

# ADDITIONAL CONDITIONS FOR THE SALE OF UNIFY PRODUCTS

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### I. Scope of application

- (1) These additional conditions apply in their respectively current version for all present and future orders for the delivery of Unify products (contract products) placed by the customer with the companies of the KOMSA Group (hereinafter called KOMSA) for the delivery of Unify products, prior-ranking to the General Terms and Conditions, and are accepted by the customer with each placing of order. Unify products are both Unify systems and the associated service features.
- (2) The customer is aware that the current version of these additional conditions can be viewed and called up on the homepage [www.komsa.com](http://www.komsa.com). Thus it is considered as notified. Upon request, the KOMSA sends to the customer the respectively current version.
- (3) Deviating, opposing or supplementary General Terms and Conditions of the customer will not become a part of the contract, unless their validity is expressly agreed in writing. The standardised reference to the Terms and Conditions of the customer is expressly rejected.
- (4) The offer of Unify products of KOMSA is exclusively directed to entrepreneurs within the meaning of § 14 BGB (German Civil Code).  
Thus, these AGB apply exclusively for entrepreneurs. The customer affirms that, at the time of the conclusion of the contract, he either has concluded with Unify GmbH & Co. KG a partner contract for resellers (Tier 1 or Tier 2 reseller) or that he is a registered Unify reseller.

### II. Obligations of the customer (reseller)

- (1) The customer is obligated to fulfil the requirements stipulated by Unify with regard to marketing, service and support capacities and organisation.
- (2) Unify and/or KOMSA are entitled to include new products, in particular successor and complementary products of the contract products, into the product portfolio, and to extend the contract to such products. Unify and/or KOMSA are furthermore entitled to modify contract products, or – with a period of notice of at least one month – to exclude contract products from the scope of application of these additional conditions.
- (3) The reseller purchases the contract products for his own account and in his own name and markets and sells them also for his own account and in his own name. The reseller is not entitled to act on behalf of Unify and/or KOMSA, and/or to enter into obligations on behalf of or for the account of Unify and/or KOMSA, or make liability commitments, guarantees or other declarations for Unify and/or KOMSA, unless they have expressly authorised him to this. The placed order does neither establish an employer and employee relationship nor a shareholder or a sales representative relationship between the reseller and Unify and/or KOMSA.
- (4) The reseller will promote, expand and develop the marketing and sale of the contract products at his own expense to the best of his ability and will provide and support the Organisation necessary for that purpose, in particular qualified personnel for distribution, installation and service. The reseller will refrain from any act that impede or impair, the marketing or the sale of the contract products, directly or in directly, or might impede or impair them.
- (5) The reseller must not modify the contract products or have them modified, or recreate the contract products, unless Unify has agreed in writing in the particular case.
- (6) The reseller offers the contract products exclusively under the given product designations, including trademarks and notes regarding the property right, and makes available to his customers all information and documents required for the use or has them made available to them.
- (7) The reseller reports cases, in which contract products have caused personal injury or property damage, or might have caused it, instantly to Unify and KOMSA and tries to identify, together with Unify and KOMSA, the cause of damage. Without the consent of Unify and KOMSA, the reseller may not acknowledge any claims and arrange settlements, including out-of-court settlements.
- (8) Provided that the contract products include products for the use in potentially explosive atmospheres, the following requirements for the product monitoring are valid in addition:
  - (a) In order to avert a danger, which might arise from the product, particular requirements for the product monitoring apply also for the reseller at products for the use in potentially explosive atmospheres according to the European ATEX directive 94/9/EG.
  - (b) In order to inform customers directly in case of a possible product risk and to take measures for danger prevention, traceability is required for the end product and its important parts, and must be guaranteed by the reseller. The reseller must maintain a system for retracing, with whose help he can determinate the customer for this case.
  - (c) If KOMSA informs the reseller about a delivered product, which bears a danger, the reseller must inform his customer in writing.
  - (d) If the reseller becomes aware of a potential danger or of a damage event in connection with the product delivered by him, he must instantly inform KOMSA and/or Unify in writing.
  - (e) For all products delivered to customers, the reseller must retain the following records for a period of at least 10 years:
    - › Serial numbers of the delivered products,
    - › Customer who has received the product;
    - › The measures, which have been taken in order to inform the customers and to carry out correction and prevention measures.

- (f) If the product is delivered to the end customer via a third party, then the third party must be so contractually obliged to traceability in accordance with this section. The observance of the regulations described here must be verified by the reseller upon request of KOMSA and/or Unify.
- (g) The service employees of the reseller must:
  - › ensure, that products, which are damaged, defective or destroyed, have a functional error, are sent back to the Unify repair centre, in order to ensure the execution of the legally required product control according to the ATEX directives;
  - › verify and ensure that the customers receive a flawless product documentation and are informed about special operating requirements of the product (e.g. charging in in potentially explosive environments not allowed).
  - › inform KOMSA and/or Unify about potential risks when using the Ex-device at the customer.
- (h) The sales representatives of the reseller must be trained concerning Ex protection devices, in order to ensure that the customer receives a technically flawless consulting (e.g. in which Ex-zones the device may be used, and in which ones not). According to the ATEX directive 94/9/EG, the training for products for the use in potentially explosive atmospheres is absolutely necessary.

### III. Liability

- (1) Provided that information, software, and/or documentations are provided to the reseller free of charge, a liability for material defects and defects of title of the information, software and documentation, in particular for their correctness, freedom from errors, absence of copyrights and proprietary rights of third parties, completeness and/or fitness for purpose, as well as for the operativeness of the software applications developed by the receiver on the basis of this documentation and for damage arising from their connection, except in cases of wilful intent or fraud, as well as in case of injury to life, body or health, is excluded.
- (2) KOMSA is liable without limitation according to the legal regulations in case of wilful intent or in case of gross negligence, including wilful intent or gross negligence of a vicarious agent or assistant, according to the German Product Liability Act and in the event of non-compliance of a guarantee of quality. Furthermore, KOMSA is liable without limitation in case of injury to life, body or health due to simple negligence, which is the fault of KOMSA or of a vicarious agent or assistant. In case of material and financial damage due to simple negligence, which are the fault of KOMSA, KOMSA is liable for a violation of essential contractual obligations („cardinal obligations“). Cardinal obligations are obligations, whose fulfilment is essential for the proper execution of the contract and on which the reseller may regularly trust. However, in case of a slightly negligent violation of cardinal obligations, the liability of KOMSA is limited to the foreseeable damage typical for the contract. The maximum foreseeable damage typical for the contract amounts to 50.000 EUR per case of damage. Any further liability of KOMSA is excluded, regardless of the legal reason.
- (3) A liability of KOMSA for the loss of data and the costs for the recovery and/or replacement of lost data and information is excluded.
- (4) Provided that the reseller is entitled to claims for damages under this paragraph, such claims lapse after expiry of the limitation period valid for material defect claims according to clause X.2. This does not apply in the case of wilful intent, grossly negligent breach of obligations as well as in case of fraudulent concealment of a defect on the part of KOMSA, in case of injury to life, body, health or in case of claims according to the German Product Liability Act.
- (5) The provisions of this paragraph are not linked with a change of the burden of proof to the disadvantage of the reseller.

### IV. Delivery

- (1) The reseller may not refuse the acceptance of deliveries with minor defects.
- (2) If contract products cannot be delivered for reasons that the reseller is responsible for, the reseller must bear all additional costs arising for this unsuccessful delivery.
- (3) Provided that KOMSA is obligated to delivery Unify software and/or documents (e.g. due to an order or a service agreement), the delivery obligation is deemed to be completely fulfilled, as soon as Unify and/or KOMSA enable the reseller to download the software and/or documents under normal circumstances and has informed the reseller thereof.

### V. Services and Support

- (1) The reseller makes accessible to his customer in his own name and for his own account the services, which are required in order to ensure and to restore the

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unrestricted operativeness of the contract products. The reseller and KOMSA can agree that KOMSA renders these services in the name and on behalf of the reseller to the customers of the reseller.

- (2) In order to be able to render an appropriate technical service for the maintenance and repair, the reseller keeps available a stock of spare parts, which is sufficient, in relation to the type and quantity of the contract products sold by him, in order to be able to fulfil the requirements of his customers.
- (3) For the support of the sold Unify products, KOMSA makes available to the reseller services ("Resale Services") to the following conditions. KOMSA renders these resale services to customers in the name and on behalf of the reseller. The reseller must take responsibility for all actions, omissions and declarations as well as all knowledge of the end customers in connection with the rendering of the resale services.

### (a) Definitions:

1. „**End customer**" is the customer, who acquires the products and services from authorised resellers.
2. „**One-time resale services**" are services from the Unify resale services-Portfolio, which are rendered one time towards the customer. The one-time resale services are listed in the partner portal under "Unify resale services portfolio".
3. „**Partner portal**" is the secure website provided by Unify (partner portal), on which the authorised reseller gets access via his standard Internet connection, in order to access the service tools and applications that are available there.
4. „**Portal for partner service contracts**" is the web-based portal by Unify, via which the partner can call up and manage his services. The portal for partner service contracts is made available via the partner portal.
5. „**Product(s)**" designates the contract products, which the reseller receives from KOMSA and which he resells to the end customer.
6. „**Regular resale services**" are services from the Unify resale services portfolio, which are rendered over the entire service duration and which can be extended at the end of the service duration. The regular resale services are listed in the partner portal under "Unify resale services portfolio".
7. „**Resale Services**" designates the services, which Unify provides directly to the end customer on behalf of KOMSA and which are listed in the partner portal in the context of the Unify Resale services Portfolio.
8. „**Service(s)**" is the service and/or are the services which the reseller obtains, which are mentioned in this paragraph and described in detail in separate service descriptions.
9. „**Service description**" comprises the description, definition and the scope of the services, which are available to the reseller within the respective Unify Support services portfolios according to the specifications in the partner portal.
10. „**Service fees**" designates the prices, which a reseller has to pay to KOMSA for services acquired from KOMSA.
11. „**Service duration**" designates the duration of the services.
12. „**Software**" is the software element of the product. „**Support services**" designates the services, which Unify directly provides to the partner, and which are listed in the partner portal in the context of the Unify Services Portfolio.
13. „**Start date**" designates the date, on which the service duration for resale services starts. The reseller indicates the start date to KOMSA. The start date may be maximum 50 days after the date, at which KOMSA has accepted the resale services order.
14. „**Unify Support services portfolio**" designates all support services in accordance with the listing in the partner portal.

### (b) Resale of resale services

1. All orders of the reseller for resale services require the acceptance by KOMSA. All services are offered in the partner portal subject to the local availability in accordance with the indications.
2. The reseller provides KOMSA with the information required by Unify in the partner portal about the end customer. For this purpose, he uses the template that is available in the partner portal. The information about the end customer include, among other things:
  - › A copy of the order of the end customer for the resale services
  - › Start date
  - › Product list, which contains information about all products, for which resale services are to be rendered at the respective end customer.
3. As soon as Unify has received this information, KOMSA and/or Unify will:
  - › check the provided information
  - › communicate to the reseller a corresponding maintenance contract number, which serves as reference for the resale services that are rendered for the end customer
  - › render the corresponding resale services as from the start date
4. KOMSA and/or Unify reserve the right to question end customers, in order to ensure their satisfaction with the rendered resale services.

Moreover, KOMSA and/or Unify are entitled to check the stock of installed products at the end customers, in order to check the scope of the rendered resale services. If the end customer requests additional resale services that are not covered by the corresponding service description, KOMSA reserves the right not to render these resale services or to charge the partner an additional service fee.

5. Before the acceptance of the order of an end customer, the reseller makes sure that the end customer has received the necessary service description for each individual resale service, including the indications about the obligations that concern the end customer.
6. The reseller supplies the end customer with a confirmation, as well as with the information about resale services to be rendered by KOMSA on behalf of the reseller. Details are provided in the context of the service description.
7. The reseller will appoint to KOMSA and/or Unify a contact person (Single Point of Contact) at the end customer and can report an incident with the aid of the currently valid maintenance contract number via the partner portal on behalf of the end customer.
8. One-time resale services are only offered one time. The reseller commits himself to pay to KOMSA the incurring service fees for one-time resale services. The service fees for one-time resale services will be charged and will be due after acceptance of the order of the reseller for the one-time resale service.
9. The service duration for regular resale services starts with the start date. The regular resale services are provided at first for at least one year (original service duration) and can be extended by at least one further year. KOMSA notifies the reseller about a possible renewal of the regular resale services before expiry of the service duration. The reseller can extend the regular resale services. If no order comes in for the extension, KOMSA and/or Unify reserve the right, to come up either directly to the end customer, or via another partner / reseller because of a possible extension.
10. The reseller commits himself to pay the incurring service fees for regular resale services to KOMSA. The service fees for the first year of the service duration will be charged and will be due after acceptance of the order for the regular resale service. The service fees for the following years have to be paid annually and in advance. They become due after expiry of the duration of the regular resale services for the resale services selected by the reseller.
11. The reseller is obligated to maintain the listing of the products of the end customer, which are concerned by the resale service, and to inform KOMSA and/or Unify about possible changes. Changes at the scope of the service features and/or at the products covered by the resale service require an order of the customer, which covers the incurring fees for such services.

### (c) Support and product phase out (End of Life)

1. Unify's hardware and software products are subject to a constant further development. The result is that regularly some of these products are replaced by further-developed products or are superseded by successor products. Details on the product life cycle (so-called End of Life process) of the Unify products including further notes for the retrieval of "End of Life" information are provided by Unify under the URL <http://www.unify.com/us/support/product-lifecycle-policy.nspcx>.
2. If the End of Life is reached at a product in the context of the product life cycle, this may have effects on the agreed service features in such a way that
  - › reported incidents cannot be edited comprehensively and conclusively anymore, or
  - › KOMSA and/or Unify provide only that support anymore, which they can provide generally and product-independent in the context of their operational possibilities, or
  - › for the further complete acquisition of service features, it is necessary to buy a fee-based upgrade to the then current version of the product, or the purchase of the successor product is necessary.
3. On request of the partner, KOMSA will examine if, partner-individually and temporarily, an extension of the development assistance (which has to be separately remunerated) for a Unify product (Extended Manufacturer Software Support – EMSS) can be realised. Then, details concerning EMSS will be individually agreed.
4. The same applies for stand-alone products of third-party manufacturers, e.g. operating systems or active network components, even if the end customer has purchased them together with Unify products, however on the condition that the product life cycle planning and the resulting availability of support services conforms exclusively to the conditions of the respective third-party manufacturer. KOMSA will endeavour to offer or to procure to the end customer, if necessary, services similar to EMSS that are offered by the third-party manufacturer.

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5. If services for products are restricted or terminated due to the termination of the development assistance by the manufacturer or if, at hardware, the stock of spare parts for the concerned product is exhausted at KOMSA and/or Unify, and if as a result the provision of the services in the agreed scope is either no longer possible on a permanent basis, or is no longer commercially viable, then the contract is reasonably adapted on the basis of good faith, in particular the compensation. If the adaptation is not reasonable to the reseller, he can prematurely terminate the service features for all concerned products. § 313 sect. 3 BGB applies accordingly.
  6. Duration and extend of a warranty owed by KOMSA and/or Unify are not limited hereby.
- (4) KOMSA offers to the reseller advice for the marketing of the contract products ("Pre-Sales-Services").
- (5) For all services rendered by KOMSA to the reseller, the following provisions apply in addition:
- a) **Cooperation between the contractual partners, scope and execution of the services**
    1. KOMSA provides the agreed services normally remote via public networks. For this purpose, the reseller makes available free of charge the necessary service facilities provided by the customer, in particular for the remote service.
    2. The KOMSA employees do not enter into an employment relationship with the reseller and/or his customers, also insofar as they became active in his premises. The professional authority to give directives to the dispatched personnel is exercised by KOMSA. The same applies also for subcontractors commissioned by KOMSA. The reseller will transmit the requirements concerning the services to be provided exclusively to the responsible employee appointed by KOMSA and insofar not give instructions to the other KOMSA employees.
    3. For the dispatched personnel, KOMSA reserves the freedom of disposal. This relates in particular to the section of the assigned employees, the order of working time and overtime, the fixing of holiday time, the execution of the presence monitoring and the monitoring of the work processes.
    4. If, in connection with the present contract, due to compulsory legal regulations an employment relationship between KOMSA and customer personnel would be created, the reseller bears all additional costs incurring to KOMSA, unless the takeover of the personnel has been expressly agreed.
    5. KOMSA can award subcontracts, but remains responsible for the fulfilment of the services to be provided. Works that the partner demands and about that KOMSA has serious doubts (e.g. concerning the safety regulations), can be refused by KOMSA.
  - b) **Obligations of the customer to cooperate, data backup**
    1. By the fulfilment of his obligations to cooperate, the reseller will contribute that KOMSA can begin the agreed services on time and can carry out them without obstacles or interruption.
    2. The reseller must create the operating states, hardware and software conditions as well as free accesses that are required for the agreed performance modules, must ensure a comprehensive maintenance and service coverage for the relevant system components, and makes available free of charge to KOMSA for the service provision the following:
      - › Documents, information and operation data of the supervised solution (of the system, the application, the network, etc.) in a suitable form,
      - › External connection to the public telephone / WAN network near the devices and the technically necessary transmission devices,
      - › Data carriers with the used version of the system programmes, with the data stock and with the system parameters (e.g. current system programmes, customer data backup),
      - › Unrestricted access to all his plots of land, buildings, premises and communication technology facilities / IT data centres etc.,
      - › Administration rights in the scope necessary for the respective services as well as, if required embedding of the system programmes within the customer networks (e.g. authorisations via firewalls)
    3. Provided that nothing to the contrary has been agreed in the specification of services, the reseller is responsible himself for the regular backup of the respective programmes and data. In addition, he must – if reasonable – carry out a backup of the concerned data in good time before all work, which KOMSA carries out on his behalf or in the context of a supplementary performance at a system. On request of the partner, KOMSA carries out the data backup against a separate compensation per expense.
  - c) **Delivery of spare parts (hardware)**
    1. The delivery of spare parts, for which no lump sum had been agreed, is made to the selling prices valid at that time, and to the current conditions.
    2. If KOMSA exchanges objects for the execution of an order of the reseller or for the elimination of a material defect, the ownership of the returned objects passes with the exchange to KOMSA, and the ownership of the objects that have been delivered instead passes to the reseller after the full payment.
    3. The reseller is responsible himself for the deletion of customer data, unless otherwise agreed.
    4. Objects, which are disassembled and disposed of by KOMSA or by its subcontractors by order of the reseller, pass to the ownership of KOMSA upon disassembly. If the reseller assigns KOMSA only with the disposal of the objects, they pass to the ownership of KOMSA upon delivery at KOMSA or at its subcontractors.
  - d) **Support and product phase out (End of Life)**
    1. Unify's hardware and software products are subject to a constant further development. The result is that regularly some of these products are replaced by further-developed products or are superseded by successor products. Details on the product life cycle (so-called End of Life process) of the Unify products including further notes for the retrieval of "End of Life" information are provided by Unify under the URL: <http://www.unify.com/de/eol-policy>.
    2. If at a product, in the context of the product life cycle, the milestone for the termination of the development assistance by the manufacturer is reached, this can have impacts on the agreed service features in such a way, that
      - › reported incidents cannot be edited conclusively anymore, or
      - › KOMSA provides only that support anymore, which KOMSA and/or Unify can provide generally and product-independent in the context of the operational possibilities, or
      - › it is necessary for the further complete acquisition of service features to buy a fee-based upgrade to the then current version of the product, or the purchase of the successor product is necessary. This had already been taken into consideration at the compensation for the service features.
    3. On request of the reseller, KOMSA will examine, if customer-individually and temporarily, an extension of the development assistance (which has to be separately remunerated) for a Unify product (Extended Manufacturer Software Support – EMSS) can be realised. Then, details concerning EMSS will be individually agreed.
    4. The same applies for stand-alone products of third-party manufacturers, e.g. operating systems or active network components, even if the customer has purchased them together with Unify products, however on the condition that the product life cycle planning and the resulting availability of services features conforms exclusively to the conditions of the respective third-party manufacturer. KOMSA will endeavour to offer or to procure to the reseller, if necessary, services similar to EMSS that are offered by the third-party manufacturer.
    5. If service features for products are restricted or terminated due to the termination of the development assistance by the manufacturer or if, at hardware, the stock of spare parts for the concerned product is exhausted at KOMSA and/or Unify, and if as a result the agreed service features or parts thereof are either no longer possible on a permanent basis, or is no longer commercially viable, then the contract is reasonably adapted on the basis of good faith, in particular the compensation. If the adaptation is not reasonable to the reseller, he can prematurely terminate the service features for all concerned products. § 313 sect. 3 BGB applies accordingly.
    6. Duration and extend of a warranty owed by KOMSA are not limited hereby.
  - e) **Deadlines for services, delay**
    1. The observance of deadlines for services requires the timely receipt of all documents, required approvals and clearances, to be delivered by the reseller, in particular of plans, as well as the observance of the agreed conditions of payment and other obligations by the reseller. If these prerequisites are not fulfilled in due time, then the deadlines will be extended by a reasonable period. This does not apply, if KOMSA is responsible for the delay.
    2. If the non-observance of the deadlines is due to force majeure, e.g. mobilisation, war, terrorist acts, riots or similar events, e.g. strike, lockout, the deadlines will be extended accordingly.
    3. If KOMSA is in delay, the reseller can demand -- provided that he can demonstrate that he has suffered damage -- a compensation for each complete week of delay of 25% of the monthly service fee, but a maximum total of 2.5 monthly fees for this part of the services, which could not be rendered because of the delay. If the delay concerns software or spare parts, for whose surrender a unique price has been agreed, instead of the amounts of 25% of the

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- monthly service fee and 2.5 monthly fees, the amounts of 0.5% and 5% of the one-time payable price are valid.
4. Both claims for damages of the reseller because of delay in performance and claims for damages instead of performance, which go beyond the limits mentioned in (3), are excluded in all cases of delayed performance, also after the expiry of a period of grace set to KOMSA to render the performance. This does not apply in cases of wilful intent, of grossly negligent breach of obligations, or in case of injury to life, body or health, where liability is mandatory. The reseller can only withdraw from the order in the context of the legal regulations, insofar as KOMSA is responsible for the delay in performance. The above provisions are not linked with a change of the burden of proof to the disadvantage of the customer.
  5. Upon demand by KOMSA, the reseller is obligated within a reasonable period of time, to declare, whether he withdraws from the order because of the delay in performance, whether he continues to insist on the provision of the service, and/or which ones of the rights and claims he is entitled to he intends to assert.
- f) Confidentiality, data protection**
1. KOMSA and the customer will treat all information, business transactions and documents ("information"), which become known to them in connection with this contract, and which are designated to them as confidential, as confidential towards third parties, unless they have already entered the public domain through other means. This obligation remains in force even the termination of this contract. KOMSA and the customer will impose a corresponding obligation to their employees who are concerned by this contract. KOMSA is entitled to pass information to subcontractors, insofar as these are obligated to a confidentiality that is equivalent to this provision.
  2. KOMSA is entitled, related to the performance to be rendered respectively, to access to the stored data available at the customer, including personal data, and to process them.
  3. Insofar as personal data are processed, KOMSA renders these services by means of employees that are bound to comply with data secrecy according to § 5 of the German Data Protection Act and the secrecy of telecommunications according to § 88 of the German Telecommunications Act. In collaboration with subcontractors, KOMSA will commit them in accordance with the regulations of this contract in terms of data-protection law.
  4. Insofar as personal data are saved or otherwise processed, KOMSA will observe comply with the instructions of the customer and take the required technical and organisational measures in order to protect the data against abuse. These obligations remain in force even after the termination of the contract. The liability of KOMSA for violations of data protection is excluded, insofar as KOMSA has acted upon an instruction of the customer.
  5. KOMSA will process the obtained data exclusively for the purposes of the service provision, and insofar as they are not needed anymore for these purposes, it will delete them on its systems.
  6. KOMSA is entitled to transfer personal data to subcontractors, provided that the transfer is necessary for the execution of the performance. When transferring the data to subcontractors outside the EU/EEA, KOMSA will ensure that there is a level of data protection that is sufficient according to the regulations of the European Union in terms of data-protection law.
  7. The customer is responsible for the compliance with all legally required preconditions (e.g. by obtaining declarations of consent, and/or observance of rights of co-determination), so that KOMSA can also render the agreed services without violating any rights.
- g) Rendering of services**
1. If services are rendered not at all, not according to contract or insufficiently due to circumstances which Unify is responsible for, Unify is obligated to render these services according to contract within a reasonable period of time, if and insofar as the partner has reprimanded this instantly in writing, at the latest within 2 weeks after the provision of services.
  2. Claims become time-barred after 12 months after the complete provision of the services or after premature termination of the contract.
- h) Rendering of work performances**
1. If the final and binding version of the functional specifications (e.g. operator's handbook) or the other documents, which are needed for the rendering of the services, are not available to KOMSA in due time before the agreed beginning of the performance, for reasons that the reseller is responsible for, then the deadlines will be extended by a reasonable period.
  2. The same applies, if KOMSA is hindered in the proper rendering of the services or in the creation of the part/work results due to a subsequent modification of the functional specifications or because of other circumstances which KOMSA is not responsible for. Circumstances which KOMSA is not responsible for are deemed in particular delays or defects in the performances, which have to be rendered by the reseller in the context of the collaboration, furthermore force majeure, e.g. mobilisation, war, riots, strike and lockout.
3. Upon acceptance (insofar as agreed in the service overview) a protocol is created and has to be confirmed by the reseller during handover. The part/work results are subject to the acceptance according to the following provisions.
  4. Each part/work result is accepted instantly by the reseller, after KOMSA has announced the completion and handed it over to the reseller. If defects are discovered during the acceptance, then KOMSA must remedy the defects within a reasonable period of time and free of charge. If the defects are considerably, KOMSA must make available the concerned part/work result for the continuation of the acceptance after having eliminated these defects. A considerable defect of the part/work result exists if it deviates so significantly from the description agreed in the contract, that the usability of the part/work result for the use provided in the contract is not given or considerably limited. In case of minor defects, the reseller has to accept the part/work result instantly.
  5. If the reseller refrains from the acceptance for another reason than because of a considerable defect, then the part/work result is deemed as accepted 2 weeks after KOMSA has handed over the part/work result. The respective part/work result is also deemed as accepted, if and as soon as it is used productively by the reseller.
  6. Defects, which are reprimanded by the partner within the limitation period, must be remedied by KOMSA within a reasonable period of time free of charge.
  7. For a part/work result, which the reseller has modified, the warranty for defects is excluded, even if a defect occurs at a non-modified part, unless, the reseller proves that there is no causal link between the modifications and the occurred defects.
  8. If KOMSA fails eliminate a defect despite a reasonable period of grace granted to it by the reseller, or if KOMSA does not try any longer a subsequent improvement with regard to unreasonably high costs, the reseller can reduce the compensation for the part/work result by an appropriate amount or can withdraw from the contractually concerned partial performance.
  9. Claims for supplementary performance, withdrawal and reduction become time-barred after 12 months from the beginning of the legal limitation period. This period of limitation shall not apply insofar as the law according to §§ 438 sect. 1 no. 2 (objects for buildings), 479 sect. 1 (right of recourse) and 634a (building defects) BGB prescribes longer deadlines, in case of fraudulent concealment of the defect as well as non-observance of a guarantee of quality. The legal regulations for suspension of expiry, suspension and restart of the deadlines remain unaffected.
  10. With the full payment of the agreed compensation, the customer is granted the non-exclusive, irrevocable and non-transferable right, to use the work results in the context and for purposes of the contract. Deviations from this use regulation require a separate written agreement.
- i) Consulting and conceptual services**
1. The contractor supports the customer with consulting and conceptual services in the customer's projects. The customer is responsible for the project and for the overall result.
  2. The contractor performs his task as service pursuant to the specification of services and the state of the art.
  3. If an employee is hampered to render the services due to illness, holidays or other reasons that KOMSA is not responsible for, KOMSA will, upon request of the reseller, instantly deploy another suitable employee. Apart from that, KOMSA can replace its employees at any time by other suitable employees.
  4. If change requests of the reseller or other circumstances caused by the reseller result in an increased effort, then KOMSA will instantly inform the reseller about this in writing. KOMSA will invoice these services at cost, provided that no deviating agreement has been concluded.
  5. Each contractual partner is entitled to make written requests for changes concerning the agreed services during the duration of the contract.
  6. In case of written requests for changes of the reseller, KOMSA answers as quickly as possible, whether the modifications can be carried out, and what impacts this will have on the service to be rendered, in particular on the time schedule and the compensation.
  7. Insofar as KOMSA makes requests for changes, the reseller is obligated to inform quickly as possible, whether he agrees to the suggested modifications. KOMSA continues the work on the basis of the concluded contract up to the notification by the reseller.
  8. With the handing-over of the work results to the reseller, e.g. in the form of a final documentation, the work shall be deemed terminated and the service is deemed as properly rendered.

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9. All work results created in the context of this contract are protected by copyright. KOMSA grants to the customer the non-exclusive, non-transferable right to use the work results for the contractually specified purposes. Only after obtaining the prior written consent of KOMSA, the reseller will copy and pass the work results and documents.
10. KOMSA will store for the reseller documents and objects of any kind, which represent work results, until they are handed over.
11. Protocols, documentations and similar documents, which have been handed over to the customer in the context of this contract, remain the property of KOMSA and/or its subcontractor and must be returned upon request within a reasonable period of time after termination of the contract.

### VI. Internet-based tools and platforms

- (1) KOMSA and/or Unify make available to the reseller an access key consisting of a login name and a password, with which he has access to the Internet-based tools and platforms of Unify (e.g. the partner portal). The reseller must handle the access key with strict confidentiality.
- (2) KOMSA and/or Unify grants only to registered users access to Internet-based tools and platforms. The reseller is fully responsible for the actions and knowledge of his employees and/or of third parties, for whom he applies for an access and/or whom he has registered (hereinafter individually or collectively called "employees"). The reseller applies only for one access for his employees or registers only those employees, to whom he has granted an unrestricted power of representation for all declarations, which can be made for Internet-based tools and platforms of KOMSA and/or Unify. KOMSA and/or Unify reserve the right to refuse or to terminate the registration of individual users.
- (3) The reseller makes sure that all indications provided by his employees via Internet-based tools and platforms are truthful, and instantly blocks the access of employees for Internet-based tools and platforms, whose power of representation is expired or will soon expire.
- (4) The use of the Internet-based tools and platforms is subject to separate terms of use, which can be consulted before every login in their respective current version (cf. <http://www.unify.com/>). When logging in, the employees of the reseller accept these terms of use on behalf of the reseller.
- (5) The parties are obligated to secure their communication facilities according to the standards of the IT industry against unauthorised access by third parties, against unauthorised sending of messages or against a comparable abuse of their communication facilities, as well as against the loss of input and output data after message sending and/or message retrieval.
- (6) KOMSA and/or Unify assume no liability for contents that are entered and/or uploaded by the reseller into Internet-based tools and platforms of KOMSA and/or Unify. The reseller indemnifies KOMSA and/or Unify on first demand against all claims by third parties that third parties assert against KOMSA and/or Unify because of contents that the reseller or his employees have entered into Internet-based tools and platforms of KOMSA and/or Unify.

### VII. Distribution of software

- (6) Insofar as software is part of the contract products, the reseller is entitled in the context of these additional conditions, to grant to end customers the non-exclusive, non-transferable and non-sublicensable right to use copies of the software products (hereinafter called "contract software") in the context of the licence conditions that are applicable for the respective contract software and of the provisions of these additional conditions, for the exclusive use in their business operations.
- (7) The reseller is not entitled to use the software himself.
- (8) The reseller will distribute contract software („Unify software“), which has been developed by KOMSA and/or Unify themselves or has been acquired by them, only for the use by those end customers, who have agreed to the "Supplementary licence conditions for the use of Unify software by end users", which as **Annex** are part of these additional conditions, before the receipt of the contract software.
- (9) The reseller will distribute contract software which is no Unify software ("Software of third parties") only to those end customers, who have agreed to the licence conditions applicable in this respect before the receipt of software of third parties.
- (10) KOMSA and/or Unify deliver to the reseller the contract software, which he is allowed to distribute, only in machine-readable form (object code). A claim for the handover of the source code is excluded.
- (11) The reseller is not entitled to decompile the contract software, to reverse engineer it, to remove parts of it or to implement other measures in order to obtain the source code of the contract software, insofar as this is not permitted by § 69d sect. 2 and 3 and § 69e UrhG (German Copyright Act). Moreover, the reseller is not entitled to remove trademarks emblems, copyright notices and other labels with which the contract software or the data carriers are provided, or to duplicate the contract software.

- (12) Insofar as KOMSA and/or Unify hand over to the reseller in the context of this contract activation codes or licence keys, the reseller hands over them to the respective end customers only together with the corresponding copies of the contract software.
- (13) The reseller keeps significant records and a document archive, which allow to KOMSA and/or Unify to verify the observance of these conditions by the reseller, in particular for the granting of licences for contract software and the transmission of activation codes and licence keys. During the duration of the contract and up to five years thereafter, KOMSA and/or Unify are entitled to consult documents, data and files that concern the utilisation and licensing of the contract software, and to copy them for the purposes of keeping proof.
- (14) KOMSA and/or Unify does not assume any responsibility that software meets the requirements of the reseller or of the end customer, that software products in the selection made by the reseller are compatible with other products, that these software products will run without interruptions and errors, or that all software errors can be eliminated.
- (15) These provisions apply accordingly for updates, upgrades, error recoveries and newer versions of the contract software, which KOMSA and/or Unify make available to the reseller for the onward sale, e.g. in order to remedy defects or as part of service features.

### VIII. Delivery conditions / delay

- (1) The observance of delivery times requires the receipt in due time of all documents, required approvals and clearances to be delivered by the reseller at KOMSA and/or Unify, as well as the observance of the agreed conditions of payment and other obligations by the reseller. If these preconditions are not fulfilled in due time, then the delivery times will be extended by a reasonable period. This does not apply, if KOMSA is responsible for the delay.
- (2) If the non-observance of delivery times is due to force majeure, e.g. mobilisation, war, riots, or similar events, e.g. strike, lockout, the delivery times will be extended accordingly.
- (3) If KOMSA is responsible for a delay in delivery, the reseller – provided that he can demonstrate that he has suffered damage – can demand a compensation for each complete week of delay of 0.5 % in each case, but a maximum total of 5 % off price for this part of the deliveries, which could not be put into service in accordance with its intended purpose because of the delay. Claims for damages of the reseller because of delay and instead of performance, which go beyond the limits mentioned in the previous sentence, are excluded also after expiry of a set period of grace for delivery. This does not apply in cases of wilful intent, of gross negligence or in case of injury to life, body or health.
- (4) The reseller can only withdraw from a contract in the context of the legal regulations, insofar as KOMSA is responsible for the delay. The reseller declares upon demand by KOMSA within a reasonable period of time, whether he withdraws from the individual contract because of the delay, or whether he continues to insist on a complete or partial fulfilment.
- (5) The above provisions are not linked with a change of the burden of proof to the disadvantage of the customer.

### IX. Passing of risk

- (1) Except for software, which KOMSA and/or Unify provide by means of electronic communications media, the risks passes to the reseller, if the dispatch or the delivery is delayed due to reasons for which the reseller is responsible, or if the reseller is in default of acceptance for other reasons.
- (2) In case of transfer of software by means of electronic communications media, e.g. by download or dispatch via e-mail, the risk passes, as soon as the software leaves the sphere of influence of KOMSA and/or Unify (e.g. the server during download).

### X. Material defects / Warranty

- (1) It is at the sole discretion of KOMSA, to improve all goods or services free of charge, which within the limitation period have a defect that was already present at the time of the passing of risk, or to deliver or to render them again. Software is deemed free from material defects, if it meets all essential aspects of the agreed specifications on the passing of risk. If the supplementary performance fails, the reseller can withdraw from the individual contract or reduce the compensation.
- (2) Material defect claims become time-barred after expiry of a period of twelve months. The period starts with the delivery of the goods according to the respective individual contract by KOMSA to the reseller, but no later than two months after passing of risk. This does not apply, insofar as the law according to §§ 438 (1) no. 2 (buildings and objects intended for the use for buildings), 479 (1) (right of recourse) and 634a (1) no. 2 (building defects) BGB prescribes longer deadlines, in case of injury to life, body or health, in case of an intentional or grossly negligent breach of obligations by KOMSA and in case of fraudulent concealment of a defect. The legal regulations for a suspension of expiry or a restart of the deadlines remain unaffected.

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- (3) Notices of defects must be made in writing. The reseller makes available to KOMSA and/or Unify all documents and information required for the elimination of software errors. Software errors must be reproducible.
  - (4) In the case of unjustified notices of defects, the reseller must reimburse KOMSA all expenses arising by this.
  - (5) Claims for defects are excluded in case of insignificant deviation from the agreed quality, in case of only a minor impairment of the usability, in cases of natural wear or in case of damage which occurs after the passing of risk due to incorrect or careless treatment, excessive stress, unsuitable operating equipment or as a consequence of particular circumstances, which deviate from the normal operating conditions, as well as for not reproducible software errors. The same applies, if the software is not used with taking account the currently applicable installation requirements or is not used according to the currently applicable operating conditions. If modifications or repair work is carried out improperly by the reseller or by third parties, then no claims for defects are possible as well for these and the for the resulting consequences.
  - (6) Claims of the reseller for the expenses required for the purpose of the supplementary performance, in particular transport costs, road costs, work and material costs, are excluded, insofar as the expenses increase, because the defective goods have been brought to another place of delivery than the one agreed in the respective individual contract, unless, the change of the place of delivery is in line with the intended use of the goods.
  - (7) Claims for damages and for the reimbursement of expenses due to a material defect are excluded. This does not apply in the case of fraudulent concealment of the defect on the part of KOMSA, in the event of non-compliance of a guarantee of quality, in case of injury to life, body or health and in case of intentional or grossly negligent breaches of obligations. Any further or other claims of the reseller due to a material defect than those regulated in these additional conditions, regardless of the legal reason, are excluded. The above provisions are not linked with a change of the burden of proof to the disadvantage of the customer.
- (2) If the recipient transfers goods delivered by KOMSA and/or Unify (hardware and/or software and/or technology, as well as associated documentation, regardless in which way they are made available) or work performances and services rendered by KOMSA and/or Unify (including technical support of any kind) to a third party, he must comply with all applicable national and international (re-) export control laws. In any case, he must observe the (re-) export control laws of the Federal Republic of Germany, of the European Union and of the United States of America at the transmission of such goods, work performances and services an third parties.
  - (3) Before the transmission of the goods delivered by KOMSA and/or Unify delivered and/or the transmission of work performances and services rendered by KOMSA and/or Unify to a third party, the recipient will in particular verify and ensure by suitable measures ensure, that
    - a) he does not violate an embargo of the European Union, of the United States of America and/or the United Nations – also considering possible restrictions for domestic transactions and possible circumvention prohibitions – by such a transmission to third parties, by the brokerage of contracts on these goods and/or these work performances and services or by the provision of other economic resources in connection with these goods and/or these work performances and services;
    - b) these goods and/or these work performances and services are not intended for a prohibited use and/or a use in connection with armaments, nuclear technology or weapons, unless possibly required approvals are provided;
    - c) the provisions of all applicable sanctions lists of the European Union and of the United States of America for the course of business with the companies, persons or organisations indicated therein are complied with.
  - (4) Provided that this is necessary in order to enable authorities or KOMSA and/or Unify to do export control checks, on request, the reseller instantly makes available to KOMSA and/or Unify all information about the final recipient, the place of destination and the intended purpose of the goods delivered by KOMSA and/or Unify and/or the work performances and services rendered by KOMSA and/or Unify, as well as export control restrictions concerning this matter.
  - (5) The reseller will indemnify and hold harmless KOMSA and/or Unify without limitation from all claims, which are asserted against KOMSA and/or Unify because of the non-compliance of the above-mentioned export control-related obligations by the reseller, and commits himself to compensate all damages and expenses incurred to KOMSA and/or Unify in this connection.

### XI. Industrial property rights and copyrights, defects of title

- (1) Unless otherwise agreed, KOMSA has to deliver contract products that are free from industrial property rights and copyrights of third parties only at the place of destination. If a third party has claims against the reseller due to the violation of industrial property rights by contract products, which KOMSA has delivered and which have been used according to contract, KOMSA is liable towards the reseller within the period of time given above in clause X.2. as follows:
  - (a) KOMSA can acquire at its choice at its own expense right of use for the concerned contract products, or modify them in a way that they do not infringe the property right anymore, or can exchange them. If this is not possible for KOMSA under reasonable conditions, the reseller is entitled to the statutory rights of cancellation or price reduction.
  - (b) The above-mentioned obligations of KOMSA only exist, insofar as the reseller (i) instantly notifies KOMSA in writing about the claims asserted by a third party, (ii) does not acknowledge an infringement and (iii) leaves all defence measures and settlement negotiations to KOMSA and/or Unify. If the reseller stops the use of the contract products for reasons of a mitigation of damages or other important reasons, he is obligated to draw the attention of the third party to the fact that the cessation of use does not constitute an acknowledgement of infringement of a property right.
- (2) Claims of the reseller are excluded, insofar as he or the end customer is responsible for the infringement of a property right. Furthermore, claims of the reseller are excluded, insofar as the infringement of a property right is caused by special requirements of the reseller, by a use that was not foreseeable by KOMSA and/or Unify, or due to the fact that the contract products are used by the reseller in a modified way or together with products that have not been delivered by KOMSA.
- (3) In case of other defects of title the provisions of clause X. apply accordingly.
- (4) Claims for damages of the reseller due to infringements of a property right or other defects of title are excluded. This does not apply in the case of fraudulent concealment of the defect on the part of KOMSA, in the event of non-compliance of a guarantee of quality, in case of injury to life, body or health and in case of an intentional or grossly negligent breach of obligations. Any further claims of the reseller, or other ones than those regulated in clause XI. are excluded, regardless of the legal reason. The above provisions are not linked with a change of the burden of proof to the disadvantage of the reseller.

### XII. Reservation of self-supply / export control regulations

- (1) If the ordered goods are not available, because KOMSA had not been supplied by its sub-supplier and KOMSA's stocks of the concerned goods are exhausted, KOMSA is entitled to supply goods that are equivalent in quality and price. If the supply of goods that are at least equal in quality and price is not possible, KOMSA can withdraw from the order and does not have to carry out the delivery. KOMSA commits itself for this case, to inform the reseller instantly about the non-availability and to reimburse to the reseller a possibly already made payment.

### XIII. Obligation of secrecy

The reseller uses all documents, information and data, which he receives by KOMSA and/or Unify in connection with the contract products, only for this purpose for which he has received them. Apart from that, he will treat these documents, information and data as confidential, insofar as they have not become generally known or KOMSA and/or Unify have agreed to their disclosure or the documents have not been demonstrably drawn up independently or otherwise rightfully obtained. That also applies to the time after the termination of the contract.

### XIV. Duration and termination

- (1) KOMSA reserves the right to modify these additional conditions at any time.
- (2) Modifications of configuration and support services, which can be made at any time, as well as changes in price, are generally notified to the reseller at least 4 weeks before they enter into force.
- (3) Each party is entitled to terminate the concluded contracts in the event of an important reason without observing a notice period. An important reason exists for example, if:
  - (a) a case of force majeure is given or there are other circumstances beyond the control of a party, which prevent a party for a period of more than six (6) months from fulfilling this contract;
  - (b) one or several third parties acquire the sole or joint control over the reseller, or a sole or joint participation of more than 25 % in the reseller;
  - (c) the opening of composition or insolvency proceedings against a party is applied;
  - (d) significant changes in the legal status or in the ownership structure or personnel changes in the management of the reseller are done in a manner that for KOMSA a further adherence to this contract is no longer reasonable;
  - (e) der reseller gets considerably in arrears with his payment obligations or otherwise violates essential obligations of these additional conditions, so that for KOMSA a further adherence to this contract is no longer reasonable;
  - (f) the reseller loses his authorisation and does not prove it again despite a request;
  - (g) KOMSA loses its authorisation and therefore cannot render agreed service features;
  - (h) the reseller violates essential contractual obligations of these additional conditions.

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### XV. Miscellaneous

- (1) General Terms and Conditions of the reseller, which KOMSA has not expressly consented and which are in contradiction to the present additional conditions or deviate from them, do not apply. This also applies if KOMSA does not expressly object to them, or if KOMSA carries out without reservation a delivery to the reseller or to his customers with knowledge of these conditions.
- (2) KOMSA can transfer the rights and obligations from this contract to a third party.
- (3) The contracts concluded on the basis of these additional conditions are subject to German substantive law without regard of the international private law. All disputes are adjudicated on the basis of this law. § 89b HGB (German Commercial Code) does not apply here and is hereby expressly excluded, insofar as the contract refers to the distribution and the marketing of the contract products to customers outside the EU member states and the European Economic Area (EEA). The application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) is expressly excluded. In the light of the council regulation (EU) no. 330/2010 of the European Commission of 20 April 2010 concerning the application of Article 101 (3) of the Treaty on the functioning of the European Union, this agreement has to be interpreted for groups of vertical agreements and concerted practices in its current version, as well as future modifications thereto.

### Annex

#### Supplementary licence conditions for the use of Unify software by end users (As of May 1, 2014)

##### 1 Surrender of software

- 1.1 Software is handed over for use to the customer for an unlimited period of time against a one-time payment or for a limited period of time against a continuous payment (licence). The customer receives this licence on the basis of the following provisions exclusively in the context of a contract to be concluded separately (e.g. a software licensing contract) with Unify or with an authorised dealer of Unify.
- 1.2 The intellectual property rights of the software belong exclusively to Unify and its suppliers. The software is protected by copyright laws and by international copyright treaties, as well as by other laws and agreements concerning intellectual property. The use of the software is only permitted in the context of these contractual provisions.
- 1.3 Individual software products, in particular third-party software or open source software, can be subject to separate licence conditions of the respective manufacturer, which are referred to in the context of the installation process or in the supporting documentation. The customer commits himself not to install the software until he has agreed to these licence conditions, which have priority over the following regulations. If the customer refuses them, then he shall refrain from installing and using the concerned software product. For this case, the customer is entitled, with the exclusion of all further claims, to withdraw from contract with regard to the concerned software product. Then the software, as well as the handed-over documentations must be returned to the contractual partner (see above item 1.1).
- 1.4 Software is delivered exclusively in machine-readable form. A claim for the handover of the source code is excluded. However, insofar as the licence conditions for open source software provide for a handover of the source code, Unify will make it available at the customer's request against an appropriate reimbursement of expenses.
- 1.5 Unify can terminate in writing the granting of rights of use (licence) on the whole or with regard to a particular software product, if the customer violates essential obligations from this document, in particular against the licence conditions below, and if he has not eliminated this violation within 30 days after a written warning by Unify.

##### 2 Definitions

- 2.1 Software comprises all the contents of the files, as well as data carriers, which are delivered with this contract. This includes, amongst other things, also computer programs by Unify or by third parties in object code and corresponding written explanatory material (documentation).
- 2.2 The term "software" comprises also includes all updates, upgrades, modified versions, additions as well as copies of the software of the customer licenced by Unify.
- 2.3 Software products are the software programs described in object code described in the contract.
- 2.4 An update is the actualisation of an existing version with focus on error correction and minor functional additions, where required (e.g. additional driver).
- 2.5 An upgrade is a new version / functional extension with error correction for old versions where required, whose licensing requires a valid licence of a defined preceding version.

- 2.6 Client-Access-Licence or CAL designates a licence for the access to a server, as described below in clause 3.4.
- 2.7 In a network inside the company of the customer, a client accesses to a server. Depending on the nature of the functionalities, which the server software provides, clients can be for example users, agents, devices, identities or communications channels etc. in this connection. Type and number of the authorised clients are defined in the contract.
- 2.8 Server software is, in contrast to single-user software, a program, which is installed on a server computer (host) and accesses to the clients, in order to make use of the functionalities of the software.
- 2.9 Firmware refers to single-user software, which is embedded into microcontrollers of different electronic devices (e.g. also telephone end devices).
- 2.10 A network licence entitles the customer to use the software within his own network as described below under clauses 3.3 and/or 3.5.

##### 3 Rights of use of the customer

- 3.1 The customer has the non-exclusive right to use the software provided to him according to contract for own purposes. For this purpose, he is allowed in case of server software to install a copy of the respective software product to a single server, provided that, when using multi-processor servers, the maximum permissible number of processors per server is not exceeded for the respective software product.
- 3.2 In case of data carriers, which contain several software products, the customer will only use this software that is licenced to him according to the contract. The unbundling or repackaging of the software for distribution or onward sale is not allowed.
- 3.3 If a licence for server software as network licence is agreed in the contract, the customer is entitled by way of derogation from clause 3.1, to install the software to any number of servers within his own network. The number of the servers, on which the software may be used simultaneously, results from the number of the agreed licences, provided that nothing to the contrary is agreed to in the individual case.
- 3.4 For each client, which accesses to a server, one must acquire a Client Access License for the relevant server software, depending on the respective software product.
- 3.5 If CAL are agreed as network licence, by way of derogation from clause 3.4, the number of the clients that access simultaneously to the server software, must not exceed the number of CALs that is agreed in the network licence.
- 3.6 For single-user software, the customer may install one copy of the respective software product per licence to a single computer. In addition, he may install a copy of the respective software to a fileserver within his internal network, for being able to download the software onto other computers of his internal network up to the agreed number and to install it onto them, provided that the single-user software allows such an installation routine. Any other use of the single-user software in a network is not permitted.
- 3.7 The customer may neither decompile nor disassemble the software, may not extract any program parts, may not reverse engineer or otherwise attempt to derive the source code; except to the extent, in which the customer is allowed, according to mandatory law, to reverse engineer or to decompile the software, because he has to decompile it, in order to reach its full operativeness or interoperability with other computer programmes.
- 3.8 The customer will ensure for an unlimited period that the software including the reproductions and documentations is not disclosed to third parties, even in edited, expanded or changed versions, without the prior written consent by Unify.
- 3.9 Without the prior written consent by Unify, the customer must not neither the software itself nor the rights to the software rent, lend, sublicense, assign or make it accessible to third parties, nor copy the software or allow to copy the software neither in parts nor as a whole, except in the cases that are expressly permitted here or by law. There is no claim for the granting of the consent. If the software has been provided to the customer permanently for use, then the onward sale of the software and the transfer of the rights of its use is only permissible to the extent, in which they had originally been granted to the customer. In any case of a permissible transmission, the customer makes sure, that
  - › he imposes to the third party the observance of these supplementary licence conditions and the serial number(s), the software and other software or hardware, which is delivered, packed or pre-installed on it, including all copies, updates and former versions, are transmitted to this natural or legal person,
  - › he does not retain any copies, including backup copies and other copies, which are stored on a computer.
 Upon transmission, all rights of use of the software that have been previously granted to the customer expire.
- 3.10 The customer is allowed to backup data according to the rules of technology, and for this purpose he is allowed to create a backup copy of each licenced software product.
- 3.11 He will not remove alphanumeric identifiers, trademarks and copyright notices. In the event of a permitted reproduction, the customer shall reproduce them without change, provide all copies with a consecutive

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- number, from which the software serial numbers can also be seen, and maintain records concerning the location of all copies, which Unify can see upon request. Mandatory copyright provisions remain unaffected.
- 3.12 Provided that the software requires activation, the customer will activate the software within 30 days after its initial installation; only then the installation is completed. For this purpose, the customer has to enter the required information in the way as this is described in the installation sequence of the software. After modifications of the hardware it can be necessary to activate the software again.
- 3.13 If the activation is not carried out within 30 days after the initial installation, the software can be blocked for further use after the expiration of that period. However, the customer has the possibility to unblock the software again by entering a valid activation code, which can be requested at any time at Unify against proof of entitlement.
- 3.14 For standard software Unify makes available software descriptions, e.g. for performance characteristics, special functions, hardware and software requirements, installation requirements, operating conditions and operation (hereinafter: user documentation). These can also be made available electronically, e.g. by promulgation on the Internet.
- 3.15 Each supplementary program code (e.g. patch), which is made available to the customer in the context of a service feature or a supplementary performance, is considered as an integral part of the respectively provided software and is governed by the conditions of this contract, provided that nothing to the contrary has been agreed to in the individual case.
- 3.16 Upon delivery and Installation of upgrade or migration versions of a software, the rights of use on the replaced versions expire. Existing copies must either be deleted by the customer with verification, or be returned to Unify.
- 3.17 For firmware, the regulations of this clause 3 apply mutatis mutandis; however, firmware may only be used and/or passed to third parties together with the respectively supplied corresponding hardware.

#### 4 Warranty / Liability of Unify

- 4.1 Unify does not warrant that the software products work together in the made selection, that they will run without interruptions and errors, or that all software errors can be eliminated.

- 4.2 The customer is entitled to warranty claims and also to other liability claims and/or claims for reimbursement of expenses towards Unify only to the extent as they are agreed in a software licensing contracts that has been directly agreed between the customer and Unify. Other claims towards Unify are excluded, regardless of the legal reason, provided that liability is not mandatory, e.g. according to the German Product Liability Act.
- 4.3 Otherwise, exclusively the warranty and liability conditions agreed in the framework of the (software licensing) contract (see above item 1.1) between the parties agreed.

#### 5 Legally ineffective provisions

Should individual provisions be legally ineffective or be impracticable for legal reasons, the validity of these licence provisions is not effected by this. In such a case, the parties will make an agreement, which replaces the provision in question by another effective one which is economically equivalent as far as possible.

#### 6 Export licences, applicable law, place of jurisdiction

- 6.1 The fulfilment of the contract on the part of Unify is subject to the condition that there are not obstacles for the fulfilment due to national or international regulations of the foreign trade legislation as well as no embargos and other sanctions.
- 6.2 Side agreements require the written form.
- 6.3 If not otherwise agreed, German substantive law applies, under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). The place of jurisdiction is Munich.

As of: 12/2014