



Version 1.0, current as of 26 October 2021

## **LICENCE AGREEMENT FOR SOFTWARE PACKAGE WITH SUPPORT**

[READ THIS LICENSE AGREEMENT FOR SOFTWARE PACKAGE WITH SUPPORT CAREFULLY, BECAUSE BY INSTALLING, COPYING OR USING THE SOFTWARE PRODUCT, YOU (AS DEFINED BELOW) ARE AGREEING TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO ALL OF THESE TERMS AND CONDITIONS OR DOES NOT WISH TO BE BOUND BY THIS EULA, DO NOT INSTALL, COPY, USE OR DISTRIBUTE THE SOFTWARE PRODUCT.]

## 1. Definitions

In this Agreement, unless inconsistent with the context or otherwise specified, the following definitions will apply:

- 1.1 'Agreement' means these terms and the Schedules to them.
- 1.2 'Associated Company' means in relation to any body corporate, any legal entity where:
  - at least 50 % of the shares are owned by Licensee or by a Subsidiary of Licensee;
  - if the body corporate is organised for any given specific project (JV, consortium): at least 25 % of the shares are owned by Licensee or by a Subsidiary of Licensee.
- 1.3 'Delivery Date' means the date on which the Licensee has received the Licensed Materials.
- 1.4 'Documentation' means the operating manuals, user instructions and other related materials supplied to the Licensee by the Licensor (whether physically or by electronic means) for aiding the use of the Product, including any part or copy of them.
- 1.5 'Equipment' means computer equipment satisfying the Licensor System requirements.
- 1.6 'Initial Maintenance Period' means the initial period for the provision of the Maintenance Services specified in The Quote.
- 1.7 'IPR' means Intellectual Property Rights and include (whether registered or unregistered) patents, trademarks, service marks, trade names, designs, design rights, copyrights, moral rights, renewal rights, semi-conductor topography rights, reversionary rights, and any other intellectual property rights, applications for the grant of any such rights, and all analogous or similar rights or forms of protection which subsist or will subsist now or in the future anywhere in the world.
- 1.8 'Licence Fee' means the fee specified in The Quote.
- 1.9 'Licence Period' means the period specified in The Quote.
- 1.10 'Licensed Materials' means the Product, the Documentation and the Media.
- 1.11 'Licensee Group Company' means all current and future companies affiliated with the Licensee (Verbundene Unternehmen) in the meaning of § 15 German Stock Corporation Act (Aktiengesetz).
- 1.12 'Licensor Group Company' means all current and future companies affiliated with the Licensor (Verbundene Unternehmen) in the meaning of § 15 German Stock Corporation Act (Aktiengesetz).
- 1.13 'Licensee's Group' means the Licensee and the Licensee Group Companies.
- 1.14 'Location' means the Licensee's address specified in The Quote.
- 1.15 'Maintenance Fee' means the fee specified in The Quote for the provision of the Maintenance Services.
- 1.16 'Maintenance Services' means the various maintenance and support services described in The Quote.
- 1.17 'Media' means the carrier media specified in The Quote on which the Product and the Documentation are recorded or printed and delivered to the Licensee.
- 1.18 'Product' means the computer programme in object code form only as briefly described in The Quote including any copies of it but excluding source code material and all preparatory design material.

- 1.19 'Release' means any improved version of the Product made available to the Licensee.
- 1.20 'Territory' means the territory specified in The Quote.
- 1.21 'The Quote' means the agreement that include the commercial terms and conditions regarding to the license fee, maintenance service fee and other applicable fees for accessing and using the Licensed Materials to be provided by RIB.

## 2. Grant of licence

- 2.1 Subject to the terms of this Agreement and in consideration of the payment to the Licensor by the Licensee of the Licence Fee, the Licensor grants to the Licensee a perpetual non-exclusive and non-transferable licence (the 'Licence') to use the Licensed Materials in the Territory during the Licence Period.

## 3. Delivery and Installation

- 3.1 The Licensor will deliver the Product and the Documentation on the Media to the Licensee by the Delivery Date specified in The Quote.
- 3.2 The Licensee is responsible for ensuring that the Equipment is installed and fully operational at the Location and any other agreed Licensee's Group Companies' premises prior to the scheduled Delivery Date of the Product.
- 3.3 The Licensee is responsible for installation of the Product on the Equipment in accordance with the installation guide issued by the Licensor and will carry out the installation.
- 3.4 Unless in case of force majeure or breach by the Licensee of its obligations, the Licensor undertakes to achieve delivery, as the case may be, by the agreed Delivery Date specified in The Quote. Where payment of any part of the License Fee or other Charges is to be made before delivery or installation of the Product the Licensor may withhold delivery until such payments have been made.
- 3.5 Risk in the Media will pass to the Licensee on delivery to the Licensee.

## 4. Permitted Use

- 4.1 The use of the Product is restricted in respect of each of the programs forming part thereof to the number of users specified in The Quote such that any user may access the relevant program forming part of the Product on the Equipment, provided that, at any time, the number of users accessing the relevant programs forming part of the Product does not exceed the number of licences granted in respect thereof as specified in The Quote.
- 4.2 The Licensee may not use the Product at any location outside of the Territory.
- 4.3 The Licensee may use the Licensed Materials for processing its own data for its own internal business purposes only and shall not permit any third party including any Associated Company of the Licensee to use the Licensed Materials. The Licensee **shall not use or attempt to use** the Licensed Materials or permit any third party including any Associated Company of the Licensee:
  - 4.3.1 To provide a data processing service to any third party by way of trade or otherwise; or
  - 4.3.2 To use the Licensed Materials as part of a network other than as part of the Licensee's internal network; or
  - 4.3.2 To use the Licensed Materials contrary to any other restrictions stated in this Agreement.In addition, the Licensee may allow an Associated Company to use the Licensed Materials as long as they are used via the Licensee's Citrix Terminal servers or

corresponding technology and as long as the Licensee has full control over the Citrix Terminal servers or the corresponding technology.

- 4.4 The Licensee shall not translate or adapt the Product or the Media for any purpose nor arrange or create derivative works based on the Product without the Licensor's express written consent in each case.
- 4.5 The Licensee shall not transfer or distribute (whether by licence, loan, rental, sale or otherwise) all or any part of the Licensed Materials to any other person.
- 4.6 The Licensee shall not make for any purpose, including (without limitation) for error correction, any alterations, modifications, additions or enhancements to the Product except as specifically described in the Documentation without the Licensor's prior written consent.
- 4.7 The Licensee shall not, nor permit others to, de-compile, reverse-engineer or disassemble the Product or any part thereof.
- 4.8 Subject to the provisions of clause 4.3, a separate licence is required for the use of copies of the Product on equipment other than the Equipment; it being understood that no separate licence is required for the use of copies of the Product on any disaster recovery equipment. In the event that the Equipment is inoperable, requires repair, or is under repair, the Licensee shall report the same to the Licensor for permission to use the Licensed Materials on a back-up system at no extra licence charge, until the Equipment is operational; such permission not to be unreasonably withheld or delayed.
- 4.9 The Licensee shall permit the Licensor to check the use of the Licensed Materials by the Licensee at all reasonable times. The Licensor may, upon reasonable notice, send its representatives to any of the Licensee's premises to verify compliance with this Agreement and the Licensee irrevocably consents to the Licensor's representatives entering the Location and any other of its premises for this purpose.

## **5. Extent of Permitted Reproduction**

- 5.1 The Licensee is permitted to make back-up copies of the Product in so far as the making of that copy is or may be necessary for the Use of the Product. Such copy will be the property of the Licensor.
- 5.2 Unless for its general business purposes, the Licensee shall not make or permit others to make any copies of the Documentation without the Licensor's prior written consent.
- 5.3 The Licensee shall effect and maintain adequate security measures to safeguard the Licensed Materials from unauthorised access use or copying.

## **6. Maintenance Services**

- 6.1 Subject to receipt of the Maintenance Fee payable for the applicable maintenance period, the Licensor will provide and the Licensee will accept the Maintenance Services for the Product during the Maintenance Periods specified in The Quote but subject to earlier termination as provided by this Agreement.
- 6.2 The Licensor's obligation to provide the Maintenance Services is dependent on the continued existence of the Licence to use the Product, and if the Licence is terminated for any reason, the Licensor's obligation to provide the Maintenance Services will cease automatically on the occurrence of such event and the Maintenance Fee will be reimbursed on a prorated basis.
- 6.3 Termination of the Maintenance Periods will not affect the Licensee's right to continue to use the Licensed Materials in accordance with the Licence.

- 6.4 Any corrected or modified versions of the Product or Documentation or new Releases of the Product supplied to the Licensee pursuant to the Maintenance Services will be deemed to form part of the Licensed Materials and be subject to this Agreement.

## **7. Payment Terms**

- 7.1 The Licensee will pay to the Licensor the Licence Fee and the Maintenance Fee which fall due under this Agreement in the amounts and at the times specified in the applicable Schedule. Where applicable, VAT and any other taxes, duties or levies will be paid additionally by the Licensee at the then prevailing rate.
- 7.2 All sums due under this Agreement will be paid by the Licensee within 30 days of the date of receipt of invoice or on the due date for payment specified in The Quote.
- 7.3 If any sum payable to the Licensor under this Agreement is in arrears for more than 30 days after the due date and the Parties have not been able to settle their differences pursuant to clause 24, the Licensor reserves the right without prejudice to any other right or remedy to:
- 7.3.1 charge interest on such overdue sum on a day to day at the rate of two percent (2 %) above the EURIBOR 1 month interest rate; and/or
- 7.3.2 suspend the provision of the Maintenance Services on 15 days' prior written notice.
- 7.4 The Licensee will endeavour to notify the Licensor in writing within 5 days of receipt of an invoice if the Licensee considers such invoice incorrect or invalid for any reason and the reasons for withholding payment.
- 7.5 The Documentation and the Media shall remain the property of the Licensor until the Licensee has paid the Licence Fee in full.

## **8. Proprietary Rights**

- 8.1 Each party shall retain all intellectual property rights in its own materials and data, including any modifications made to them by or on behalf of either party under this Agreement.
- 8.2 The Licensee will not acquire any title or rights in any Intellectual Property Right owned by or licensed to the Licensor or any modifications to the same during the course of and pursuant to this Agreement or those acquired or created thereafter independently of this Agreement, including IPR in modifications, amendments, enhancements, improvements of or otherwise in connection with Licensed Materials.
- 8.3 The Licensee agrees not to remove, suppress or modify in any way any proprietary marking, including any trademark or copyright notice, on or in the Product or which is visible during its operation or which is on the Media or on any Documentation. The Licensee shall incorporate such proprietary markings in any back-up copies.
- 8.4 The Licensee shall notify the Licensor promptly if the Licensee becomes aware of any unauthorised access to, use or copying of any part of the Licensed Materials by any person.
- 8.5 The Licensor hereby grants the Licensee a perpetual non-exclusive licence to use the Licensor's IPR in connection with the Licensee's use of the Licensor's IPR as permitted herein and for no other purpose.

## **9. Confidentiality by the Licensee**

- 9.1 The Licensee acknowledges that the Licensed Materials contain confidential information of the Licensor and/or of third parties. The Licensee undertakes to treat as confidential and keep secret all information contained in or otherwise received from the Licensor in connection with the Licensed Materials (collectively referred to as the

'Confidential Information') and shall not use the same for purposes other than in relation to Use of the Product.

- 9.2 The Licensee shall not without the Licensor's prior written consent communicate or disclose any part of the Confidential Information to any person except:
- 9.2.1 Only to those employees, advisers, agents, partners and sub-contractors on a need to know basis who are or may be involved in the use of the Product;
  - 9.2.2 The Licensee's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Licensee.
- 9.3 The Licensee undertakes to ensure, prior to disclosure of any Confidential Information, that all persons and bodies mentioned in clause 9.2 (except those which are bound by professional secrecy) are aware that the Confidential Information is confidential and that they owe a duty of confidentiality to the Licensor. The Licensee will indemnify the Licensor against any direct damage which the Licensor sustains or incurs as a result of the Licensee failing to comply with such undertaking.
- 9.4 The provisions of this clause 9 will not apply to any Confidential Information which:
- 9.4.1 Is or becomes public knowledge other than as a result of the Licensee's conduct; or
  - 9.4.2 Is independently developed without access to or use of the Licensed Materials.
- 9.5 This clause 9 will continue in force notwithstanding the termination of this Agreement for any reason for a period of five (5) years.

## **10. Confidentiality by the Licensor**

- 10.1 The Licensor acknowledges that the data stored within the Product contains confidential information of the Licensee and/or of third parties. The Licensor undertakes to treat as confidential and keep secret all information contained in or otherwise received from the Licensee in connection with such data (collectively referred to as the 'Confidential Information') and shall use the same exclusively for the benefit of the Licensee.
- 10.2 The Licensor shall not without the Licensee's prior written consent communicate or disclose any part of the Confidential Information to any person except:
- 10.2.1 Only to those employees, agents and sub-contractors on a need to know basis who are directly involved in the Use by the Licensee of the Product;
  - 10.2.2 The Licensor's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Licensor.
- 10.3 The Licensor undertakes to ensure, prior to disclosure of any Confidential Information, that all persons and bodies mentioned in clause 10.2 are aware that the Confidential Information is confidential and that they owe a duty of confidentiality to the Licensee. The Licensor will indemnify the Licensee against any direct damage which the Licensee sustains or incurs as a result of the Licensor failing to comply with such undertaking.
- 10.4 The provisions of this clause 10 will not apply to any Confidential Information which:
- 10.4.1 Is or becomes public knowledge other than as a result of the Licensor's conduct; or
  - 10.4.2 Is independently developed without access to or use of the Licensed Materials.
- 10.5 This clause 10 will continue in force notwithstanding the termination of this Agreement for any reason for a period of five (5) years.

## **11. [Intentionally Left Blank]**

## **12. Warranty**

- 12.1 The Licensor warrants that:

- 12.1.1 The Product when properly used on the Equipment will provide the facilities and functions and perform substantially as described in the Documentation and
- 12.1.2 the Media on which the Product is furnished will be free from defects in materials and workmanship under normal use

The Licensor does not warrant that the operation of the Product will be uninterrupted or error-free.

- 12.2 The Licensor's obligation and the Licensee's exclusive remedy under the warranty given in clause 12 is limited either:

- 12.2.1 to the Licensor at its own expense using all reasonable endeavours to rectify any non-conformance with the warranty by repair (by way of a patch, work around, correction or otherwise) within a reasonable period of time or, at the Licensor's option, replacement of the Product or defective Media in whole or in part or

- 12.2.2 To a refund of the Licence Fee paid if in the Licensor's reasonable opinion it is unable to rectify such non-conformance within a reasonable time-scale or at an economic cost, whereupon the Licence shall terminate.

- 12.2.3 Where the Licensed Materials incorporate third parties' software or data then as far as the Licensor lawfully can to obtain for the Licensee any rights or benefits of the provisions of the Licensor's agreement with such third party as far as the same are applicable to this Agreement and are not inconsistent with the express terms of this Agreement but not further or otherwise. Any action taken by the Licensor in compliance with the provisions of this sub-clause shall be at the cost of the Licensor and may include the provision by the Licensee of such indemnity and security as the Licensor may reasonably require.

- 12.3 The Licensor will have no liability or obligation under the warranty given in this clause 12 unless it has received written notice from the Licensee of any non-conformance with the warranty within 90 days from the Delivery Date.

- 12.4 The Licensee acknowledges that the Licensed Materials have not been prepared to meet the Licensee's individual requirements and that it is the Licensee's responsibility to ensure that the facilities and functions of the Product meet the Licensee's requirements.

- 12.5 The Licensor will not be liable for any failure of the Product to provide any facility or function not described in the Documentation or for any failure of the Product attributable to any modification (whether by alteration, deletion, addition or otherwise) to the Product or the Equipment by persons other than the Licensor or combination of the Product with other software or equipment without the Licensor's express prior written consent.

- 12.6 If a problem is found upon investigation not to be the Licensor's responsibility under the provisions of this clause 12 the Licensor may charge the Licensee immediately for all reasonable costs and expenses incurred by the Licensor in the course of or in consequence of such investigation.

### **13. Liability**

- 13.1 The Licensee acknowledges that the Licensor's obligations and liabilities in respect of the Licensed Materials and the Maintenance Service are exhaustively defined in this Agreement. The Licensee agrees that the express obligations and warranties made by the Licensor in this Agreement are in lieu of and to the exclusion of any other warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise, relating to anything supplied or services provided under or in connection with this Agreement including (without limitation) any warranty as to the condition, quality, performance, merchantability or fitness for purpose of the Licensed Materials and the Maintenance Service or any part of them.



- 13.2 The Licensee is responsible for the consequences of any use of the Licensed Materials.
- 13.3 The Licensor will not be liable for any indirect or consequential loss, damage, cost or expense of any kind whatever and however caused whether arising under contract, tort (including negligence) or otherwise, including (without limitation) loss of production, loss of or corruption to data, loss of profits or of contracts, loss of operation time and loss of goodwill or anticipated savings, even if the Licensor has been advised of their possibility and where the Licensor imports the Licensee's or any third parties' data on to the Product the Licensee recognises that the Licensor is unable to verify such data and the Licensee shall be responsible for checking the accuracy of that data.
- 13.4 The Licensor accepts liability to the extent that it results from a breach of warranties, negligence, fraud or default of the Licensor and its employees.
- 13.5 Unless in case of gross negligence or wilful misconduct or death or injury, the Licensor's total liability (whether in contract, tort, including negligence, or otherwise) under or in connection with this Agreement or based on any claim for indemnity or contribution will not exceed the Licence Fee specified in The Quote.
- 13.6 The Licensee agrees that, except as expressly provided in clauses 12 and 14 and this clause 13, the Licensor will not be under any liability of any kind whatsoever and however caused arising directly or indirectly in connection with this Agreement.

#### **14. Copyright Indemnity**

- 14.1 The Licensor will indemnify the Licensee for its reasonable costs and all damages awarded under any judgement by a court of competent jurisdiction or agreed by the Licensor in final settlement to the extent that the Product as used in accordance with the Licence infringes the copyright trademarks or trade secrets of any third party or the intellectual property rights (other than patents) of any third party provided that:
  - 14.1.1 The Licensee makes no statement prejudicial to the Licensor.
  - 14.1.2 Such infringement is not caused by or contributed to by acts of the Licensee other than the use of the Product in accordance with the Licence;
  - 14.1.3 The Licensor is promptly notified in writing of the details of the claim;
  - 14.1.4 The Licensor has sole control of the defence of such claim and any related settlement negotiations; and
  - 14.1.5 The Licensee gives the Licensor all reasonable assistance at the Licensor's expense in connection therewith.
- 14.2 If at any time an allegation of infringement of any third party rights is made, or in the Licensor's opinion is likely to be made, in respect of the Licensed Materials, the Licensor may at its own expense:
  - 14.2.1 Obtain for the Licensee the right to continue using the Licensed Materials;  
or
  - 14.2.2 Modify or replace the Licensed Materials so as to avoid infringement; it being agreed that in such case the modification or replacement can only lead the Licensed Materials to provide equivalent or enhanced facilities and functions to the Licensee.
  - 14.2.3 If conditions 14.2.1 or 14.2.2 cannot be accomplished on reasonable terms, refund the Licence Fee whereupon the Licence shall terminate.
- 14.3 The Licensor will have no liability for any infringement claim based on:
  - 14.3.1 The use of other than the latest unaltered current release of the Product; or use or combination of the Product with equipment (other than the Equipment), programs or data not supplied by the Licensor, or
  - 14.3.2 The Licensee's refusal to use modified or replacement Licensed Materials supplied or offered to be supplied pursuant to clause 14.2.



provided that, in both cases, such refusal is the sole cause of the infringement claim.

- 14.4 This clause 14 states the entire liability of the Licensor with respect to the infringement or alleged infringement of any third party rights of any kind whatever by the Licensed Materials or the Maintenance Service.

## 15. Termination

- 15.1 The Licensee may terminate the Licence Period at any time by written notice to the Licensor.

- 15.2 The Licensor may not terminate this Agreement for convenience.

- 15.3 If the Licensee:

15.3.1 Expressly or impliedly repudiates this Agreement by refusing to comply with any of the material provisions of this Agreement; or

15.3.2 has failed to pay the Licence Fee or has breached clauses 4 or 8.3 or any other of the material provisions of this Agreement and (in the case of a failure capable of being remedied) does not rectify such non-compliance within 21 working days of the Licensor's written notice of it; or

15.3.3 Convenes any meeting of creditors or passes a resolution for winding up or suffers a petition for winding up; or

15.3.4 Has an administrative receiver or receiver appointed over the whole or part of its assets or suffers the appointment of an administrator; or

15.3.5 commits any act of bankruptcy or compounds with his creditors or comes to any arrangements with any creditors;

then (and in any such case) the Licensor may, without prejudice to any other of its rights or remedies and without being liable to the Licensee for any loss or damage which may be occasioned, give written notice to the Licensee terminating this Agreement (and accordingly the Licence and the Maintenance Service) with immediate effect.

- 15.4 If the Licensor:

15.4.1 Expressly or impliedly repudiates this Agreement by refusing to comply with any of the material provisions of this Agreement; or

15.4.2 Convenes any meeting of creditors or passes a resolution for winding up or suffers a petition for winding up; or

15.4.3 Has an administrative receiver or receiver appointed over the whole or part of its assets or suffers the appointment of an administrator; or

15.4.4 commits any act of bankruptcy or compounds with his creditors or comes to any arrangements with any creditors;

then (and in any such case) the Licensee may, without prejudice to any other of its rights or remedies and without being liable to the Licensor for any loss or damage which may be occasioned, give written notice to the Licensor terminating this Agreement (and accordingly the Licence and the Maintenance Service) with immediate effect.

## 16. Post termination

- 16.1 On termination of the Licence in accordance with clause 15.3 of this Agreement, the Licensee's authorisation to use the Licensed Materials will automatically cease and the Licensee undertakes immediately to cease to use the Licensed Materials and either return to the Licensor the Product and all copies of it or, if requested by the Licensor, delete, destroy or otherwise make permanently unusable the Product and all whole or partial copies of the Product within the Licensee's control or possession.

- 16.2 Within 7 days of the date of termination in accordance with clause 15.3 of this Agreement, the Licensee shall return to the Licensor all copies of the Documentation unless notified in writing to the contrary by the Licensor.

- 16.3 Within 30 days of the date of termination in accordance with clause 15.3 of this Agreement, the Licensee shall through a director or other officer certify to the Licensor in writing that it has fully complied with its obligations under clauses 16.1 and 16.2.

16.4 Termination of the Licence, however caused, shall not affect the rights of either party under this Agreement which may have accrued up to the date of termination.

## **17. Force Majeure**

Neither party will be liable for any delay in performing or failure to perform as a result of force majeure. Such delay or failure will not constitute a breach of this Agreement and the time for performance of the affected obligation will be extended by such period as is reasonable. Force majeure means an exceptional event or circumstance which prevents the performance of a party's obligations, which event or circumstance is beyond that party's control, could not have been reasonably provided against before entering into this Agreement, could not have otherwise been reasonably avoided and which is not substantially attributable to another party. Such event or circumstance may include but is not limited to war, armed conflict, terrorism, nuclear, chemical or biological contamination, revolution, riot insurrection or other civil commotion, strikes or lockouts (excluding those undertaken solely by the personnel of the Licensor), natural catastrophe such as lightning and earthquakes.

## **18. Assignment**

The Licence is personal to the Licensee and the Licensee may not assign or otherwise transfer or in any way dispose of any of its rights or obligations under this Agreement to any third party without the prior written consent of the Licensor. Each of the Licensor and the Licensee may assign or otherwise transfer their respective rights and obligations under this Agreement to a Licensor Group Company or a Licensee Group Company respectively without consent of the other party.

## **19. Notices**

All notices which are required to be given under this Agreement will be in writing and will be sent to the address of the recipient set out in this Agreement or such other address as the recipient may designate by notice given in accordance with this clause.

## **20. Severability**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the validity of the remaining parts, terms or provisions of this Agreement shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Agreement while the parties shall endeavour to substitute the invalid, void or enforceable parts, terms or provision with another one with the same effect but valid and enforceable. Remaining provisions shall nevertheless survive and continue in full force and effect without being invalidated in any way.

## **21. Waiver**

No delay or failure by either party to exercise any of its powers, rights or remedies under this Agreement will operate as a waiver of them, nor will any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided by law.

## **22. Entire agreement**

22.1 This Agreement is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Agreement and supersedes all previous communications, representations and arrangements, written or oral. The Licensee acknowledges that no reliance is placed on any representation made but not embodied in this Agreement. For avoidance of doubt, any terms and conditions which may be printed on the reverse of conditions of quotation, orders, orders confirmation, invoices and any other documents issued either by the Licensor or the Licensee shall not apply to this Agreement.

22.2 Except as otherwise permitted by this Agreement no change to its terms will be effective unless it is in writing and signed by persons authorised on behalf of both parties.

### 23. Governing law and legal venue

Depending on the Customer's principal place of business, this agreement is entered between Customer as RIB entity listed as below. The governing law for this Agreement, including any rights, obligations and claims of the parties, will be as specified below. Any dispute, claim or controversy arising out of or relating to this Agreement, including the breach, performance, termination, enforcement, interpretation or validity of this Agreement (and whether under contract, tort, including and strict liability, competition law or otherwise), and including the determination of the scope or applicability of the dispute resolution provisions of this Agreement, will be finally determined under the law, in the location and by the dispute resolution process specified below:

Customer principal place of business	"RIB" means the following RIB entity	Governing law	Exclusive jurisdiction
European Economic Area, Switzerland, UK	RIB Software SE	The laws of Germany	Ordinary courts of Stuttgart, Germany
North America, South America	RIB Management Computer Controls, Inc., a Tennessee corporation	The laws of the state of Delaware, US (other than its conflicts of law provisions)	The federal or state courts sitting in Delaware
Worldwide except above countries or regions	RIB Limited, a Hong Kong corporation	The laws of Hong Kong (other than its conflicts of law provisions)	Courts of Hong Kong

### 24. Escalation

24.1 In the event of any dispute or difference which may arise between the Licensor and the Licensee, in connection with or arising out of this Agreement, senior representatives or members of the board of directors of the parties shall, within ten (10) business days of a written request from either party to the other address to the managing director or equivalent, meet in a good faith effort to resolve the dispute without recourse to arbitral or legal proceedings.

24.2 If the dispute or difference is not resolved as a result of such meeting, either party may (at such meeting or within ten (10) business days from its conclusion) propose to the other in writing that structured negotiations be entered into with the assistance of a neutral advisor or mediator to be appointed on terms of reference to be agreed between the parties with the aim of resolving the dispute or difference. Such proposal may be refused by the other party in its absolute discretion.