AUVESY·MDT

General Terms and Conditions of AUVESY-MDT for the subscription of the data management solution and additionally agreed upon assistance and additional support services in this context.

AUVESY GmbH

Fichtenstraße 38b

D-76829 Landau in der Pfalz

Germany

Applicability of the General Terms and Conditions

In all contractual relationships between us ("AUVESY-MDT") and you ("contracting party") in which AUVESY-MDT provides the standard version of the data management solution and, if applicable, provides assistance and additional support services in connection with the data management solution, these general terms and conditions apply exclusively, unless otherwise contractually agreed upon. These general terms and conditions apply accordingly to pre-contractual relations (especially clause 4.9 Confidentiality and clause 4.12 Liability). For custom-specific programming including scripting, the General Terms and Conditions for Custom-specific Programming shall apply.

1. Definitions

AUVESY-MDT	AUVESY GmbH, Fichtenstraße 38b, D-76829 Landau in der Pfalz, Germany
Backup Copy	Duplication of the software for backup purposes.
BGB	German Civil Law Code ("*Bürgerliches Gesetzbuch*")
BI User	A BI User is a consumer/natural person who receives content (dashboards, reports) and has access to a BI toolset, reviewing and interacting with this content, to make business decisions.
Confidential Information/Business or Trade Secrets	Practical knowledge in its entirety, resulting from experience and testing, which is secret, that is not generally known or easily accessible, essential, that is relevant and useful for the subject matter of the contract (the subscription of the software and, where applicable, other support services under the contract and these T&Cs), and which is identified, that is which is described in a sufficiently comprehensive

	manner so as to make it possible to determine whether it fulfils the criteria of "secret" and "essential".
Contract	The contract concluded between the contracting party and AUVESY-MDT. The offer signed by the contracting party and transmitted by AUVESY-MDT is also considered as contract.
Contractually agreed condition and quality	The condition and quality of the software as described in the product description and additionally in the user documentation, including the functions of the software described therein.
Customer-specific programming, adaptations, software enhancements or further developments	Programming, adaptations, software enhancements or further developments that are carried out at the request and according to the specifications of the contracting party.
Insignificant Defect	A defect is insignificant if it is easily recognizable and can be remedied quickly with little efforts.
Instance	The productive server environment for which the standard version of the data management solution is provided. An instance comprises a maximum of one physical production site. If the physical location is functionally subdivided (such as into production halls, production lines or cost centers), each independent functional unit as such is considered as one independent instance.
Jobs	Rights of use (per instance) claimed per contracted instance.
Maintenance	Maintenance of the contractually agreed condition and quality of the software in accordance with section 2 of these T&Cs during the contract term.
Other Software Products/Programs	All other software products/programs, which the contracting party obtains in addition to the software from AUVESY-MDT.
Party	The contracting party or AUVESY-MDT (together "the Parties").
Release	Release of a new version of the software.

Remote Support	Remote support carried out by AUVESY-MDT including remote diagnosis, remote corrections and overwriting of new versions
Software	The standard version of the data management solution in its respective current update/upgrade.
State of the Art	The current version of the software with the current patches and updates; beta versions are not included in the current version of the software.
T&Cs	General Terms and Conditions.
Third Party	Natural or legal persons who are not a party to the contract.
Third-Party Software	Third-party software/programs included in the installation package of the software.
Update	Bug fixes and improvements of existing features leading to a new release level within the respective version.
Upgrade	Introduction of new features in a new version with a higher version number.
UrhG	Copyright Act ("*Gesetz über Urheberrechte und verwandte Schutzrechte"*)

2. Provision of the Software

2.1 Provision of the Software and User Documentation

AUVESY-MDT provides the current version of the software to the contracting party in executable form (as object code) as download on the internet, alternatively on a suitable data carrier, together with the user documentation in printed or electronic form. Unless otherwise agreed upon, AUVESY-MDT may also provide the software by e-mail.

2.2 Installing the Software

2.2.1   AUVESY-MDT does not owe the installation of the software. The contracting party installs the software on its IT system and puts the software into operation. Prior to the productive use of the software, the contracting party shall test the software under its conditions of use.

2.2.2   The contracting party informs AUVESY-MDT in written form (text form is sufficient), in which instances the contracting party uses the software as required for counting the instances. The same applies to any subsequent change of the installation sites and instances. AUVESY-MDT reserves the right to perform an annual license audit.

AUVESY·MDT

2.3 Right of Use (Grant of License)

2.3.1 AUVESY-MDT grants to the contracting party a non-exclusive right to use the software and the user documentation as determined in the contract (non-exclusive license). The right of use (license) is limited in time to the term of the contract and not sub-licensable. Unless otherwise agreed upon,

    i. the contracting party acquires a single-user right of use (license) for each contractually agreed instance and job as well as BI User claimed and used by the contracting party.

    ii. the software shall be used by the contracting party only on such configurations for which AUVESY-MDT has released the software in writing (text form is sufficient). The contracting party informs AUVESY-MDT immediately about any change of a configuration.

2.3.2 Unless otherwise agreed upon and unless these T&Cs provide otherwise, the contractual use of the software shall include the installation as well as loading, display and running of the installed software in accordance with its intended use as well as the creation of backup copies or copies as a replacement. Existing marks and copyright notices on the software must be applied equally to any copy of the software. The contracting party shall use the user documentation for internal purposes only. The creation of any copy of the software shall only be allowed within the scope of the contracting party's own permitted use. The contracting party shall not modify or enhance the software and associated documents, including the user documentation, or create any derivative works thereof. Further, the contracting party shall not translate the user documentation. In all other respects the type and scope of the right of use (license) shall be determined by the contract.

2.3.3 Upon receipt of written consent (text form is sufficient) by AUVESY-MDT and under complete abandonment and relinquishment of its own right of use (license), the contracting party shall be entitled to sell and transfer its right to use the software (license) to third parties if and to the extent the third party, prior to the transfer of the right of use (license), has committed itself in writing to comply with the software protection (clause 2.4) and to only use the software to the extent as agreed upon between AUVESY-MDT and the contracting party. In all other respects the contracting party is not entitled to provide third parties with a copy of the software received or, if applicable, any created backup copy; the contracting party is in particular not entitled to sell, lend, rent out or license out the software in any other way or to publicly reproduce or display or make the software accessible.

2.4 Software Protection

2.4.1 The contracting party acknowledges that the software (in its current and in any

future version) including the user documentation and any further documentation handed over to the contracting party in connection with the software is protected by copyright. Reference is made to clause 4.9.

2.4.2 The contracting party shall ensure for an unlimited period of time that the software is protected against any improper use. This includes in particular the obligation of the contracting party to secure the software, that is the original data carrier as well as any existing copy of the software including backup copies and all associated documentation, against any unauthorized third-party access by means of suitable measures and to keep the original data carrier, any copy of the software and any associated documentation in a secured location.

2.5 Maintenance

2.5.1 AUVESY-MDT shall maintain the contractually agreed condition and quality of the current version of the software during the term of contract. The contractually agreed condition and quality is determined in the contract, the respective product description and additionally in the user documentation.

2.5.2 In order to meet maintenance obligations incumbent on AUVESY-MDT, AUVESY-MDT carries out any maintenance and servicing measures required according to the state of the art. AUVESY-MDT shall only be obliged to further development, modification or adaptation of the software, if and to the extent required for the maintenance of the contractually agreed condition and quality of the software (reference is made to clause 2.6).

2.5.3 Unless otherwise agreed upon and unless these T&Cs provide otherwise, maintenance does not include modification or adaptation of the software to altered use conditions at the contracting party as well as to technical and functional developments such as change of the IT environment, in particular any change of hardware or operating system, adaptation to the functional scope of competing products or enabling the compatibility to new data formats. Further, customer specific adaptations, enhancements or further developments as well as adaptations, enhancements or further developments, which are offered separately as new programs in the price list of AUVESY-MDT (that is new features, new modules or add-ons) are not included. The parties may, however, separately and for remuneration agree on the modification, adaptation and further development of the software beyond the scope determined in clause 2.5 and 2.6; insofar the General Terms and Conditions for Custom-specific Programming shall apply.

2.6 Further Developments

2.6.1 AUVESY-MDT develops the respective current version of the software to the extent required pursuant to clause 2.5 and provides the contracting party with the further developed version of the software including associated documentation according to clause 2.1 after its release by AUVESY-MDT. Clause 2.2 applies accordingly. The respective development status is evident from the version designation. The respective current version of the software is also further developed in case of change of law or any provisions relevant for the software requiring such further development. In case the further developed version is not compatible with the previous version, AUVESY-MDT provides migration support to a reasonable extent.

2.6.2 Previous versions will be retained for 1 year after the release of the subsequent version and afterwards discontinued. At the request of the contracting party, support services for older versions of the software can be agreed upon separately and for remuneration; insofar section 3 of these T&Cs applies.

2.6.3 In case a manufacturer of system software, which is required for the use of the software, releases a succeeding version, AUVESY-MDT shall assess after its availability whether the software interacts properly with such succeeding version of the system software of the manufacturer and releases the software if this is the case. Otherwise AUVESY-MDT endeavors to adapt the software to such succeeding version of the system software of the manufacturer or to have it adapted within a reasonable period of time. The reasonable period of time begins with the availability of such succeeding version of the system software for AUVESY-MDT after its release for distribution. After adaptation of the software to the succeeding version of the system software AUVESY-MDT further develops the software only on this basis.

2.6.4 The contracting party shall ensure that its systems, in particular its system software, have the respective technical state the software requires in the context of further developments according to this clause. AUVESY-MDT shall inform the contracting party in time from when which technical state is to be provided for the software.

2.6.5 Prior to the introduction of a succeeding version of any of its used system software, the contracting party determines whether AUVESY-MDT has released the software for this system software.

2.6.6 Clauses 2.6.3 and 2.6.4 shall apply mutatis mutandis to any other third-party program which is obtained via AUVESY-MDT and with which the software is to interact as well as for any third-party program which constitutes freeware or is in the public domain (such as Linux).

2.7 Remediation of Defects/Warranty

2.7.1   AUVESY-MDT warrants that the software corresponds to the contractually agreed condition and quality when used in accordance with the contract (see clause 2.5) and does not infringe any third-party rights when used by the contracting party in accordance with the contract. The provisions of German law or similarly mandatory requirements for the software shall be complied with.

2.7.2   In case any defects occur during the use of the software in accordance with the contract, the contracting party shall notify AUVESY-MDT of the defect without undue delay and in a comprehensible form stating the information useful for the identification of the defect (description of the symptoms of the defect, as far as possible, proven by written records, hard copies or any other documents illustrating the defect). The notice of defect shall enable the reproduction of the defect. The burden of proof for the existence of any defect in the software is borne by the contracting party. Upon request by AUVESY-MDT the notification of the contracting party shall be made in writing (text form is sufficient). Likewise, the contracting party shall report without undue delay in case third parties assert any claims from intellectual property rights that oppose the exercise of the right to use the software (license) by the contracting party.

2.7.3   To the extent the software has a material defect or defect in title, in general, sec. 536 et seq. of the BGB shall apply accordingly but subject to the following provisions:

   i.   AUVESY-MDT shall at its choice remove the reported defect free of charge (repair) or provide the contracting party with a defect-free version of the software (replacement). AUVESY-MDT may also repair the defect by delivering a new program version or supplying a bypass solution. In case the defect does not or does only insignificantly impair the functionality of the software, AUVESY-MDT may under exclusion of any further defect claims remedy the defect by delivering a new version or an update within the scope of its version, update, and upgrade planning. In case of defects which seriously affect the use of the software, AUVESY-MDT shall provide a workaround solution, if necessary, before the final remediation of the defect in order for the defect no longer having serious effects. In case of defects of title AUVESY-MDT shall at its own choice

   - provide the contracting party with the right to use the software (license) as agreed upon;
   - replace the software or modify it in such a way that the allegation of infringement is removed without unreasonably impairing the contractual use by the contracting party; or
   - terminate the contract and refund to the contracting party any remuneration paid in advance for the term remaining after the termination date.

To the extent this is reasonable for the parties in good faith taking into account both parties' interests and considering the efforts required for defect remediation by AUVESY-MDT, the parties may agree that AUVESY-MDT remediates the defect with delivery of the next software version.

ii. If due to the defect the suitability of the software for the contractual use is reduced more than insignificantly the contracting party is entitled to reduce the remuneration appropriately. The assertion of a reduction is excluded

- if the defect cannot be reproduced or directly indicated by machine-generated output, or
- if and to the extent AUVESY-MDT cannot remedy the defect due to the omission of a defect notice by the contracting party according to clause 2.7.2.

iii. A strict liability without fault for damages for defects already existing at the time of conclusion of the contract pursuant to sec. 536a (1) alternative 1 of the BGB is excluded. In case of a defect due to circumstances AUVESY-MDT is responsible for or in case AUVESY-MDT is in delay with defect remediation the contracting party is entitled to a compensation in accordance with clause 4.12. The same applies in case AUVESY-MDT terminates the contract because of a defect. The same applies if AUVESY-MDT cancels the contract due to a defect of title caused by AUVESY-MDT. The assertion of a claim for damages is excluded in case and to the extent AUVESY-MDT could not remediate the defect due to the omission of a defect notice by the contracting party according to clause 2.7.2.

iv. In case a defect reduces the suitability of the software more than only insignificantly and AUVESY-MDT did not remedy this defect after the expiry of an appropriate period set by the contracting party in writing the contracting party may extraordinarily terminate the contract without prior notice.

v. Subject to the requirements set out in sec. 536a (2) of the BGB the contracting party is entitled to self-remediation. Upon request of the contracting party AUVESY-MDT will provide the contracting party with the necessary and available interfaces in order to carry out the self-remediation. AUVESY-MDT is not obliged to provide the source code. AUVESY-MDT is not obliged to remedy any defects which arise in the course and context of self-remediation by the contracting party or any third party commissioned by the contracting party for the purpose of self-remediation.

2.7.4 AUVESY-MDT is not obliged to remedy any defect if and to the extent the contracting party changes the software or intervenes in the software in any other way unless the contracting party proves when providing the defect notification according to clause 2.7.2 that the change or intervention did not cause the defect. Further, AUVESY-MDT is not liable for any defects which arise due to improper operation, operating

conditions or the use of unsuitable equipment by the contracting party. If it turns out that the circumstance due to which the contracting party cannot/could not use the software in accordance with the contract is not based on a defect of the software AUVESY-MDT is entitled to claim compensation for any expenses which are incurred by AUVESY-MDT for the elimination of this circumstance. Expenses pursuant to this clause are charged according to the price list at AUVESY-MDT valid at the time of the elimination of the circumstance and on an hourly basis.

2.7.5   The contracting party shall support AUVESY-MDT within the scope of reasonableness in the remediation of defects and provide AUVESY-MDT with access to the software and documentation to the extent necessary to remediate the defect; the contracting party shall in particular send work results to AUVESY-MDT for inspection, make machine time available and/or implement corrective measures provided by AUVESY-MDT.

2.7.6   The limitation period for claims due to defects is 12 months. Hereof excluded is the liability for injury to life, body and health and the liability for gross negligence. An enhancement of the scope of use of the software does not result in a new warranty period.

3. Assistance and Additional Support Services

At the request of the contracting party the parties may agree on assistance and additional support services by AUVESY-MDT in addition to the provision of the software according to section 2 of these T&Cs. The provision of assistance and additional support services according to section 3 of these T&Cs requires that the contracting party holds a valid right of use (license) regarding the software according to section 2 of these T&Cs.

3.1 Installation and Implementation Support by AUVESY-MDT

3.1.1   At the request of the contracting party and in deviation from clause 2.2, the parties may agree separately and for remuneration on

i.   the installation of the software by AUVESY-MDT,
ii.   a short briefing by AUVESY-MDT and/or
iii. support by AUVESY-MDT in putting the software into operation and testing it under the conditions of use at the contracting party's premises prior to its productive use at the contracting party.

3.1.2   The contracting party shall provide AUVESY-MDT with expert operating personnel at the latest at the time of the installation, respectively the testing of the software under the conditions of use at the contracting party's premises. The contracting party shall in particular ensure that the operating personnel provided have the necessary

system administrator and network rights for installation and implementation support in accordance with this clause. The contracting party shall confirm the successful installation in writing (text form is sufficient).

3.2 Information on Interfaces

To the extent interfaces to other programs exists in the software of AUVESY-MDT and at the request of the contracting party the parties may agree separately and for remuneration on the provision of necessary information by AUVESY-MDT regarding the interfaces.

3.3 Further Support Services

3.3.1   At the request of the contracting party the parties may agree separately and for remuneration on the provision of further support services by AUVESY-MDT which go beyond the services as determined in section 2 as well as in clause 3.1 and clause 3.2 (such as support and maintenance services for old versions, support regarding third-party software and/or hardware used by the contracting party in connection with the software, consulting services or trainings). The scope of such services is determined in the contract.

3.3.2   Further support services within the meaning of this clause do not include customer-specific programming of the software, in particular scripting. The parties may agree on such services separately at the request of the contracting party and for remuneration. Insofar the General Terms and Conditions for Custom-specific Programming apply.

3.3.3   Regarding further development and maintenance of third-party software, the terms of the respective manufacturer apply. In case the parties agreed separately on the maintenance of third-party software AUVESY-MDT provides the contracting party with new versions which AUVESY-MDT receives from the manufacturer. Clause 2.6.3, 2.6.4 and 2.6.5 apply accordingly.

3.4 Obligations of the Contracting Party

3.4.1   To the extent reasonable and appropriate in the proper course of business, the contracting party examines services provided by AUVESY-MDT in accordance with section 3 including any provided documentation immediately after performance by AUVESY-MDT; this includes in particular an examination regarding completeness of services and operability regarding basic program functions. The same applies to parts of further software products/programs, which the contracting party uses only occasionally.

3.4.2   In case the contracting party discovers any defect during the examination it shall

report these to AUVESY-MDT without undue delay. Clause 2.7.2 applies accordingly. In addition, the contracting party assigns the defect at the time of notification to a support category in the sense of Annex 1 to these T&Cs.

3.4.3   Any defect the contracting party does not discover in the course of a proper examination shall be reported to AUVESY-MDT without undue delay after its discovery. Clause 3.4.2 applies accordingly.

3.5 Right of Use (License) and Protection of the Software Products/Programs

3.5.1   To the extent AUVESY-MDT provides the contracting party with further software products/programs developed by AUVESY-MDT in the course of providing services in accordance with section 3 AUVESY-MDT grants the contracting party a right of use (license) regarding these software products/programs to the same extent AUVESY-MDT has granted a right of use (license) to the contracting party regarding the software. Reference is made to clause 2.3.

3.5.2   In case the provision of services in accordance with section 3 includes independently executable additional software developed by AUVESY-MDT the granting of rights of use (licenses) to the contracting party is subject to the resolutive condition that a newer version of such additional software is provided. Once new versions of further software products/programs are provided, the rights of use (license) regarding preceding versions automatically expire. AUVESY-MDT shall, however, tolerate, the use of the preceding version by the contracting party till the provided new version of further software products/programs is installed or, in case of a defect of the new version, till this defect is remediated.

3.5.3   The contracting party shall not be entitled to use any further software products/programs which have become unnecessary by performance according to the contract. The contracting party shall deinstall such further software products/programs and shall return any backup copies or original data carriers to AUVESY-MDT.

3.5.4   Clause 2.4 shall apply accordingly.

3.6 Remediation of Defects/Warranty

3.6.1   AUVESY-MDT warrants that services according to section 3 are free of defects and third-party rights. The provisions of German law or similarly mandatory requirements regarding the services according to section 3 shall be complied with. To the extent the services according to section 3 have a material defect or a defect in title sec. 611 et seq. of the BGB or respectively sec. 631 et seq. of the BGB shall apply accordingly,

unless otherwise provided for in these T&Cs. Clause 2.7.2 shall apply accordingly. In case sec. 634 of the BGB is applicable clause 2.7.3 shall apply accordingly.

3.6.2   Subject to the requirements set out in sec. 637 BGB the contracting party is entitled to self-remediation. Upon request of the contracting party AUVESY-MDT will provide the contracting party with the necessary and available interfaces in order to carry out the self-remediation. AUVESY-MDT is not obliged to provide the source code. AUVESY-MDT is not obliged to remedy any defects which arise in the course and context of self-remediation by the contracting party or any third party commissioned by the contracting party for the purpose of self-remediation.

3.6.3   Clause 2.7.4, 2.7.5 and 2.7.6 shall apply accordingly.

4. General Rules

Unless otherwise provided for in section 2 and 3 of these T&Cs, the following provisions shall apply to the provision of the software pursuant to section 2 and to the provision of assistance and additional support services according to section 3 of these T&Cs.

4.1 Remuneration

4.1.1 The remuneration is stipulated in the contract (in particular in the offer signed by the contracting party).

4.1.2 To the extent AUVESY-MDT provides at the request of the contracting party and on the basis of a separate agreement assistance and additional support services within the meaning of section 3, such assistance and additional support services are remunerated separately and according to expenditure, unless otherwise agreed upon. If and to the extent not otherwise stipulated in the contract the hourly rates and travel expenses for assistance and additional support services within the meaning of section 3 are based on the valid price list of AUVESY-MDT in place at the time the invoice is rendered. Travel time is calculated at 50% as working time. To the extent the parties did not agreed otherwise, AUVESY-MDT may invoice the services on a monthly basis. Any one-time fees incurred as part of the installation and implementation support will be invoiced to the contracting party at the beginning of the contract. In case of an increase of remuneration due to modification in scope regarding the assistance and/or additional support services according to section 3 which the parties agreed upon in writing the increased amount is calculated pro rata temporis for the remaining term of the current billing interval. For this purpose the remuneration for one calendar day – depending on the agreed billing interval – is calculated at 1/30 of the monthly remuneration, 1/180 of the semi-annual remuneration or 1/360 of the annual remuneration; the invoicing shall take place as of the month succeeding the change agreed upon.

4.1.3 Unless otherwise agreed upon, payments are due without any deduction

within 30 days after invoicing. In case the contracting party is in default of payment, AUVESY-MDT will inform the contracting party in writing (text form is sufficient). The right of use (license) of the contracting party rests if and to the extent the contracting party does not settle the outstanding amount within 4 weeks after notice by AUVESY-MDT according to this clause.

4.1.4   The contracting party may only set off claims where its counterclaim is undisputed or
the title is recognized by declaratory judgement and it may only base a right of retention on undisputed or legally established claims.

4.1.5   In case the contracting party has rightfully extraordinarily terminated the contract
within a billing interval AUVESY-MDT shall refund any remuneration already paid for the billing interval in question on a pro rata temporis basis.

4.2 Remote Support

4.2.1   The contracting party shall enable remote support for AUVESY-MDT for defect remediation according to section 2 and section 3 as well as for the provision of assistance and additional support services according to section 3. For this purpose, the contracting party provides in coordination with AUVESY-MDT and at the expense of the contracting party a connection to the telecommunication network so that the systems of both parties can be linked with each other. Further, the contracting party provides AUVESY-MDT with a user profile/password controlled by the contracting party in order to log into the system of the contracting party. The line is released by the contracting party.

4.2.2   AUVESY-MDT informs the contracting party about the services rendered via remote
support.

4.2.3   If and to the extent data is transferred to AUVESY-MDT for the purpose of troubleshooting or reproduction AUVESY-MDT shall adhere to all technical and organizational measures in its own sphere to which the contracting party has to adhere itself according to applicable requirements by law.

4.2.4   If and to the extent AUVESY-MDT is not enabled by the contracting party to provide
remote support in accordance with this clause the contracting party shall reimburse AUVESY-MDT for the additional expenses (travel time and additional costs for the remediation of defects and errors) which incur for the on-site remediation measures. The expenditure according to this clause is charged according to the price list applicable at AUVESY-MDT at the time of support and on an hourly basis.

4.3 Support and Response Times

4.3.1   The support and response times are determined in Annex 1 to these T&Cs.

4.3.2   For services in connection with the provision of the software according to section 2
the terms regarding the Standard Support apply. The parties may agree on the provision of Premium Support for a separate fee according to section 3 of these T&Cs.

4.3.3   Support requests of the contracting party are handled at AUVESY-MDT by a trained and experienced support personnel who evaluate the support request upon receipt (e-mail/support ticket/telephone) according to priority and classify accordingly in a support ticket (please refer to Annex 1 to these T&Cs). Classification is made in the classes "LOW", "NORMAL" and "HIGH". Support cases are processed according to their priority. Support cases with the classification "HIGH" are processed before support cases with the classification "NORMAL". Support cases with the classification "LOW" have the lowest priority in the processing order. For support cases of the category "HIGH" and "NORMAL" AUVESY-MDT provides a workaround solution until complete remediation within the remediation period if and to the extent a support request cannot be remediated within the remediation period.

4.4 Further Obligations of the Contracting Party

4.4.1   The contracting party shall install the respective current version of the software and

other agreed services properly and shall use them in accordance with the contract. AUVESY-MDT informs the contracting party about new releases of the software.

4.4.2   Unless otherwise agreed upon, the contracting party shall exclusively use the
respective current version of the software. This does not apply if such use is not reasonable for the contracting party, for example because the respective current version is defect and the use of the current version thereby would impair the operational procedures of the con-tracting party. In such case the contracting party informs AUVESY-MDT in writing (text form is sufficient) without undue delay.

4.4.3   The contracting party shall not make any modifications or enhancements to the
software.

4.4.4   The software is maintained by qualified personnel at the contracting party. For this
purpose the contracting party appoints uniformly responsible contact persons, who are responsible to AUVESY-MDT for giving and receiv-ing binding information and who can make all decisions in connection with the provision of the software according to section 2 and the provision of assistance and additional support services according to section 3. If and to the extent it turns out that the uniformly responsi-ble contact persons at the contracting party are not sufficiently qualified for the maintenance of the software the contracting party shall conduct training at AUVESY-MDT without undue delay.

4.4.5   Hard- and software of the contracting party correspond to the respective
requirements communicated by AUVESY-MDT. The (hardware and software) environment conditions at the contracting party correspond to the specifications of the product description and meet the system and environment requirements as described on the homepage of AUVESY-MDT (auvesy-mdt.com/de).

4.4.6   The contracting party provides AUVESY-MDT in time and free of charge with the
information and additional resources (such as auxiliary systems for the provision of assistance and additional support services in the sense of section 3, such as Teamviewer, license or server number of the software) necessary for the provision of the contractually agreed

services and grants sufficient access to hardware and software in the contracting party's environment. The contracting party grants AUVESY-MDT access to affected software systems as is necessary for the performance of the contract. If and to the extent AUVESY-MDT is not granted access or not granted access at the agreed times or not to the necessary extent the contracting party reimburses AUVESY-MDT any additional expenditure (travel times and additional costs for the remediation of defects or errors) which incur for the on-site removal. The expenditure according to this clause is charged according to the price list applicable at AUVESY-MDT at the time the service is provided and on an hourly basis. This does not apply if the contracting party is not responsible for not granting access or not granting proper access.

4.4.7   For security reasons, an employee of the contracting party will be present during the
performance of services by AUVESY-MDT according to section 2 and section 3 and ensure the adherence to own operational safety regulations. When placing the order, at the latest, however, before execution of work, the contracting party forwards the safety regulations of the contracting party, if such exist, to AUVESY-MDT in writing (text form is sufficient).

4.4.8   Before AUVESY-MDT renders the agreed services, the contracting party performs all tasks in due time which are not in scope of the agreed services (such as implementation of network requirements) and which were communicated in advance as a condition for the provision of the service by AUVESY-MDT.

4.4.9   The contracting party shall regularly secure any data and programs of the software
provided by AUVESY-MDT and, where applicable, further software products/programs according to the specifications by AUVESY-MDT (auvesy-mdt.com/de) and shall thereby ensure that these can be restored with reasonable effort. Data backups shall take place in accordance with the specifications of AUVESY-MDT or in the absence of such specifications according to generally accepted principles of secure data processing. In any case, the contracting party carries out a current data backup before AUVESY-MDT performs any services regarding the software at the systems of the contracting party and keeps the data backup available during performance of service by AUVESY-MDT.

4.5 Beta Versions

Upon request, the contracting party is granted access to beta versions of the software which are provided "as is". To the extent legally permissible, any warranty and liability of AUVESY-MDT regarding the use of beta versions is excluded. The contracting party is only entitled to use such beta versions for test purposes. A use of the beta versions in productive systems is not permitted.

4.6 Services not included

The following services are not subject to these T&Cs:

4.6.1   Remediation of malfunctions and damages which are the result of improper use of
the software respectively further software products/programs or other influences AUVESY-MDT is not responsible for; in particular malfunctions and damages which are the result of force majeure, unauthorized third-party influence or third-party systems (which are not specified in any contract concluded between the contracting party and AUVESY-MDT), modification of the environment at the contracting party, operating errors, non-compliance with warning notices and generally usual guidelines regarding the operation of IT devices;

4.6.2   Any services beyond the scope of maintenance obligations according to clause 2.5
and assistance and additional support services as determined in section 3;

4.6.3   Remediation of malfunctions and damages to the software or further
software products/programs which have arisen during/by programming work carried out by the contracting party;

4.6.4   Remediation of malfunctions and damages caused by non-compliance or
infringement of the obligations of the contracting party as stipulated in clause 4.4 (in particular clause 4.4.4);

4.6.5   Remediation of malfunctions and damages which could have been avoided if

indications and instructions included in the product description or user documentation (according to auvesy-mdt.com/de) of the software or further software products/programs were complied with;

4.6.6   Services concerning the software or services according to section 3 if these were
        modified by the contracting party or a third party and the remediation of malfunctions and damages which are not related to the software or services according to section 3.

4.7 Information Security

AUVESY-MDT shall take technical and organizational measures to ensure an adequate data security regarding any transferred personal data of the contracting party. The state of the art, the implementation costs, the type, scope and purposes of the processed data as well as the probability of occurrence and severity of both the information security risk and the data protection risk for the data subjects under data protection laws are to be taken into account. Abstract control measures (access control etc.) and their essential technical and organizational implementation measures which ensure confidentiality, integrity, resilience and rapid recoverability of the used systems and data processed therein are described in the appendix to the data processing agreement concluded between the contracting party and AUVESY-MDT. The latter concrete technical and organizational implementation measures are subject to technical progress and further development. AUVESY-MDT may unilaterally modify and change these measures at any time as long as the existing security level within the abstract control measures is not reduced overall.

4.8 Data Protection

For the personal data contained in the data of the contracting party the contracting party is, in general, the controller within the meaning of applicable data protection laws. In this respect, AUVESY-MDT acts, in general, only as processor within the meaning of applicable data protection laws. The contracting party shall ensure to only make accessible to AUVESY-MDT such personal data for which the controller has ensured lawfulness of processing and transfer of data according to data protection laws. The rights and obligations of the parties in such data processing relationship are determined in the data processing agreement concluded separately between the contracting party and AUVESY-MDT.

To the extend AUVESY-MDT in the context of the right of use (license) granted according to clause 2.3 and 3.5 also processes data of the contracting party for the preparation of analyses for own purposes AUVESY-MDT is, in general, the controller according to applicable data protection laws. AUVESY-MDT shall ensure that such analyses will not include any personal data.

4.9 Confidentiality

4.9.1   The parties shall keep confidential for an unlimited period of time all information of
the respective disclosing party obtained prior to and in the course of the performance of the contract designated in writing as confidential or which is according to other circumstances obviously recognizable as business or trade secret of the disclosing party. The rights to confidential information shall remain with the disclosing party. A right of retention and/or a right to set-off of the receiving party with respect to all confidential items and documents of the disclosing party is excluded.

4.9.2   The receiving party shall protect confidential information of the disclosing party in
the same manner as it protects its own comparable confidential information but at least with reasonable care. The parties shall oblige their employees, external staff and subcontractors to maintain confidentiality by means of suitable contractual regulations that comply and correspond with these T&Cs.

4.9.3   Confidential information of the disclosing party may only be used for the
performance of the purposes, rights and obligations arising from the contract and these T&Cs as well as for the fulfillment of any legal obligation. Further, AUVESY-MDT may include the name and the business name of the contracting party as well as a short description of the rendered services in a reference list for advertising purposes regarding the software. Any further use of names or information for reference purposes shall require prior consent of the contracting party. Any use of confidential information for other purposes shall require prior written consent (text form is sufficient) of the disclosing party. The receiving party is in particular prohibited from exploiting or imitating confidential information of the disclosing party itself in any way (in particular by way of so-called "reverse engineering") or having it exploited or imitated by third parties.

4.9.4   Disclosure of confidential information to third parties, both directly and indirectly,
such as a description or summary, shall only be permissible to the extent required by the purposes, rights and obligations arising from the contract as well as by any legal obligation on the basis of the "need-to-know principle", if the disclosing party provides its prior written consent (text form is sufficient) and if the third party is subject to essentially comparable confidentiality obligations as stipulated in these T&Cs. The third party's handling of the confidential information shall be attributed to the disclosing party. Employees to whom confidential information is disclosed on the basis of the "need-to-know principle" as part of the performance of the contract are not third parties within the meaning of this clause.

4.9.5   Reproductions of confidential information shall, as far as this is technically possible,
contain all references and notices regarding its confidential or secret nature as contained in or attached to the original.

4.9.6   Confidential information/business or trade secrets shall be exempt from the
obligations above if and to the extent the receiving/disclosing party demonstrates that the information
i.   Is already known to the receiving party at the time of disclosure;
ii. Is already evident on the day of disclosure or becomes evident thereafter without any breach of contract including these T&Cs by the receiving party;
iii. Has been communicated to the receiving party by a third party, unless the receiving party is aware that the third party by disclosing the information has breached a confidentiality obligation towards the respective other party;
iv. Has been developed by the receiving party independently and without use of any confidential information of the other party;
v.   Is subject to mandatory disclosure by administrative or judicial order; or
vi. Must be disclosed to a third party in order to comply with a legal obligation.

In case of clause 4.9.6.v. and clause 4.9.6.vi., the disclosing party shall inform the other party without undue delay and to the extent permitted by applicable laws of the order or legal obligation, as the case may be, so that the other party may attempt to prevent the disclosure by taking legal action. In the event that such legal action is not taken by the other party, the disclosing party will disclose only that portion of the confidential information that is specifically ordered or legally required to be disclosed and will use its best efforts to obtain an assurance from the third party that the confidential information in question will be kept confidential. In the event of a court order for

the disclosure of confidential information the parties shall work towards ensuring that use is made of the provisions of section 16 et seq. of the German Business Secrets Act ("Geschäftsgeheimnisgesetz"). The parties shall make it clear in the course of disclosure that the information is confidential.

4.10 Third-Party Claims

4.10.1 The parties shall inform each other without undue delay if a third party asserts any
claims against a party based on a breach of duty arising from the scope of obligations of the respective other party in the context of the provision of the software respectively the use of the software or any services in accordance with section 3. The party concerned shall only take legal action against the third party in consultation with the party responsible for the breach of duty or authorize the latter to lead the dispute.

4.10.2 The parties mutually indemnify each other from any liability for third-party claims,
including the associated reasonable costs of legal defense which are based on a breach of duty arising from the scope of obligations of the respective other party in the context of the provision of the software respectively the use of the software or any services in accordance with section 3.

4.11 Disruptions in the Provision of Services, Delay

4.11.1 If and to the extent a cause for which AUVESY-MDT is not responsible, including strike or lockout, impairs the adherence to schedules AUVESY-MDT may request an appropriate postponement. If and to the extent expenditures increase due to a cause the contracting party is responsible for AUVESY-MDT may request remuneration of the additional expenditure incurred by AUVESY-MDT.

4.11.2 In case AUVESY-MDT is in default for more than 30 (thirty) days, the contracting party may from this point in time request a contractual penalty of 0.5% of the value of services that cannot be used for their intended purpose for each additional week but no more than 5% of the order value.

4.12 Liability

4.12.1 AUVESY-MDT is liable without limitation for damages based on an intentional or grossly negligent breach of duty by AUVESY-MDT or a legal representative or vicarious agent of AUVESY-MDT for damages resulting from injury to life, body or health, according to the provisions of the Product Liability Act ("*Produkthaftungsgesetz*") as well as to the extent AUVESY-MDT provided a warranty.

4.12.2 AUVESY-MDT is neither contractually nor non-contractually liable for damages resulting from a slightly negligent breach of duty by AUVESY-MDT or from a slightly negligent breach of duty of a legal representative or vicarious agent of AUVESY-MDT. Clause 4.12.2 sentence 1 shall not apply to damages resulting from a breach of duty the performance of which is condition for the duly execution of the contract or the violation of which endangers achieving the contractual purpose and, therefore, in whose observance the contracting party may regularly trust (breach of cardinal obligations); insofar, however, liability is limited to the amount of damages foreseeable at the time of the conclusion of the contract and typical for this contract type.

4.12.3 AUVESY-MDT is not liable for the loss of data and/or programs to the extent such damage results in the failure of the contracting party to perform backups and thereby ensure that lost data can be restored with reasonable efforts.

4.12.4 Any further liability by AUVESY-MDT for any legal reason whatsoever is excluded.

4.13 Term and Termination

4.13.1 The commencement of the contract, the contract term and the termination of the contract are determined in the contract (in particular in the offer signed by the contracting party).

4.13.2 To the extent the provision of assistance and support services by AUVESY-MDT in the sense of section 3 is not only rendered insignificantly more complicated due to any modifications initiated by the contracting party, improper operation or any constellation with third-party software and the contracting party does not remedy or stop this condition after receipt of a warning by AUVESY-MDT, AUVESY-MDT is

entitled to terminate the contract with a 30-day notice period. The same shall apply in case the software is not supported by qualified personnel at the contracting party and the contracting party does not conduct a training at AUVESY-MDT upon request by AUVESY-MDT.

4.13.3 The right to terminate without notice for good cause remains unaffected. Good cause, which entitles AUVESY-MDT to terminate the contract, shall be deemed to exist in particular in case the rights of AUVESY-MDT are violated by the contracting party by using the software or further software products/programs beyond the scope permitted according to the contract and these T&Cs and if the contacting party does not stop the violation within a reasonable period of time after a warning by AUVESY-MDT.

4.13.4 Ordinary termination of the contract and termination for good cause without notice both require written form.

4.14 Obligations upon and after Termination of the Contract

4.14.1 After termination of the contract, the contracting party shall discontinue the use of the software respectively further software products/programs and shall return to AUVESY-MDT the software respectively further software products/programs as well as all program copies (including backup copies) as well as any documentation, materials and other documents provided unless the contracting party is subject to retention periods by law. In this case the contracting party shall inform AUVESY-MDT without undue delay and shall delete the documents after expiry of the retention period by law. Deletion includes deletion of aforementioned information/data from every computer or any similar device, from every text processing program on or in which information within the meaning of this clause is saved and/or filed. The same shall apply to any documents, whether in written, electronic or any other form. Upon request the contracting party shall without undue delay present AUVESY-MDT with a written confirmation regarding compliance with its obligations within the meaning of this clause. Notwithstanding the obligation to return or delete according to this clause the parties shall continue to be bound by the obligation of confidentiality. The return or deletion shall be carried out at the contracting party's own expense.

4.14.2 To the extent AUVESY-MDT provides the contracting party with the software and/or
further software products/programs as download, AUVESY-MDT may waive the obligation to return according to clause 4.14.1 and request the contracting party to delete the software and/or further software products/programs as well as any other program copies, provided documentation, material and any other documents.

4.14.3 In addition, the contracting party shall completely and permanently delete at its own
expense from all its servers any installed program copies and any stored documentation.

4.14.4 Any use of the software and/or further software products/programs by the
contracting party after termination of the contract is not permitted.

4.15 External Staff and Subcontractors

AUVESY-MDT is entitled to deploy qualified external staff and subcontractors for service provision with the contracting party's prior written consent (text form is sufficient). The contracting party may not refuse its consent without good reason. In case the contracting party refuses its consent without good reason any claims of the contracting party for compensation due to delay of the services by AUVESY-MDT are excluded.

4.16 Appointment of Contact Persons

4.16.1 The parties shall appoint uniformly responsible contact persons who discuss and
consult the execution of the contract as required. The contact persons of the contracting party are available to AUVESY-MDT for any information required for the execution of the contract. The contact persons may make decisions in the context of the contract execution or bring them about without undue delay. The contact persons of AUVESY-MDT shall document any decisions made. In the event of any conflicts, each party will first call the contact persons for resolution.

4.16.2 Neither party is entitled to represent the other party in any legal transactions or to

make any legally binding declarations for the respective other party. Likewise, the contact persons appointed by the parties are not entitled to legally represent the respective other party or both parties as a whole or to make legally binding declarations on their behalf.

4.17   Export and Import Restrictions

To the extent the software and/or further software products/programs are subject to export and import restrictions (including licensing/permission/authorization obligations or any restriction applicable abroad regarding the use of the software or related technologies), the contracting party shall comply with applicable export and import control regulations as well as any other applicable regulations. The fulfilment of the contract by AUVESY-MDT is subject to the condition that there are no obstacles to the performance and fulfillment of the contract due to national and international export and import laws as well as any other legal regulations.

4.18   Final Provisions

4.18.1 Unless otherwise stipulated in the contract or in these T&Cs any modification or
adjustment of the contract as well as any declaration or notification according to the contract (such as the exercise of any rights under this contract, termination of the contract, reminders (dunning) or setting of deadlines etc.) shall be made in writing. This shall also apply to the waiver of the written form requirement itself.

4.18.2 In case any provision of the contract or these T&Cs is or becomes invalid or
unenforceable the validity of the contract or these T&Cs shall not be affected thereby. The parties shall be obliged to replace the invalid or unenforceable provision by a valid respectively enforceable one best achieving the economically desired result. The same applies in case of a regulatory gap.

4.18.3 German law shall apply exclusively to all contractual and non-contractual claims to
the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. The conflict of laws provisions shall not apply.

4.18.4 The exclusive place of jurisdiction for all disputes arising from and in connection with
the contract is the place of the registered seat of AUVESY-MDT provided that the contracting party is a merchant, a legal entity under public law or a special fund under public law.

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Annex 1: Overview Support Services

1. Classification of Support Cases

Classification of Support Cases	
LOW	Support cases relating to text errors (e.g., spelling or grammar) or which affect the usability, such as graphic errors, incorrect color gradients or the arrangement of control surfaces and control fields.
NORMAL	Support cases relating to malfunctions, a feature request, license errors, comparison errors or system crashes which do not affect the server used for the software but which only allow a limited further operation of the software.
HIGH	Support cases relating to server downtime on the server used for the software or any direct influence of the AUVESY-MDT software on the productive system of the contracting party.

2. Support and Response Times

Support and Response Times			
Support Service	Description	Standard Support	Premium Support
Online Support	Access to the current online support regarding the software on ctoplant.info	✔	✔
Updates	Provision of software updates according to availability.	✔	✔
Upgrades	Provision of version upgrades according to availability (as a rule, two software upgrades are made per calendar year); the contracting party is entitled to one released upgrade but not a certain number of released upgrades.	✔	✔
Support portal	Access to the support portal octoplant.info (24 hours, 7 days a week).	✔	✔

Online Support Ticket System	Access to the online support ticket system which enables the contracting party to transparently track its requests via tickets. AUVESY-MDT warrantees the availability of the support portal for the contracting party.	✅	✅
Telephone Support	Access to telephone support during the business hours of AUVESY-MDT from Monday to Friday from 09:00am to 12:00pm (noon) and 01:00pm to 05:00pm. All times refer to Central European Time (CET/MEZ). The public holidays of the Federal State of Rhineland-Palatinate are excluded from this regulation; on such public holidays the contracting party is not provided with supervised support.	❌	✅
Support Contingent for the AUVESY-MDT Support Portal	The number of tickets for the AUVESY-MDT support portal. A ticket contains one request or issues of the contracting party. If a large number of requests or issues are presented within one ticket they shall be distributed to several new tickets.	12 tickets/year	unlimited tickets/year
Support Contingent for Telephone Support or Remote Support	The number of hours in which telephone or remote support services are provided by AUVESY-MDT. AUVESY-MDT informs the contracting party about the used-up quota before AUVESY-MDT provides any further services. Telephone support exists if, regardless of the technical conversion (e.g., voice over IP), a support service is provided by means of acoustic communication. A remote support exists if, regardless of the technical implementation (e.g., Teamviewer), a support service is provided by means of visual communication even if only screens are shared between the contracting party and AUVESY-MDT in real time. Acoustic communication does not	❌	24 hours/year

	necessarily have to take place during remote support; communication during remote support can also take place non-verbally (e.g., through text messages).		
Response Times	AUVESY-MDT responds to support requests via the support portal within a response time of 4 hours within working hours.	✔ A qualified answer will be given within 48 hours.	✔ A qualified answer will be given within 24 hours.
	All response times refer to working days; response times pause on non-working days (Saturday/Sunday as well as public holidays in the Federal State of Rhineland-Palatinate).		
Employees of the Contracting Party who are entitled to Support Services	Number of employees with the help of which the contracting party may claim support services by AUVESY-MDT. The use of support services by the contracting party's employees requires the employees of the contracting party to be qualified on administrator level for the software and, if applicable, other services obtained from AUVESY-MDT according to section 3 of these T&Cs after corresponding AUVESY-MDT trainings. If no training program exists for the software or other services according to clause 3 of these T&Cs obtained from AUVESY-MDT abovementioned regulation does not apply.	✔ Up to 3 administrators	✔ Unlimited number of administrators