an incontestable judicial decision if the disclosing Party is immediately notified of this requirement and the scope of the disclosure is restricted as far as possible.

11.2 Both Parties and any of its affiliates shall be obliged and shall oblige their employees to treat as confidential the business secrets of the respective contractual partner that have become known during the execution of this Contract and, in particular, not to make documents accessible to third parties. The Parties assure each other that Confidential Information will only be made available to their own employees and/or subcontractors for whom this knowledge is essential ("need-to-know basis").

11.3 Upon request, both Parties shall irretrievably delete or return to the other Party all Confidential Information upon termination of the co-operation. At the request of either Party, the deletion shall be confirmed in writing. The confidentiality and data protection obligations under this Section shall survive termination of this Contract or the complete performance of this Contract.

11.4 These provisions apply in their entirety to all Employees of SIGMA.

11.5 SIGMA will ensure that all persons entrusted by SIGMA with the processing and fulfilment of the Contract comply with the legal provisions on data protection. SIGMA will safeguard the confidentiality obligations required under all data protection laws and regulations (be it domestic or under EU regulations) prior to the first commencement of Employees' activities and will be proven to the Customer upon request. The same applies to employees of involved subcontractors.

11.6 The Customer acknowledges that breaches of Confidentiality render damages upon breach difficult to ascertain. The Parties therefore hereby agree that if the Customer commits any material breach of his Confidentiality obligations, he shall pay SIGMA, as liquidated and ascertained damages in lieu of all other claims for damages, as a maximum the total amount of the Standard Software contract price paid by and shall indemnify SIGMA for all costs and expenses reasonably incurred by it in the exercise of its remedy, including reasonable legal expenses whereupon SIGMA shall have no further claim against the Customer in respect of such breach of Confidentiality. This liquidated damages provision shall however not apply for cases where SIGMA has irrefutable proof that multiple copies of the Software were illegally distributed by the Customer – in which case the damages shall be calculated based on the full license value multiplied by the number of copies that were illegally distributed.

12 Maintenance of Standard Software (Subscription)

Services for the maintenance of the Standard Software (subscription) shall, in the case of granting perpetual rights of use to the Standard Software, only be rendered by SIGMA upon conclusion of a maintenance contract, in the case of granting temporary rights of use without further remuneration within the scope of the Software rental or leasing agreement. The Services shall be rendered at the agreed remuneration rates exclusively for the programs and other components specified in the maintenance, rental or leasing agreement. The times specified in above Sub-para 7.6 also apply for Maintenance Services.

12.1 Quality Assurance for Changes to the Standard Software or the System Environment

12.1.1 Any change to the Standard Software itself or to the System Environment may theoretically result in a malfunction of the Standard Software. Therefore, in principle, every change must follow the pattern "data backup, data backup test, testing of the new software in the old system environment or testing of the old software in the changed system environment, go-live". The installation of new Releases, Patches or Hotfixes or any changes in the System Environment without these being tested as described here before will be at the Customer's own risk or, in the event of a malfunction, will at least justify to attribute a considerable contributory fault on the part of the Customer.

12.1.2 Prior to any change within the meaning of this Section 11, the Customer shall back up all data and the Standard Software. In addition, the Customer shall check at appropriate intervals whether the correct data is being backed up and whether the back-up of the data within a period of time accepted by the Customer permits productive working with the Standard Software and the data itself.

12.1.3 If new Releases, Patches or Hotfixes are made available by SIGMA, the Customer shall check prior in a test environment or, if the Customer waives to do so, by going live on the productive system whether the Standard Software functions properly; Section 5 shall apply accordingly in this case.

12.2 Technical Requirements for Remote Maintenance

The prerequisite for remote maintenance (remote service) is access for SIGMA to the Customer's network. The technical details for this are agreed between the Parties in individual contracts. If the Customer makes changes to the remote maintenance connections agreed upon in the individual contract without early written information to SIGMA, SIGMA's work to maintain the function/readiness for operation will be invoiced to the Customer according to SIGMA's then applicable remuneration rates. Furthermore, time delays and/or delayed error elimination measures due to failures of remote maintenance not caused by SIGMA shall be charged to the Customer. If the Customer does not provide any possibility for remote maintenance, SIGMA reserves the right to charge all additional expenses due to the absence of the data connection separately according to the usual rates. SIGMA can only schedule on-site assignments which become necessary due to this fact within the scope of the respective personnel availability. It is not possible to guarantee on-site response times.

12.3 Qualification of Users; Co-operation of the Customer in Maintenance Services

12.3.1 The prerequisite for the use of the Services of the Maintenance and Support Agreement ("**Maintenance Services**") is a sufficient qualification of the users in accordance with the contractually agreed training courses or further training measures.

12.3.2 The Customer shall support SIGMA free of charge in all respects in the provision of Maintenance Services. The Customer undertakes to actively participate in the error analysis when faults occur and to precisely document faults in such a way that a reproduction of the fault is possible. This obligation is based on the Customer's ability to identify and name defects. An error message must contain information about the type of the defect, the module in which the defect occurred, the patch number, and the work performed on the computer when the problem occurred. The error message must be in text form - if necessary, using the electronic forms provided by SIGMA.

12.3.3 The Customer shall provide SIGMA unhindered access to the premises and equipment for the performance of Maintenance Services without delay, keep the required technical equipment such as power supply, telephone connection and data transmission lines ready for operation, ensure the device-specific environmental conditions, in particular provide a competent contact person on site in order to ensure the rapid performance of the Maintenance Services to be rendered.

12.3.4 The Customer shall install the programs or program parts (Hotfixes/Patches/Releases) received from SIGMA after further instructions and always comply with the suggestions for troubleshooting and error management provided by SIGMA. In particular, the user shall download enhanced Standard Software provided by SIGMA on data media or via its Internet pages (download service) and install it on his hardware system. The installation of the Standard Software provided by SIGMA is carried out via installation routines or replacement of individual components by appropriately trained personnel of the Customer.

12.3.5 The Customer should confirm proper incident resolution and/or troubleshooting within 14 days via SIGMA Support or the SIGMA Customer Portal. If no confirmation is received from the Customer, SIGMA will mark the particular incident or the troubleshooting as resolved after 14 further days.

12.3.6 The Customer shall be responsible for properly maintaining the entire software and hardware environment of the Standard Software. The Customer himself must ensure that the hardware is executable, ready for operation and meets the requirements. To the extent necessary for new Releases or Patches of the Standard Software, the Customer shall, at his own expense, make timely adjustments to the hardware as well as operating system and/or database updates and make them available ready for operation. SIGMA will inform the Customer of such changes at an early stage. The supported operating systems and databases are documented in the currently valid system requirements, which are available via the Customer area on the SIGMA website.

12.4 Maintenance Services

12.4.1 Irrespective of any warranty claims of the Customer, SIGMA will remedy errors in the Standard Software reported by the Customer.

12.4.2 SIGMA will adapt the Standard Software in its current state, which results from the product description, to changing legal or technical standards within a reasonable period of time during the term of the contract. Adjustments of the interfaces which become necessary within the scope of changes to the Standard Software are covered by the maintenance fees; configuration and setup of the interface are the responsibility of the Customer. The Standard Software will also be adapted to the usual patches of the required System Environment. Independent adaptations to the operating system may only be made by the Customer after prior approval by SIGMA. Further adaptations to user requirements resulting from individual requirements of the Customer are not part of the Maintenance Services owed according to this provision unless they are listed in the individual contract.

12.4.3 The Customer can reject the Maintenance Services if it does not have the same compatibility and functionality as the replaced program, i.e. to the disadvantage of the Customer it deviates considerably from the agreed target state of the product description, amended by corresponding release notes. The right of rejection shall also apply if the update to an offered Release, Patch or Hotfix would be associated with unreasonable costs for the Customer which results directly from the modification of the Software.

12.4.4 Adaptations to legal changes (the same applies to changes in case law), which the Standard Software must take into account, must be implemented within six months of the announcement of the legal change, including the times for installation and testing of the new Software. If it is obvious to SIGMA that this deadline cannot be met because SIGMA does not have the necessary resources, SIGMA must inform the Customer two months after notification of the change of the legal regulation.

12.4.5 Adjustments to a changed technical system environment which are necessary for the operation of the Standard Software are perpetually made by SIGMA. Adjustments must be made here within reasonable periods of time. SIGMA is responsible solely for the compatibility to a system environment which is either specified in the release notes or is reflected by the proven and reliable state of the art.

12.4.6 The Standard Software supplied by SIGMA has partially existed for several years. It is not possible to continuously develop and maintain all older Releases. SIGMA only develops Releases (including the respective associated components) that are compatible with either the current or the last previous Release of the Standard Software. If the Customer refuses to change to a more current Release and still wishes to continue using SIGMA Maintenance Services for this Release, the Maintenance Services required to maintain the functionality of the Software are no longer covered by the maintenance fee or the Software rental fee, but must be agreed, ordered and paid for separately.

12.5   SIGMA Customer Support

12.5.1 Error or malfunction reports as well as other support requests can be made via the SIGMA ticket system on the Internet or by e-mail via the official SIGMA address. The error message can also be reported by telephone via the official SIGMA hotline. The hotline can be reached at the times specified in Sub-para 7.6 above.

12.5.2 Support in the sense of these regulations is any problem-related answer to the representation of a software technical problem of the Customer in connection with the Standard Software. Maintenance Services also include the clarification of content and organisational questions regarding the use of the Standard Software. The scope of Services does not include instruction in the functionality of the Standard Software.

12.5.3 Each enquiry to SIGMA's customer service will be electronically documented and assigned with a unique processing number.

12.5.4 Before using the hotline, the Customer must try to solve the problem at its end with reasonable care. In particular, the Customer shall first refer to the Documentation and the help capabilities of the Standard Software.

12.6   Other services; Services Not Included In the Rental/Maintenance Fee

12.6.1 At the request of the Customer, SIGMA will provide further services related to the Standard Software which are not included in the Services according to Section 12 in return for a separately agreed remuneration. This applies in particular to:

- Work and services as well as travel costs and expenses of SIGMA on site at the Customer's premises
- All work and services that are performed at the request of the Customer outside the operating hours of SIGMA specified in Sub-para 7.6
- Work and services that become necessary due to the improper application or running of the Standard Software and/or breaches of obligations by the Customer, e.g. non-observance of the Documentation, regardless of whether these were performed by the Customer, his agents or other persons not authorised by SIGMA
- Work and services that become necessary due to Force Majeure or other circumstances for which SIGMA is not responsible
- Work and services that are necessary in connection with the installation of a Hotfix/Patch/Release provided to the Customer, instruction and training regarding these program versions
- Work and services resulting from changed or new usage requirements of the Customer
- Services for adapting the Standard Software to systems, devices or operating systems modified and/or new by the Customer
- Consulting and training services
- Adaptation of reports
- Parameterisation of the Standard Software in order to achieve other behaviours or organisational processes of the Standard Software;
- Delivery of new products that SIGMA has developed or distributes after the Delivery of the Standard Software and that are not part of the contracted for performance;
- Maintenance of programs or program parts that do not belong to the original version of the Standard Software.

12.6.2 SIGMA is not obliged to provide services that are not the subject of the Contract, in particular the above bullet-pointed services. However, SIGMA will endeavour to support the Customer to the extent necessary for the reasonable economic use of the Software within the scope of operational possibilities.

12.6.3 If SIGMA can prove that no maintenance or warranty case has occurred in the case of reported errors or used Maintenance Services, the expenses for troubleshooting as well as the service activities of SIGMA for the error management shall be borne by the Customer.

13   Term of Contract, Termination

13.1   The commencement of the Contract for the temporary granting of rights of use to Standard Software or the provision of Maintenance Services for the perpetual granting of rights of use to Standard Software shall be governed by the Contract between the Parties created by the respective order.

13.2   The contract period for the provision of Maintenance Services is either (i) a contractually agreed period of multiple years, as specified in an LTSA agreement with the Customer, or (ii) one year under a maintenance contract to be renewed on an annual basis.

13.3   If SIGMA has granted the Customer perpetual usage rights to Standard Software, these remain unaffected by a termination of the maintenance contract.

13.4   SIGMA's right to an extraordinary termination of a Contract remains unaffected. If the Customer terminates the Contract due to an important reason for which SIGMA is responsible, the Customer will be reimbursed a proportion of the remuneration already paid in advance for periods after the termination date.

13.5   For SIGMA, an important reason for extraordinary termination exists in particular in any case in which

13.5.1 the Customer is in default with payment of the agreed remuneration for two consecutive dates, or the Customer is in default with payment of the remuneration in an amount corresponding to the remuneration for two months in a period extending over more than two dates;

13.5.2 the Customer becoming insolvent or when insolvency proceedings have been opened against his assets, or the petition for the opening of insolvency proceedings has been rejected due to lack of assets;

13.5.3 the Customer violating essential contractual obligations, in particular exceeding the permitted right of use granted to him for the Standard Software, and not immediately remedying such a violation even after a warning.

14 Miscellaneous

14.1 **Notices**. All notices or reports which are required or may be given under a Contract shall be in writing and in the English language. These shall be deemed duly given when delivered to the respective executive officer of SIGMA at the addresses set forth in any SIGMA invoice, order confirmation (if any) or contract. Wherever –be it in this Sub-para 14.1 or elsewhere in these Terms– a written form is required, that requirement shall be met by facsimile transmission, posted or hand-delivered exchange of letters or notes in other written forms only, allowing a prior sending/transmission by electronic means, but expressly excluding any form of texting by other messaging forms or services, like e.g. the use of SMS, WhatsApp, Line, Viber, etc.

14.2 **Export Control**. Notwithstanding the territorially limited right of use of the Software within the Territory, the Customer must observe the applicable export control regulations at all times.

14.3 **Non-Waiver**. If either Party should waive any breach of any provision stated herein, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

14.4 **Assignability**. The Customer shall only be allowed to assign rights and claims from or under a Contract to third parties after having first obtained the prior written consent of SIGMA. SIGMA shall be entitled to assign Contracts as a whole to an affiliated company, or, if individual services, to third parties.

14.5 **Applicable Law**. These Terms and any claims arising out of or relating to it and its subject matter shall be governed by and construed under the laws of Singapore, without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and Singapore law, rules, and regulations, the Singapore law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act shall not apply. Licensee must initiate a cause of action for any claim(s) arising out of or relating to these Terms and its subject matter within one (1) year from the date when the Customer knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

14.6 **Jurisdiction**. For the purpose of proceedings brought against it by the other Party under Sub-para 14.5 the Parties agree to submit to the exclusive jurisdiction of the courts of the Republic of Singapore.