

## TTTech Auto Software Product License Terms & Conditions

The following TTTech Auto Software Product License Terms and Conditions (the “**T&C**”) of TTTech Auto GmbH, Vienna, Austria, FN 477693 s (“**TAAG**”) shall apply to the use by Customer of any Software Product supplied by TAAG hereunder and/or any deliveries and services rendered by TAAG in connection therewith.

THESE T&C SHALL OVERRIDE ANY CONTRADICTING OR ADDITIONAL TERMS CONTAINED IN OR REFERRED TO IN DOCUMENTS OR CORRESPONDENCE FROM CUSTOMER, INCLUDING IN PARTICULAR ANY GENERAL TERMS AND CONDITIONS OF CUSTOMER. ANY GENERAL TERMS AND CONDITIONS OF CUSTOMER SHALL NOT APPLY TO THIS AGREEMENT, EVEN IF REFERENCED IN A PURCHASE ORDER OR OTHER CUSTOMER DOCUMENT, UNLESS EXPRESSLY ACCEPTED BY TAAG IN WRITING.

### 1. Definitions

Any capitalized term used in this Agreement (including its Annexes) shall have the meaning set out herein below or as defined elsewhere in the Agreement:

<b>Affiliate</b>	means any entity that Controls, is Controlled by or is under common Control with a Party.
<b>Agreement</b>	means the contractual relationship between the Parties based on an Offer, a Purchase Order accepted by TAAG and these T&C.
<b>Background IPR</b>	shall have the meaning set forth in section 7.1.
<b>Build Server</b>	means a Customer- and/or Customer Affiliate-operated and controlled computer instantiation, whether physical or virtual, containing a specific installation of the Software or parts thereof for the purpose of generating software artifacts (source code, executables) for a Target System.
<b>Certification Package</b>	means ISO 26262 and/or ISO/SAE 21434 artifacts needed for using the Software as part of the Customer’s safety case and/or cybersecurity case. The scope of the Certification Package is defined within the Offer.
<b>Confidential Information</b>	shall have the meaning set forth in section 13.2.

<b>Control</b> (or variants of it)	means the direct or indirect beneficial ownership of greater than fifty percent (>50%) of the shares of voting stock or equity interests to vote for the election of directors, or the power to direct or appoint the management, in another entity.
<b>Customer Applications</b>	means a software program that requires linking of portions of the Software to execute such software program developed by Customer or by any Third Party on behalf of Customer.
<b>Customer</b>	means the person or entity designated in an Offer who intends to or does download, install, or use the Software hereunder and/or receives any deliveries and Services in connection therewith.
<b>Customer Cooperation Responsibilities</b>	shall have the meaning set forth in section 6.1.
<b>Development Software</b>	means Software that is restricted to be used in the development environment(s) of a specific Project.
<b>Disabling Code</b>	means a computer code inserted by TAAG that is designed to delete, interfere with or disable the normal operation of the Software.
<b>Documentation</b>	means all documents relating to Software authored by TAAG or any Third Party describing its features or use.
<b>Effective Date</b>	means the date the Purchase Order is accepted by TAAG, or an earlier date if expressly specified as such in an Offer.
<b>Embedded Software</b>	means TAAG's standard software products, excluding any Tooling.
<b>End of Life or EOL</b>	means the date when TAAG generally ceases to support a specific version of the Software.
<b>Evaluation Software</b>	means Software that is restricted to be used in prototype or non-series development environments for the purpose of evaluating the Software.
<b>Feedback</b>	means comments, suggestions, improvements or enhancements of (a) the Software, (b) the Services or (c) TAAG products or processes or any Customer-prepared derivatives of TAAG products, including without limitation, all Intellectual Property Rights in any such comments, suggestions, improvements or enhancements.

<b>Foreground IPR</b>	means all TAAG Foreground IPR and all Customer Foreground IPR.
<b>Force Majeure</b>	means all events which are beyond the control of the Parties, and which are unforeseen, unavoidable or insurmountable, and which were not known at the formation of the Agreement, and which prevent total or partial performance by either Party, including earthquakes, typhoons, flood, war, epidemics, civil disturbances, and any other event which neither can be foreseen, prevented nor controlled.
<b>Host Instance</b>	means the deployment of the Series Software on a given operating system, running natively or as a guest operating system as part of the Target System.
<b>Intellectual Property Rights or IPR</b>	means any and all intellectual property rights anywhere in the world, whether or not registered or granted, including any applications therefore, including any patent rights, patent application rights, copyrights, design rights, rights in inventions, rights in utility models, intellectual property rights in semiconductors, topographies and mask words, Confidential Information, know-how, trade secrets, business secrets, database rights, test and development reports, suggestions, ideas, drafts, designs, proposals, samples, models, drawings, CAD data records, service descriptions, documentation, and programs, all moral and economic rights of authors and inventors, all rights of whatsoever nature in computer software and data and all intangible rights and privileges of a nature similar or allied to any of the foregoing. IPR shall, however, exclude trademarks and trade names.
<b>Licensed Developer</b>	means any employee, contractor, or agent of Customer to whom Software (or any component thereof) is made available for access or use. and who has a valid license to use the Software.
<b>License Fee</b>	means the fee to be paid by Customer and/or other Licensees for the Licenses as determined in an Offer.
<b>License Term</b>	means the duration for which Licenses under this Agreement are granted, as determined in an Offer. For Series Licenses, unless agreed otherwise, the License Term shall be indefinite, always subject to the payment of License Fees and/or Royalties.

**License(s)**

means all Embedded Software Licenses, all Tooling Licenses or Maintenance Licenses granted under this Agreement.

**Embedded Software Licenses** means all Licenses to Embedded Software granted under this Agreement, always falling under one or more of the following License types:

- a. **Trial License** shall have the meaning set forth in section 4.1.
- b. **Evaluation License** shall have the meaning set forth in section 4.2.
- c. **Development License** shall have the meaning set forth in section 4.3.
- d. **Series License** shall have the meaning set forth in section 4.4.

**Tooling License** means all Licenses to Tooling granted under this Agreement, as more closely defined in section 4.5, and always falling under one or more of the two following License types:

- a. **Floating License** means a multi-purpose development license allowing use of the Tooling (i) by Licensed Developers and (ii) in or on Build Servers. The Floating License can “float” between Licensed Developers and a Build Server, provided each Floating License is tied to either a single Licensed Developer or a single Build Server at any given time.
- b. **Node-locked License** means a license bound to one single dedicated development machine.

**Maintenance License** shall have the meaning set forth in section 4.6.

**Licensee**

means Customer and, if explicitly included in an Offer for the purpose of specific Licenses, Affiliates of Customer or Third Parties.

**Licensee Foreground IPR**

shall have the meaning set forth in section 7.3.

**Modified Embedded Software**

shall mean any Embedded Software of which its source code has been amended by Licensee.

<b>Notice</b>	shall have the meaning set forth in section 18.
<b>Offer</b>	means a legally binding offer issued by TAAG to Customer relating to Software and/or Services, always including all its annexes and referenced supporting documents.
<b>Open-Source Software</b>	means any software provided under a license or other contractual obligation that requires, as a condition of use, modification, or distribution of the covered technology, that the covered technology or other technology incorporated into, derived from, or distributed with the covered technology (i) be disclosed or distributed in source materials form; (ii) be licensed by the user to third parties for the purpose of making or distributing derivative works; (iii) be redistributable at no or minimal charge or (iv) be otherwise used, modified and/or shared under terms and conditions defined by the author.
<b>Parties</b>	means TAAG and Customer collectively, and <b>“Party”</b> means either of them.
<b>Project</b>	means a specific Customer development project as defined by i) a specific set of entities (i.e. legal entities or business units within Customer) that obtains Licenses, and (ii) one or more specific Target System(s).
<b>Purchase Order or PO</b>	means a legally binding purchase order issued by Customer.
<b>Royalty</b>	means in-vehicle stack royalties to be paid by Customer, separately from License Fees, for each Host Instance sold or otherwise distributed by Customer, in accordance with the pricing set forth in an Offer.
<b>Royalty Report</b>	shall have the meaning set forth in section 4.4.3.
<b>Series Software</b>	means Embedded Software that is qualified for series/mass production of Vehicles.
<b>Services</b>	means any (i) support services, in particular integration and de-bugging, or (ii) any other installation, training, consultancy service, product enhancement, product extension, or other services offered by TAAG to Customer in connection with the Software.
<b>Software</b>	means all Embedded Software and Tooling supplied by TAAG under this Agreement.

<b>Target System</b>	means the platform, product, device, component, system (containing software or software and hardware components) into which Customer Application(s), software, and/or subsystems are to be wholly or partially integrated, always limited to the specific system functionality, architecture, software and hardware configuration, as defined in the Offer or technical documents referenced in the Offer.
<b>Trial Software</b>	means a limited version of the Software that is provided under a Trial License.
<b>T&amp;C</b>	means these TTTech Auto Software Product Terms and Conditions.
<b>Third Party</b>	means with respect to a Party, any person or entity that is not an Affiliate of such Party.
<b>Tooling</b>	means TAAG's software tools for developing, generating and/or configuring the Embedded Software. To the extent the Tooling contains Open-Source Software, any such Open Source Software parts shall be solely governed by the respective open source license terms.
<b>TAAG Foreground IPR</b>	shall have the meaning set forth in section 7.2.
<b>Update</b>	means any modification or addition to the Software that fixes defects and does not change its overall utility, functional capability or application and only to the extent that any such Updates are issued by TAAG. For the sake of clarity Updates do not include (i) Upgrades; or (ii) any product that is marketed by TAAG as a new or distinct product.
<b>Upgrade</b>	means significant improvements in either performance, changes in architecture and/or new functionalities that go beyond an Update. An Upgrade is usually given a new version number, such as "2.0" or "2.5" and marketed with this number.
<b>User Seat</b>	means one unit of Tooling License either as Floating or Node Locked License.
<b>Vehicle</b>	means a vehicle designed for operation on ordinary public roads and which is not special-purpose vehicle (such as – but not limited to – fire trucks, municipal vehicles), including but not limited to, passenger cars, taxis and

other delivery vehicles, buses or trucks used for transporting goods.

**Warranty Period** shall have the meaning set forth in section 10.2.(b).

## 2. Offer and Order of Precedence

- 2.1. Unless contained in this Agreement and expressly stated to be binding, TAAG is not bound by any advertisement, marketing statement, www-appearance, catalogue or other documents, whether communicated publicly or to Customer. Any written statements, requests for quotation or Documentation submitted by Customer to TAAG prior to entering this Agreement shall be binding for Customer only.
- 2.2. Any Offer can only be accepted by Customer through a Purchase Order within ten (10) days from the day of receipt of the Offer unless the Offer defines a different validity period. The Purchase Order shall not include conditions or amendments to any of the commercial, legal, or other terms expressed in the Offer. Any Purchase Order deviating from the Offer or an acceptance of an Offer later than the acceptance date shall be regarded as a counteroffer by Customer, which only becomes binding upon written confirmation by TAAG. Any general terms and conditions of the Customer referenced in a counteroffer shall not be applicable.
- 2.3. If a conflict exists between these T&C and an Offer, the Offer (including any annexes to the Offer) shall prevail.
- 2.4. The Offer further specifies what License type (see section 4 below) is obtained by Licensee and its scope, in particular for what Project the License(s) apply, the License Fees, if any Services are ordered by Customer, and what additional terms may apply.

## 3. General License Terms

- 3.1. This section 3 applies to all Licenses granted under this Agreement, unless explicitly set out otherwise in an Offer.
- 3.2. The Software is licensed, not sold, to Licensee for use only under the terms of this Agreement and TAAG reserves all rights not expressly granted to Licensee. TAAG retains ownership of all copies of the Software.
- 3.3. Licenses are non-exclusive, non-transferable and non-sublicensable. Use of each license is limited to the designated Licensee, site(s), Project, and Target System(s)

and to the License Term, all as defined in the Offer specifying the grant. For each License, Licensee must pay the License Fees, and, if applicable, Royalties, in accordance with TAAG's then-current, applicable, published price list, or as may be set out specifically in the Offer. For clarity, where a Customer is working on developments within a defined Project, any further work for different entities, business units or platforms, features and functionality different to what is defined for the Target System in the Offer, e.g. using different hardware or software configurations and/or different Software as variations, shall, unless otherwise agreed in writing by TAAG, be considered as a new or separate Project.

- 3.4. Licensee may make a reasonable number of copies of the Software strictly for backup or archival purposes. Any such backup copy shall remain TAAG's exclusive property and must include all copyright or other proprietary rights notices contained in the original.
- 3.5. Subject to section 3.4 above, after expiry of the License Term, all copies of the Software must be deleted by the Licensee, and Licensee shall upon request provide TAAG written certification of the same.
- 3.6. Any Embedded Software License does not grant rights in Tooling, unless a Tooling License is purchased separately.
- 3.7. The Trial Software, Evaluation Software and Development Software may contain prototypical features. The Software is considered a Trial Software, Evaluation Software or Development Software if it is designated accordingly on the Licensee's Offer or accompanying documentation. These kinds of Software (1) have not gone through TAAG's standard commercial testing; (2) shall not be distributed or sublicensed to third parties; (3) shall not be used in any production system; (4) are not subject to maintenance or support from TAAG and any Updates or Upgrades of such Software may be provided at TAAG's sole discretion only; (5) may not be included in future releases of the Software; and (6) ARE PROVIDED "AS IS" WITH NO WARRANTY WHATSOEVER.
- 3.8. Sub-licensing: In case an Offer explicitly specifies a right of Customer to sub-license any of the Licenses obtained (wholly or partially) to Affiliates of Customer or to Third Parties, all obligations or restrictions binding Customer under this Agreement shall apply mutatis mutandis to such recipient of such sub-license acting as Licensee of Software under this Agreement. Customer shall procure its Affiliates' or respectively Third Parties' compliance with the terms of this Agreement and any act or omission by such Licensee shall be deemed an act or omission by Customer hereunder and Customer shall hold TAAG harmless for all damages resulting from such act or omission as for its own and indemnify TAAG

for any loss or damage which TAAG may suffer or incur as a result of any such act or omission.

3.9. Unless otherwise set out in an Offer, Certification Packages are not included in any Offer.

3.10. All rights granted to Customer under Licenses or otherwise under this Agreement (incl., but not limited to, all rights under warranties) are contingent upon Customer's full and timely fulfilment of all Customer Cooperation Responsibilities. All services, dates and prices mentioned in any Offer are based on the assumption that the PO is placed on time, that Customer is fulfilling all Customer Cooperation Responsibilities and is providing its active participation and contributions/provisions free of charge, on schedule and according to requirements.

## 4. License Types

### 4.1. Trial License

4.1.1. Under a Trial License, Licensee is granted the temporary right to use the Trial Software for the sole purpose of researching, testing and evaluating the capabilities of the Software, **restricted for use in non-series and prototype development environments only.**

4.1.2. Under a Trial License, access to the Trial Software is granted for a limited period only, as set out in the corresponding Offer. Unless extended by TAAG, the Trial License Term expires after the time interval, specified by the Offer, starting from the date when Licensee has first received access to the Trial Software. For clarity, this license does not authorize Licensee to use the Software in any development environment other than for prototypes or for any production environment and does not authorize Licensee to develop applications for production environments; a valid Evaluation License or Development License is required for such development activities.

4.1.3. Either Party may terminate a Trial License with ten (10) days written notice to the other Party; and upon termination of the License or expiration of the License Term, unless a license to the relevant Software is acquired under a separate PO, Licensee shall promptly remove all copies of such Software from its systems, and upon request provide TAAG written certification of the same.

## 4.2. Evaluation License

- 4.2.1. Under an Evaluation License, Licensee is granted the temporary right to use the Evaluation Software for the sole purpose of researching, testing and evaluating the capabilities of the Software, including researching, testing and evaluating the suitability of Software for Licensee application(s), **restricted for use in non-series development environments**.
- 4.2.2. Under an Evaluation License, access to the Evaluation Software is granted for a limited period only, as set out in the corresponding Offer. Unless extended by TAAG, the Evaluation License Term expires after the time interval, specified by the Offer, starting from the date when Licensee has first received access to the Evaluation Software. For clarity, this license does not authorize Licensee to use the Software in any production environment and does not authorize Licensee to develop applications for production environments; a valid Development License is required for such development activities.

## 4.3. Development License

- 4.3.1. Under a Development License, Licensee is granted the right to use Development Software
- (a) for development and testing only, in particular to
    - (i) develop Customer Applications for Vehicles;
    - (ii) configure the Embedded Software in accordance with its needs; and
    - (iii) use the Embedded Software for testing purposes in development environment and in Vehicles; and
  - (b) if a Tooling License is acquired separately as defined in the Offer, to use the Tooling for development and testing of Customer Applications with the Embedded Software.
  - (c) Unless set out otherwise in an Offer, a Development License includes all Updates and Upgrades during the License Term.
- 4.3.2. A Development License is always subject to the following additional restrictions:
- (a) The Development License Term expires after the time interval, specified by the Offer, starting from the date when the Licensee has first received access to the Software.

- (b) Licensee may not use the Software in any road-traffic.
- (c) Licensee may not use the Software to produce direct revenue or for the benefit to Licensee by selling or licensing it to a Third Party (only internal end use allowed).
- (d) Licensee may not use the Software for any purpose or on a Project that would require a Series License. Evidence of use requiring a Series License includes the existence of a customer delivery or production schedule, involvement of production management personnel, installation into production systems, and/or development of financial return goals.
- (e) Licensee may not use or distribute the Software outside of the Project, as specified in the Offer.

#### 4.4. Series License

- 4.4.1. Under a Series License, Licensee is granted the right to the Series Software, always tied to the Target System as specified in an Offer, and always subject to the payment of the corresponding Royalties, to develop, produce, distribute, make, have made, use, lease, market, sell, offer to sell, have sold, import and have imported products that physically incorporate copies of the Embedded Software into a Target System and distribute and sub-license the Series Software as incorporated into the Target System using up to that number of Host Instances defined in the Target System. This includes the right to use the Embedded Software in object code form for its incorporation, use and loading, in(to) Target System, and may as such be integrated into a product manufactured or sold or maintained or repaired or distributed by Licensee.
- 4.4.2. Only if set out explicitly in the Offer, Customer may also under a Series License obtain the right to create new products in combination with Embedded Software and to distribute, produce, lease, market, sell, offer, import, export these products. Unless set out otherwise explicitly in the Offer, any such new products of Customer in combination with Embedded Software shall be considered a single use case triggering a Royalty in accordance with section 9 below.
- 4.4.3. Royalty Report: Licensee agrees to keep records of the number of Host Instances Licensee distributes. Within 30 days after the end of each calendar quarter, Customer shall provide accurate accounts for each month of the previous calendar quarter, showing the number of Host Instances with

integrated Embedded Software sold, distributed or differently used and a calculation of the total royalties due to TAAG in the form of a royalty report ("**Royalty Report**"). TAAG shall thereupon issue an invoice for the royalty fee due, calculated in accordance with the Royalty Report. Customer agrees to allow TAAG's representatives or independent third-party auditors, who are bound by confidentiality obligations, upon at least fourteen (14) working days prior written notice, during normal business hours to inspect such books of account, records, documents and to the extent necessary, any other material, software or data, whether located at the seat of Customer or elsewhere under the possession or control of Customer, in order to verify Royalties due under this Agreement. In the event that it is found that there is an error to the detriment of TAAG in the excess of 3% or more of the Royalties cumulatively paid for the period reviewed, Customer shall pay all reasonable legal and accountancy costs and fees in respect of such audit and immediately pay TAAG the excess Royalties due multiplied by two. If the audit identifies that Customer has made an overpayment, such overpayment shall be credited to the next payment(s) of License Fee and/or Royalty fee to be made by Customer. Customer shall maintain the records up to three (3) years.

- 4.4.4. A Series License does not grant Customer the right to any Updates, Upgrades, support or other Services by TAAG. A Maintenance License is required for access to Updates.
- 4.4.5. TAAG offers no warranty to Licensee's customers or end users. THE SOFTWARE, WHEN INCORPORATED INTO A TARGET SYSTEM, IS PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. TAAG DISCLAIMS ALL WARRANTIES TO LICENSEE'S CUSTOMERS OR END USERS, EITHER EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.
- 4.4.6. Licensee must distribute Licensee's Target System to its customers or end users with a license that acknowledges TAAG's copyright in the Embedded Software, prohibits modifications or further development of the Embedded Software, prevents further copying of the Embedded Software (except for backup purposes), and expressly disclaims all warranties by TAAG. Any valid end user licenses to Target Systems incorporating Software granted by Licensee under this Agreement shall survive the termination of this Agreement.

#### 4.5. Tooling License

4.5.1. Tooling Licenses can only be obtained in conjunction with a valid Embedded Software License. Tooling Licenses are subscription-based, always limited to the License Term specific to the Tooling as set forth in an Offer. Under a Tooling License, Licensee is granted the right to use the Tooling for development, configuration and testing Customer Applications with the Embedded Software. The Tooling may be restricted to a specific version of Embedded Software. TAAG may, at its own discretion, provide Updates and/or Upgrades to the Tooling during the Tooling License Term.

4.5.2. A Tooling License is always subject to the following additional restrictions:

- (a) A Tooling License is always either a Floating License or a Node-Locked License, as outlined in the Offer.
- (b) The Tooling License is always subject to the number of User Seats as set out in an Offer. TAAG reserves the right, upon reasonable notice, to examine Licensee's records regarding the number of Licensed Developers (i.e. employee-status and security status) used by Customer for a particular Project.
- (c) The Tooling License Term expires after the time interval, specified by the Offer, starting from the date when the Licensee has first received access to the Tooling. Customer shall not use Tooling after expiry of the License Term. TAAG may, at its sole discretion, request Customer to return the physical key, if any, used for any Node-Locked Licenses after expiry of the License Term.
- (d) Licensee may not use the Tooling to produce direct revenue or benefit to Licensee rather than sold or licensed to a Third Party (internal end use).
- (e) TAAG shall have the right to provide access to Tooling via a cloud-based setup, hosted by TAAG, Customer or a Third Party; in case of a Third-Party-hosted cloud, additional third-party license terms may apply.

#### 4.6. Maintenance License

4.6.1. Under a Maintenance License, Customer is granted access to Updates to the Embedded Software, as specified in the respective Offer for the Series License, always limited to the License Term of the specific Maintenance License.

- 4.6.2. A Maintenance License does not extend beyond the End of Life (“**EOL**”) date for the given Software. After the EOL date, TAAG is under no obligation to continue to provide access to the applicable Software.
- 4.6.3. Unless set out otherwise explicitly in an Offer, a Maintenance License does not include any Upgrades, support or other Services to be provided by TAAG.
- 4.6.4. The Maintenance License may be subject to additional service level terms, as set out in an Offer.

#### 4.7. **Source Code Delivery (“white box delivery”)**

- 4.7.1. If a delivery of Software in source code form is agreed as part of an Offer, Licensee is granted the right to use the Software to build object code versions of the original Software, always restricted to the rights Licensee has obtained in the course of a particular Project. Any license to source code must always be linked to a valid Development License or Series License.
- 4.7.2. Customer agrees and acknowledges that all source code of the Software is proprietary, valuable, and not generally known in the industry, and shall treat the source code as Confidential Information. Customer shall ensure that access to the source code is controlled through a configuration management system, that it shall maintain a list of individuals who access the source code of the Software.
- 4.7.3. TAAG maintains ownership of all IPR and other interests in any Modified Embedded Software and any other rights in the source code, including any derivative works based either directly or indirectly on the source code; any changes in the source code of the Software shall be communicated and made available to TAAG immediately.
- 4.7.4. If Licensee modifies the Software, then the warranties provided under this Agreement shall not apply to the extent that an issue is caused by, exposed or associated with the modifications undertaken by Licensee. Unless agreed otherwise, TAAG has no obligation to support any Modified Embedded Software.

### 5. **Additional Restrictions applicable to all Licenses hereunder**

- 5.1. Unless expressly set out in an Offer or the Documentation of the release of the respective Software or agreed otherwise in writing, all Software provided hereunder shall be provided in object code only. Licensee shall not reverse

assemble, reverse compile, reverse engineer the Software in whole or in part or otherwise try to derive its source code.

- 5.2. Except as provided herein, Licensee may not copy, modify, or create derivative works of the Software.
- 5.3. Except as provided herein, Licensee may not market, distribute, transfer copies, disclose or make available or permit use of the Software to others. Licensee may not rent, lease, loan, or otherwise provide the Software to any Third Parties except as provided herein.
- 5.4. Licensee shall neither (a) use the Software for any competitive purposes, including performing performance vulnerability tests, nor (b) disclose results of any such tests to Third Parties without TAAG's prior written consent.
- 5.5. Licensee may not remove any proprietary notices from the Software or the Documentation.
- 5.6. LICENSEE SHALL CAUSE ITS AFFILIATES, DISTRIBUTORS, END USERS AND CONTRACTORS TO COMPLY WITH TERMS AND OBLIGATIONS NOT LESS STRICT AS PROVIDED IN THIS AGREEMENT AND SHALL FURTHER ENSURE THROUGH ADEQUATE TECHNICAL AND ORGANISATIONAL MEASURES THAT THEY ARE RESTRICTED FROM MODIFYING, ALTERING, ADAPTING, TRANSLATING, DECOMPILING, DISASSEMBLING, OR OTHERWISE REVERSE ENGINEERING THE SOFTWARE, OR FROM ATTEMPTING TO ACCESS OR DERIVE SOURCE CODE OF THE SOFTWARE OR FROM WRITING OR DEVELOPING ANY DERIVATIVE SOFTWARE THAT USES, INCORPORATES OR IS BASED ON THE SOFTWARE OR ANY CONFIDENTIAL INFORMATION OF TAAG.
- 5.7. Licensee is not entitled to reproduce the Documentation or parts thereof or to hand them over to Third Parties; except for Documentation to the extent required under the respective agreement between Licensee and its Customers to enable them the use of the Software, always provided that any such Third Party is bound to confidentiality obligations not less restrictive than those set forth under this Agreement.
- 5.8. Customer shall hold TAAG harmless for any damages arising out of the violations of the obligations listed in section 5 by Customer, its Affiliates, customers, end users, contractors and distributors as for its own and indemnify TAAG for any loss or damage which TAAG may suffer or incur as a result of any such infringement.

## 6. Customer Cooperation Responsibilities

- 6.1. Customer shall provide, at his own account and risk, all the resources required to ensure TAAG can duly fulfil its contractual obligations under this Agreement. In particular, without limitation, Customer must ensure the following:
- (a) TAAG is timely provided with access to all relevant information, in particular in the correct form as requested by TAAG. This includes, without limitation, providing the information on technology and on project organization required for the provision of Software and/or Services hereunder (e.g. without limitation, hardware and operating systems, standard software deployed, organizational plans) and, where necessary, making available the hardware and/or software (including documentation) for which the Software and/or Services are to be provided.
  - (b) Where necessary or useful, TAAG is upon request granted access to Customer's premises, including servers and systems environment, and granted the related access rights and/or licences, both of Customer as well as any Third Parties used by Customer for execution of the Project (e.g. cloud service providers).
  - (c) Where access to external providers is required, TAAG is provided written permission, granting TAAG such access.
  - (d) CUSTOMER HEREBY EXPRESSLY INDEMNIFIES TAAG AGAINST ALL AND ANY CLAIMS FOR DAMAGES, AND ANY OTHER CLAIMS, ARISING FROM ACCESS ON THE PART OF TAAG WITHIN THE SCOPE OF PERFORMANCE OF THIS AGREEMENT, IN PARTICULAR, WITHOUT LIMITATION, ACCESS TO EXTERNAL PROVIDERS.
  - (e) Customer will appoint a Project manager as its authorized representative. The Project manager will be responsible for all Project activities, will establish all contacts and make or bring about all decisions required and appropriate for the prompt progress of work.
  - (f) Properly skilled and qualified employees or subcontractors of Customer that are familiar with relevant Customer's information and resources are available to TAAG during normal business hours.
  - (g) Where TAAG submits reports, recommendations, analyses, test results, or similar documents or oral statements, to Customer, Customer must check these before implementation or other use to ensure compatibility with his

systems, and if necessary, draw TAAG's attention to existing or potential problems.

- (h) Whenever TAAG staff is working at Customer's site, Customer is responsible and shall pay for the compliance with all health and safety regulations and public law qualifications necessary.
- (i) Customer shall be responsible for compliance with all applicable national and foreign legislation and regulations in the area of protection of privacy and personal data, including where the Customer provides TAAG with – or puts at TAAG's disposal – personal data of its personnel, its customers or other Third Parties, even if such personal data originates from Third Parties or is provided to TAAG or put at TAAG's disposal by Third Parties at Customer's request.

## 7. Intellectual Property

- 7.1. Nothing in this Agreement shall change or transfer the ownership rights of any IPR owned, controlled, developed, licensed from any Third Party, created or invented by or for a Party (a) prior to the Effective Date or (b) resulting from activities that are performed concurrent with the term of this Agreement, but not pursuant to or under this Agreement and independent of the other Party's IPR and/or Confidential Information ("**Background IPR**"). This Agreement transfers to Customer neither title nor interest in any proprietary or Intellectual Property Right in the Software, the Documentation or any other deliverable.
- 7.2. Any (i) IPR in Modified Embedded Software, (ii) IPR in Feedback, (iii) IPR arising during the provision of Services unless explicitly mutually agreed in writing to be treated as Customer Foreground IPR, and (vi) any IPR arising out of any other alterations, amendments, updates, upgrades, modifications and derivative works of the Software created by Licensee, including any of its employees, Affiliates, sub-contractors, or any Third Party on behalf of Licensee, shall vest automatically in TAAG ("**TAAG Foreground IPR**"). TAAG shall be entitled in its own discretion to apply in its own name for registration of any and all TAAG Foreground IPR, both domestically and abroad, to pursue such registrations and abandon them at any time.
- 7.3. Unless specifically agreed otherwise in writing between the Parties, Licensee shall be the sole and exclusive owner of all new IPR created under this Agreement that relates to the Target System, always excluding all TAAG Foreground IPR and always provided such IPR is technically separable from the Software and usable without recourse to TAAG's IPR ("**Licensee Foreground IPR**").

- 7.4. The Parties agree that no jointly held IPR shall accrue under this Agreement. Unless clearly and unambiguously defined in writing, either in an Offer or in a separate written agreement, as Customer Foreground IPR, all Foreground IPR arising under this Agreement shall be solely owned by TAAG.
- 7.5. The Parties will provide the other Party, and ensure that their respective personnel will do so as well, all reasonable assistance and execute all documents necessary to assist and/or enable the other Parties to perfect, preserve, register and/or record the other Parties' rights in Foreground IPR in accordance with the IPR allocation set forth in this section 7. To the extent ownership cannot be transferred to, the Party shall grant the entitled Party the exclusive, sublicensable, worldwide license to use, modify, copy, reproduce, distribute and commercialize such Foreground IPR. Licensee shall also assign or license to TAAG any other IPR required to fully use all Modified Embedded Software for any purpose, including modification. TAAG shall have the right to incorporate Modified Embedded Software into any future version of the Software or into other products at its sole discretion without any fees or attribution to Licensee.
- 7.6. Portions of the Software, in particular the Tooling, may be Open-Source Software. The use of such Open-Source Software delivered by TAAG in connection with the Software shall be governed solely by the respective Open-Source license terms and, to the extent permitted by applicable law, TAAG shall assume no warranty or liability with respect to Open-Source Software.
- 7.7. In the course of the Agreement, Customer may provide Feedback to TAAG. Unless agreed otherwise in writing, there is no obligation for Customer to provide any Feedback, and any Feedback of Customer is provided "as is" without any warranty of any kind. Whenever Customer does provide Feedback, upon doing so, Customer grants to TAAG a non-exclusive, irrevocable, worldwide, royalty-free license, with the right to sublicense to TAAG's licensees and customers, under all of Customer's Intellectual Property Rights, the rights to use and disclose the Feedback in any manner TAAG chooses and to display, perform, copy, make, have made, use, sell, offer to sell, import, and otherwise dispose of TAAG's and its sublicensee's products embodying such Feedback in any manner and via any media TAAG chooses, without reference.

## **8. Updates, Upgrades and Support**

- 8.1. Only the Development License includes, during the License Term, all Updates and Upgrades to new versions, to be made available by TAAG as soon as they are published for Third Parties. The Maintenance License includes, during the License Term, all Updates, to be made available by TAAG as soon as they are published

for Third Parties, but not Upgrades. Any License types other than Development License and Maintenance License do not include any Updates or Upgrades and no Services. Unless specifically set forth in an Offer or subject to a separate agreement, in particular any Trial License, Evaluation or Series License does not include Updates or Upgrades. The obligation to provide updates under sec. 7 VGG (*Verbrauchergewährleistungsgesetz*) is expressly excluded.

- 8.2. TAAG will not provide any further support, maintenance, or other Services, unless specifically set forth in an Offer or subject to a separate agreement. In particular, TAAG shall have no obligation for corrections of errors or problems which are due to a breach by Licensee of the terms of this Agreement, or which cannot be remedied due to the operational characteristics of the computer equipment on which the Software is used.
- 8.3. If agreed between the Parties in a separate agreement or explicitly set out in an Offer that Service in the form of support is included, support shall consist in providing general user instructions as well as, upon request, other special instructions and information on important questions and problems in connection with the Software. Support will be performed through assistance by telephone or written electronic communication in the event of defects, application or installation problems, malfunctions or other difficulties in connection with the Software to Licensee and Affiliates, but not, unless explicitly agreed, to their respective customers. Additional service level terms may apply, as set forth in the Offer.

## 9. License Fees, Royalties and Payment Terms

- 9.1. All Licenses under this Agreement are subject to the payment of (i) the respective License Fee(s) and/or (ii) a Royalty per Host Instance, that has been agreed upon and set forth in the respective PO or as derived from the respective Royalty Reports. If set out in an Offer, separate fees are due for the performance of Services.
- 9.2. All fees and amounts payable by Customer to TAAG are exclusive of any value added tax, goods and service tax, sales tax, use tax, consumption tax or any other similar tax only (collectively "**VAT**"). If the transactions as described in the Agreement are subject to any applicable VAT, TAAG will provide its Customer with an invoice which specifically states this VAT. Provided TAAG has stated VAT (as identified above) on an invoice Customer will pay to TAAG the VAT properly chargeable in respect of that payment. TAAG will not invoice or otherwise attempt to collect from Customer any taxes with respect to which Customer has provided TAAG with (i) a valid resale or exemption certificate, (ii) evidence of direct payment

authority, or (iii) other evidence reasonably acceptable to TAAG, that the taxes do not apply.

If Customer is required by law to withhold and remit tax relating to a purchase under the Agreement, Customer will transmit to TAAG official tax receipts or other evidence issued by the tax or other government authorities sufficient to enable TAAG to support a claim for tax credit or refund in respect to the withheld taxes paid by Customer.

If Services are rendered to Customers situated in Mainland China, this section 9.2 shall be superseded and replaced by the provision set out in Appendix A.

- 9.3. Overhead charges, hours of travel, travelling and hotel expenses, and other related costs incurred by TAAG in performance of Services may be charged separately to the Customer, unless agreed otherwise in writing explicitly.
- 9.4. Payment shall be due within thirty (30) days upon receipt of TAAG's invoice, irrespective of the time of delivery, without any deductions, in the agreed currency, free to TAAG's accounts. Customer is not entitled to a monetary offset of counter claims, or the retention of payments in case of disputes over TAAG's performance or warranty claims.
- 9.5. All fees and prices are subject to annual adjustments based on the Consumer Price Index published by Statistics Austria (index basis: annual CPI 2020=100). The adjustment shall be calculated by comparing the annual CPI for the calendar year preceding the calendar year in which the corresponding Offer is issued with the annual CPI for the calendar year preceding the date of adjustment. The adjusted fees will be effective from the anniversary of the Offer conclusion and apply until the next annual adjustment. If the consumer price index of Statistics Austria is no longer published, the officially determined successor index shall take its place for adjustments under this section 9.5.
- 9.6. Unless agreed otherwise in writing any estimate of cost for Services given by TAAG shall be non-binding.

## **10. Limited Representations and Warranties**

- 10.1. No warranty for timely delivery: Unless expressly agreed as fixed dates, all delivery dates in Offers shall be non-binding indications. TAAG shall use its best efforts to adhere to any agreed upon schedule or timetable. Customer failing to fulfil the Customer Cooperation Responsibilities, Force Majeure and other

obstructions beyond TAAG's control, shall in any case extend any agreed schedule or timetable, including fixed dates.

10.2. TAAG represents and warrants with respect to the Software that on the Effective Date:

- (a) TAAG owns all rights, title and interest in and to the Software except for portions of it subject to an Open Source License;
- (b) the Software will perform substantially in accordance with the accompanying written materials for an installation period of six (6) months from the date when the Licensee has first received access to the Software ("**Warranty Period**");
- (c) TAAG it has taken reasonable steps to test the Software for Disabling Code and that to the best of TAAG's knowledge the Software is free of Disabling Code as of delivery to Customer.

10.3. TAAG warrants that it will use commercially reasonable efforts to perform the Services in a timely, professional manner.

10.4. No Updates, Upgrades, support or other Services are provided as part of a warranty under this Agreement.

10.5. A breach of a warranty under sections 10.2.(b) and/or 10.2.(c) shall only be assumed when Customer submits a warranty notice to TAAG within seven (7) days after Customer discovers such defects in the Software, accompanied by documentation/access to all error reports and data logs evidencing such defect, otherwise such warranty claim may be rejected by TAAG. In case of such warranty claim being accepted by TAAG, Customer's sole remedy shall be that TAAG shall within a reasonable period of time of at least three (3) months from the time of a written warranty claim notification from Customer, correct, repair or replace any defective Software, in TAAG's discretion either by providing an Update or other bug-fixing or support Service to Customer.

10.6. TAAG does not warrant that the Software will meet Licensee's requirements or operate free from error.

10.7. The warranties set forth in sections 10.2 and 10.3 above will apply only if (i) the Software has been properly installed and used at all times and in accordance with the Agreement or the instructions for use and (ii) no modification, alteration or addition has been made to the Software. Furthermore, to the extent permitted by

applicable law, these warranties shall not apply for any software integrated in the Software which was provided by any Third Party or licensed under any Open Source License and shall not apply for the Software integrated in any Target System other than specified in the respective Offer or PO (if applicable).

10.8. TAAG does not make any warranty in relation to the interoperability of the Software with products not sold by TAAG and it is the sole responsibility of Customer to ensure such interoperability in cases where it is required due to the nature of the Software's use by adequate testing and quality standard procedures.

10.9. Except as otherwise provided herein, the Software provided by TAAG is provided "AS IS" and TAAG will not assume any liability whatsoever.

10.10. Customer shall be responsible for and shall defend, indemnify and hold harmless TAAG from all claims, costs, damages and attorney's fees resulting from or arising out of (i) TAAG complying with specification requests or specific instructions of Customer, (ii) the use of the Software in conjunction with equipment, devices or other software components not specifically authorized by TAAG, in particular any hardware or software components other than specified as part of the Target System (e.g. semiconductors, operating system versions) (iii) improper installing of the Software or the use of the Software in contradiction to this Agreement or the instructions for use, (iv) modifications, alterations or additions to the Software made by Customer or third parties instructed by Customer and/or (v) any shortcuts in the interoperability of the Software connected to the Software's use by Customer.

## 11. Third Party Infringement

11.1. TAAG will defend any suit brought against a Licensee and will pay all damages finally awarded in such suit insofar as such suit is based on a claim that the Software as provided to Licensee infringes a Third Party patent or copyright, provided that TAAG is notified promptly of such claim and at its expense is given full and complete authority (including settlement authority), information, and assistance by Licensee (at Licensee's expense) for such defence. In the event that the Software is held in any such suit to infringe such a right and its use is enjoined, or if in the opinion of TAAG, the Software is likely to become the subject of such a claim, TAAG at its own election and expense will either: (A) procure for Licensee the right to continue using the Software; or (B) modify or replace the Software so that it becomes non-infringing while giving equivalent performance. In the event that (A) or (B) above are not, in TAAG's sole determination, reasonably practicable, then TAAG may terminate this Agreement and refund an equitable portion of money paid by Licensee in connection with the licenses granted hereunder.

11.2. The IPR indemnity provided herein shall not apply to the extent that the alleged infringement arises from (a) use of the Software in combination with data, software, hardware, or other technology not provided by TAAG or authorized by TAAG in writing; (b) modifications to the Software not made by TAAG; or (c) TAAG complying with specification requests of Customer.

11.3. THIS SECTION 11. SETS FORTH LICENSEE'S SOLE REMEDIES AND TAAG'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR DOCUMENTATION INFRINGES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

## **12. Limitation of Liability**

12.1. Any liability of TAAG is limited to damages caused by TAAG deliberately or by gross negligence, for fraudulent concealment of defects, claims under the Austrian Product Liability Act, personal injury and for injury to life or health.

12.2. THE MAXIMUM AGGREGATE LIABILITY OF TAAG TO CUSTOMER (INCLUDING CUSTOMER'S CUSTOMERS, EMPLOYEES AND ADVISORS) OR, AS THE CASE MAY BE ANY BENEFICIARY OF THE SOFTWARE FOR ANY AND ALL CLAIMS ARISING UNDER OR RELATED TO THE SOFTWARE OR ANY SERVICE BEING SUBJECT TO THESE T&C (INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, INDEMNIFICATION CLAIMS OR TORT CLAIMS) SHALL – TO THE EXTENT PERMITTED BY APPLICABLE LAW – BE LIMITED TO THE ACTUAL DAMAGE (THEREFORE NOT INCLUDING CONSEQUENTIAL DAMAGES, LOST PROFITS OR PECUNIARY LOSSES, PRODUCTION DOWNTIMES, BUSINESS INTERRUPTIONS) AND IN THE AGGREGATE NOT EXCEED THE LOWER OF EUR 100,000 OR THE CONTRACT VALUE RELATING TO THE RESPECTIVE OFFER. CLAIMS FOR DAMAGES DUE TO FAILURE TO FULFIL, OR DELAYED FULFILMENTS, OR CLAIMS CAUSED BY TAAG'S SLIGHT NEGLIGENCE ARE EXCLUDED. ANY LIABILITY FOR LOSS OF DATA IS EXCLUDED.

12.3. All Customer's claims for damages or indemnification, including under section 11, will be time-barred if no court action is brought after twelve (12) months unless a shorter limitation period was agreed. This limitation period starts with the end of the month in which the claim arose, and Customer received knowledge of the circumstances justifying the claim and the liability of TAAG or could have become aware of these circumstances without negligence.

### 13. Confidentiality

- 13.1. Precedence of NDA Agreement: In the event that a separate Non-Disclosure Agreement (NDA) has been executed by both Parties, the terms and conditions of that NDA shall take precedence over the provisions of this section 13, to the extent that there is any inconsistency or conflict between the NDA and this section 13.
- 13.2. **“Confidential Information”** means any non-public business or technical information disclosed hereunder by one Party or any of its Affiliates (**“Disclosing Party”**) to the other Party or any of its Affiliates (**“Receiving Party”**) that (a) has been identified or otherwise designated to show (expressly or by necessary implication) that it is confidential or proprietary to the Disclosing Party or (b) should reasonably be understood by the Receiving Party to be confidential to the Disclosing Party. Confidential Information includes any and all non-public technical and business information, whether written, oral, electronic or graphic, that representatives of any Party may disclose or reveal to another Party, including but not limited to business plans; present and proposed products; technical data; specifications; documentation; rules and procedures; contracts; presentations; know-how; product plans; business methods; product functionality; services; data; customers; markets; competitive analysis; databases; formats; methodologies; applications; developments; inventions; processes; payment, delivery and inspection procedures; designs; drawings; algorithms, formulas; information related to engineering, marketing, or finance; trade secrets; and information regarding customers and suppliers, founders, employees and Affiliates.
- 13.3. Each Party agrees that all Confidential Information provided by the Disclosing Party is the confidential and proprietary information of the Disclosing Party. Except as specifically provided elsewhere in this Agreement, the Receiving Party shall not use the Confidential Information of the Disclosing Party other than for the purposes of fulfilling its obligations under this Agreement, and shall disclose the same only on a need-to-know basis to those of its and its Affiliates’ employees, and contractors who are subject to written confidentiality agreements with terms no less stringent than those provided in this Agreement. Each Party shall diligently enforce such confidentiality agreements with its employees and contractors and shall be responsible for any breach of that Party’s confidentiality obligations under this Agreement by its employees and contractors. Each Party also may provide a copy of this Agreement to the Party’s (a) public accounting firm in connection with calendar quarter and annual financial or tax audits, and (b) outside legal advisors in connection with obtaining legal advice relating to this Agreement, the relationship established by this Agreement or any related matters. Other than as provided by the foregoing, the Receiving Party shall not disclose the Disclosing

Party's Confidential Information to Third Parties. Each Party shall use at least the same procedures and degree of care that it uses to prevent the disclosure of its own Confidential Information, but in no event less than a reasonable standard of care. The Parties' confidentiality obligations under this Agreement shall survive the termination or expiration of this Agreement, for a period of ten (10) years following the termination or expiration of this Agreement.

- 13.4. The Parties' confidentiality obligations under this Agreement will not apply to any information that (a) the Receiving Party can document is or becomes generally known to the public without fault of the Receiving Party, (b) the Receiving Party can show by written documentation was in its possession without any obligation of confidentiality prior to receipt thereof from the Disclosing Party, (c) was or is independently developed by the Receiving Party without use of or reference to the Confidential Information of the Disclosing Party, or (d) was or is rightfully obtained by the Receiving Party from a Third Party without any obligation of confidentiality to Disclosing Party.
- 13.5. Nothing in this Agreement will prohibit the Receiving Party from disclosing Confidential Information of Disclosing Party if legally required to do so by judicial or governmental order or in a judicial or governmental proceeding; provided that the Receiving Party shall, to the extent allowed by applicable law, (a) give the Disclosing Party reasonable notice of such required disclosure prior to disclosure, (b) cooperate with the Disclosing Party in the event that it elects to contest such disclosure or seek a protective order with respect thereto, and (c) in any event only disclose the exact Confidential Information, or portion thereof, specifically required.
- 13.6. The Parties acknowledge that the relationship created by this Agreement and the terms of this Agreement are Confidential Information of the Parties and that written approval will be obtained from the other Party if a Party wishes to make any disclosure relating to the terms of this Agreement to a Third Party (except as permitted herein).
- 13.7. Upon termination of this Agreement, and except as is required to exercise any rights expressly granted under this Agreement, each Party and its Affiliates agrees to return all Confidential Information (including tangible products or materials) received by the Receiving Party from the Disclosing Party, at the request of the Disclosing Party, provided, however, that the Receiving Party may retain one (1) secure archival copy of any Confidential Information received in writing from another Party for record purposes to determine its ongoing confidentiality obligations under this Agreement, and the Receiving Party will be allowed to keep any copies made as part of its normal backup procedures and that would not be

commercially practicable to destroy; provided that any such copies remain subject to the confidentiality obligations set forth in this section 13.

13.8. Each Party shall have the sole discretion to decide whether and to what extent, if any, to share its Confidential Information with the other Party. Neither Party shall have any express or implied obligation to share any of its Confidential Information or Background IPR with the other Party unless expressly provided herein.

#### **14. Term and Termination**

14.1. This Agreement shall become effective as of the Effective Date and shall remain in force until the expiry of the (last of) Customer's respective License Term(s), unless terminated earlier for good cause in accordance with section 14.2.

14.2. This Agreement can only be terminated for good cause in case of a material breach of this Agreement by a Party hereto, notification by the other Party wishing to terminate because of the existence of such breach and failure by the respective Party in breach of this Agreement to cure such breach within thirty (30) days of such notice.

14.3. Effects of Termination: Upon termination of this Agreement, all rights of Customer to use the Software as stipulated above shall forthwith terminate and Customer shall return to TAAG any and all copies of the Software not already delivered to a customer of Customer and delete the Software from its computer systems. Furthermore, the right of Customer to use Confidential Information as granted shall immediately terminate. Upon termination for whatever reason other than breach of the Customer, all (sub-) licenses granted hereunder shall survive if and to the extent only the (sub-)license (i) is required for the use of a product that is already manufactured by Licensee, (ii) is required for the fulfilment and implementation of end user projects already committed to by Licensee prior to termination, and in such cases up until these customer projects are fulfilled and implemented, and (iii) does not infringe any Third Party IPR.

14.4. Expiration or termination of this Agreement shall not relieve the Parties of any liability hereunder that accrued, arose during or relates to, any period prior to such termination, nor preclude any Party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement prior to such termination, nor prejudice any Party's right to obtain performance of any obligation hereunder that accrued, arose during or relates to, any period prior to such termination. The remedies provided in this section 14 are not exclusive of any other remedies a Party may have in law or equity (each Party understands that

nothing in this sentence shall limit the scope or application of any limitations on those remedies that may be expressly set forth elsewhere in this Agreement).

14.5. The provisions of Sections 5 (Additional License Restrictions), 7 (Intellectual Property Rights), 10 (Limited Representations and Warranties), 11 (Third Party IPR Infringement), 12 (Limitation of Liability), 13 (Confidentiality), 15. (Customer Reference), and 17 (Applicable Law and Arbitration Clause) shall survive the termination of this Agreement.

## 15. Customer Reference

15.1. Unless Customer expressly objects in writing (e-mail sufficient), TAAG is entitled to name the Customer as a reference customer. The Customer may at any time revoke such consent by way of a written notice. In the event of revocation, TAAG remains entitled to use up advertising material already produced. This right granted to TAAG shall take precedence over respective restrictions set forth in a non-disclosure agreement or similar agreement signed previously between TAAG and Customer.

15.2. The naming as a reference customer may take place in the sales process (e.g. in offers or presentations for potential customers) and online on the corporate website as well as any social media channels (incl. LinkedIn) of TAAG; this may include the display of (i) the company logo and the company name, as well as (ii) a brief description of the specific project, whereas (ii) is only admissible after consent has been given by the Customer. For the purpose of using the logo and name, the Customer grants TAAG a non-exclusive, non-transferable right of use, unlimited in time and space, with regard to the name and trademark rights required for this purpose.

## 16. Compliance with Laws, Export Controls

16.1. Each Party represents that it is duly authorized to enter into this Agreement and will comply with all applicable laws and regulations, including, but not limited to all export and import controls or restrictions, prohibited party lists, catch-all regulations, sanctions and embargoes.

16.2. If the delivery of Products, Services or technology (collectively, "**Items**") under this Agreement is subject to the granting of an export or import license by a government or any governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or import control laws or regulations, TAAG may suspend its obligations and Customer's rights regarding delivery until the appropriate license is granted or for the duration of the restriction

or prohibition, respectively, and TAAG may even terminate any Agreement related to Items, without incurring any liability towards Customer.

16.3. If an end-user statement is required, TAAG will inform Customer immediately and Customer will provide TAAG with required documentation upon TAAG's written request. Customer will inform TAAG immediately if an import license is required, and Customer will provide TAAG with the applicable document as soon as it is available. By accepting TAAG's Offer, entering into an Agreement or accepting any Items, Customer agrees that it will not deal with the Items or documentation related thereto in violation of any applicable export or import control laws and regulations..

#### 16.4. Prohibition of Export to Russian Federation:

16.4.1. With respect to any sale or license that falls under the scope of Article 12g, 12ga of Council Regulation (EU) No 833/2014, or Council Regulation (EU) No 765/2006 (as the case requires), Customer shall not (a) sell, export or re-export, directly or indirectly any item, and (b) will not sell, license or sublicense any intellectual property rights or trade secrets, to the Russian Federation or Belarus, or for use in the Russian Federation or Belarus.

16.4.2. Customer shall ensure that the purpose of section 16.4.1 is not frustrated by any third parties further down the commercial chain, including by either resellers, sublicensees, or both.

16.4.3. Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by either resellers, sublicensees, or both, that would frustrate the purpose of section 16.4.1.

16.4.4. Any violation of sections 16.4.1, 16.4.2 or 16.4.3 shall constitute a material breach of this Agreement, and TAAG shall be entitled to seek appropriate remedies, including, but not limited to (i) termination of this Agreement, and (ii) suspension of any of its business relationships with Customer, its affiliates or both, until the breach of section 16.4.1 above is remedied and (iii) plan to remedy the breach.

16.4.5. Customer shall immediately inform TAAG about any problems in applying sections 16.4.1, 16.4.2 or 16.4.3, including any relevant activities by Third Parties that could frustrate the purpose of section 16.4.1,. The Customer shall make available to TAAG all information concerning compliance with the

obligations under sections 16.4.1, 16.4.2 or 16.4.3 within two weeks of the request for information.

## **17. Applicable Law and Arbitration Clause**

- 17.1. Any disputes including the issue of the valid conclusion of a contract and its pre- and post-contractual effects shall exclusively be governed by the laws of Austria, whereby the rules on conflicts of laws, the UN Convention on Contracts for the International Sale of Products and any other (international) provisions that displace substantive Austrian law shall not apply.
- 17.2. All disputes arising out of or in connection with this Agreement, including disputes relating to its validity, breach, termination or nullity, shall be exclusively and finally settled under the Rules of Arbitration of the International Chamber of Commerce by three (3) arbitrators appointed in accordance with the said Rules; arbitration shall be conducted in Vienna, Austria, and the language of arbitration shall be English; arbitration award shall be final and binding on both parties.
- 17.3. However, in case of claims whose value does not exceed Euro one hundred thousand (EUR 100.000,-), each Party shall, in its sole discretion and contrary to section 17.2 above, have the right to bring proceedings against the other Party at the competent court for 1010, Vienna, Austria. Notwithstanding the foregoing, either Party may apply to any court of competent jurisdiction for an injunction or other interim relief in support of arbitration and no such application will be deemed incompatible with or a waiver of the terms of these T&C.

## **18. Notices**

Any and all notices required or permitted to be made under the Agreement shall be in writing and delivered in person, by courier, by registered mail or by e-mail, with the proper postage affixed, always to the attention of the respective Party's designated Project manager or contact person. For TAAG, the designated contact person shall be the Project manager as set out in the Offer. All such notices shall be effective upon confirmed receipt, whereas notices sent by e-mail shall be deemed effective upon receipt of a non-automated confirmation e-mail sent by the receiver of the initial e-mail.

## **19. Severability**

Should any provision of the Agreement and any contract concluded between Customer and TAAG be or become illegal or unenforceable, the remainder shall not be affected. Any illegal or unenforceable provision shall be replaced by valid and enforceable

provisions, which commercially come as close to the illegal or unenforceable provision as possible; the same applies mutatis mutandis for contractual loopholes.

## **20. Written Form**

Only a written agreement signed by TAAG and Customer can modify the Agreement, whereby the written form shall also be fulfilled if a simple electronic signature via DocuSign or Adobe Acrobat Sign is used.

## **21. Assignment**

Neither Party may assign its rights or delegate its duties or obligations under the Agreement without prior written consent of the other Party, except that TAAG may assign the Agreement to its Affiliate and/or to its subsidiary or to any successor corporation or entity (whether by purchase of all or substantially all of such party's assets or outstanding capital stock, by merger or consolidation or otherwise) upon at least thirty (30) days prior written notice to the other Party. The Agreement will be binding upon and inure to the benefit of any successors or rightful assigns of the Parties. Any attempt to so assign in contravention of the Agreement shall be void.

## **22. Subcontractors**

TAAG is at any time in its sole discretion entitled to employ subcontractors (Affiliates or Third Parties) for the performance of any of its obligations under the Agreement, always provided that the respective subcontractor enters an obligation to protect all Confidential Information of Customer not less strict than under the Agreement.

## **23. Independent Parties**

23.1. The Parties are independent contractors, and neither party is authorized to act on behalf of the other or to bind the other to any third party. Neither these T&C nor the Offers establish any relationship of agency, partnership, or joint venture.

23.2. No provision of the Agreement shall be construed as creating any obligations or liability for NXP B.V. or any of its Affiliates other than TAAG and TAAG's subsidiaries as well as TTTech Auto Germany GmbH.

Appendix A follows.

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## Appendix A

In the event that Services are rendered to Customers situated in Mainland China, section 9.2 shall be superseded and replaced by the following provision:

- a. All fees and amounts payable by Customer to TAAG are exclusive of any value added tax, goods and service tax, sales tax, use tax, consumption tax or any other similar tax only (collectively "**VAT**"). If the transactions as described in the Agreement are subject to any applicable VAT, TAAG will provide Customer with an invoice which specifically states this VAT. Provided TAAG has stated VAT (as identified above) on an invoice Customer will pay to TAAG the VAT properly chargeable in respect of that payment. TAAG will not invoice or otherwise attempt to collect from Customer any taxes with respect to which Customer has provided TAAG with (i) a valid resale or exemption certificate, (ii) evidence of direct payment authority, or (iii) other evidence, reasonably acceptable to Seller, that such taxes do not apply.
- b. If any VAT or VAT surcharge deductions or withholdings are required by applicable law to be made from any of the amounts payable, Customer will pay such additional amount to TAAG, after the VAT or VAT surcharge deduction or withholding has been made, leaving TAAG with the same amount as it would have been entitled to receive in the absence of any such requirement to make a VAT or VAT surcharge deduction or withholding.
- c. If Customer is required by law to withhold and remit tax relating to a purchase (not being VAT or VAT surcharges) under the Agreement, Customer will transmit to TAAG official tax receipts or other evidence issued by said tax or other government authorities sufficient to enable TAAG to support a claim for tax credit or refund in respect to such withheld taxes paid by Customer.