

# General Terms and Conditions for the Delivery of Devices and Standard Software

## § 1 Subject Matter

1. These General Terms and Conditions (hereinafter referred to as "GTC") apply to the delivery of machines and devices, such as industrial robots, as well as component parts, such as cameras and sensors (hereinafter referred to uniformly as "Devices"), and to the provision and licensing of standard software (hereinafter referred to as "Software"; Devices and Software are hereinafter also collectively referred to as "Contractual Objects") by Evocortex GmbH (hereinafter referred to as "Evocortex") to corporate customers (hereinafter referred to as "Customers").
2. If the parties agree on the provision of services in addition to the delivery of Devices and Software, e.g., development, customization, integration or support services, the General Terms and Conditions of Evocortex for the Provision of Services shall apply in addition to these GTC, unless services are merely rendered as ancillary services in connection with the provision of Devices and Software (e.g. the mere assembly of a delivered Device).
3. These GTC in their current version also apply to all future agreements on the delivery of Devices and the provision and licensing of Software entered between Evocortex and Customer, even if these GTC are not explicitly referred to.
4. The features and functionalities of the Contractual Objects, the type and scope of the purchased Software licenses and the amount of compensation are subject to the applicable individual contract and/or other contract documents, in particular, to the offer, the product description for the Software, and the Evocortex price list. In case of a conflict, customer-specific terms and conditions (in particular, in the Evocortex offer) shall take precedence over these GTC. General Terms and Conditions of Customer do not apply, even if Evocortex provides Devices or Software without objecting these Customer Conditions.
5. In the absence of other agreements, third-party software (including data bases and open source software) that are delivered by Evocortex to Customer together with its own supplies and/or services are subject to the contract and license terms and conditions of the relevant producers (or the license terms and conditions subject to which open source software is made available to the general public, respectively). In particular, these may include provisions on the grant of rights to use and on warranty and liability that deviate from these GTC. Evocortex shall notify Customer of the terms and conditions and license conditions of third-party software at the time of contract conclusion. In the event of gaps in the terms and conditions for contracts and licenses provided by third parties, these GTC shall apply additionally.

## § 2 Offers and Conclusion of a Contract

1. Offers submitted by Evocortex are subject to change without notice and non-binding, unless they are referred to as binding in writing. Customer agrees to be bound by its statements regarding the conclusion of a contract for a period of four (4) weeks.
2. The conclusion of the contract with Customer is subject to the timely delivery of Evocortex by its suppliers. If this is not the case, Evocortex shall not be in default and shall be entitled to withdraw from the contract vis-à-vis Customer. This shall not apply if Evocortex is responsible for the non-delivery or delayed delivery by a supplier, in particular if Evocortex has not concluded a congruent procurement contract. Evocortex will inform Customer immediately about the non-availability of the Contractual Objects and will reimburse Customer immediately for any payments already made.
3. Information provided by Evocortex regarding the Contractual Objects (e.g. dimensions, utility values, load-bearing capacity, performance, tolerances and other technical data) as well as representations of the Devices (e.g. in models and illustrations) are only approximately authoritative, unless the usability of the Contractual Objects for the contractually intended purpose requires an exact match. In particular,

they do not represent guaranteed contractually agreed quality features. Customary deviations in size, color, shape and quality or with regard to other properties, which occur due to legal regulations or in the course of further product development, are permissible insofar as they do not impair the usability of the Contractual Objects for the contractually intended purpose.

## § 3 Delivery and Risk Allocation

1. Unless otherwise agreed, all deliveries of equipment shall be EXW Nürnberg (INCOTERMS 2020). The choice of the mode of shipment and the type of packaging are subject to the reasonable discretion of Evocortex.
2. Evocortex is entitled to make partial deliveries if these can be used independently by Customer, the complete delivery is ensured and Customer does not incur any significant additional expenses or costs due to the partial delivery.
3. The risk shall pass to Customer at the latest when the equipment is handed over to the forwarding agent, carrier or any other third party designated to carry out the shipment. This shall also apply if partial deliveries are made. If the shipment or the handover of the equipment is delayed as a result of a circumstance caused by Customer, the risk shall pass to Customer from the day on which the goods are ready for shipment and Evocortex has notified Customer of this.
4. Software is provided to Customer electronically in the version current at the time of delivery. In the absence of a deviating agreement, Customer has no right to the transfer of the source code of Software. If Software is provided to Customer exclusively in object code, the rights of use granted to the Software shall also relate exclusively to the use of the Software in object code. Together with the Software, Customer shall receive an integrated electronic user manual in German and English language.

## § 4 Deadlines and Dates

1. Delivery dates and periods are approximate and non-binding, unless they are expressly referred to as binding in the Evocortex offer. Compliance with the agreed delivery dates and periods requires the timely receipt of any documents, records and information that may be necessary and the timely provision of all contributions and cooperation by Customer (in case of the supply of Software, in particular, the necessary testing and production environment shall be made available).
2. In the event circumstances beyond the control of either party arise, for instance, force majeure, strike, lock-out, failure and/or delay in delivery from third parties despite the conclusion of a congruent procurement contract, that substantially impair the supply or service or render it impossible for a certain period of time, the affected party has the right to postpone its performance for the period of the impairment and a reasonable period to resume its services. The parties shall promptly notify each other of the occurrence and end of such circumstances.

## § 5 Responsibility of Customer

1. A warranty for the suitability of the delivered Contractual Objects for a specific purpose that goes beyond the warranty for the contractually agreed quality shall require an express agreement. Customer shall inspect and, if necessary, test the Contractual Objects prior to their first use to determine whether they are suitable for the purpose intended by Customer. Customer shall observe the specifications of Evocortex, e.g. in product-specific instructions, which are enclosed with a delivered Device, during the application and use of the Contractual Objects. In case of doubt Customer will obtain additional information and advice before the first use of a Contractual Object. Contractual obligations of Evocortex to advise Customer exist only if this is expressly agreed in writing.

2. Unless the parties agree otherwise, Customer is responsible for the commissioning, installation and integration of Devices and Software delivered by Evocortex into its own system environment, for compliance with the operation conditions and system requirements, for the interoperability of Contractual Objects and Customer's systems as well as for the interaction between the supplied Software and other software applications of Customer. The provision of services beyond the delivery and licensing of Devices and Software is subject to a separate agreement.
3. Unless otherwise agreed in the individual case, Customer shall be the responsible operator and as such shall be responsible for the safe operation of the delivered Devices. Devices may only be used by qualified employees of Customer who have received appropriate training and have familiarized themselves in detail with the operating instructions. Modifications to the electronics and mechanics of the delivered Devices may only be carried out with the express prior consent of Evocortex.

### § 6 Rights to Use Software

1. Unless otherwise provided in the individual contract and subject to the condition precedent of full payment of the agreed compensation, Evocortex grants Customer the non-exclusive, perpetual and worldwide right to use the supplied Software for the agreed or intended internal business purposes of Customer. Software licenses granted for a definite term are subject to the special provisions in § 13 of these GTC.
  2. Customer may use the Software for the agreed type and number of licensed units (e.g., type and number of devices on which the Software will be implemented). The details of the type and scope of rights to use granted and the agreed purposes of use are set forth in the provisions of the license model and/or the individual contract (intended use). Customer's rights to use are limited to such actions that are necessary for the intended use of the Software. The rights to use granted exclusively apply to the use of the Software in object code form. Within the scope of contractual use, Customer has the right to reproduce the Software and to make the necessary backup copies, which shall be clearly marked as such.
  3. Sub-licensing, renting and other forms of provision of the Software to third parties for a definite period of time, the use in SaaS, outsourcing or data center operations and any other use of the Software by or on behalf of third parties, whether with or without compensation, require the prior written consent from Evocortex. Affiliated companies of Customer are also deemed to be third parties.
  4. Customer is not allowed to translate, modify or rearrange the Software beyond the legally permissible scope – in particular, based on the provisions contained in section 69d of the German Copyright Act (UrhG). The decompiling of Software in order to achieve interoperability of the Software with other programs is only permissible within the scope of the mandatory provisions of section 69e of the German Copyright Act (UrhG), and only in case Evocortex fails to provide the necessary information and records within a reasonable period of time despite a written request from Customer.
  5. Specific types of licenses:
    - a. Development-Kit: The rights to use granted to Customer include the use of the Software (as object code) for Customer's own product development and for integration of the Software into Customer's systems, programs and other products of Customer (via the intended interfaces) and the subsequent reproduction of the Software in connection with the distribution of such products by Customer. Customer bears the sole responsibility for the adaptation and integration of the Software, its compatibility and interoperability with Customer's products and for its product development based on the Software ("industrialization").
    - b. Evaluation-Kit: Customer's rights to use are limited to such actions that serve the purpose of determining the state of the Software and its suitability for the operational and/or industrial purposes of Customer with regard to the agreed fields of use. For this purpose, Customer has the right to link the Software with its own systems and products (e.g., a prototype device) and to connect them. Any further use, in particular, the productive use and its preparation and any other commercial or industrial use of the Software as well as the creation of copies (including backup copies) are prohibited.
- The details of the scope of rights to use under the specific type of license are governed by the license model and/or the individual contract concluded with Evocortex; in particular, the rights to use under a certain license type may be granted for a definite term. The modification or decompiling of the Software requires the express consent from Evocortex, otherwise it is only permissible in the cases allowed and under the conditions applicable under the mandatory provisions of German law. Apart from that, the terms of use set forth in this § 6 also apply to the specific types of licenses.
6. Any use of the Software beyond the provisions set forth in this § 6 and/or the license terms and conditions of the individual contract, requires the prior written consent from Evocortex. In the event the Software is used without this consent, Evocortex may charge Customer for the additional use in accordance with the then-valid price list (including retroactively). Evocortex reserves the right to assert further claims to damages. Customer shall notify Evocortex of any change concerning its right to use (e.g., change in the purpose of use) in advance.
  7. Customer shall not provide the Software that it purchased from Evocortex for its own permanent use to third parties, unless it finally ceases to use the Software. Any transfer of the Software requires the prior written consent from Evocortex. Evocortex shall grant its consent provided that Customer submits a declaration from the third party in which it agrees vis-à-vis Evocortex in writing to comply with the license terms and conditions that apply to the Software, and in which Customer declares vis-à-vis Evocortex that it has provided all original copies of the Software to the third party and deleted any Software copies that it had made itself. In the event the Software is integrated and provided as an embedded component of a device, Customer may only transfer the Software to third parties together with the device into which the Software had been integrated and for which it had been intended.

### § 7 Confidentiality, Data Protection and Reference

1. The parties agree to treat any business and trade secrets as well as other business-related information of the other party that are disclosed to them, made available to them or of which they may become aware in any other manner as strictly confidential. They shall use such information only for the purpose specified in the individual contract and shall not disclose them to third parties. In particular, the confidential information of Evocortex includes the Software in any of its tangible or intangible forms, including documentation, product descriptions, operating instructions and other technical documentation. Confidential information also includes, in particular, all business secrets within the meaning of Section 2 of the German Act on the Protection of Business Secrets (GeschGehG).
2. The duty of confidentiality does not apply to confidential information that was previously known to the receiving party without any duty of confidentiality or that is or will become known to the general public through no fault on the part of the receiving party, or which is rightfully disclosed to the receiving party by a third party without being bound by a duty of confidentiality, or that can be shown to have been independently developed by the receiving party.

3. The parties shall allow only those employees and sub-contractors access to the confidential information that have a need to know them for performing the individual contract and that have signed a non-disclosure agreement. In particular, the recipient is prohibited from exploiting or imitating confidential information itself in any way outside the purpose of the contract or from having it exploited or imitated by third parties for itself. The obtaining of business secrets by observing, examining, dismantling or testing a Device which is in the lawful possession of the recipient and which is based on business secrets of the disclosing party shall be prohibited. Section 69e of the German Copyright Act (UrhG) remains unaffected.
4. The parties agree to duly store any business items and records made available to them by the disclosing party and to return them at any time upon the other party's request. In particular, they shall ensure that unauthorized third parties cannot gain access to them.
5. Unless otherwise provided for in the preceding paragraphs of this § 7, any protection of confidential information under the German Act on the Protection of Business Secrets (GeschGehG) that goes beyond the scope of this § 7 shall remain unaffected.
6. To the extent Evocortex processes personal data of Customer, Evocortex shall bind the assigned employees to the duty of confidentiality and compliance with the EU General Data Protection Regulation (GDPR) by a written declaration prior to their assignment. Evocortex has the right to transfer personal data to subcontractors that are commissioned in accordance with the agreement, if such a transfer is required for delivery or performing the corresponding ordered services. In the event that Customer allows Evocortex access to its personal data, Customer will ensure that the applicable statutory requirements regarding the transfer to and processing of such data by Evocortex (and its subcontractors) are complied with.
7. In the event Customer allows Evocortex to use its name as a reference customer, Evocortex has the right to include Customer's name in a list of reference customers for promotional purposes and to use Customer's corporate signs, trademarks and logos in printed publications and online, in particular, on the Evocortex website for this purpose.

### **§ 8 Compensation and Terms of Payment**

1. Unless provided otherwise in the individual contract or commercial offer provided by Evocortex, the amount and due date of the compensation are subject to the Evocortex price list valid at the date the individual contract was concluded.
2. Unless otherwise agreed, all prices are net prices in Euro, plus shipping costs and packaging and, in the case of export deliveries, plus any customs duties, fees and other public charges. Unless otherwise agreed, the purchase price for a delivered Contractual Object shall be invoiced to Customer immediately after handover of the Contractual Object.
3. Unless otherwise agreed, additional services (ancillary services in connection with the provision of Devices or Software) will be invoiced on a time and materials basis at the agreed daily and/or hourly rates. In the event the individual contract or the Evocortex offer do not contain any provisions on the amount of daily and/or hourly rates, the Evocortex price list valid on the date of contract conclusion shall apply. The compensation will be invoiced to Customer at monthly interval at the beginning of the month following the service provision together with the activity reports that are customarily used by Evocortex.
4. All prices quoted are subject to the statutory value added tax (VAT) valid at this time. Payments shall be made by Customer within thirty (30) calendar days from the invoice date with no deductions.
5. Customer shall not offset any claims, unless its counter-claim is uncontested or has been finally adjudicated. Furthermore, Customer shall not withhold payments, unless its counter-claim is uncontested

or has been finally adjudicated and is related to the same contractual relationship.

### **§ 9 Liability for Defects**

1. Customer shall inform Evocortex of any Contractual Objects defects promptly upon delivery or, in the event of hidden defects, promptly upon their discovery, in comprehensible form by email or, if applicable, via the ticket system provided by Evocortex. To the extent Customer can be reasonably expected to do so, Customer shall take all necessary measures to determine, delimit, and document defects. This includes the preparation of an error report, system logs, dump files, providing the input/output data affected, interim and test results, and any other information and records that may serve to describe the defect. Section 377 of the German Commercial Code (HGB) remains unaffected.
2. Evocortex warrants that the Contractual Objects have the features and functionalities described in the product description and the user manual. In particular, impaired functionality due to mal-operation or unintended use of the Contractual Objects by Customer, Customer's system environment, or any other circumstances for which Customer is responsible, shall not be deemed a defect. Furthermore, Evocortex shall be released from its liability for defects if Customer fails to comply with the conditions of use and operation, with the system requirements defined by Evocortex or if Customer modifies the Contractual Objects unless Customer is able to show that the defect is not related to these circumstances.
3. If Evocortex delivers so-called incomplete or partly completed machines according to the EU Machinery Directive, which in themselves cannot fulfill a certain function, Customer is responsible for their proper completion, i.e. in particular for installation, integration, risk analysis and commissioning, in each case in compliance with the specifications of Evocortex, e.g. from the declaration of incorporation. Evocortex is not liable for malfunctions resulting from Customer's own product development on the basis of the incomplete or partly completed machine. In this respect, Customer shall bear the burden of proof that a defect claimed by Customer does not result from an unprofessionally performed completion of the machine or does not result from its own product development.
4. Customer is aware of the fact that Devices or Software provided for testing, evaluation and/or demonstration purposes may be a prototype, beta version or the like that was not fully tested for freedom from defects and stability for all purposes of use in a live environment; therefore, Evocortex is not liable for defects (unless Evocortex intentionally concealed a defect).
5. In the event of a defect in Contractual Objects existing on the date on which the risk passes to Customer, Evocortex shall perform its warranty obligations by subsequent improvement, at the option of Evocortex either by delivery of an error-free Contractual Object (for Software e.g., in connection with an update) or by rectifying the defect. The defect may initially be rectified by Evocortex showing Customer a reasonable workaround that avoids or circumvents the effects of the defect (workaround).
6. In the event subsequent improvement finally fails (no less than two (2) attempts for each defect) or is refused by Evocortex, Customer may either withdraw from the contract or reduce the compensation. In view of the complexity of Devices and the Software, more than two (2) attempts at subsequent improvement may be reasonable and Customer may be expected to accept them. In the event of only a slight deviation of the Contractual Objects from the contractually agreed quality Customer is not entitled to withdraw from the contract. Evocortex shall be liable for damages and reimbursement of wasted expenditures based on a defect in accordance with the limits set forth in § 11 of these GTC.

7. In the event Evocortex performs services in connection with the trouble shooting and/or rectification of defects without being obligated to do so, it may claim separate compensation from Customer on a time and material basis in accordance with the then-valid Evocortex price list. In particular, this shall apply if a defect reported by Customer cannot be reproduced or if it cannot be attributed to Evocortex. There is no claim to additional compensation, if Customer was unable to recognize that the defect was not related to the Contractual Objects.
8. Claims based on defects asserted by Customer under this § 9 will come under the statute of limitations within one (1) year from the delivery of the Contractual Objects. This shall not apply in the event of intentional wrongdoing or gross negligence on the part of Evocortex, in the event that Evocortex maliciously concealed a defect, or if the defects consists in a right in rem of a third party on the basis of which surrender of the Contractual Object can be demanded.
9. In the event of a defect in third party software or other third party products that were supplied together with the Software, Evocortex shall assert, at its option, its warranty claims against the producer and/or an upstream supplier on behalf of Customer or assign them to Customer for his own claim enforcement. In the event of such defects, Customer will only be entitled to assert warranty claims against Evocortex under these GTC, if the enforcement of the claims in court against the producer and/or upstream supplier fails or does not promise any success, e.g., due to the insolvency of the producer and/or upstream supplier. While claims are enforced against the producer and/or upstream supplier, the statute of limitations period for Customer's warranty claims against Evocortex is suspended. To the extent that Evocortex satisfies Customer's claims itself, any claims based on defects against the producer and/or upstream supplier that had been assigned to Customer will revert to Evocortex (re-assignment).

#### § 10 Proprietary Rights and Infringements

1. All copyrights, patent rights and other industrial property rights (IP rights) to the delivered Devices and the licensed Software (including all new versions of the Software) are exclusively due to Evocortex or the licensors of Evocortex in the relationship with Customer. For Devices and Software, Customer shall exclusively receive the non-exclusive rights of use described in these GTC.
2. Evocortex warrants that the Contractual Objects provided to Customer are free from such third-party proprietary rights existing at the agreed place of destination, which restrict or exclude the contractually agreed use by Customer, and will indemnify and hold Customer harmless from and against such third-party claims based on an infringement on proprietary rights subject to the following provisions.
3. In the event third parties assert claims against Customer based on the infringement on their proprietary rights by the Contractual Objects, Customer shall notify Evocortex promptly and comprehensively in writing. Evocortex has the right, but is not obligated to handle the dispute with the third party in court and out of court in its sole responsibility. In the event Evocortex acts upon this authority, Customer shall assist Evocortex in the defense against the claim to a reasonable extent and free of charge. Customer shall not accept any third party claims in its own discretion.
4. In the event a defect in title exists at the date of the passing of the risk to Customer, Evocortex will procure the lawful right to use the Contractual Objects and grant it to Customer. Alternatively, Evocortex has the right to replace the Contractual Objects affected with another, equivalent replacement, provided, however, that Customer can be reasonably expected to accept this. In the event the infringement on third party proprietary rights and/or a legal dispute regarding the corresponding third party rights can be avoided or settled by Customer using the latest release of the Contractual Objects provided by

Evocortex free of charge, Customer is obligated to install and use this release within the scope of its duty to minimize damage, unless Customer proves that it cannot be reasonably expected to use the latest release.

5. Within the framework of the liability limitations set forth in § 11 of these GTC, Evocortex shall hold Customer harmless and indemnify Customer from and against any damage caused by an infringement on proprietary rights, to the extent that it is due to a defect in title of the Contractual Objects that was used by Customer in accordance with the agreement and for which Evocortex is responsible and liable. In all other regards, the provisions regarding defects as to quality set forth in § 9 of these GTC shall apply accordingly to any claims asserted by Customer based on defects in title.

#### § 11 Liability

1. In the event Evocortex provides Contractual Objects to Customer that are not subject to compensation, e.g., during a test or evaluation period free of charge, Evocortex will only be liable for an intentional and grossly negligent violation of its duties.
2. In the event Evocortex provides Customer with Contractual Objects that are still under development, such as prototypes or testing or beta versions of Devices or Software for evaluation purposes, Evocortex is not liable for damages that occur due to a non-authorized productive or industrial use of such Contractual Objects.
3. In all other regards, Evocortex shall compensate Customer for material or pecuniary damage or loss or reimburse wasted expenditures, irrespective of their legal cause, only to the following extent:
  - a. in case of intentional wrongdoing and gross negligence, or if a guarantee was issued, for the full amount;
  - b. in all other cases only for a violation of a material contract duty, non-compliance with which would jeopardize the attainment of the contract purpose and on compliance with the same Customer may therefore rely (*Kardinalpflicht*). Liability is insofar limited to the typical and foreseeable damage, limited however, for each incident to the contract volume of the individual contract affected; if the contract volume of the individual contract is less than EUR 250,000.00, the liability amount shall be no less than EUR 250,000.00 (as a maximum upper limit).
4. For the restoration of data Evocortex shall only be liable pursuant to and within the limits of § 11, par 3, provided however, that Customer has ensured that data can be reproduced from electronic data stores at any time and at a reasonable cost.
5. The foregoing liability limitations also apply to the benefit of the legal representatives, vicarious agents and employees of Evocortex.
6. Liability for damages based on death or bodily harm and liability under the Product Liability Act (ProdHaftG) remain unaffected by the above provisions.

#### § 12 Retention of Title

1. Devices delivered by Evocortex to Customer (hereinafter referred to as "Reserved Goods") shall remain the property of Evocortex until all claims, including future claims, of Evocortex arising from the business relationship with Customer have been satisfied in full. If third parties access Reserved Goods, in particular by seizure, Customer shall immediately point out Evocortex' ownership to them and inform Evocortex about this in order to enable Evocortex to enforce its ownership rights.
2. Customer is entitled to sell Reserved Goods in the normal course of business. Customer herewith assigns the claims against its customers from the resale of the Reserved Goods to Evocortex in the amount of the invoice amount (incl. VAT); Evocortex herewith accepts this

assignment. The assignment applies regardless of whether Reserved Goods have been resold without or after processing. Customer remains authorized to collect the claim even after the assignment. The authority of Evocortex to collect the claim itself remains unaffected. However, Evocortex shall not collect the Customer's claim against its customer itself as long as Customer is not in default of payment and no application for the opening of insolvency proceedings against Customer's assets is filed.

3. In the event that Customer is in default of payment, stops its payments or a significant deterioration of its financial situation occurs, so that the claims of Evocortex appear to be at risk, in particular if the opening of insolvency proceedings against its assets is applied for, Evocortex is entitled to demand the return of Reserved Goods from Customer. The demand for return shall constitute a withdrawal from the contract. It is not necessary to set a deadline beforehand.

### **§ 13 Specific Terms and Conditions for the Provision of Contractual Objects for a Definite Term (Rent)**

1. In the event the parties agree on the use of the Contractual Objects for a definite term, e.g., within the scope of an Evaluation-Kit, this agreement constitutes a rental agreement (loan agreement, if no consideration is due) that is subject to the following specific terms and conditions.
2. In the event of major defects of the rented Contractual Objects, Customer has the right to terminate the agreement for cause in lieu of the right to withdraw if subsequent performance and/or improvement failed and if further adherence to the agreement is not acceptable for Customer due to the defect. In all other regards §§ 9 and 10 of these GTC shall apply to liability for defects as to quality and in title accordingly. With regard to defects that already existed at the time of contract conclusion, Evocortex will only be liable for such defects, in deviation from the statutory provisions of section 536a of the German Civil Code (BGB), if Evocortex is responsible for such defects.
3. Unless otherwise agreed, either party may terminate a rental agreement by giving three (3) months' notice to take effect at the end of a calendar year, however, no earlier than upon the expiration of the contractually agreed minimum initial term. Unless the parties expressly agree on a deviating period, the minimum initial term is one (1) year. The right of either party to terminate the contractual relationship prematurely for cause and without notice remains unaffected. In particular, cause that gives Evocortex the right to terminate the agreement without notice, shall exist, if insolvency proceedings are instituted against Customer's assets or rejected for a lack of funds or if Customer is in default with a material portion of the due consideration for more than two (2) months. The notice of termination must be in writing to be effective.
4. Upon the termination of the rental agreement, Customer's right to use the Contractual Objects expires automatically. Customer shall fully and finally delete all software copies from all servers, workplaces, computers and devices and return any devices, data media, documentation and other records that had been provided to it. Upon the corresponding request from Evocortex, Customer shall confirm the complete and final deletion of the Software in writing.

### **§ 14 Final Provisions**

1. Customer is not allowed to assign or transfer any contractual rights or duties to third parties – including any affiliated companies of Customer – without the prior written consent of Evocortex. Section 354a of the German Commercial Code (HGB) remains unaffected hereby.
2. Modifications and amendments of the agreement must be in writing to be effective. The written form is also compiled with by the electronic submission (in particular by email) of a document signed by an

authorized representative. Any waiver of this mandatory written form requirement must be in writing.

3. The laws of the Federal Republic of Germany shall apply, the conflict-of-laws rules of International Private Law and the UN CISG are excluded. Place of jurisdiction for any disputes arising out of or in connection with the agreement is the competent court at the registered office of Evocortex. Evocortex has the right to bring action against Customer before any other national or international court having jurisdiction.
4. Contractual Objects and/or its export may be subject to national and international export control regulations, in particular, U.S. and German legislation. Customer agrees not to export Contractual Objects to countries or to individuals or legal entities, if this export is forbidden under the applicable export control regulations. In the event of a resale or any other kind of export, Customer bears the sole responsibility for its compliance with export control requirements, if any (e.g., obtaining official permits) and shall bear any cost incurred in connection herewith. Customer shall indemnify and hold Evocortex harmless from and against any cost and damage in connection with culpable violations of export control regulations on the part of Customer.
5. If any provision of these GTC or an individual contract is or should become invalid or if there are any gaps, the remaining provisions shall remain in full force and effect. The invalid or missing provision shall be replaced by such a valid provision that most closely reflects the business intention of the parties at the time the agreement was concluded.

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