Licensing Agreement for deviceTRUST

These licensing conditions (the "Contractual Agreement") shall be valid between deviceTRUST GmbH, Rosa-Parks-Str. 4, 64295 Darmstadt, Germany (**deviceTRUST**) and the Customer.

1   Contractual Object

1.1   deviceTRUST shall lease to the Customer the standard software deviceTRUST in accordance with the provisions of this Contractual Agreement.

1.2   For the software in the respective program version, the product specifications' version that is available on devicetrust.com shall be valid. The Customer is aware of the therein-mentioned functional features and system requirements for the software. The Customer has verified that these specifications correspond to his wishes and operational requirements.

1.3   The functionalities and explanations provided in the product specifications concretize merely the service object and thus constitute no guarantee in the legal sense.

They shall also not become a component of the Quality Features Agreement insofar as something to the contrary has not been expressly agreed in writing.

1.4   The software shall be supplied only online. The manual shall be provided electronically and in German via the Help function.

1.5   The Customer shall install the software himself.

1.6   deviceTRUST shall owe consulting services only insofar as this has been expressly and separately agreed. Where applicable, any consulting services to be rendered shall also include application consulting and application support and must be separately compensated by the Customer in accordance with the conditions which are respectively valid at the point in time when services are rendered.

1.7   Adjustment of and/or changes to the software by deviceTRUST shall be owed only insofar as they are required for the maintenance and/or repair of the leased object and/or for the ensuring of contractual usage. Otherwise, deviceTRUST shall be obliged to make adjustments and/or changes only if this has been expressly agreed: Where applicable, corresponding services must be compensated by the Customer upon a separate basis at conditions which are appropriate and customary for the market.

2   Usage Rights, Usage Volumes, Fee

2.1   The fee to be respectively paid to deviceTRUST by the Customer for the assignment of the usage rights shall be calculated for a "pay-as-you-go license" based upon the named user licenses actually utilized during the respective month.

For licenses of a fixed duration, the fee shall be calculated based upon the ordered number of named-user licenses and the leasing duration. The details shall be listed in the respectively current product specifications.

2.2   At any time, the Customer may expand the Contractual Agreement with additional licenses. In this regard, the conditions of the respectively currently product specifications shall be valid. For expansions of less than one full year, billing shall be made upon a proportional basis.

2.3   For pay-as-you-go licenses, billing shall be made respectively at the end of each month. The invoice must be paid within 10 days after the invoicing date.

In principle, the leasing fee for licenses with a fixed contractual term for defined time intervals must be paid in advance. The details shall be regulated by deviceTRUST's price list.

2.4   Through the respective leasing fee, all payment claims for the usage of the software, the maintenance of the software and the manufacturer's support in the scope regulated in this Contractual Agreement shall be considered to have been settled.

2.5   deviceTRUST shall be entitled to increase the leasing fee initially only after the passage of twelve months after the conclusion of the Contractual Agreement while providing written notice of three months with the termination to become effective at the end of the respective month insofar as and to the extent that its costs for the maintenance of the leased object have correspondingly increased. The Customer shall have the right to terminate the leasing relationship within six weeks after the receipt of the announcement of the leasing fee increase.

3   Maintenance of the Software

3.1   deviceTRUST shall render the following services during the contractual term:

a)   Maintenance

deviceTRUST shall continue to develop the software's quality and modernity, rectify errors in order to preserve the quality that is owed and supply the Customer with any related updates/upgrades/patches. This shall also include smaller functional expansions.

b)   Disruption-Related Assistance

deviceTRUST shall support the Customer via the support portal. In so doing, the Customer may report product defects via e-mail or later via a marketable ticket system. This support shall be provided via the help functions offered on devicetrust.com.

3.2   deviceTRUST shall render the services while using state-of-the-art technology and in such a manner that takes into consideration the col-

lective interest of the software users. The services shall be rendered only for the latest software version and the immediately preceding version that have been supplied by the software company.

4 Customer's Rights to the Software

4.1 The Customer shall be entitled only to process his own data himself with the software at his own company for his own purposes. deviceTRUST shall hereby grant the authorizations that are required for this usage as a simple user right for the contractual term of the Contractual Agreement.

The usage restrictions on the respective number of licenses ordered must be respected.

4.2 The Customer shall not be entitled to pass on the software to a third party.

5 Contractual Term

5.1 The Contractual Agreement and/or the invoicing period for pay-as-you-go licenses shall begin to run upon the sending of the licensing key by deviceTRUST.

5.2 The intention to make termination owing to an important reason must be announced in writing while providing at least two weeks' notice while stating the reason for termination. If termination without notice is made by deviceTRUST which is based upon a contractual violation by the Customer, deviceTRUST shall, as minimum damages, retain the contractual fee which it would have received without the termination. The damage compensation claim shall not be valid if the Customer is not responsible for the violation. As a discount for the software company's spared expenditures, 10 % of the fee shall be agreed. The Customer shall be at liberty to document that the savings were substantially higher than 10 %.

5.3 Any termination must be in writing in order to be effective in accordance with § 126 BGB **[German Civil Code]**. Insofar as this is available, the customer portal at www.devicetrust.de may be used to terminate the Contractual Agreement or to reduce the number of licenses.

6 Customer's Obligations to Make Notification and Exercise Due Care

The Customer shall be obliged to promptly notify deviceTRUST of software defects. In this regard, insofar as this is reasonable, he shall take into consideration the recommendations provided by deviceTRUST for analyzing the problem and provide deviceTRUST with all required information it has for the rectification of the defect.

7 Customer's Rights for Defects

7.1 deviceTRUST shall promptly eliminate defects in the supplied software including in the documentation.

7.2 As deviceTRUST so chooses, the elimination of defects shall be made via a free-of-charge rectification. The rectification may also be made by providing a patch or an update.

7.3 Any termination by the Customer in accordance with § 543 Para. 2 Clause 1 No. 1 BGB owing to the failure to provide contractual usage is only then permitted if deviceTRUST has been given sufficient opportunity to eliminate the defect and it has failed. One may only then assume that the rectification of the defects has been unsuccessful, if this is impossible, if it has been rejected by deviceTRUST or if it has been unreasonably delayed, if justified doubt exists regarding the prospects for success or if such a rectification is unreasonable for the Customer owing to other reasons.

7.4 The Customer's rights with regards to defects shall be excluded insofar as he undertakes, or has undertaken, changes to the leased object without deviceTRUST's consent unless the Customer can document that the changes have had no effects upon the analysis and elimination of the defects that are unreasonable for deviceTRUST.

8 Liability Restrictions

8.1 deviceTRUST shall be respectively liable for damages of an unrestricted scope in accordance with the statutory directives.

(a) Owing to the loss of life, physical injury or damage to health which is based upon a contractual violation attributable to intentional wrongdoing or negligence and/or any other intentional wrongdoing or negligence upon the part of deviceTRUST or any of its legal representatives or vicarious agents;

(b) Owing to the absence or loss of a guaranteed quality feature and/or if the warranty is not honored;

(c) Which are based upon a contractual violation attributable to intentional wrongdoing or gross negligence and/or any other intentional wrongdoing or gross negligence upon the part of deviceTRUST or any of its legal representatives or vicarious agents.

8.2 The provider shall be liable for damage compensation, in merely restricted fashion for contractually-typical foreseeable damages, for such damages which are based upon the violation of essential obligations that are attributable to simple negligence upon the part of deviceTRUST or any of its legal representatives or vicarious agents. Essential obligations shall be considered to be those obligations whose fulfilment only then makes possible the proper implementation of the Contractual Agreement at all and upon whose fulfilment the Customer may rely.

8.3 For other cases of simple negligence, deviceTRUST shall be liable in restricted fashion for three times the leasing fee per damage claim.

8.4 The faultless liability of deviceTRUST in accordance with § 536 a Para. 1, 1st Alternative BGB owing to defects, which already existed at the point in time that the Contractual Agreement was concluded, shall be excluded.

8.5 In the event of data loss that is attributable to simple negligence, deviceTRUST shall be liable only for the damages which would have been created if the Customer had properly backed up the data upon a regular basis in a manner that were suitable for the significance of the data; this restriction shall not be valid if the data back-up was hindered or rendered impossible owing to reasons for which deviceTRUST was responsible.

8.6 The aforementioned provisions shall also be valid accordingly for the liability upon the part of deviceTRUST with regards to providing reimbursement for expenditures in vain.

8.7 The liability in accordance with the German Product Liability Act shall remain unaffected.

9   Confidentiality and Data Protection

9.1 The contractual partners shall be obliged to keep confidential all objects (e.g. software, documents, information), which they receive from the other contractual partner or become aware of before or during the implementation of the Contractual Agreement, which are legally protected or contain business or trade secrets or which have been designated as being confidential–including beyond the Contractual Agreement–unless they have been publicly disclosed without any violation of the confidentiality obligation. The contractual partners shall store and safeguard these objects in such a manner that prevents third-party access to them.

9.2 The contractual partners shall honor the data protection directives. Each contractual partner shall be obliged to impose a confidentiality obligation in writing upon those persons it/he deploys in accordance with § 5 Clause 2 BDSG **[German Data Protection Act]** and, upon request, document this to the other contractual partner.

9.3 With regards to the maintenance of the software, it cannot be ruled out that deviceTRUST will view personal data of the Customer and/or his employees. In this regard, deviceTRUST shall work by mandate of the Customer in accordance with § 11 BDSG. Thus, deviceTRUST shall use the personal data only within the parameters of this Contractual Agreement or other written instructions issued by the Customer and in accordance with the data protection directives. The details shall be regulated by a supplemental agreement corresponding to the directives of § 11 BDSG. The contractual partners shall separately conclude such an agreement.

10   Miscellaneous

10.1 The place of performance for all obligations of deviceTRUST shall be its commercial residence.

10.2 This Contractual Agreement shall be subject to the law of the Federal Republic of Germany with the exception of the directives of German international private law. The validity of the United Nations Convention on Contracts for the International Sale of Goods of 11/04/1980 shall be excluded.

10.3 The Customer may offset only with undisputed or legally-upheld claims against the claims held by deviceTRUST. The exercising of a right of retention which is not based upon a right from this contractual relationship shall not be valid.

10.4 The exclusive legal venue for all disputes arising between the parties from or in conjunction with this Contractual Agreement shall be Frankfurt am Main, Germany. The statutory directives on exclusive legal venues shall remain unaffected.

10.5 Without the prior written consent of deviceTRUST, the Customer may neither assign this Contractual Agreement nor assign or delegate the rights or obligations which are created from this Contractual Agreement.

10.6 If individual provisions of this Contractual Agreement should be or become invalid, then the validity of the remaining provisions shall not be affected. In such a case, the parties shall be obliged to replace the invalid provisions with such a valid provision which most closely corresponds to the commercial intent of the invalid provision.