General Terms and Conditions of Contract - GRAPHAX AG for Software Services (AVB)

I. Scope of application and validity

1. Software services according to individual contract

These General Terms and Conditions of Contract (hereinafter "**GTC**") govern the conclusion, content and performance of contracts between GRAPHAX AG (hereinafter "**GRAPHAX**") as the service provider and the **CLIENT** as the service recipient (hereinafter jointly the "**PARTIES**"), for all types of services in the field of information technology and telecommunications. These GTCs govern services under contracts for work and services, as well as services under purchase and lease law, including but not limited to software licensing, acquisition, maintenance or care of hardware and software, support, operation of applications, outsourcing, online services and communication services.

By concluding the individual contract, the PARTIES acknowledge the applicability of these GTCs. These form an integral part of the individual contract concluded between GRAPHAX and the CLIENT. Any derogation from these GTCs must be expressly indicated as such in the individual contract between the PARTIES. In order to be valid, they must be mentioned in writing in the individual contract. If there are contradictions between the individual contract and these GTCs, the individual agreement in the individual contract shall take precedence. The CLIENT'S general terms and conditions of business expressly do not apply, even if reference is made to them in the CLIENT'S offer or associated additional documents.

2. Products and services, and deliveries

GRAPHAX shall provide the services listed in the individual contract and specified in the Service Level Software Maintenance. Essentially, these are:

- Granting of rights of use to certain third-party software systems (hereinafter "**Software**");
- Provision of certain software maintenance services;
- Provision of installation, commissioning or integration services and, depending on the agreement with the CLIENT, also programming services (adaptations) to the software;
- Provision of other services expressly agreed in the individual contract.

3. Subject of the solution description

For relatively complex or extensive software solution projects for the CLIENT, GRAPHAX can prepare a solution description. In this case, this is attached to the individual contract and is based on an analysis of the CLIENT'S needs. It lists the software required by the CLIENT as well as the necessary installation, commissioning and integration actions to integrate the software as well as the necessary installation, commissioning and integration actions to integrate the software into the CLIENT'S equipment and/or IT systems (hereinafter "**Acts of Integration**"). In individual cases, the solution description also contains further programming services (adaptations) to the software agreed with the CLIENT (hereinafter "**Programming Services**").

The solution descriptions shall, on the one hand, conclusively list and explain the software ordered by the CLIENT and, on the other hand, all integration and programming services agreed with the CLIENT and to be provided by GRAPHAX regarding the software.

The description of the solution also contains information regarding the properties, features and intended use of the software selected by the CLIENT. However, it does not constitute a warranty by GRAPHAX that the software will function without errors. The functionality of the software is always based on the software specifications published by the software manufacturer (software datasheet). GRAPHAX assumes neither a guarantee for error-free functioning nor any liability thereof.

GRAPHAX warrants the diligent performance and functionality of the integration and programming services agreed in the solution description.

In detail, the warranty and liability for the software, as well as the integration and programming services are regulated in sec. 18 GTC.

By signing the individual contract, the CLIENT confirms the correctness of the solution description (as an integral part of the individual contract) and accepts its content.

II. Right to use the software ("licence")

4. Delivery of the software

GRAPHAX undertakes to arrange for the delivery of the software to the CLIENT. The delivery can be either data carrier-bound (e.g. with a data CD) or online. The delivery also includes all documents provided by the software manufacturer (hereinafter "**User Documentation**").

5. Detailed right of use

In return for payment of a fee (hereinafter "**Licence Fee**"), the manufacturer of the respective software grants the CLIENT the personal, non-exclusive and non-transferable right to use the software, including the user documentation, on one device or via the CLIENT'S server on several devices as intended (hereinafter "**Right of Use**").

The use of the software is considered to be intended if it is used in accordance with the end-user provisions of the respective software manufacturer or licensor (hereinafter "**Software Vendor**"). The end-user provisions of the software manufacturer shall also apply to the CLIENT if the installation of the software is carried out by GRAPHAX and thus, GRAPHAX accepts the end-user provisions. **The CLIENT expressly authorises GRAPHAX to license the software listed in the individual contract on its behalf and for its account and to accept the corresponding end-user provisions of the software manufacturer for the CLIENT.** The CLIENT may retrieve the software manufacturer's end-user provisions electronically at any time or request a copy from GRAPHAX.

6. Software rental or purchase

The CLIENT'S right to use the software may be either limited to the contractual term of the individual contract (hereinafter "**right of use for a limited period of time**" or also "**software rental**"), or the CLIENT can acquire a right of use to the software for an unlimited period of time ("**right of use for an unlimited period of time**" or also "**software**

purchase"). The individual contract shall expressly stipulate whether the agreed right to use the software is limited to the term of the contract or unlimited in time.

7. **Limits of the right of use in software rental and purchase**

   a) **Special considerations for software rental**

   In the case of a time-limited right of use ("software rental"), the CLIENT must uninstall the software including all patches or bug fixes, service packs, updates and upgrades within a maximum of 10 days after expiry of the contractual term of the individual contract or delete it from its systems and destroy any (backup) copies that may have been made on all data carriers (hereinafter "Software": "**duty to destroy**"). If a device owned by the CLIENT is sold, the CLIENT is subject to the same destruction obligation. The CLIENT shall be obliged, at GRAPHAX'S request, to immediately confirm in writing that it has fulfilled the obligation to destroy. This destruction obligation does not apply to the CLIENT in the case of a right to use the software for an unlimited period of time ("software purchase").

   b) **Special considerations for software rental and purchase**

   Apart from the obligation to destroy (see para. 7a), the limits of the right of use are identical in the case of software rental and software purchase.

   With the exception of the rights of use expressly stated in these GTCs or in the end-user provisions and provided for by law, the CLIENT shall not acquire any further rights to the software and the user documentation. The CLIENT shall also be entitled to exclusive rights of use in respect of programming and/or adaptations made to the software by GRAPHAX and/or third parties (in accordance with solution descriptions), for which the CLIENT pays a fee in accordance with the individual contract. However, it shall not be entitled to any further rights, in particular, no copyrights (see also para. 13).

   The CLIENT is expressly not entitled to grant sublicences to the software or the user documentation. The CLIENT shall only have the right to pass on the software to a third party or otherwise make it available to a third party alone or together with the device to which the software accesses, with the express prior written consent of GRAPHAX.

   The number and type of licences (device or server licence) are specified in the individual contract. The CLIENT has the right to use device licences exclusively on the devices specified in the individual contract. Use on other devices is permitted only with the prior written consent of GRAPHAX. Unless it receives written consent from GRAPHAX, the CLIENT is prohibited, in particular, from duplicating, modifying or otherwise processing the software, patches or bug fixes, service packs, updates and upgrades made available to it under the individual contract or from temporarily transferring them to third parties. This does not apply to the creation of a backup copy intended exclusively for restoring the operability of the software at the CLIENT'S premises.

8. **Infringement of rights of use by the CLIENT**

   Breach of the provisions of para. 5 and sec. 7 GTC by the CLIENT constitutes an infringement of the protected rights of the author of the software. Any claims for damages by GRAPHAX and/or the software manufacturer or criminal sanctions remain reserved.

9. **Licence fee**

   The licence fee is agreed in the individual contract and is either: (i) included in the rental rate (in the case of the Rental and Service Contract) or (ii) included in the page price (in the case of the Rental and Service Contract All-in) or (iii) shown separately (as in the Purchase and Service Contract, the Licence and Maintenance Contract Software and the Maintenance Contract Software. GRAPHAX is entitled to adjust the licence fee upon 90 days' prior written notice. If the licence fee increases by more than 8% (excl. VAT) within a calendar year, the CLIENT is entitled to terminate the contractual relationship prematurely in writing (see para. 15 GTC).

III. **Software maintenance**

10. **Service level software maintenance**

    In addition to the right to use the software, the individual contract may also include maintenance and support services for the software (hereinafter "**Software Maintenance**"). The maintenance and support services provided within the scope of the agreed software maintenance shall be specified in a separate annex to the individual contract (hereinafter "**Service Level Software Maintenance**"). For each piece of software, the conditions of the software maintenance or the maintenance and support services provided are described in a separate or special annex. The annex is respectively designated as *Service Level Software Maintenance for "[Name of Software]"*.

    In the individual contract, either: (a) the price of all software maintenance agreed with the CLIENT for the various types of software listed in the individual contract shall be summarised uniformly or (b) the price for the agreed software maintenance for each type of software shall be listed individually. GRAPHAX shall invoice the software maintenance costs (both software maintenance in total and software maintenance per software) in accordance with the billing interval specified in the individual contract.

    The software maintenance is agreed for a minimum contract period in accordance with the individual contract. It shall be automatically extended by the contract term agreed in the individual contract unless either PARTY gives notice of termination **in writing** 90 days before the expiry of the minimum term or the extension period, **with effect from** the end of a month. The right to premature termination for good cause remains reserved (see sec. 15 GTC). The uninterrupted continuation of software maintenance retroactively from the expiry of the minimum running time or the extension period can also be agreed upon with GRAPHAX at a later date. In this case, GRAPHAX reserves the right to subsequently charge the software maintenance costs incurred since the termination of the individual contract, including any additional fees. GRAPHAX will provide the exact conditions for the retroactive continuation of software maintenance without interruption to the CLIENT in advance, upon request.

    The maintenance services do not cover the elimination of errors and malfunctions that are attributable to improper use of the software, changes to the operating environment or improper system requirements.

IV. Common special provisions

11. Further one-off services and costs

GRAPHAX shall provide the CLIENT with the additional services listed in the individual contract at the prices and conditions defined in the individual contract. Further one-off services include:

a) Installation, commissioning, integration ("integration acts") as well as programming services

GRAPHAX and the CLIENT agree in the individual contract on the software installation, commissioning and integration. Depending on the CLIENT'S individual wishes and needs, it may also agree with GRAPHAX that programming services are to be carried out on the existing software selected by the CLIENT within the framework permitted by the software manufacturer so that the software has the additional functionalities desired by the CLIENT. GRAPHAX shall be free to perform the agreed programming services itself or to have them performed by a third party or by the software manufacturer itself.

In the case of relatively complex or extensive software solution projects, GRAPHAX shall draw up a solution description (in accordance with sec. 3 GTC) and shall carry out the installation, commissioning and integration (e.g. configuration, parameterisation, etc.) of the software (including the patches, service packs, updates or upgrades available at the time of installation) in accordance with the solution description. GRAPHAX shall always prepare a solution description if it agrees with the CLIENT on further programming services for the software.

The price to be paid by the CLIENT for the integration and programming services to be provided by GRAPHAX are set out in the individual contract under "*GRAPHAX one-off services and fees*". The prices do not include a flat-rate travel fee.

After a short introduction by the GRAPHAX service employee, the CLIENT signs the solution description to confirm that GRAPHAX has provided all services within the scope of the software installation, commissioning and integration to the CLIENT'S complete satisfaction and that the software solution implemented at the CLIENT'S premises is functioning. If the CLIENT deploys and uses the implemented software solution, it shall be deemed it has confirmed the solution's proper functioning.

b) Application training

At the CLIENT'S request, GRAPHAX may provide application training for individual or all software implemented at CLIENT premises. The prices and conditions of such application training shall be specified and agreed upon in the individual contract and/or in the solution description.

12. The CLIENT'S duty to cooperate

The CLIENT shall be obliged as follows with respect to the software during the term of the contract:

- Designate an expert contact person (hereinafter "IT Administrator") as well as a deputy who ensures the exchange of necessary information between the CLIENT and GRAPHAX, and is authorised to make the necessary decisions in connection with the use of the software and the related contractual relationship with GRAPHAX;
- Ensure the availability (physical presence, remote support, etc.) of the IT administrator throughout the installation, commissioning and integration of the software;
- Fully provide all documents and information required for the performance of the service in a timely manner;
- Create and maintain the necessary technical requirements (i.e. procuring, establishing and maintaining the operational readiness of the IT infrastructure in accordance with the software manufacturer's specifications);
- Provide the necessary workstations and work equipment (i.e. at least one functioning PC with network access);
- Enable access to the EDP system with administrator rights. This can also be ensured by the local presence of the IT administrator;
- Provide the corresponding access information of the systems to be connected;
- GRAPHAX may provide separately commissioned services through remote access. The CLIENT must create the necessary system requirements for this purpose. The CLIENT shall bear the cost incurred due any delays and additional expenses resulting from a breach of its obligation in this respect;
- If it has received no prior notice from GRAPHAX, the CLIENT must carry out a comprehensive data backup for all services as well as before installing a software product supplied or to be installed by GRAPHAX;
- The CLIENT is generally recommended to use the patches and/or bug fixes, service packs, updates and/or upgrades provided by GRAPHAX in order to ensure optimum software functionality. The CLIENT is responsible for carrying out any changes that may be required in the system requirements, and at its own expense. GRAPHAX may refuse support services if the CLIENT does not use updates and/or upgrades.

The CLIENT must fulfil its obligations to cooperate in accordance with para. 12 GTC. If the CLIENT fails to comply with its obligations to cooperate, to comply with them in time or to fully comply with them, and if it is liable therefor, GRAPHAX may invoice the lost time separately.

13. Intellectual property rights

Ownership of and the intellectual property rights to the work results continuously from GRAPHAX'S performance of the individual contract; GRAPHAX shall have full and exclusive ownership thereof. This includes, in particular, concepts, documents, evaluations, etc. prepared by GRAPHAX within the framework of a contractual relationship.

GRAPHAX shall retain the full exclusive rights to the individual software it produces specifically for the CLIENT or modifications/adaptations to the same (e.g. also interfaces), including source codes, programme or solution descriptions and documentation, irrespective of whether these are available in written or machine-readable form.

V. General provisions

14. Duration and termination of the individual contract

The individual contract is concluded for a minimum contract period. After the expiry of the minimum term, the contract shall be extended in each case automatically, without any further ado, by the extension period agreed in the individual contract. After the expiry of the minimum term, the contract can be terminated by giving 90 days' written notice prior the

end of the agreed extension period. The right to premature termination for good cause remains reserved (see sec. 15 GTC).

15. Early termination of the individual contract

The PARTIES may terminate the individual contract prematurely, **in writing**, for good cause.

For GRAPHAX, important reasons include:

- if the CLIENT seriously or repeatedly breaches contractual obligations and does not immediately restore the contractual condition even after the first warning by GRAPHAX;
- if the CLIENT is in default with its payment obligations and does not pay despite the setting of a 10-day grace period (see sec. 20 GTC);
- if the CLIENT'S financial situation deteriorates to such an extent that it jeopardises GRAPHAX'S rights, in particular,if compulsory execution, bankruptcy or composition proceedings are initiated against the CLIENT;
- if GRAPHAX is unable (or no longer able) to meet its contractual obligations.

For the CLIENT, important reasons include:

- if the licence fee increases by more than 8% (excl. VAT) within one calendar year (see sec. 9 GTC).
- if GRAPHAX seriously or repeatedly breaches its contractual obligations and does not restore the contractual condition despite several written warnings by the CLIENT.

If the CLIENT prematurely terminates the individual contract for reasons for which it is responsible, all instalments for the remaining term of the contract shall become due immediately. The interest on arrears is calculated at 5% per year. Furthermore, GRAPHAX shall be entitled to immediately discontinue the services and shall not be liable for any direct and/or indirect damage incurred by the CLIENT as a result.

16. Service provision by GRAPHAX

All contractual services and services pursuant to the individual contract shall be provided by GRAPHAX exclusively in Switzerland and the Principality of Liechtenstein.

The place of performance for the contractual services is the CLIENT'S location address listed in the individual contract. The CLIENT must give GRAPHAX at least 30 days' notice of any intended change of location. The CLIENT is only obliged to inform GRAPHAX of the change in location if this is within a building.

17. Subcontractor

GRAPHAX shall be entitled to employ third parties to fulfil its contractual obligations towards the CLIENT and shall be liable for their acts and omissions as for its own (see sec. 18 GTC).

18. Warranty and liability

GRAPHAX warrants that the software corresponds to a valid original version of the software manufacturer at the time of conclusion of the contract.

Any further legal and material warranty and/or liability of GRAPHAX arising from or in connection with the use and/or modifications/adaptations of the software

is excluded to the extent permitted by law. In any event, GRAPHAX's liability in connection with the use of the Software shall not exceed the licence fee amount paid by the CLIENT.

The legal and material warranty and liability of the software manufacturer shall remain reserved and shall be governed by the separate agreement/end-user provisions between the CLIENT and the software manufacturer.

GRAPHAX's liability for indirect or consequential damages (e.g. loss of profit, damages from delayed delivery, loss of production, data or use, capital costs, product acquisition or replacement costs, any other consequential damages, etc.) is hereby excluded.

In the event of irregularities, in particular, in case of suspected cyber attacks (passive and active) as well as other activities than those normally to be expected, GRAPHAX has the right to take its servers offline, shut them down and take other measures necessary for the CLIENT'S security and reputation, at any time and without prior notice. GRAPHAX shall not be held liable for damages incurred by the CLIENT as a result of transmission errors, technical defects, interruptions, malfunctions, delay of a service, server interruption or unlawful interference with telecommunications equipment by third parties.

The PARTIES' liability for damage caused by intentional or grossly negligent conduct remains reserved.

19. Confidentiality and data protection

The PARTIES agree to mutually oblige their employees and auxiliary persons called in to maintain the confidentiality of all documents and information which are not generally known and which relate to the business sphere of the other PARTY and which become accessible to them during the preparation and implementation of this contract.

GRAPHAX collects, uses and processes the CLIENT'S personal data, which become accessible to it when performing services, in accordance with the provisions of Swiss data protection legislation. The PARTIES undertake to effectively protect the data accruing within the framework of the execution of the contract against unauthorised knowledge by third parties.

The CLIENT expressly agrees that GRAPHAX may make its data available to third parties involved in the performance of the contractual obligations.

20. Invoicing and conditions

Invoicing is primarily determined by the individual contract. The CLIENT shall pay the amounts invoiced by GRAPHAX in accordance with the agreed terms of payment and without any discount. The CLIENT shall automatically be in default, without need for a reminder upon the expiry of the period agreed in the terms of payment. The default interest rate is 5% per year. If the CLIENT defaults, GRAPHAX may terminate the individual contract in writing without notice after a 10-day grace period, given in writing, has proved unsuccessful. In this case, all instalments for the remaining term of the individual contract are due immediately. If the CLIENT defaults, GRAPHAX shall also be entitled to immediately discontinue all further services.

21. Ban on offsetting

The CLIENT may not set off any claims it may have against GRAPHAX against claims GRAPHAX may have against it.

22. Force majeure

If there is a case of force majeure (e.g. due to natural disasters, pandemics, epidemics, riots, civil unrest, warlike events, terrorism, strikes, fire, energy shortage, cyber attacks, operational disruption, measures by authorities and obstacles due to national and international regulations as well as difficulties in obtaining permits, etc.) and GRAPHAX is unable to fulfil or completely fulfil its contractual obligations as a result, GRAPHAX shall not be liable for damages. GRAPHAX shall be released from its contractual obligations as long as and to the extent that the force majeure persists.

23. Amendments and supplements to the individual contract and the GTCs

Amendments and supplements to the rental and service contract must be made in writing. The written requirement shall also apply to the amendments or additions to the provision referred to in this clause. GRAPHAX may make changes and amendments to these GTCs at any time. It shall be considered that they have been tacitly accepted by the CLIENT if it does not object in writing within 30 days of notification.

24. Applicable law and place of jurisdiction

The individual contract concluded shall be governed by Swiss law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

The exclusive place of jurisdiction for all legal disputes arising from or in connection with an individual contract covered by these GTC is **Dietikon ZH.**