

GENERAL TERMS AND CONDITIONS FOR SUPPLIES, SERVICES AND LICENSES (GTC).

1. **Scope.** These Conditions (“**GTC**”) shall apply to all supplies, services and licenses of any kind provided by relayr GmbH (“**relayr**”) to its customers (“**Customer(s)**”). If relayr and the Customer have entered into a contract of sale or a service, license or other Contract (hereafter collectively referred to as “**Contract**”), these Conditions shall apply except if and to the extent that the Contract provides otherwise.

Relayr does not provide supplies or services to Consumers.

2. **Definitions.** As used herein:
“**Deliverables**” – designates the goods, rights, licenses, or tangible or intangible works which are the subject matter of the Contract.
“**Consumers**” – designates natural persons who are not entering into the Contract for a purpose within the scope of their trade, business or independent profession.
“**EEA**” – The European Economic Area.
3. **No Other Terms and Conditions.** relayr does not accept any terms and conditions which deviate from these GTC, except if such terms and conditions have been expressly accepted by relayr.
4. Any **quotations** which relayr may provide shall not be binding on relayr.
5. The Customer shall refrain from using for any purpose unrelated to the Contract, copying and making available to third parties any **technical specifications**, drawings, quotations and calculations which the Customer may receive from relayr, in particular in connection with the negotiation or the performance of the Contract. relayr reserves the copyright and other rights in such materials. In the event that the Customer violates the foregoing obligation, relayr shall be entitled to request immediate release and delivery of such materials.
6. If Customer **requests a Change** to the scope agreed in the Contract, relayr will reasonably attempt to accommodate this request provided that the Customer will bear all extra cost and effort caused by the change. Any change to the scope requires mutual Contract. Neither § 650b par. 2 of the German Civil Code (Customer Right to Enact Changes) nor § 648a par. 2 of the German Civil Code (Termination of Parts of Contract) shall apply.
7. **Terms of Delivery.** All Deliverables shall be delivered ex works, Incoterms 2010. Delivery will be made from Pullach, Germany unless otherwise stated in the Contract or notified to Customer by relayr.
8. Time shall not be regarded to be of the essence except if expressly agreed. No delivery date shall be binding on relayr unless it has been expressly confirmed as “binding”.
9. relayr reserves the right to make **partial deliveries**.
10. **Property Rights.** The Customer’s right to use any Deliverables supplied by relayr which are protected by intellectual property rights, in particular computer software Deliverables and documentation (“**Software**”), shall be strictly limited to internal business purposes and otherwise as provided in the Contract and in these GTC. All other

rights are reserved. The source code of the Software will not be delivered unless expressly agreed.

The Customer shall refrain from (a) reverse engineering the Software or reducing it in any other ways to a form perceptible to humans; or (b) modifying, adapting or translating the Software, or creating derivative works of the Software, except in each case to the extent expressly permitted in the Contract or by mandatory law. The same shall apply to any publication of any benchmark tests with the Software without relayr's prior written consent. Any copies of the Software shall contain all of the copyright notices shown on the original.

Neither the Customer's right to copy and modify the Software to the extent expressly permitted by applicable mandatory legislation regarding back up or the elimination of errors nor the Customer's rights under applicable mandatory legislation regarding reverse engineering shall be deemed restricted hereby.

The Customer shall refrain from selling the Software or generally **making the Software available to any third party**, whether by delivering a data medium, over a network, or in any other form, whether or not for compensation, except with relayr's prior written consent. Unless relayr has reasonable cause to withhold the consent, it shall be granted if the third party acquirer assumes all obligations regarding the Software under the Contract and these GTC and the Customer destroys all copies of the Software in its possession. Lending the Software for other than commercial purposes shall not require relayr's consent to the extent that the recipient submits to the terms of this Section and the lending does not constitute simultaneous use of more than one copy of the Software.

If the Contract expressly provides that copies of the Software may be made available to a third party ("**End User**") or that the Customer may allow End Users to access the Software, this right shall only apply to the extent that (a) such End User has executed a valid license contract with the Customer that is (i) not less protective of relayr's Property Rights in the Software and (ii) not less restrictive on the End User's right of use of the Software than the provisions set forth in the preceding pars. of this Section; (b) the Customer implements appropriate procedures to supervise and enforce End User compliance with such restrictions; and (c) Customer complies with export control restrictions under Sec. 25 below when allowing End Users to access the Software. Customer also agrees to (a) indemnify relayr for any damage or loss suffered in connection with (i) the infringement of relayr's Property Rights in such Software by an End User or (ii) any other act or omission by an End User which, if conducted by Customer would be considered a breach of contract, and (b) hold relayr harmless from any Third Party Claim asserted by End Users in connection with the use of, or access to, the Software in accordance with Sec. 23.

11. **New Materials.** All right and title worldwide, including any right of use or exploitation, in or to any Deliverables or other works or results discovered, developed or created by relayr or relayr's agents in connection with the Contract shall exclusively be owned by relayr. Where such development is part of relayr's services to the Customer, Customer shall receive a simple non-exclusive license in such works or results in accordance with the Contract and/or these GTC.

relayr may use and exploit all improvements, alterations or amendments made by the Customer to the Deliverables. Customer grants to relayr a non-exclusive, perpetual, worldwide, unlimited, royalty-free, sublicensable license to use and exploit such improvements, alterations or amendments for all methods and purposes.

12. **Confidentiality.** The parties mutually agree to keep all confidential technical and commercial information received from the respective other party strictly confidential

and to refrain from using any such confidential information except as strictly required to perform the Contract for as long as the information is and remains reasonably confidential. Only information which the recipient can show was already published or known to it at the time of disclosure or that was published later without the fault of the recipient shall be exempted from this clause. Confidential Information may not be disclosed to third parties except for a disclosure to offices, employees or contractors of the recipient or its corporate affiliates (collectively "Personnel") if and to the extent that such Personnel are bound by secrecy obligations and require knowledge of the information to perform the Contract. The parties guarantee that their Personnel are bound by, and shall comply with, a secrecy obligation corresponding to or exceeding the standard set by this clause, which secrecy obligation shall remain in force even after the end of the relationship between the party concerned and its Personnel. The recipient shall notify the owner of any confidential information in the event that it becomes aware that information which the respective other party regards as confidential has become publicly known, or if notes or media containing such confidential information are lost, or if it deems itself legally obligated to provide confidential information to any third party, including courts of law or government entities. This confidentiality clause shall remain in force even after termination of the Contract for as long as the information is and remains reasonably confidential.

13. **Acceptance.** Any Deliverables delivered and installed by relayr which require acceptance under the Contract or statutory law, shall be accepted by the Customer within two weeks from installation unless a longer or shorter acceptance period has been agreed.

The Customer shall confirm the acceptance in writing if the Deliverable materially conforms to specifications and is free of material non-conformities.

Prior to delivery of the acceptance certificate to relayr, the Customer shall refrain from using the Deliverable. In the event that the Customer uses the Deliverable prior to delivery of the acceptance certificate to relayr, such use shall be regarded as acceptance.

After expiry of the applicable acceptance period, Customer shall proactively either confirm acceptance or notify relayr of any non-conformities within one week (notification period) unless relayr has expressly set a longer or shorter reasonable notification period. Upon expiry of the notification period, Deliverables shall be regarded as accepted unless, prior to such expiry, the Customer has expressly refused acceptance stating all non-conformities which it alleges and at least one alleged material non-conformity is actually present.

If the Customer refuses to accept the Deliverable, relayr may revoke any license granted to use the Deliverable and require the Customer to refrain from any use of the Deliverable, pending acceptance of the Deliverable.

relayr is entitled to submit individual self-contained components or phases of Deliverables for separate, independent acceptance (acceptance in part). The complete Deliverable will then be deemed accepted after the last acceptance in part has taken place. In that case, no additional final acceptance for the complete Deliverable is required.

14. **Amendments of these GTC or Recurrent Fees** may be made by relayr unilaterally with proactive effect during the life of a Contract as follows:
 1. relayr shall be entitled to amend these GTC or any recurrent fees by unilateral notice with proactive effect, observing three months notice with effect to the end of an agreed minimum contract term or any other date on which relayr could alternatively terminate the Contract in accordance with its terms.

In such case the Customer shall have the right to withdraw from the Contract by unilateral notice, observing one month notice with effect to the effective date of the proposed amendment. Where Customer does not exercise this right, the amendment shall become effective.

The amendment shall apply to future supplies and services under Contracts providing for continuous or recurrent performance such as Support Contracts or limited term licenses only, pre-existing perpetual licenses shall not be affected by such amendment.

2. Notwithstanding Sec. 1, relayr shall also have the right to modify any recurrent fees agreed for the provision of Application Services or other recurrent or ongoing services upon three months' notice with effect to the end of any calendar month, if and to the extent that the cost of relayr's staff in charge of providing such services and/or the costs of materials and services reflected in such fee increase. Such modification is only admissible once per calendar year. If the increase should be higher than 10% within one calendar year, the Customer shall be entitled to give notice of termination of the Contract providing for such recurrent fee, irrespective of any minimum term which may have been agreed, observing one month notice with effect to the effective date of the proposed amendment. Where Customer does not exercise this right, the amendment shall become effective.
15. **Terms of Payment.** All invoices shall be paid upon receipt without any deduction, unless otherwise agreed. Customer will be deemed in default with a payment at the latest after expiry of two weeks from (i) the due date and (ii) receipt of relayr's invoice. Value Added Tax shall not be deemed included in the prices quoted by relayr, and, if applicable, it will be shown separately in the invoice at the rate prevailing on the date of the invoice.
16. **Reports and Audits.** To the extent that obligations of the Customer to relayr depend on circumstances internal to Customer's business such as transactions with End Users, Customer shall (a) keep, maintain and preserve accurate records relating to Customer's obligations under the Contract and (b) regularly account to relayr for fees which relayr cannot independently calculate. Unless different accounting periods have been agreed, Customer shall account for each calendar month before the 15th of the following month. All such records shall be maintained as confidential, but relayr shall be entitled to request at any time that an independent auditor, obligated not to disclose the identity of Customer's End Users or other Confidential Information not relevant to the audit to relayr, examine Customer's relevant records for the purpose of verifying Customer's compliance with its obligations under the Contract. relayr shall pay the fees and expenses of the auditor for the examination, unless such examination should disclose a breach of contract by Customer or a shortfall in payments to relayr greater than five percent (5%) for the period being audited, in which case Customer shall pay the reasonable fees and expenses of the auditor for that examination.
17. **Price List.** Supplies and services not covered by the Contract shall be billed based on the price list prevailing at the time of receipt of the order.
18. The Customer shall not be entitled to **set off** any of its claims against claims of relayr, except where the Customer's claims are undisputed or have been confirmed by a final court judgment. The foregoing shall also apply to any **right of retention** under civil or commercial law. A right of retention may, in any even, only be exercised with respect to counterclaims arising from the same Contract. The foregoing exclusions shall not apply where claim and counterclaim are legally connected in such way that each obligation must only be fulfilled in consideration of fulfillment of the other.

19. **Limited Remedies for Non-Conformities (Warranty).** Where Customer has acquired the Deliverable from a reseller, remedies for defects of the Deliverable shall exclusively be asserted vis-à-vis such reseller in accordance with the terms of the Contract between Customer and reseller. In all other cases, the following shall apply:

In the event of any defect of a Deliverable, including any deviation from agreed specifications and/or any violation of rights of third parties (collectively "**Non-Conformities**") the Customer may exercise its statutory remedies for repair or replacement of the Deliverable, and, only where that fails or in other exceptional cases as provided for in statutory law, withdraw from the Contract or demand a reduction in the agreed price ("**Warranty Claims**"). Such Warranty Claims shall be limited as set forth hereinafter:

1. Any Warranty Claims shall be excluded unless the Non-Conformity in question substantially limits the suitability of the Deliverable for the agreed purpose.
2. The Customer shall inspect any Deliverables and notify relayr of any defects or deviations thereof immediately after delivery. In the absence of such immediate notice, the Customer shall be deemed to have consented to any deviations of the Deliverables that could have been detected, in particular, without limitation, (a) defects, or (b) delivery of (i) a quantity or (ii) a product other than agreed. The notice shall in particular not be deemed immediate if it is received more than 14 days after delivery.
3. relayr reserves the right to decide whether to repair or to replace any Deliverable which should prove to be defective. If relayr fails to exercise such right within a reasonable time limit set by Customer, such right shall pass to Customer. relayr reserves – also in work contracts – at least two attempts at such repair or replacement, except where this should unduly prejudice Customer in individual cases. Where relayr replaces a defective Deliverable, the Customer shall return the defective Deliverable to relayr and compensate prior use of such Deliverable.
4. Furthermore any Warranty Claims shall be excluded to the extent that the Customer (a) uses the Deliverable for any purpose other than the contractual purpose or in violation of the relevant statutory requirements and/or any guidelines issued by the manufacturer; or (b) either (i) modifies the Deliverable or (ii) uses of the Deliverable in connection with any hardware or software not approved by the manufacturer of the Deliverable for such purpose, unless, in each case, the Customer has obtained relayr's prior written consent, and except, in each case, where the foregoing circumstances did not cause the Non-Conformity.
5. Furthermore any Warranty Claims for violation of third-party rights shall be excluded unless such third-party rights are valid within the country into which the Deliverable is delivered, the EEA or Switzerland and the Customer enables relayr to conduct the defense alone without any restriction and grants to relayr the necessary powers.
6. The Deliverables are not intended to be distributed to Consumers as defined in statutory law.
7. Where Deliverables are sold or distributed to third parties, relayr shall be liable for third party claims against the Customer and/or Customer's cost or efforts for providing warranty services to its own customers in the event of a non-conformity only if and to the extent that relayr cannot establish that such non-conformity was not due to negligence imputable to relayr and only within the limits of Sec. 21. The foregoing shall not limit relayr's obligation to repair or replace the Deliverable in accordance with the warranty provisions. All of the foregoing

claims shall be subject to the limitation periods agreed in Sec. 22. More extensive claims under §§ 439, 445a/b, 478 or 635 of the German Civil Code are disclaimed.

20. relayr shall not be deemed to have **guaranteed** certain properties of the Deliverables except if it has expressly confirmed such guarantee. The manufacturer's warranty issued with any Deliverable shall not be deemed a guarantee of certain properties unless it expressly states otherwise.
21. **Liability.** relayr shall be liable in damages, whether based on contract or any other legal theory, only to the extent that the damage was caused by gross negligence or willful misconduct imputable to relayr. In the event of death of a natural person or personal injury to the latter, relayr shall be liable also for slight negligence in accordance with statutory law. In addition, relayr shall also be liable in accordance with statutory law for a slightly negligent violation of a fundamental duty under the Contract, but such liability shall be limited to such damage as relayr could have reasonably foreseen at the time of signing of the Contract.

Fundamental duties as used herein comprises all duties which must be fulfilled by relayr in order to enable consummation of the Contract and the achievement of its purposes and fulfillment of which the Customer may reasonably expect in view of the content and purposes of the Contract such as the duty to consummate the Contract in a timely manner and a manner which does not endanger the life or health or personal property of Customer and its personnel.

relayr's liability shall cover neither damage caused by the loss of data to the extent such loss could have been avoided by reasonable regular back-up, nor damage caused by using any Deliverables which could have been prevented by examination of the work products of such Deliverable at regular intervals.

Limitations on relayr's liability agreed in the Contract or these GTC shall apply also to the personal liability of relayr's officers, employees or agents.

Where Deliverables are provided free of cost, e.g. demo software, relayr's liability shall be further limited, and relayr shall be liable for damages based on gross negligence or willful misconduct imputable to relayr and/or fraudulent concealment of defects only.

Any mandatory liability under the Product Liability Act and/or arising from a guarantee of properties shall remain unaffected.

This Sec. 21 shall not be construed to shift the statutory burden of proof in any way.

22. **Limitation Period.** Customer's remedies for Non-Conformities, including but not limited to the right to withdraw from the Contract, shall be subject to a limitation period of twelve months for newly manufactured Deliverables and six months for used Deliverables. The foregoing limitation period shall also apply to claims for indemnification or damages, in particular incidental or consequential damages, based on Non-Conformity.

However, all remedies based on:

- fraudulent concealment of defects or
- Deliverables designed to be incorporated into a building, so incorporated and having caused such building to be defective or
- gross negligence, willful misconduct or the death of a natural person or personal injury to the latter, caused by negligence or willful misconduct
- based on guarantees of properties and/or

the statutory recourse and the right to withdraw from the Contract based on a breach imputable to relayr other than a Non-Conformity shall be subject to the applicable statutory limitation periods.

The limitation periods shall begin on the date specified by the statute.

Where relayr repairs or replaces a Deliverable or attempts to do so, such repair or replacement shall not effect a renewal of the limitation period for the Customer's Warranty Claims with respect to the repaired Deliverable (including spare parts or units used for the repair) or a replacement product. Notwithstanding the repair or replacement, such Warranty Claims shall be subject to a limitation period equivalent to the remaining limitation period applicable to the original Deliverable, except that such limitation period shall not expire earlier than three months after the conclusion of the repair or replacement or relayr's refusal to undertake further attempts at such repair or replacement.

23. **Customer Obligations and Responsibilities; Indemnification for Third Party Claims.** The Customer shall provide, at its own cost and risk, to relayr any materials, infrastructure, Customer personnel, information and assistance reasonably required for relayr's supplies and services. Unless expressly otherwise agreed in the Contract, the Customer shall in particular be obligated to maintain any technical infrastructure required for use of relayr's services which relayr has not expressly undertaken to deliver and provide all business requirements, interface information, test data and test cases and to participate in acceptance tests and other tests.

The Customer shall hold relayr harmless, irrespective of Customer's negligence, from any claim asserted or alleged by an Authorized End User or other third party (including public authorities) whether or not such claim is substantiated, and any damages, liabilities, costs, fines, penalties and/or expenses payable in connection therewith (collectively „**Third Party Claim(s)**“), in connection with relayr's supplies and services under the Contract and in particular with any work product, information or data contributed, or instruction issued, by the Customer in connection with the Contract. If and to the extent that relayr has contributed to such a claim and is liable for such contribution under the terms of the Contract, the Customer shall be required to indemnify relayr only pro rata in accordance with the respective contributions to the claim and/or for any excess amount of the Third Party Claim exceeding relayr's liability vis-à-vis the Customer. relayr's entitlement to be indemnified shall not lapse before the Third-Party Claim has been settled or has itself expired.

24. **Retention of Title.** Until payment in full of the purchase price by the Customer, relayr shall retain title to the Deliverables (“**Reserved Deliverables**“). The Customer shall advise relayr without any delay of any attachments of any such Reserved Deliverables, in particular of any judicial execution measures or any other seizures, as well as of any damage suffered by such Reserved Deliverables. In the event that any Reserved Deliverable is shipped to or used in a country where this Retention of Title Clause is not fully valid and enforceable, the Customer shall provide relayr with equivalent security.
25. **Export.** The Customer agrees to refrain from exporting any Deliverables and technical information received from relayr, except in the event that all relevant export regulations in force in its country of residence as well as in the United States of America are observed, and the Customer shall impose this obligation also on its customers, without prejudice to the other provisions of the Contract or these GTC.
26. **Subcontractors.** relayr may make use of subcontractors to perform any of its obligations under the Contract or these GTC, provided that the use of any such subcontractors shall not limit or restrict relayr's obligations towards the Customer.

27. **No Assignment.** The Customer shall not be entitled to assign its rights under the Contract – except for claims for payment – to any third party without relayr’s prior written consent, which consent shall not be unreasonably withheld.
28. **Severability.** Should one or more of the provisions of the Contract or these GTC be or become invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected.
29. **Legal place of performance** for all obligations under the Contract shall be at Pullach, Germany, or at the relayr office or facility providing the respective supply or service as notified to the Customer by relayr.
30. **Governing Law.** The Contract and these GTC shall be subject to the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
31. **Jurisdiction.** All disputes arising under or in connection with Contract and/or these GTC shall be submitted exclusively to the courts of Pullach to the extent that the Customer is a commercial entity or a public law corporation, or a public law fund or trust. The Customer hereby submits expressly to the jurisdiction of the Pullach courts.

relayr shall in any event be entitled, at its discretion, alternatively to take legal action against the Customer in the courts having general personal jurisdiction over the Customer.

32. **Remedies.** If Customer should breach any of its obligations under Contract and/or these GTC, or if such a breach is likely to occur, relayr shall be entitled to seek equitable relief, including specific performance or an injunction, in addition to any other rights or remedies, including money damages, provided at law or in equity.
33. **Attorneys’ Fees.** The prevailing party in any legal action arising out of or relating to the Contract and/or these GTC shall be entitled to an award of its reasonable attorneys’ fees and costs, in addition to any award of damages or other relief, if any, awarded to the prevailing party.