Section 1: Scope

The general terms and conditions for the use of software ('Terms and Conditions of Use') listed below apply to all contractual relationships with customers in connection with the temporary provision of software programs ('Software Use Agreement') and are considered an integral part of the contract, unless otherwise agreed in writing in an individual agreement between the provider and the customer. The GTC Usage Agreement supplement the Provider's General Terms and Conditions, which are also an integral part of the contract.

Any general terms and conditions of the customer that deviate from, contradict or supplement these GTC Usage Agreement shall only become part of the contract if and to the extent that the provider has expressly agreed to their validity in writing. This requirement of consent shall apply in all cases, in particular if the provider carries out a delivery or service to the customer without reservation in full knowledge of the customer's general terms and conditions.

Section 2: Services provided by the provider

The provider shall provide the customer with the subject matter of the contract specified in the software licence agreement, hereinafter referred to as the contractual software, for the duration of the respective software licence agreement under the terms and conditions of these General Terms and Conditions of Use.

The provider shall provide the contractual software via download from the Internet. The customer shall also receive, if available, an electronic user manual and other documentation (e.g. operating instructions, help files, online help, other technical information and documents) in this way. The Terms and Conditions of Use apply accordingly to the provision of new program versions of the Contract Software, such as patches, bug fixes and updates.

When providing the Contract Software via download, the Provider shall endeavour to ensure the availability of the Contract Software on a server for download by the Customer during the Provider's general business hours.

The product description of the contractual software describes in detail which functions and services can be achieved by the contractual software when used in accordance with the contract. The respective product description is solely authoritative for the agreed quality of the contractual software and its intended use. It can be found on our website (https://www.hottgenroth.de/). Other public statements, promotions or advertising do not constitute a description of the quality of the contractual software.

During the term of the respective software licence agreement, the provider shall provide the following software maintenance services to maintain the contractual condition of the contractual software:

1. All program updates and new versions of the contractual software that become available during the term of the agreement shall be made available to the customer for download.
2. Development of solutions for software errors that occur. Software errors are understood to be malfunctions in the program sequence that are likely to impair the use of the software in the customer's operations to a more than insignificant extent. If the customer reports such an error, the provider shall remedy this error as quickly as possible within the scope of the means and resources available to it.

The remuneration for the aforementioned software maintenance services is included in the agreed usage fee.

The services provided by the supplier within the scope of granting the right to use the contractual software do not include software installation, any user support, such as customer-specific adaptations, training, configuration, or any other consulting or work services beyond the granting of the right to use the contractual software. Support services and other services or work beyond the provision of the software programs and software maintenance must be agreed separately in a contract.

Section 3: Remuneration

The amount of the usage fee is specified in the software usage agreement. Depending on the contract model, the usage fee is payable monthly or annually in advance by the fifth working day at the latest and must be paid to the provider by this date at the latest.

If the customer defaults on payment of the usage fee, the provider is entitled to charge interest at a rate of eight (8) per cent above the base rate pursuant to Section 247 of the German Civil Code (BGB) as compensation for the damage caused by the default, unless the provider can prove that it has incurred higher damages as a result of the default.

If the usage fee collected is reversed, the following applies: Upon the first reversal, the customer shall receive a reminder by email and shall be obliged to pay the outstanding amount to the provider within one week of receipt of the reminder, plus an amount of €12 as a bank and processing fee. If there is a further chargeback and at least two monthly usage fees are outstanding at the same time, the customer will receive a notice of termination and has until the end of the month in which the notice of termination is received to pay all outstanding amounts, including the bank and processing fee of €12 per chargeback. If this does not happen, this constitutes grounds for extraordinary termination and access to the software will also be blocked.

The customer may only exercise a right of retention if their claim, on the basis of which they are withholding payment, is based on the same contractual relationship and has either been legally established, is ready for decision in a legal dispute, or has been recognized by the provider.

The provider is entitled to increase the monthly usage fee for the first time after twelve (12) months following conclusion of the contract with three (3) months' written notice to the end of the month, if and to the extent that its costs for maintaining the contractual condition of the contractual software have increased. The customer has the right to terminate the software usage agreement within a period of six weeks after receipt of the notice of an increase in the usage fee.

Section 4: Right of Use

The provider grants the customer the non-exclusive and non-transferable right, limited to the term of the respective software license agreement, to use the contractual software in accordance with the provisions of these General Terms and Conditions of Use.

The customer is entitled to install and use the software in accordance with the number of user licenses purchased. Simultaneous use of the software beyond the agreed scope is not permitted.

The customer is not entitled to edit and/or reproduce the contractual software beyond the contractual use.

The customer is prohibited from analyzing, disassembling, reassembling, or editing the contractual software in any way whatsoever. The customer is not permitted to decompile the contractual software. Other types of reverse engineering of the various stages of production of the contractual software are also not permitted.

The customer is prohibited from removing, altering, or rendering illegible any proprietary and copyright notices, serial numbers, version numbers, stickers, labels, or trademarks of the provider or other providers contained in the contractual software or in any user manual or other documentation provided.

Furthermore, any use of the contractual software beyond the scope specified in the contract, e.g. unauthorised simultaneous use by multiple users, constitutes a breach of contract. For the period of unauthorised overuse, the customer undertakes to pay the rent for the contractual software on the basis of the actual scope of use in accordance with the provider's price list immediately after receiving the corresponding invoice. If the customer conceals the overuse and the provider discovers it by other means, the customer shall pay the provider lump-sum damages for the unauthorised overuse in the amount of three times the monthly usage fee that would have been due for authorised use of the contractual software in accordance with the provider's price list. The customer shall be free to prove that the provider has incurred only minor damage.

Section 5: Resale and transfer to third parties

Without the prior written consent of the provider, the customer is not entitled to transfer the copy of the contractual software provided for their use, or the associated documentation, to a third party, in particular to sell, rent or lend it to third parties. The commercial use of the contractual software for third parties by way of ‘Application Service Providing (ASP)’ or ‘Software as a Service (SaaS)’ is not permitted.

The dependent use of the contractual software by third parties who are subject to the customer's will with regard to the manner of use, in particular by the customer's employees, is permitted. The prohibition of simultaneous, multiple use in accordance with §4 (2) remains unaffected by this.

Section 6: Use of software protection mechanisms, internet connection, customer's duty of care

The provider delivers the contractual software with a technical protection mechanism in the form of an electronic licence update. This means that the customer must enable an internet connection to the provider's licence server when starting the contractual software. The customer must ensure that the electronic licence update is not blocked by firewall settings or other installed software (e.g. anti-virus software). Circumventing technical protection measures violates the provider's rights and is not permitted.

The hardware and software environment required for the proper and error-free operation of the contractual software is specified on the provider's website (https://www.hottgenroth.de/systemvoraussetzungen). It is the customer's responsibility to ensure that a suitable hardware and software environment is in place in good time. If this is not the case and the delivered contractual software cannot be used for this reason alone, the customer shall bear sole responsibility for this.

Before commissioning the contractual software, the customer is required to test all functions of the contractual software under the customer's hardware and software environment and to check the

documentation provided. If the customer discovers any defects, these must be reported to the provider within two (2) weeks.

In doing so, the customer shall forward all information available to them that is necessary for the elimination of the malfunction to the provider. The customer is obliged to prevent unauthorised access to the contractual software.

Upon request, the customer shall provide the provider with written information within a reasonable period of time as to whether the contractual software is being used by the customer in accordance with the contract, in particular whether the customer complies with the contractually agreed scope of use (e.g. with regard to the number of installed licences) and the terms of use in accordance with §4.

Section 7: Warranty for material defects and defects of title

The customer's rights in the event of material defects and defects of title (hereinafter referred to as 'defects') in the contractual software shall be governed by the statutory provisions, unless otherwise specified below.

The provider warrants that the contractual software complies with its performance description when used in accordance with the contract and is free from defects that impair the suitability of the contractual software for the contractually agreed use to a more than insignificant extent. Insignificant deviations from the performance specification shall not be considered a defect.

The customer is obliged to notify the provider in writing of any errors that occur without delay, at the latest after a review and consideration period of one (1) week, and to specify and describe how the defect manifests itself, what its effects are and under what circumstances it occurs.

The provider shall remedy the defect duly reported by the customer by way of subsequent performance, i.e. by repair or replacement. The choice of how to remedy a defect by way of subsequent performance shall initially lie with the provider. The provider's right to refuse the chosen type of subsequent performance under the statutory conditions remains unaffected. Insofar as this is reasonable for the customer, the provider is entitled to provide the customer with a new version of the contractual software that no longer contains the reported defect or eliminates it in order to remedy the defect. The customer may not enforce a reduction in the usage fee by deducting it from the agreed usage fee, unless the right to a reduction is undisputed or has been established by a court of law. The right to a reduction only extends to the defective functionality of the contractual software in each case.

The provider is not obliged to provide a warranty if errors in the contractual software occur after changes to the conditions of use and operation, after installation and operating errors, after interventions in the contractual software (such as modifications, adaptations, connections with other programs) and/or after use contrary to the contract, unless the customer proves that the errors already existed when the contractual software was handed over or are not causally related to the aforementioned events. The foregoing shall not apply if the customer is entitled to make changes to the contractual software, in particular when exercising the right to remedy defects in accordance with Section 536a (2) of the German Civil Code (Bürgerliches Gesetzbuch, BGB), and these changes are carried out professionally and documented in a comprehensible manner.

Section 8: Liability

The provider's strict liability pursuant to Section 536a (1) of the German Civil Code (Bürgerliches Gesetzbuch, BGB) for defects in the contractual software already existing at the time of conclusion of the contract is expressly excluded.

The liability of the provider and its legal representatives and vicarious agents in cases of intent or gross negligence shall be governed by the statutory provisions.

Otherwise, the liability of the provider and its legal representatives and vicarious agents for slight negligence is excluded, unless one of the following cases applies:

- damage resulting from injury to life, limb or health;
- breach of duties within the meaning of Section 241 (2) of the German Civil Code (Bürgerliches Gesetzbuch, BGB) if the customer can no longer be expected to accept the service;
- the assumption of a guarantee for the quality of a service, for the existence of a successful service or for a procurement risk;
- intervention of the provisions of the Product Liability Act;
- fraud, initial impossibility and other cases of mandatory statutory liability;

Breach of a material contractual obligation; in this case, however, the provider's liability is limited to compensation for foreseeable, typically occurring damage.

Essential contractual obligations are those obligations that protect the customer's essential legal positions under the contract, which the contract must grant him according to its content and purpose; furthermore, contractual obligations are essential if their fulfilment is a prerequisite for the proper execution of the contract and if the customer regularly relies on and may rely on their fulfilment.

The provider's liability is also limited to the foreseeable damage typical for this type of contract in cases of gross negligence, provided that none of the above-mentioned exceptions apply. The above provisions do not imply a change in the burden of proof to the detriment of the customer.

Unless unlimited liability applies in accordance with the above provisions, the provider shall not be liable in all other cases of liability in the event of simple negligence for consequential damage, loss of profit and any third-party claims, with the exception of claims in which third parties assert justified infringements of property rights by the software.

In the event of a breach of duty that is not based on a defect, the customer may only withdraw from the contract – if the other legal requirements are met – if the provider is responsible for the breach of duty. Withdrawal is excluded if the breach of duty is insignificant.

The provider shall not be liable for the loss of data if the damage would not have occurred if the customer had properly backed up the data. Proper data backup shall be deemed to have been carried out if the customer demonstrably backs up their data daily in machine-readable form, thereby ensuring that this data can be restored with reasonable effort. The provider's liability for data loss – unless caused intentionally or through gross negligence on the part of the provider – is limited to the typical restoration costs that would have been incurred if the data had been properly backed up.

The provider shall also not be liable if software errors occur after changes to the conditions of use and operation, after operating errors, after interventions in the software program (such as changes, adaptations, connections with other programs) and/or after use contrary to the contract, unless the customer proves that the errors already existed at the time of delivery or performance or are not causally related to the above-mentioned events.

Insofar as the provider's liability is excluded or limited, this also applies to the personal liability of its employees and other vicarious agents. The objection of contributory negligence remains open.

Insofar as claims for damages are excluded or limited in accordance with the above paragraphs, this exclusion or limitation also extends to damages in addition to performance and damages in lieu of performance, regardless of the legal basis, in particular due to competing claims arising from defects, breach of obligations arising from the contractual relationship, tortious acts and claims for reimbursement of expenses in accordance with Section 284 of the German Civil Code (Bürgerliches Gesetzbuch, BGB).

Section 9: Obligations to return contractual software

Upon termination of the software licence agreement, all downloads of the contractual software and all copies thereof must be completely deleted. Upon request, the customer shall confirm the deletions to the provider in writing after they have been carried out.

After termination of the software licence agreement, the customer may not continue to use the contractual software in any way.

Section 10: Validity of the general terms and conditions

The provisions contained in the provider's general terms and conditions, e.g. regarding contract conclusion, delivery, remuneration and payment, retention of title and rights, liability, place of jurisdiction, etc. shall apply mutatis mutandis to contractual relationships within the scope of the temporary transfer of software programs, unless otherwise specified in these special terms and conditions of use.

Section 11: Final provisions

The law of the Federal Republic of Germany applies. The provisions of the UN Convention on Contracts for the International Sale of Goods do not apply. The contract language is German and, in exceptional cases, English. The German language is considered the language of interpretation of the text in all documents. If the customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from this contract is our place of business. The same applies if the customer does not have a general place of jurisdiction in Germany or if their place of residence or habitual abode is unknown at the time the action is brought.

Cologne, 9 April 2020