9T Labs Maintenance and Update Agreement for Software

1 DEFINITIONS

'**Additional Fee**' means the in Annex 1 stated fees for Additional Services.

'**Additional Services**' means any service provided hereunder, which is not covered by the General Maintenance and Update Fee.

'**Agreement**' means this agreement as well as any annexes, as amended from time to time, thereto.

'**Authorized Employee(s)**' means the by the Customer continuously updated list of employees who are permitted to submit and enter Error Reports on the 9T Labs Support Portal.

'**Business Day**' means Monday to Friday excluding any bank holidays in Switzerland as well as the 24.12 and the 31.12.

'**Business Hours**' means 08:00 and 17:00 CET on Business Days.

'**Correction Release**' means a release which corrects the Software and is aimed to provide minor improvements or eliminate Errors within a certain Software stand.

'**Customer**' means the end user of any Software licensed by 9T Labs which is subject to the Services hereunder.

'**Documentation**' means the detailed description of the Software's capabilities and configuration.

'**Effective Date**' means the date of signature of this Agreement

'**Error**' means any documented and reproducible failure, problem, malfunction or bug that causes the Software or the thereto related Service to fail to provide the performance, features and functionality described in the Documentation or to procure incorrect results subject to the provisions of this Agreement.

'**Escalation Time**' means the estimated time needed to rectify an Error but is not a resolution time.

'**EULA**' means the end user license agreement pertaining to the Software (Annex 2 of this Agreement).

'**Fee**' means the fee the Customer pays for the General Maintenance and Update Services.

'**General Maintenance and Update Services**' means the services provided to Customer included in the Fee.

'**Hardware**' means the in Annex 3 listed hardware components purchased by Customer.

'**Incident Classification**' means 9T Labs' classification of Errors in accordance with the different levels of Errors defined hereunder.

'**Intellectual Property Right (IP)**' means and includes, to the extent recognized under applicable law, rights in software, including in particular source code and all related documentation, patents, patent applications, copyrights, trademarks, service marks, trade names, internet domain names, e-mail address names, trade secrets, moral rights, database rights, customer lists, design rights, know-how, techniques, processes, methods, inventions (whether patentable or not), conceptions, discoveries, improvements, chip designs, mask works, proprietary information, technical information, specifications, and all other rights of authorship and intellectual and industrial property rights, and other equivalent or similar rights which may subsist anywhere in the world, whether registered or unregistered, including any form of application for any of the foregoing.

'**Intervention Time**' means the time from receipt of the Error Report during which 9T Labs initiates measures to troubleshoot the Error.

'**License Key**' means the key to the Software which allows the Customer the use of the Software in accordance with the license terms in Annex 2 of this Agreement.

'**Lifecycle**' means the time during which 9T Labs supports a certain version of a Software.

'**Major Error(s)**' means any Error through which the system or components thereof have failed to such an extent that the system has only limited availability, the performance is reduced substantially and numerous data is distorted or lost. The classification of error reports is solely in 9T Labs's responsibility.

'**Minor Error(s)**' means any Error through which parts of the system or functions fail causing only partial operational impediments.

'**On-Call Maintenance**' means the time during which 9T Labs is available to receive Error Reports as agreed between the Parties in Annex 1 of this Agreement.

'**Reaction time**' means the time from receipt of the Error Report during which 9T Labs contacts the Customer employee who has correctly reported the Error.

'**Release**' means a finalised version of a Software stand which is categorized as a major or minor release.

'**Services**' means any to the Software related General Maintenance and Update Services as well as other Additional Services provided to the Customer hereunder.

'**SLA**' means the combination of On-Call Maintenance and Reaction Times as stated in Annex 1 of this Agreement.

'**Software**' means any Software listed in Annex 1 and licensed to the Customer by 9T Labs.

'**Support Portal**' means the online portal where the Customer's Authorized Employees can log in and view generated Tickets loads.

'**Ticket**' means the ticket that Customer receives if an Error was reported correctly by Authorized Employees on the Support Portal.

'**Update(s)**' means an extension of a current version of the Software enhancing it with new functions and/or technical novelties.

'**Warranty Period**' means the 12 months following the Customer's receipt of the License Key.

2 SUBJECT

2.1   This Agreement governs the principles for rendering the Services, subject to the license terms of Annex 2 of this Agreement. The Parties agree the SLA in Annex 1 with regards to the Services. 9T Labs starts to provide its Services as of the Effective Date of this Agreement.

2.2 This Agreement does not transfer any Software IP to the Customer and 9T Labs or its licensors shall retain all rights therein. No source code is provided hereunder whether to the Software nor to any subsequent Updates, Releases and Correction Releases.

2.3 The Software under General Maintenance and Update hereunder is defined in Annex 2 of this Agreement.

2.4 This Agreement is between 9T Labs and the Customer as well as all of the Customer's affiliates. Any general terms and conditions of the Customer are excluded.

2.5 Both 9T Labs and Customer warrant, represent and covenant that they (i) comply with all applicable mandatory laws and regulations; (ii) have the right, capacity and authority to enter into this Agreement; and (iii) that this Agreement does not conflict with any other agreements or obligations which they are part of.

3 ERROR REPORTS AND TICKETING SYSTEM

3.1 **SLA**. 9T Labs agrees to abide to the SLA agreed in Annex 1 of this Agreement. Reaction Time and Intervention Time are both dependent on the level of the Error. 9T Labs distinguishes between Major and Minor Errors.

3.2 **Support Portal**. 9T Labs offers to the Customer and its Authorized Employees a non-transferable right to use its Support Portal to report Errors during the term of this Agreement.

3.3 **Errors**. The between the Parties agreed SLA in Annex 1 of this Agreement are dependent on the severity of the Error. 9T Labs shall notify the Authorized Employee of the Customer if a Major Error cannot be rectified within the desired Escalation Time and inform such employee about the status of the Error and when it is likely to be rectified by.

3.4 **Authorized Employees**. The Customer shall maintain the list of Authorized Employees up to date and send it to [EMAIL] Authorized Employees shall have appropriate professional qualifications to carry out a 1st level support and first analysis of the Error according to clause 4.1.6 of this Agreement. The qualifications shall be presented to 9T Labs upon request.

3.5 **Error Reports**. The Authorized Employee shall report Errors by entering the Error Report into 9T Labs's Support Portal using one of the following communication channels: [EMAIL], [phone] or [OTHER Ticketing system]. Together with an assessment of the Error by the Customer regarding the urgency, the Error Report shall also contain the following information:

    a)   name of the Authorized Employee reporting the Error;
    b)   the module the Error occurred in;
    c)   the operational steps which were undertaken when the Error occurred or which have caused the Error;
    d)   a description of the Error by means of screenshots, protocols or similar indicators;
    e)   day and time at which the Error was first noticed; and
    f)   specification of reproducibility (yes/no).

For Major Errors, the Customer is obliged to report the Error immediately to 9T Labs via telephone or skype.

3.6 **Ticket**. The Customer will receive a Ticket if the Error has been reported correctly in accordance with the provisions above. A number is generated after a Ticket is issued. In each case an Email confirming the number will be sent to the Customer.

3.7 **Not correctly reported Errors**. Should Customer not follow the procedures of the Error Report and Ticketing above then 9T Labs does not guarantee to keep to the agreed SLA.

4 GENERAL MAINTENANCE SERVICES AND UPDATES

4.1 GENERAL MAINTENANCE AND UPDATE SERVICES

4.1.1 **General Maintenance and Update Services**. The Fee includes services of analysis of Error Reports, Error rectification (further thereto under clause 4.2 of this Agreement) and delivery of Updates to the Software (further thereto under clause 4.3 of this Agreement). The Services are carried out by means of VPN-access, Dial-Up, by telephone or other means of remote-access. The Customer must create the necessary technical requirements at its own expense. 9T Labs

will eliminate the Error on site of the Customer's premises in case the analysis of the reported Error concludes that the Error can only be rectified on premises. Expenses for services provided on site will be charged separately unless the Error occurred within the Warranty Period. In such a case, the rectification of the Error on site is free of charge.

4.1.2   **SLA**. The General Maintenance and Update Services are provided according to the SLA agreed between the Parties. 9T Labs ensures that the appropriate number of qualified employees are available during the agreed SLA times.

4.1.3   **Documentation**. 9T Labs records all maintenance services in an internal administrative Software.

4.1.4   **Regular Reviews**. 9T Labs reviews the Customer's system regularly and in any case at least once per calendar year or immediately after an Update. It provides a check list with specific check points and additional notes regarding the Services which have been carried out as well as recommendations regarding the rectification of Errors as well as vulnerabilities of the system in case that such have been determined during the process. This regular review will take place during quieter Business Hours and is agreed between the Parties in advance. Reviews that take place outside the agreed Business Hours will be charged for separately unless they start at least two hours within the Business Hours.

4.1.5   **Notifications**. 9T Labs notifies the Customer about new software innovations as well as the Lifecycle of the Software.

4.1.6   **1st Level Support by Customer**. The Customer is obliged to set up a 1st level support within its own organisation collecting questions regarding the Software form its own users, carrying out a first Error analysis and attempting to resolve such requests independently. This 1st level support needs to be staffed with employees which have extended knowledge about the Software.

4.2 ANALYSIS OF ERROR REPORTS AND ERROR RECTIFICATION

4.2.1   **Analysis of Errors**. 9T Labs categorizes all correctly reported Errors in the Software via the Support Portal into Major and Minor Errors which are then dealt with according to the specified SLA. After completion of the analysis, 9T Labs will begin to fix the Error. If the analysis concludes that the 'error' does not exist or is not in the area of responsibility of 9T Labs, the Customer shall pay the Additional Fee.

4.2.2   **Error Rectification**. 9T Labs will eliminate correctly reported Errors in the Software within a reasonable time period in accordance with the SLA by means of one of the following measures:

(i)   by offering and installing a Correction Release to the Customer or, if this is not sufficient, by providing an Update. Such Update and the installation thereof are free of charge;

(ii) by giving the Customer instructions on how to temporarily bypass or eliminate the Error (workaround). The Customer is obliged to fulfil the instructions with appropriately trained and competent employees unless following such instructions is unreasonable for the Customer;

(iii) by eliminating the Error via VPN-access; or

(iv) by eliminating the Error on the premises of the Customer if none of the above measures are in any way promising to resolve the Error. This will be charged according to the Additional Fees stated in Annex 1 unless the Error occurred within the Warranty Period.

4.2.3   **Documentation**. All Error rectification activities are documented by 9T Labs using comments and descriptions of actions taken to solve the Error. All information regarding ongoing and finished Tickets will be held by 9T Labs and made available to the Customer upon request.

4.2.4   **SLA Times**. Analysis of Errors and rectification of Errors take place according to the in Annex 1 to this Agreement agreed SLA times.

4.2.5   **Failure to rectify Major Errors**. If 9T Labs cannot rectify a Major Error (i) after having attempted twice to eliminate it; (ii) because it is not willing or capable of doing so; (iii) because it has not done so within an appropriate time frame; or (iv) because the subsequent fulfilment is not possible for other reasons, then the Customer is entitled to either, and according to its own choice, (a) terminate this Agreement; or (b) request an appropriate and adequate reduction of the

Fee. The termination of this Agreement does not automatically terminate all the other agreements between the Parties. For the avoidance of doubt, in cases of Minor Errors, the Customer is not entitled to the remedies stated hereunder.

4.2.6 **Exclusion of Error Rectification**. The right of rectification of Errors is excluded if the 'error' is not reproducible and cannot be documented in any way. Also excluded are errors that occur because of Unauthorized Modifications according to clause 4.4 of this Agreement.

4.3 UPDATES

4.3.1 **General**. 9T Labs provides Updates, Correction Releases and Releases according to the provisions of this Agreement. The Customer is provided with Updates, Correction Releases and Releases for download via e-mail or on a data carrier. Instructions regarding their application are issued with an online handbook or pdf-document.

4.3.2 **Update Installation Charge**. The installation of Updates is not included in the Fee. 9T Labs will charge the Customer according to the Additional Fee stated in Annex 1 of this Agreement.

4.3.3 **Customer Environment**. The Customer is obliged to ensure that adjustments of the hardware and system environments, in particular new versions of operating systems and other, for the application of the for the Update required third party software not licensed by 9T Labs, are operational in time. The Customer bares all costs for such third party software and the installation thereof. The Customer shall be responsible for the timely operation of the Customer Environment and ensures that is operational at least five (5) Business Days before a planned installation of an Update of the Software by 9T Labs.

4.3.4 **License for Updates**. 9T Labs grants to Customer the right of use of the Update in accordance with the EULA.

4.3.5. **Lifecycle**. The Customer shall comply with the Lifecycle and shall install the updated version of the Software at least immediately after every 2nd new major Release. 9T Labs is entitled to discontinue the Services under this Agreement if the Customer does not abide to the Lifecycle. 9T Labs shall not be obliged to rectify Errors free of charge that occur in Software which is not updated in accordance with the Lifecycle.

4.4 EXCLUSION OF SERVICES

4.4.1 **Unauthorized Modifications**. 9T Labs does not provide any Services for Software, its surrounding systems and third party software and/or for 9T Labs performed Services which have been installed, adapted, updated, implemented, manipulated with or which have been modified in any other way by the Customer, its employees or any therewith by the Customer assigned third party without 9T Labs's prior written consent. This also applies to Software which has been used in breach of its Documentation or errors in application. Together hereinafter referred to as '**Unauthorized Modifications**'.

4.4.2 9T Labs assumes no liability for any damages or consequential damages resulting from Unauthorized Modifications.

4.4.3 Errors that occur in connection with Unauthorized Modifications by the Customer are not within 9T Labs's area of responsibility and 9T Labs is therefore not obliged to provide the stated Services unless the Customer proves (i) that the Unauthorized Modification has not caused to the Error; (ii) and that it does not affect the analysis and rectification of the Error. If 9T Labs does take action upon request by the Customer, 9T Labs is entitled to charge these Services according to the Additional Fee stated in Annex 1.

5 ADDITIONAL SERVICES

The following Additional Services requested by the Customer entitles 9T Labs to invoice the Customer according to the Additional Fee in Annex 1. This list is not exhaustive and the Customer may request other Additional Services from 9T Labs.

(i) Error rectification in cases where the 'error' is not in 9T Labs's area of responsibility or in cases where 9T Labs is not responsible for the Error for reasons such as Unauthorized Modifications by the Customer, force majeure, power cuts on the Customer's premises or virus infestation on the Customer's systems.

(ii) Activity upon request by the Customer for purposes of analysing errors and/or elimination of errors provided the cause of the error does not lie within the Software.

(iii) Request of the maintenance service outside of the Business Hours.

(iv) Support (technical or administrative) of IMAC-activities (Installation, move, add and change).

(v) Implementation of Updates by 9T Labs on the Customer's systems provided it is not a case of Error elimination within the Warranty Period.

(vi) Adjustment and further development of applications and their parameter settings.

(vii) Implementation of new functionalities (for example functional blocks). However, functionalities which are not within the scope of the licensed Software require a new license. This clause does not grant the Customer a right of use of such functionalities.

(viii) Relocation or disassembly of systems or system parts (for example if the Customer would like to use the system in a different data centre).

(ix) Services provided on Customer's premises.

(x) Any other Service which the Customer may request through a separate agreement between the Parties. Such an agreement may contain points regarding a further rollout of 9T Labs solutions, their execution and configuration, customizing, delivery and parameterization of updates as well as testing, training and consulting.

(xi) **Hardware Warranty Extension and Maintenance**. The Customer may request for the 1-year warranty period of Hardware provided by 9T Labs to be extended. This needs to be requested in a separate purchase agreement and is subject to additional fees. If so executed, the following shall apply to the Hardware Maintenance.

    a. 9T Labs shall maintain and service the Hardware listed in Annex 3 of this Agreement and keep the Hardware in good working order.

    b. **Scheduled Maintenance for Hardware**. 9T Labs shall provide scheduled maintenance during the agreed schedule based on the specific needs of the Hardware as determined by 9T Labs and in accordance with Annex 3 of this Agreement.

    c. **Unscheduled Maintenance for Hardware**. 9T Labs shall provide unscheduled remedial maintenance as needed and in accordance with Annex 3 of this Agreement.

    d. Scheduled and Unscheduled Maintenance for Hardware include the services agreed under Annex 3 of this Agreement.

    e. Customer shall ensure that employees of 9T Labs performing maintenance for Hardware on site shall have the timely and necessary access to Customer's premises.

    f. **Exclusion of Maintenance for Hardware**. 9T Labs does not provide any Services for Hardware which (i) has been damaged due to a use other than in accordance with the Documentation pertaining to the Hardware or errors in application; or (ii) has been damaged, or requires additional parts, resulting from causes other than ordinary wear and tear including, without limitation, neglect, misuse (including faulty repair or maintenance by third parties not appointed by 9T Labs), accidents, failure of electrical power, air conditioning, humidity or force majeure. 9T Labs assumes no liability for any damages or consequential damages resulting from any of the foregoing. If 9T Labs does takes action to rectify such damage, then the Additional Fee as stated in Annex 1 of this Agreement shall apply.

6 CUSTOMER OBLIGATIONs

6.1. **Guarantee of Access**. The Customer shall provide 9T Labs with the means and ways to access its systems, subject to this Agreement, via remote access at any time free of charge. This particularly includes access via VPN or dial-up and the mandatory associated infrastructure according to the policy defined by the Customer (Customer laptop, dongle, USB stick, etc.). The Customer shall ensure that 9T Labs's staff is guaranteed access to premises and systems in case of an Error where this is necessary to rectify the Error.

6.2 The Customer is obliged to ensure that its staff, which is responsible for the administration of the system, has all the required specialist and administrator knowledge to tend to Errors which occur within the 1st Level Support according to clause 4.1.6 of this Agreement and to provide a first analysis of the Error and to notify and support 9T Labs appropriately.

6.3 In cases of Major Errors, the Customer shall ensure that 9T Labs is presented with an employee (with the required specialist knowledge) who shall support 9T Labs actively during the process of rectifying the Major Error.

6.4 **Closure of Tickets**. 9T Labs notifies the Costumer if an Error is rectified and a Ticket will be closed. If the Customer does not object to this notification within 72 hours of receipt of such notification, then 9T Labs is entitled to close the Ticket itself.

6.5 **Reporting of Changes to the Customer Environment**. The Customer shall report to 9T Labs in advance all modifications (logical or spatial) it intends to make to its system or important peripheral components thereof that are relevant to the Software and Services hereunder. If Services are required due to a lack of such reporting, 9T Labs is entitled to invoice the Customer according to the rates of the Additional Fee.

6.6 **System Maintenance**. The Customer is in particular responsible for (i) regular back-up of the system including checking the Restore; (ii) Regular updating of virus protection; and (iii) Regular uploading of operating system patches provided by the manufacturer.

6.7 **Confidentiality**. The Customer treats any information of any nature whatsoever including, but not limited to, business, employee, client or customer data, trade secrets, operations, products, processes, methodologies, specifications, know-how, technical information, Intellectual Property Rights, opportunities, marketing and sales activities, software specifications, source code, prices, wage rates, content of discussions and negotiations, in whatever form, format or medium (including, but not limited to, written, oral, electronic, audio and video), that 9T Labs discloses to it or otherwise comes into its possession, whether directly or indirectly as a result of this Agreement, with strict confidentiality.

7 FEES AND PAYMENT

7.1 **Rates**. The Fee and Additional Fee are chargeable according to the rates in Annex 1 of this Agreement, as amended from time to time. Any Fee or Additional Fee stated apply exclusively to the Software listed in the Annex 1.

7.2 Any Fee or Additional Fee stated are exclusive of any VAT and additional expenses.

7.3 **Update Fee**. The fee for Updates is calculated based on the then-current license price for the respective Software.

7.4 **Adjustment of Fee**. 9T Labs is entitled to adjust the corresponding rates (General Maintenance and Update Fee and compensation for Additional Services) annually [in line with the national index of consumer prices of Switzerland.] The first adjustment may take place 12 months after conclusion of the Agreement at the earliest. Discount, cash discounts or any other individual agreement regarding price reduction of a project shall not be taken into account.

7.5 **Billing**. The Fee is invoiced in advance. Any Additional Fee, if applicable, is invoiced on a monthly basis. All Invoices are payable within 30 days as of date of invoice. 9T Labs is entitled to charge 5% above the respective base interest rate on delays in payment and may suspend Services until full payment of all outstanding sums is received. 9T Labs retains the right to assert claims for further damages.

8 INTELLECTUAL PROPERTY RIGHTS, INDEMNITY AND LIABILITY

8.1 INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY

8.1 **License Terms**. Customer agrees to abide to the license terms of the EULA in Annex 2 of this Agreement.

8.2 **No transfer of IP**. 9T Labs, its affiliates and/or its third party software vendors are the owners of and retain all Software IP and, if applicable, Third Party Product IP, including in particular, rights in source code and all related documentation, patents, copyrights, trademarks, service marks, internet domain names, trade secrets, database rights, design rights, know-how, techniques, processes, methods, specifications and all other rights of authorship and intellectual and industrial property rights, and other equivalent or similar rights which may subsist anywhere in the world, whether registered or unregistered, including any form of application for any of the foregoing and Customer shall have no right or interests therein.

8.3 **Indemnity**. The provisions on indemnity according to the EULA in Annex 2 of this Agreement shall apply accordingly.

8.2 Limitation of Liability

9T LABS'S AND ITS AFFILIATES' TOTAL AGGREGATE LIABILITY FOR DIRECT DAMAGES UNDER THIS AGREEMENT SHALL BE LIMITED, TO THE MAXIMUM EXTENT PERMITTED BY THE APPLICABLE LAWS, TO THE FEES ACTUALLY PAID FOR THE SERVICES THROUGH WHICH THE CAUSE OF LIABILITY AROSE. 9T LABS SHALL NOT BE HELD LIABLE FOR ANY INDIRECT, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFIT, REVENUE, BUSINESS, VALUE, CUSTOMERS, OPPORTUNITIES, ANTICIPATED SAVINGS, GOODWILL, REPUTATION, USE OR DATA, LOSS OF VIRUS, LOSS OF OR DAMAGE OF ANY PROPERTY BY THEFT, DISAPPEARANCE OR OTHERWISE, NOR FOR ANY INJURY OR DAMAGE TO PERSONS OR PROPERTY RESULTING FROM ANY CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION FIRE, EXPLOSION, FLOOD ETC.). 9T LABS SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES ARISING IN CONNECTION WITH CUSTOMER'S INABILITY TO USE THE SERVICES. 9T LABS' LIABILITY FOR SUBPROCESSORS ACCORDING TO Art. 101 CO (Swiss Code of Obligations) SHALL BE EXCLUDED. THESE LIMITATIONS APPLY COLLECTIVELY TO 9T LABS, ITS AFFILIATES, CONTRACTORS, SUB-PROCESSORS, AND SUPPLIERS. THE LIMITATION OF LIABILITY SHALL NOT APPLY TO CASES OF INTENT OR GROSS NEGLIGENCE, CULPABLE DAMAGES TO LIFE OR DAMAGES CAUSED ACCORDING TO THE SWISS PRODUCT LIABILITY ACT (PrHG). CUSTOMER SHALL BEAR THE RISK OF LOSS AND THE RESPONSIBILITY TO INSURE, WITH RESPECT TO ALL OF THE FOREGOING.

9 Disclaimer

EXCEPT TO THE EXTENT EXPRESSLY STATED HEREUNDER, PROHIBITED BY THE APPLICABLE LAW, OR TO THE EXTENT ANY STATUTORY RIGHTS APPLY THAT CANNOT BE EXCLUDED, LIMITED OR WAIVED, 9T LABS AND ITS AFFILIATES (I) MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SOFTWARE OR SERVICES OR OTHERWISE REGARDING THIS AGREEMENT; (II) EXCLUDE ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT AND SYSTEM INTEGRATION; AND (III) DO NOT GUARANTEE THAT THE SOFTWARE OR SERVICES WORK FREE OF ERRORS.

10 Term and Termination

This Agreement shall be effective as of the Effective Date. The initial term of this Agreement shall be 24 months, after which the Agreement will renew automatically every 12 months, unless either Party provides the other with no less than ninety (90) days' prior written notice of its intent not to renew. Each Party's right to extraordinary and immediate termination according to statutory laws shall not be affected.

11 Final Provisions

11.1 **Assignment**. Neither Party may assign this Agreement or any rights resulting from this Agreement, without the prior written consent of the other Party. Either Party may however assign this Agreement to a successor of all or substantially all of the business of such Party whether by merger, asset sale or otherwise. This Agreement shall be binding upon and inure to the benefit of the Parties' successors. Assignment of 9T Labs' rights to receive payments or assignment by 9T Labs in conjunction with the sale of the portion of 9T LABS' business that includes the Services is not restricted.

11.2 **Amendments**. All notices and communications pursuant to and amendments to this Agreement shall be in writing and validly signed by duly authorized representatives of both Parties. Electronic signatures by a recognized provider (e.g. DocuSign) shall be deemed fully legally valid under this Agreement. Amendments to this Agreement or its appendices shall not affect the validity of the remainder of this Agreement and its appendices.

12.3 **Severability**. If individual clauses of this Agreement are either fully or partially unlawful, invalid, or for any other reason unenforceable, the validity of the remaining clauses of this Agreement shall not be affected. The Parties are obliged to cooperate in good faith to replace such invalid clauses with clauses which the Parties would have wanted at the time of conclusion of this Agreement and which come as close to the invalid clause as possible.

12.4 **Agreement**. This Agreement shall be deemed the entire agreement between the Parties and shall supersede any previous agreements or communications (whether oral or in writing) by the Parties concerning the subject matter of this Agreement.

12.6   **Independence of the Parties**. Nothing in this Agreement shall be deemed an agency, partnership or any other corporate or fiduciary relationship between the Parties. Both Parties are independent and neither Party shall be responsible of the acts or omissions of the other Party or its personnel except as provided otherwise in this Agreement.

11.3   **Jurisdiction**. This Agreement shall be governed by and be construed in accordance with the laws of Switzerland under the explicit exclusion of the UN Convention on Contracts for the International Sale of Goods. Place of jurisdiction is Zurich subject to mandatory legal provisions.

For the Customer: **For 9T Labs:**

_____   _____

_____   _____

                                           _____

                                           _____

ANNEX 1: SLA AND PRICING

All here stated times are based on the Central European Time Zone (CET).

On-Call Maintenance

STANDARD	PREMIUM
7:00 to 19:00 CET Monday to Friday, excluding bank holidays in Zurich, Switzerland	to be defined

For Customers who have purchased the Premium On-Call Maintenance, the elimination of Major Errors can, with the Customer's prior written consent, take place continuously (e.g. during the night or on bank holiday). A Downgrade to a Minor Error is at all times possible following which the rules for Minor Errors shall apply.

SLA

	STANDARD	PREMIUM
MAJOR ERRORS		
Reaction Time		
Intervention Time		
Escalation Time		
MINOR ERRORS		
Reaction Time		
Intervention Time		
Escalation Time		

Software under Maintenance (License Fee)

[reference offer] or [state here]

Maintenance and Upgrade Fee (Fee)

[reference offer] or [state here]

ADDITIONAL FEE

All here stated times are based on the Central European Time Zone (CET).

The following rates apply to any Additional Services not included in the Fee:

- Hourly rate* (work and travel time (if applicable):　　　　CHF xxx.xx

- Flat fee for a 24hr on-call service: CHF <mark>xxx.xx</mark>
- *a 100% surcharge for Sundays and bank holidays and a 50% surcharge for Saturdays and nights (between 19.00 and 7.00 the following Business Day) shall apply

ANNEX 2: 9T Labs End-User License Agreement (EULA)

This End-User License Agreement ("**EULA**") governs the agreement between 9T Labs AG ("**9T Labs"**) and the End- User (including all its worldwide affiliates) ("**Customer**") of 9T Labs software products or, if applicable, third party software products by third party software vendors provided by 9T Labs to Customer("**Software**"). This EULA shall be valid from the date of a valid purchase order or a signed offer ("**Order**") regarding the licensing of Software.

Both 9T Labs and Customer referred to as "**Party**" or together as "**Parties**" hereinafter.

1. Subject

1.1 9T Labs grants to Customer a license for the ordered and paid for version of the Software and its accompanying software product description ("**Documentation**") according to the terms and conditions of this EULA. Prices and payment terms are determined by the provisions of the respective Order.

1.2 Customer is purchasing in the Order defined number of licenses and version of the Software. This does not include updates, upgrades additions, add-on components, enhancements or modifications ("**Update(s)**"). This EULA shall apply to any subsequently purchased Updates accordingly.

1.3 Customer shall ensure its compliance with the applicable laws and regulations. Customer shall hold 9T Labs, its directors and employees harmless from and against any claims that may arise out of Customer's violation of the applicable laws and regulations.

1.4 Customer is solely responsible for the proper data backup. 9T Labs shall not be responsible or liable for recovery of any data.

1.5 This EULA shall be binding for Customer and all its affiliates. Customer shall be liable for its and its affiliates' acts and omissions under this EULA.

2. License

2.1 **Ownership**. The Software and its Documentation (together "**Product**") as well as any Update(s) purchased pursuant to this EULA and provided hereunder are not in the public domain. 9T Labs, its affiliates and/or its third party software vendors are the owners of all Product intellectual property rights, including in particular, rights in source code and all related documentation, patents, copyrights, trademarks, service marks, internet domain names, trade secrets, database rights, design rights, know-how, techniques, processes, methods, specifications and all other rights of authorship and intellectual and industrial property rights, and other equivalent or similar rights which may subsist anywhere in the world, whether registered or unregistered, including any form of application for any of the foregoing and Customer shall have no right or interests therein.

2.2 **License**. 9T Labs grants to Customer a non-exclusive, non-transferable, non-assignable, perpetual license to use the Software pursuant to the terms of this EULA and to the extent as described in the Order. The license includes the exclusive internal and non-commercial use of the Documentation for reference purposes only.

2.3 **Restrictions**. Customer shall not, without 9T Labs's prior written consent, (i) make any copies of the Product or its content; (ii) sublicense, rent out, reproduce, sell, transfer, market, distribute or disclose the Product to any third party; (iii) install, modify, adapt, improve, extend, update, implement, manipulate with, translate, disassemble, decompile, reverse engineer, or create derivative works of, the Product; (iv) remove, alter or obscure any copyright notice contained in the Product; (v) access, reproduce or extract the source code or parts thereof out of the Software; or (vi) use the Software other than in accordance with the Documentation and this EULA.

2.4 **Records**. Customer shall keep records which state the licensed Software, its version, its location and the number of copies made. 9T Labs shall be permitted to review these records should 9T Labs, acting reasonably, believe that the Products are not being used in accordance with this EULA.

2.5 **Back-up Copy**. Customer shall be entitled to make one copy of the Product for security and archiving purposes provided that all references to the property rights to the Software are retained.

2.6 **Internal Use**. Customer shall only use the Software for its own internal business operations. Customer agrees to keep the license key strictly confidential and shall not disclose it to any third parties.

2.7 **Payment**. Customer's right to use the Software is subject to the payment of all fees due for the Software according to the Order and the continued compliance with the terms and conditions set out in this EULA. 9T Labs shall send to Customer a license key which activates the Software for use after payment is received.

2.8 **Number of Licenses**. The terms of this EULA are based on the use of the Software for the purchased number of licenses. 9T Labs shall be entitled to invoice additional license fees should the number of users of the Software regularly or permanently exceed the number of purchased licenses. The additional fees are determined based on the then-current list price of the Software.

2.9 **Maintenance and Updates**. Customer shall subscribe to and pay for a valid maintenance and update agreement after receipt of the license key. Customer shall not be entitled to receive updates and maintenance from 9T Labs if Customer has not subscribed to a valid maintenance and update agreement after receipt of the license key.

3. Disclaimer

EXCEPT TO THE EXTENT EXPRESSLY STATED HEREUNDER, PROHIBITED BY THE APPLICABLE LAW, OR TO THE EXTENT ANY STATUTORY RIGHTS APPLY THAT CANNOT BE EXCLUDED, LIMITED OR WAIVED, 9T LABS AND ITS AFFILIATES (I) MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE PRODUCTS AND UPDATES (AND ANY COPIES THEREOF) OR OTHERWISE REGARDING THIS EULA; (II) EXCLUDE ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT AND SYSTEM INTEGRATION; AND (III) DO NOT GUARANTEE THAT THE SOFTWARE WORKS FREE OF ERRORS.

4. WARRANTY

4.1 9T Labs warrants that the Software purchased will operate substantially in accordance with the Documentation for the 12 months following Customer's receipt of the license key to the Software ("**Warranty Period**"). Any errors shall be reported to 9T Labs support (or as otherwise specified in the Order) within five business days of their discovery. Errors within the meaning of this provision are documented and reproducible errors in the Software that considerably lower its value or serviceability for the contractually intended use which is an actual deviation in functionality from the Documentation.

4.2 9T Labs shall rectify errors reported according to clause 4.1 in due course free of charge. 9T Labs reserves the right to deliver to Customer an Update of the Software or to provide instructions on how to bypass the error.

4.3 Customer shall have the right to withdraw from this EULA if 9T Labs is unable to rectify the error after a second reasonable extension period has been granted to it by Customer. Customer has the right to request rescission of the contract and either Party will return the Products rendered. Further warranty claims of the Customer (such as assertion of claims for damages due to direct or indirect financial losses and/or consequential damages) are excluded.

4.4 This warranty is the exclusive warranty from 9T Labs and replaces all other warranties, including implied warranties, if any, or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose. 9T Labs warranties shall not apply if there has been misuse, unauthorized modification, damage not caused by 9T Labs, Customer's failure to comply with applicable law and regulations or the Documentation provided by 9T Labs, or if otherwise stated herein.

4.5 Customer's warranty claims expire 12 months after receipt of the license key to the Software. Statutory provisions are applicable in cases of intent or gross negligence, malice, injury to life, body and health, defect of title and/or in cases of liability under the Swiss Product Liability Act.

5. LIMITATION OF LIABILITY

9T LABS'S AND ITS AFFILIATES' TOTAL AGGREGATE LIABILITY FOR DIRECT DAMAGES UNDER THIS EULA SHALL BE LIMITED, TO THE MAXIMUM EXTENT PERMITTED BY THE APPLICABLE LAWS, TO THE FEES ACTUALLY PAID FOR THE PRODUCT(S) THROUGH WHICH THE CAUSE OF LIABILITY AROSE. 9T LABS SHALL NOT BE HELD LIABLE FOR ANY INDIRECT, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFIT, REVENUE, BUSINESS, VALUE, CUSTOMERS, OPPORTUNITIES, ANTICIPATED SAVINGS, GOODWILL, REPUTATION, USE OR DATA, LOSS OF VIRUS, LOSS OF OR DAMAGE OF ANY PROPERTY BY THEFT, DISAPPEARANCE OR OTHERWISE, NOR FOR ANY INJURY OR DAMAGE TO PERSONS OR PROPERTY RESULTING FROM ANY CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION FIRE, EXPLOSION, FLOOD ETC.). 9T LABS SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES ARISING IN CONNECTION WITH CUSTOMER'S INABILITY TO USE THE PRODUCTS. 9T LABS' LIABILITY FOR SUBPROCESSORS ACCORDING TO Art. 101 CO (Swiss Code of Obligations) SHALL BE EXCLUDED. THESE LIMITATIONS APPLY COLLECTIVELY TO 9T LABS, ITS AFFILIATES, CONTRACTORS, SUB-PROCESSORS, AND SUPPLIERS. THE LIMITATION OF LIABILITY

SHALL NOT APPLY TO CASES OF INTENT OR GROSS NEGLIGENCE, CULPABLE DAMAGES TO LIFE OR DAMAGES CAUSED ACCORDING TO THE SWISS PRODUCT LIABILITY ACT (PrHG). CUSTOMER SHALL BEAR THE RISK OF LOSS AND THE RESPONSIBILITY TO INSURE, WITH RESPECT TO ALL OF THE FOREGOING.

6. INDEMNIFICATION

6.1 If indemnification claims are asserted against 9T Labs in connection with this EULA based on an alleged violation of third party patents or copyrights, it shall defend, at its own cost and expense, and hold Customer harmless against all losses, damages and expenses (including reasonable lawyer's fees) finally awarded against such third parties by a court or agreed to in a written settlement, to the extent arising from the claim, provided Customer (i) has notified 9T Labs in due course of the asserted claims; (ii) takes all reasonable and feasible actions to help defend against the claims; (iii) supplies information requested by 9T Labs ; (iv) allows 9T Labs to control, and reasonably cooperates in, the defense and settlement, including mitigation efforts; and (iv) does not consent to entry of any judgement or settlement without 9T Labs' prior written consent.

6.2 If Customer is legally prohibited from using the Software then 9T Labs can, at its own discretion and cost, either (i) procure a right of use in favor of Customer for the purposes of this EULA; (ii) replace or modify affected Software which enables Customer a use within the means of this EULA; (iii) deliver an Update which does not violate any third party rights and assures Customer the right of use within the means of this EULA; or (iv) reimburse Customer for payments already made starting from the time where the affected Software could no longer be used for reasons of infringement.

6.3 The Indemnity set out above shall not apply in relation to any infringement which results from (i) the use of the Software in combination with other equipment not supplied by 9T Labs; (ii) a modification made to the Software by Customer or any third party not appointed by 9T Labs and not authorized by 9T Labs in writing; or (iii) a failure of Customer or any third party appointed by it use the Software in accordance with the Documentation and this EULA.

7. CONFIDENTIALITY

Customer acknowledges and agrees that the Product and all other information related thereto or disclosed or delivered to it in connection with this EULA ("**9T Labs Information**") are 9T Labs and its licensors' confidential and proprietary information. Customer agrees to keep 9T Labs Information strictly confidential by exercising the necessary care required to prevent its disclosure. Notwithstanding the above, Customer shall not sell, assign, disclose, divulge, distribute, publish, transmit, commercially exploit, market or transfer 9T Labs Information to any third party or use 9T Labs Information for any purpose whatsoever other than as expressly authorized herein. This provision shall survive termination of this EULA.

8. COMPLIANCE WITH LAWS

8.1 Customer shall ensure its compliance with the applicable laws and regulations (including all jurisdictions where it operates). Customer shall comply with all laws directly or indirectly applicable to its activities hereunder or otherwise pursuant to

or in connection with this EULA and shall provide any required notifications to data subjects, and obtain all consents from such data subjects in accordance with all applicable laws and regulations in relation to the collection, use, disclosure, creation and procession of personal data in connection with the use of any Products. Customer shall, in particular, comply with the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) as amended from time to time.

8.2 The Products may not be used in any jurisdiction for unlawful, obscene, offensive or fraudulent content or activity, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive, or deceptive messages, viruses or harmful code, or violating third party rights. If there is a complaint or notice of violation, use may be suspended until resolved, and terminated if not resolved promptly. Customer shall hold 9T Labs and all its Affiliates, directors and employees harmless from and against any claims that may arise out of Customer's violation of the applicable laws and regulations.

8.3 Customer shall ensure its compliance, as well as the compliance of all its Authorized Users, with the applicable laws and regulations, trade control regulations, dual-use regulations, export control laws and regulations, as well as all economic and trade sanctions including but not limited to those imposed by the United States ("US") or the European Union ("EU") or any of its member states. Such regulation and programs shall include but not be limited to the Council Regulation (EC) No. 1334/2000, the US Export Administration Regulations, the International Traffic in Arms Regulations as well as Specifically Designated Nationals and Blocked Persons programs (as those terms are defined in the United States Code of Federal Regulations). Such compliance shall apply to both the Software and Hardware and any other services, which may be provided from time to time by 9T Labs.

8.4 Customer's data security is solely in Customer's area of responsibility and 9T Labs shall not be held responsible for any damages caused by system failure and possible consequential damages thereof.

9. FINAL PROVISIONS

9.1 Any use of the Software beyond the provisions of this EULA shall be strictly prohibited. 9T Labs reserves the right to terminate the licenses provided hereunder upon ten days notice and failure to cure a breach of any of the terms of this EULA. Upon termination of this EULA for any reason, Customer shall immediately return the Software to 9T Labs and 9T Labs shall not be obliged to refund any fees paid hereunder.

9.2 All notices pursuant to and amendments to this EULA shall be in writing and validly signed by duly authorized representatives of both Parties. Electronic signatures by a recognized provider (e.g. DocuSign) shall be deemed fully legally valid under this EULA. Amendments to this EULA shall not affect the validity of the remainder of this EULA.

9.3 If parts or provisions of this EULA are invalid or legally void, the remainder of this EULA shall remain in effect. Invalid or legally void parts or provisions shall be interpreted or supplemented in such a way that the intent of this EULA is preserved and the invalid or legally void part or provision is substituted with a provision that comes as close as legally possible to the original intent of the invalid or legally void part or provision.

9.4 This EULA shall be governed by and be construed in accordance with the laws of Switzerland under the explicit exclusion of the UN Convention on Contracts for the International Sale of Goods. Place of jurisdiction is Zurich subject to mandatory legal provisions.

ANNEX 3: 9T Labs Hardware and MAINTENANCE

The maintenance services as described in clause 5 (xi) shall apply to the following Hardware:

[…]

The maintenance services as described in, and subject to, clause 5 (xi) shall consist of the following:

[…]