General Terms and Conditions of .riess engineering europe gmbh
.riess-General Terms and Conditions-GENERAL

I. Scope, supplementary contractual terms

1.1 The General Terms and Conditions of .riess engineering europe gmbh (.riess) – .riess-General Terms and Conditions-GENERAL – apply to all contractual relationships with other companies or persons under public law (customers) in connection with deliveries and services provided by .riess and form part of the contract, unless agreed otherwise between .riess and the customer in a separate written agreement. .riess-General Terms and Conditions-GENERAL apply also to all future business relationships with the same customer without that .riess would have to inform that customer correspondingly in each individual agreement.

1.2 .riess-General Terms and Conditions-GENERAL apply exclusively. Any deviating, contradicting or supplementing general terms and conditions of a customer will only form part of a contract to the extent that .riess expressly approves them in writing. This requisite approval applies in any case and in particular in those instances, where .riess knows the general terms and conditions of the customer and proceeds with a delivery or service to the latter without reserve.

1.3 Only the general management of .riess shall be entitled to agree to such conditions of delivery or service of any type whatsoever, which deviate from these General Terms and Conditions.

1.4 The .riess-General Terms and Conditions-GENERAL are supplemented by contractual terms and conditions for the provision of software – .riess-General Terms and Conditions-SOFTWARE –, contractual terms and conditions for software maintenance – .riess-General Terms and Conditions-SOFTWARE MAINTENANCE –, and contractual terms and conditions for the provision of consulting and other services – .riess-General Terms and Conditions-SERVICES –, whereby these contractual terms and conditions take precedence over the .riess-General Terms and Conditions-GENERAL in the context of their scope of application, to which the preceding provisions otherwise apply mutatis mutandis.

1.5 The .riess-General Terms and Conditions-GENERAL also apply insofar as .riess performs work services for the customer in individual cases.

II. Initiation and conclusion of contract, written form

2.1 Offers from .riess are subject to change and unbinding. This applies analogously to those instances, where .riess submits to the customer catalogues, product descriptions or technical documents to which .riess reserves intellectual property rights or copyrights. Furthermore, the regulations of these General Terms and Conditions and especially the liability limitations set out under sections 7.2 et seq. shall apply to all pre-contractual obligations.

2.2 Any order of software and/or commissioning to carry out other services, which are issued by the customer, shall be deemed a binding contractual offer, unless provided otherwise in the order and/or the commissioning or in other agreements. .riess shall be entitled to accept such contractual offer within four weeks from its receipt by .riess. The acceptance can either be made in writing, e. g. by an order confirmation or by delivery of software and/or provision of other services to the customer.

2.3 Any termination, reminder, granting of periods and other legally relevant declaration of the customer must be made in writing in order to be effective. This shall also apply to the waiver of this written form requirement. There are no oral side agreements.

III. Transfer of risk, delivery and performance deadlines

3.1 The risk of accidental loss and/or of deterioration of deliveries shall pass to the customer upon their surrender. Surrender shall be tantamount to customer's default in accepting. In case of a shipment, the risk of accidental loss and of accidental deterioration will pass to the customer on handover to the forwarder, the carrier or the person otherwise designated to execute the shipment. In case of deliveries by means of downloading over the internet, the risk of accidental loss and of deterioration will pass to the customer on provision by .riess of the access credentials required for this. Instead of acceptance in case of deliveries, receipt by the customer will take place in case of services and approval in case of work services.

3.2 Delivery and performance deadlines will only be binding where .riess has confirmed them as binding in writing. Where binding delivery terms have been agreed to, .riess shall not be in default without a written reminder of the customer.

3.3 Adherence to such terms implies that the customer provides information required for delivery in time and performs its respective obligations to cooperate. In case that this condition is not met, the deadline will be extended accordingly. This shall not apply to those instances, where a delay is attributable to .riess.

3.4 In case that non-compliance with delivery and performance deadlines is the result of force majeure (e. g. war, riot or similar events such as strike, lockout or a supplier's failure to deliver on time), the deadlines will be extended accordingly.

3.5 .riess shall be entitled to perform partial deliveries or services. This does not apply when customer is not interested in such partial delivery or service.

IV. Remuneration, payment conditions

4.1 The prices for the respective deliveries or services will be based on the respective offers and/or order confirmations submitted by .riess. Travel expenses and costs will be invoiced separately, unless agreed otherwise in writing. The prices are quoted net, ex warehouse, without deduction, and plus the statutory value-added tax applicable on the date of the invoice.

4.2 .riess expressly reserves the right to refuse cheques or bills of exchange. They shall only be accepted as provisional performance. Any and all discounting and bill charges shall be borne by the customer and be due immediately.

4.3 .riess is entitled to monthly invoices. If services are remunerated on a time and material basis, .riess shall document the type and duration of the activities and transmit this documentation to the customer along with the invoice.

4.4 All payments will be due within 14 days from receipt of an invoice and shall be paid without deduction, unless agreed otherwise in writing. Customer will be in default of payment once this period has expired. If customer is in default of payment, the interest on arrears will amount to 9 percentage points per year above the applicable base rate pursuant to Art. 247 and 288 Sec. 2 BGB [Civil code].

4.5 .riess reserves the right to adjust prices adequately in case that costs increase or decrease after conclusion of the contract. Upon request, .riess shall produce evidence of the same to the customer.

4.6 The customer may only offset or withhold payments due to defects to the extent that it is actually entitled to assert payment claims due to material defects or defects of title of the deliveries or services. The customer may only withhold payments due to other claims for defects to a proportionate extent, taking the defect into account. The customer has no right of retention if its claim for defects is statute-barred. Otherwise, the customer may only offset or exercise rights of retention with undisputed or legally established claims.

4.7 In case that the customer is in default of payment of significant amounts, .riess shall be entitled to provisionally suspend further deliveries and services arising from the same contractual relationship to which .riess is bound and to request immediate payment of all unpaid amounts arising out of this relationship. This means that .riess will no longer be bound to potentially agreed deadlines and/or periods for outstanding deliveries and services without any special notice to this effect being required on the part of .riess.

V. Retention of Title and Rights

5.1 Until full payment of any existing and future claims resulting from an ongoing business relationship, .riess reserves all rights to the related deliveries and/or services. This shall apply in particular to the ownership of the deliveries in question, as well as to other rights to be granted and intangible services, such as rights to use software.

5.2 Prior to full payment of the secured claims deliveries and/or services from .riess must not be pledged to third parties nor be assigned as security. If these are pledged or otherwise encumbered by third parties, customer shall inform the latter immediately on the property rights of .riess and shall notify .riess promptly by telephone, fax or email (box@riess.de) and then in written per regular mail. In the event that such third party is not able to bear the judicial and extra- judicial costs arising to .riess from such assertion of rights, customer shall be liable for all damages sustained by .riess.

5.3 In case that customer is in breach of a contract, particularly in the event of non-payment of the remuneration when due, .riess shall have the right to cancel the contract in accordance with the statutory provisions and to request return of the goods according to the retention of title and to the cancellation and to revoke possible rights conferred to customer such as a right to use software. These rights of .riess shall also exist then, when secured claims are already barred.

5.4 Customer is obliged to treat deliverables with care, and upon request of .riess to insure it properly against damages for the duration of a reservation of title. Customer assigns to .riess already now any claims it may have against the insurance company. In case of seizures or other interventions by third parties, .riess must be notified by the customer in writing without delay so that .riess can assert its rights in good time. In the event that such third party is not able to bear the judicial and extra- judicial costs arising to .riess from such assertion of rights, customer shall be liable for all damages sustained by .riess.

5.5 To the extent that .riess shall be entitled to assert a reservation of title, customer shall grant to .riess the right to collect reserved goods and to this end grant to .riess the irrevocable and unlimited right to access its business premises and site during regular business hours.

VI. Duty to inspect and to give notice of defects, customer's duty to cooperate

6.1 With regard to all deliveries and services from .riess, customer acknowledges its duty to inspect and to give notice of defects arising from Art. 377 HGB [Commercial Code].

6.2 With regard to customer's right of retention for possible defects, the above subsection 4.6 shall apply by analogy. In case that the existence of a defect is legally undisputed or that it has been recognized by .riess, the scope by which a right of retention is asserted must be adequate to the established defects. In case of unjustified notices of defects, .riess shall be entitled to claim from the customer indemnification for all losses thereby incurred.

6.3 To avoid damages, the customer is required to ensure proper data backup and precautions against failure for data and components (e. g. hardware, software) that are appropriate to their type and importance.

6.4 The customer must report defects in writing without delay in a comprehensible and detailed form, stating all the information that is useful for identifying and analyzing defects. In particular, the work steps that led to the occurrence of the defect, the manifestation and the effects of the defect must be stated. Unless agreed otherwise, the appropriate .riess procedures will be used for this purpose.

6.5 With regard to the deliveries and services to be provided/performed by .riess, the customer will, if necessary, cooperate free of charge. This cooperation includes, in particular, the customer submitting to .riess all the necessary information with regard to its targets and requirements, for example, in good time and without being prompted to do so, and the customer providing expert personnel to support .riess. The customer and .riess each appoint a responsible contact through whom communication takes place. Moreover, the customer will provide, in good time, any facilities and work equipment that may be required for the installation or operation of the deliveries and/or services and will enable remote access to the customer's system. To the extent that remote access is not possible for security or other reasons, any deadlines affected thereby will be extended as appropriate and the parties will make reasonable arrangements for any further effects.

6.6 The parties are aware that electronic and unencrypted communication (e. g. by email) is associated with security risks. They will not, therefore, assert any claims in this type of communication due to the absence of encryption, unless encryption has been explicitly agreed upon beforehand.

VII. Liability for (material) defects in deliveries and services

7.1 .riess warrants the contractually owed quality of the deliveries and services. No entitlement will exist to claims for (material) defects for an only insignificant deviation from the contractual quality.
7.2 No entitlement will exist either to claims for (material) defects in case of excessive or improper use, natural wear and tear, failure of the system environment's components, software errors that cannot be reproduced or otherwise proven by the customer, or in case of damage that occurs due to particular external influences that are not provided for under the contract. This shall also apply in case of subsequent modification or repair by the customer or third parties, unless doing so does not complicate analysis and elimination of the defect.
7.3 The limitation period for claims for (material) defects is one year from the statutory commencement of the limitation period. The statutory periods for recourse according to Section 478 of the German Civil Code (BGB) remain unaffected. The same shall apply insofar as the law pursuant to Section 438 (1) (2) or Section 634 a (1) (2) of the German Civil Code (BGB) provides for longer periods in case of an intentional or grossly negligent breach of duty by .riess, in case of fraudulent concealment of a defect and in cases of injury to life and limb or harm to health, as well as to claims under the German Product Liability Act.
7.4 Processing by .riess of a notice of material defect reported by the customer only leads to the suspension of the limitation period insofar as the legal requirements for doing so are met. This will not cause the limitation period to start over. Supplementary performance (new delivery or subsequent improvement) may only have an influence on the limitation period of the defect triggering the supplementary performance.
7.5 .riess may demand reimbursement of its expenses to the extent that
   a. .riess takes action based on a report where a defect is not actually present, unless the customer could not have reasonably determined that there was no defect; or
   b. a reported fault is not reproducible or otherwise provable by the customer as a defect; or
   c. additional expenses are incurred due to improper fulfillment of the customer's obligations.
7.6 Section 9 shall additionally apply to claims for damages and reimbursement of expenses asserted by the customer.

VIII. Legal defects

8.1 If the rights of third parties are infringed by the deliveries and services provided by .riess, .riess shall only be liable to the extent that the subject matter of such deliveries and services is used in accordance with the contract and, in particular, in the contractually agreed, otherwise unchanged, operational environment. .riess is only liable for infringements of third-party rights within the European Union and the European Economic Area and at the place where the service is contractually used.
8.2 If a third party asserts against the customer a claim that deliveries or services provided by .riess infringe its rights, the customer shall notify .riess without delay. .riess and, if applicable, its upstream suppliers are entitled, but not obligated, to defend the asserted claims at their own expense to the extent permissible. The customer is not entitled to acknowledge claims asserted by third parties before it has given .riess reasonable opportunity to defend the rights of third parties in another manner.
8.3 If the rights of third parties are infringed by deliveries or services provided by .riess, .riess shall, at its own discretion and at its own expense,
   a. grant the customer the right to use the service; or
   b. make the service non-infringing; or
   c. take back the service and reimburse the customer for the remuneration paid for the same (less reasonable compensation for use) if .riess cannot achieve any other remedy with reasonable effort.

   The customer's interests are given reasonable consideration.
8.4 Claims asserted by the customer as a result of defects of title will become statute-barred in accordance with (7.3). Section 9 shall additionally apply to claims for damages and reimbursement of expenses asserted by the customer; Section 7.5 shall apply mutatis mutandis to additional expenses incurred by .riess.

IX. General liability

9.1 Liability of .riess depends on legal provisions, unless nothing to the contrary is stated hereinafter.
   .riess will always be liable vis-à-vis the customer
   a. for damages caused by it, as well as by its legal representatives or vicarious agents, either due to intent or gross negligence;
   b. in accordance with the German Product Liability Act; and
   c. for damages resulting from injury to life and limb or harm to health that .riess, its legal representatives or its vicarious agents are responsible for.
9.2 .riess will not be liable for slight negligence, except to the extent that a material contractual obligation has been breached, and the fulfillment of such material contractual obligation is a prerequisite for the proper performance of the contract or the breach of such material contractual obligation jeopardizes the achievement of the purpose of the contract and on the observance of such material contractual obligation the customer may regularly rely (substantial obligation). In case of property damage and financial losses, this liability will be limited to the foreseeable damage typical of the contract. This shall also apply to lost profits and savings. Liability for other remote consequential damages is excluded.
9.3 For a single case of damage, liability is limited to the contract value. If remuneration is still being paid, liability shall be limited to the amount of remuneration per contract year, but to no less than EUR 50,000.00. (7.3) shall apply mutatis mutandis to the limitation period. The parties may agree on more extensive liability in writing on conclusion of the contract, whereby an individually agreed liability sum will take precedence. The liability according to (9.1) remains unaffected by this paragraph.
9.4 .riess will only be liable for damages arising from a warranty declaration if this was expressly assumed in the warranty. In case of slight negligence, this liability will be subject to the limitations set out in (9.2).
9.5 In case of restoration of data or components (such as hardware, software) being necessary, .riess will only be liable for the effort required for the restoration where the customer has properly backed up data and taken precautions against failure. In case of slight negligence on the part of .riess, this liability will only apply if the customer backed up data and took precautions against failure in a manner appropriate to the type of data and components prior to the incident. This shall not apply if this is agreed as a service provided by .riess.
9.6 (9.1) to (9.5) apply mutatis mutandis to claims for reimbursement of expenses and other liability claims that the customer asserts against .riess.

X. Granting of periods, threatening with claims for damages, withdrawal and termination

10.1 In case that the customer is legally entitled to claim damages in lieu of delivery or performance or reimbursement of expenses after that a grace period granted by it expires without result, another such granting of another period shall state the customer's express threat to assert such rights in case that this period, too, will expire without result.
10.2 The above subsection 10.1 shall apply by analogy if the customer is legally entitled to withdraw from a contract with .riess or to terminate such contract for good cause with immediate effect and to the extent that a granted appropriate period expires without result.

XI. Secrecy, confidentiality

11.1 To the extent that the parties exchange confidential information of a commercial or technical nature or that one party gains access to such information from the other that is normally treated as a business secret – such as application know-how, customer data, etc. – that is not generally known in business circles and that is therefore of economic value, the parties undertake to treat it as being strictly confidential, to not disclose it to third parties without the consent of the other party, and to not use or reproduce it beyond the purpose of the execution of this contract. Excluded from this mutual obligation of confidentiality is such information, which
   a. is demonstrably public knowledge or which becomes public knowledge without action by one of the parties;
   b. is disclosed to one party through another source which is not bound by such secrecy obligation to the other party;
   c. has to be disclosed by one party pursuant to compulsory legal provisions and in particular towards courts, law enforcement agencies and authorities.
11.2 Upon request of the disclosing party, the other party shall promptly return all physically transmitted confidential information to it or destroy it at the disclosing party's discretion without keeping copies or recordings. Own recordings, compilations and analyses containing confidential information must be returned promptly upon other party's request; and electronically transferred and/or saved confidential information shall be deleted. Upon request, the implemented destruction/deletion has to be confirmed to the other party in writing. However, the above provisions from this section shall not apply for copies which one party keeps for demonstration purposes in a confidential storage.
11.3 This secrecy obligation shall survive the contractual relationship between the parties for a period of 5 years.
11.4 .riess will, however, remain entitled to send to licensors any analytics functions and tools provided by .riess that may contain business secrets, such as customer data, to answer questions and solve issues raised by the customer. In that case .riess will subject the licensor to this secrecy obligation.
11.5 Moreover, the customer shall treat the details of the contracts with .riess and in particular price conditions secretly.

XII. Data protection

The customer will conclude with .riess agreements that are necessary under data protection law for the handling of personal data.

XIII. Miscellaneous

13.1 .riess may, at its own discretion, subcontract services to subcontractors it has selected, taking the customer's legitimate interests into account. .riess will be responsible for the services provided by these subcontractors in the same way that it is for its own services.
13.2 The customer will, under its own responsibility, observe the import and export regulations applicable to the deliveries or services, in particular those of the USA. In case of a cross-border delivery or service, the customer will bear any customs duties, fees and other charges incurred. The customer will, under its own responsibility, handle legal or official procedures in connection with cross-border deliveries or services, unless expressly agreed otherwise between the parties.
13.3 The legal relationship between .riess and the customer will be governed by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods – CISG – and private international law, as well as its choice of law clauses or conflict of law provisions.
13.4 To the extent that the customer is a merchant, a legal person under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship will be Karlsruhe. .riess will, however, also be entitled to take legal action at the customer's place of business.

General Terms and Conditions of .riess engineering europe gmbh for the provision of consulting and other services .riess-General Terms and Conditions-SERVICES

I. Scope

The following General Terms and Conditions of .riess engineering europe gmbh (.riess) for the provision of consulting and other services – .riess-General Terms and Conditions-SERVICES – apply to all contractual relationships with other companies or persons under public law (customers) in connection with consulting and other services provided and form part of the contract, unless agreed otherwise between .riess and the customer in a separate written agreement. These .riess-General Terms and Conditions-SOFTWARE complete the General Terms and Conditions of riess-General Terms and Conditions — GENERAL —, which next to the .riess-General Terms and Conditions-SOFTWARE form also part of the contract.

II. Consulting and other services provided by .riess

2.1 Based on individual customer orders, .riess will provide diverse consulting and other services in connection with selection, introduction, installation, use and individual adaptation of software. The scope of consulting and other services to be provided by .riess will be defined in relevant offers and/or order confirmations issued by .riess. These .riess-General Terms and Conditions-SERVICES shall in particular apply to the following services provided by .riess:

- Determining the precise software requirements of the customer taking into account customer-specific hard and software environment;
- Support and consulting during the introduction of the software;
- Implementation of pilot applications of relevant software at customer's site;
- Consulting on installation and introduction of software selected by the customer;
- Supporting the customer in realization and optimization of operational availability of the software
- Consulting on adaptation and extension of software;
- Training of end users of the customer e.g. through standard courses, workshops, tutorials on the optimized use of software.

2.2 The above consulting and other services will only then be provided by .riess pursuant to differing terms and conditions if expressly agreed to with the customer in writing.

III. Scope and provision of the services

3.1 The precise targets, scope of tasks involved and the approach will be mutually determined between the customer and .riess and then fixed in writing.

3.2 To the extent that .riess provides support services as part of customer projects, the customer is obligated to check regularly whether the project targets set out in writing are met. Customer will solely assume the project management and responsibility. .riess and the customer will mutually agree to the type and representation of the customer specifications and/or the documentation and recording, as well as the timelines, and in doing so define tasks to be performed by .riess.

3.3 .riess will have to deploy skilled staff and assist and control them continuously during the execution of an order. .riess will decide at its own discretion which employees to assign or to replace.

3.4 To the extent that the customer's employees provide support as part of the customer's tasks, the customer will make sure that its employees will be managed by an appropriate employee. .riess will be informed of the customer's respective, responsible commercial and technical contacts prior to the commencement of the performance of the consulting and other services.

3.5 If .riess assists the customer with adaptations and extensions of the software according to customer's instructions, .riess shall owe the activity itself but not the warranty and version upgrades related to it, unless agreed to expressly in writing.

3.6 .riess will provide consulting and other services regularly during normal business hours and outside the bank holidays from Monday through Friday between 8:00 am until 5:00 pm CET/CEST.

IV. Remuneration, invoicing

4.1 .riess will charge consulting and service contracts pro rata temporis. The time to be remunerated by the customer includes - next to the activities of the employees of .riess - also their participation in negotiations, project meetings as well as possible preparatory or concluding works of employees outside the customer's premises, for example at one of the sites of .riess.

4.2 The customer may countersign consulting and other services done by .riess on activity reports. Invoices will be based on such reports and will be prepared once activities have been completed or once per month if the consulting and other services will be performed for a period of more than one week. For individual, unique activities, which are not too extensive, such as installation support, introduction or training, .riess will send out the invoice immediately after their provision. Special exemptions to this rule are settled in the relevant offers and/or order confirmations.

4.3 To the extent that order confirmations state only an expected duration, this shall only be deemed an estimate. During the provision of the services it may become necessary to exceed such durations. In this case, .riess will promptly inform the customer on this requirement to exceed the initially expected duration and state the reasons. To the extent, that the customer wishes to determine a binding upper limit for the required project duration, this must be specified in an express written agreement.

4.4 If services cannot or not fully be provided for reasons, for which the customer is not responsible, .riess may however charge them but without those costs, which did not arise such as travel expenses.

V. Disruptions in the performance

With regard to the performed consulting and other services, .riess will be liable for the timely and proper provision of the services but not for an economic or other result expected by the customer.

VI. Customer's duty to cooperate

6.1 If necessary, the customer will provide to the employees of .riess, working at its premises, suitable rooms in which it shall also be possible to store documents, tools and storage mediums.

6.2 If necessary, the customer will provide to .riess all required working means in sufficient quantity and without any extra charge and will grant to the employees of .riess access to the information they need to perform their tasks and submit to them the required information in good time.

6.3 To the extent that .riess installs software on the customer's premises as part of the consulting and other services, the customer will have to set up a suitable hardware and software environment in good time. Prior to commissioning, customer will have to check every function of such software under customer-specific hardware and software environments. In case of test provision, the customer will make sure following completion that every software program provided by .riess for this period and that will no longer be used will be removed from its system environment without delay. Possible copies will have to be destroyed and/or handed out to riess. In this respect, the corresponding rules set out in the .riess-General Terms and Conditions-SOFTWARE will additionally apply.

6.4 riess shall not be liable for a loss of data in case that such loss would not have occurred had the data been properly back-upped by the customer. The data shall be deemed properly back-upped when the customer saves them daily in machine-readable form and is able to prove it and where the recovery of such data is reasonably possible.

VII. Rights of use to services, documents, intellectual property rights

7.1 The customer shall be entitled to use the services provided by .riess for the purpose agreed to in the contract. The preceding rule shall apply in particular to all documents and other materials set up by .riess in connection with the provision of services for the customer.

7.2 The customer's right of use for performance results is limited to internal private use for the stipulated use and does not include the right to further commercial exploitation, in particular not the right to sell or otherwise pass on or transfer programs and program components made available by .riess in the object code. In this respect, the customer is granted a non-exclusive right of use that is unlimited in terms of time and is transferable only with the consent of .riess.

7.3 Insofar as results of performance capable of being protected by industrial property rights of any kind, such as patents or utility models, arise in the context of the consulting services, .riess will be entitled to them if they were established or co-established by the activities of .riess employees. In this case .riess grants to the customer a royalty-free, unlimited, non-exclusive right of use, which may only be transferred with the consent of .riess.

7.4 Otherwise, all rights remain reserved to .riess.

VIII. Applicability of the .riess-General Terms and Conditions-GENERAL

The general provisions for the conclusion of contracts, supplies, remuneration and payments, retention of title and rights, liabilities, limitation and legal venue, etc. as set out in the General Terms and Conditions of .riess — .riess-General Terms and Conditions-GENERAL — shall apply analogously to the contractual relationships in connection with the provision of consulting and other services. In case of inconsistencies or deviations, these .riess-General Terms and Conditions-SERVICES shall take precedence over the .riess-General Terms and Conditions-GENERAL.

General Terms and Conditions of .riess engineering europe gmbh for licensing of software
.riess-General Terms and Conditions-SOFTWARE

I. Scope

The following General Terms and Conditions of .riess engineering europe gmbh (.riess) – for the provision of software – .riess-General Terms and Conditions-SOFTWARE – apply to all contractual relationships with other companies or persons under public law (customers) in connection with the provision of software programs and form part of the contract, unless agreed otherwise between .riess and the customer in a separate written agreement. These .riess-General Terms and Conditions-SOFTWARE complete the General Terms and Conditions of riess-General Terms and Conditions — GENERAL —, which next to the .riess-General Terms and Conditions-SOFTWARE form also part of the contract.

II. Services by .riess

2.1 .riess will provide to the customer the .riess software (contractual software) designated in the order confirmation and/or in the software transfer certificate / license agreement in a machine-readable format – object code – together with the respective product description and – if available – further documentation such as operating manuals, help files, other technical information and documents. The contractual software is delivered – where possible or depending on the customer's request – on a data carrier or in an unembodied format as a download over the internet using access credentials provided to the customer by .riess. In principle, contractual software includes all products that .riess offers on the market at its prices and that have not been developed and provided exclusively and individually for a specific customer.

2.2 In case that .riess transmits the contractual software as a download to the customer, .riess will upon request warrant the availability of the contractual software on a server for download by the customer.

2.3 The product description and/or other documentation of the contractual software will detail functions and performance which may be achieved by the contractual software in case of its use in compliance with these provisions.

2.4 Unless regulated otherwise below, the services provided by .riess in the context of the provision of the contractual software do not include the delivery of new program versions of the contractual software, installation of software, customizations, training, or any other consulting or other services or work performance beyond the provision of the contractual software. In particular, .riess does not support the customer if the customer wishes to connect the contractual software to another piece of software for the purpose of data exchange using the interfaces contained in the contractual software, if any. Both the establishment of such a connection and the aforementioned services will only be provided by .riess against payment of additional remuneration in the context of a separate agreement with the customer.

2.5 Software products provided by other manufacturers are not subject to these conditions. The relevant terms of use and license conditions issued by the respective manufacturer apply exclusively to this third-party software. If third-party software is also offered to the customer by .riess on a case-by-case basis, the respective product description and the manufacturer are listed in the .riess offer.

III. Customer's duty to cooperate

3.1 The order confirmation issued by .riess and/or relevant documentation of contractual software will bindingly set out the required hardware and software environments ensuring a proper and smooth performance of the contractual software. The customer will provide a suitable hardware and software environment and ensure its functionality, while at the same time exercising due care to check and guarantee that the system environment provided by it is free of any malware.

3.2 The customer will thoroughly test the contractual software for fundamental freedom from defects in the customer-specific environment and application before commencing operational or productive use of the software. This applies also to contractual software the customer receives in connection with supplementary performance or with a software maintenance contract.

3.3 The customer shall be obliged to prevent unauthorized access to the contractual software and to its documentation by taking appropriate steps.

3.4 The customer will bear any disadvantages or additional costs resulting from a breach of the aforementioned obligations and will be liable vis-à-vis .riess for any damages resulting from the same.

IV. Granting of rights

4.1 In the relationship with the customer, .riess shall be entitled to all rights to the contractual software — particularly copyright, rights to inventions and technical property rights —, even if software has been developed according to the specifications or with cooperation of the customer. This shall also apply to any software, work results and information submitted by .riess to the customer in the context of preparation or implementation of the contract or for subsequent performance and software maintenance. With regard to the contractual software, customer shall only be authorized as provided for hereinafter:

- Unless expressly agreed otherwise in writing, .riess grants the customer the non-exclusive and non-transferable right, which is unlimited in terms of time and is subject to (4.4) below, to use the contractual software in accordance with the provisions set out in these .riess-General Terms and Conditions-SOFTWARE. This right of use is granted subject to the full payment of the contractual software.
- In case that formerly licensed contractual software is substituted for the customer, e. g. due to subsequent performance or software maintenance, customer's right of use for the older software will expire within two weeks from the time customer starts the productive use of the new software. For registration purposes the customer shall be entitled to make one copy respectively of the technically substituted contractual software.

4.2 The contractual software will follow the relevant licensing model resulting in each case from the order confirmation issued by .riess and/or the software transfer and service certificate and/or the license agreement. Contractual software licensed as a named user license may only be used by registered users whose names are entered in the system.

4.3 Customer may copy the contractual software to the extent that this is necessary for the defined use of the contractual software. In addition, the customer will be entitled to make backup copies, which must be identified as such, in accordance with the recognized rules of technology and to the extent necessary. They may only be used for archiving purposes and not be handed over to third parties. A simultaneous use of original and backup copy is prohibited. Further duplicates must not be created. The product description and/or other documentation may be printed out or copied for a compliant use of the contractual software but print-outs or copies must not be handed over to third parties. Any further duplication of the contractual software and/or of the product description or of other documentation by the customer or a provision of the contractual software to third parties shall only be permitted with the express approval of .riess.

4.4 The customer is entitled to transfer the contractual software in its original condition and as a whole to a third party, provided that the third party agrees to the .riess-General Terms and Conditions-SOFTWARE and .riess-General Terms and Conditions-SOFTWARE MAINTENANCE, as well as any further provisions set out in individual contracts. On transfer of the contractual software, the right of use will pass to the third party, who will thus be solely entitled to use the contractual software in accordance with the .riess-General Terms and Conditions-SOFTWARE to the exclusion of the customer. In this case, the customer will immediately delete or otherwise destroy all copies and partial copies of the contractual software, as well as modified or edited versions and copies and partial copies made thereof. This also applies to backup copies. The customer is obligated to inform .riess without delay of the transfer of the contractual software. Otherwise, (8.2) below shall apply mutatis mutandis.

4.5 The preceding provision shall also apply if the customer only transfers the contractual software to a third party temporarily. However, the customer is not entitled to rent out the contractual software or parts thereof for acquisition purposes.

4.6 If .riess merely provides the contractual software to the customer for a limited period of time (software rental, subscription), the duration of the provision of the contractual software and the amount of the rent or subscription fee to be paid by the customer to .riess for this purpose shall be determined in each case from the order confirmation issued by .riess and/or the software transfer and service certificate (subscription certificate). Without the prior written consent of .riess, the customer is not entitled to transfer the contractual software provided to it for use to a third party, and in particular to sell, rent or lend the same to a third party.
Otherwise, and to the extent that doing so is not inconsistent with the type of contract for the temporary provision of the contractual software, the provisions set out in these .riess-General Terms and Conditions-SOFTWARE and the .riess-General Terms and Conditions-GENERAL shall also apply to the software rental or subscription.

V. Limitations of the right of use

5.1 Customer is not entitled to use contractual software beyond contractual scope, unless this is absolutely necessary to correct deficiencies and to the extent that .riess is in default of such elimination of a deficiency. If the correction offers grounds to believe that important program functions and processes could be disclosed, customer may only involve such third parties with the correction of a deficiency, which are not competitors of .riess.

5.2 Moreover, customer must not analyze, reassemble, process, or modify the software in any other form whatsoever. Any reverse translation into other code forms — the decompilation — and other types of re-development of the various production stages of the contractual software — Reverse-Engineering — shall be prohibited, except according to the following provision. Customer may decompile the object code to the extent that this is required to ensure the interoperability with other software programs and that the customer has not yet received the necessary information and that these decompilation works are limited to the parts of the original software.

5.3 The customer must not remove, alter or obliterate notes regarding intellectual property and copyrights, labels, brandings or marks from .riess or other manufacturers applied to the contractual software and/or the product description.

5.4 .riess may provide the contractual software to the customer for testing purposes (test provision) for a test period defined in writing (test phase), exclusively for the purposes of presentation or to check its suitability for use by the customer and its affiliated undertakings pursuant to Section 15 of the German Stock Corporation Act (AktG). Particularly a productive use and/or its preparation and the use for training purposes shall be prohibited. The final characteristics of the software depend on the documentation, technical data, sales brochures, marketing information and quality specifications, which shall however not constitute a binding statement of works.
Unless agreed otherwise hereinafter, the obligations of .riess in connection with the provision of contractual software for test purposes do not imply the delivery of documentation, of new program versions (software updates), the installation of software, customer-specific adaptations, trainings nor other consulting services or services beyond licensing of the software. Such services must be laid down in a separate agreement and will be charged upon delivery according to the .riess prices and conditions list.
The authorization to use .riess software for testing shall be restricted to test systems (non- productive and non-commercial use), or also to the agreed number of clients, servers, locations and/or agreed projects. No licensing fees are to be paid during the test stage.
The usage authorization expires after the end of the test period defined in writing. Thereafter, all deliveries, and both the installed software and any backup copies that may have been created (including the related documentation), will be deleted without delay. The customer will in writing confirm the fulfilment of this obligation to .riess.
If the customer wishes to extend the use of .riess software during test stage, e. g. to a larger number of clients and/or servers and/or locations and/or projects, this shall be subject to fees. .riess will submit to the customer a corresponding offer.

5.5 Analogous to the preceding provisions regarding the provision of contractual software to customers for test purposes (test provision), the contractual software may also be provided by .riess to selected partner companies for a limited period of time for demonstration purposes. Otherwise, these .riess-General Terms and Conditions-SOFTWARE and the .riess-General Terms and Conditions-GENERAL shall also apply in this respect.

VI. Fees

6.1 Unless agreed otherwise on a case-by-case basis, the fees to be paid by the customer for the use of the contractual software will consist of a one-time fee to be paid on delivery of the contractual software and ongoing annual software maintenance fees.
6.2 Unless agreed otherwise, the remuneration and invoicing of the software maintenance fee will otherwise be subject to Section V. of the .riess-General Terms and Conditions-SOFTWARE MAINTENANCE.

VII. Warranty

7.1 Customer's rights in case of defects of the contractual software are subject to the applicable statutory provisions, unless stipulated otherwise hereinafter.
7.2 The contractual software is warranted for a period of one year. This period of one year shall start upon the delivery of the contractual software to the customer. The legal warranty period shall, however, apply there, where .riess has fraudulently concealed a defect or granted a warranty for a certain property of the contractual software.
7.3 .riess warrants that the use of the contractual software will comply with the statement of works and that it will be free from software bugs that might more than insignificantly impair the contractual software's fitness for the contractually agreed purpose. Insignificant deviations from the statement of works shall not be deemed a deficiency. The customer knows that according to the state-of-the-art software as complex as it is cannot be absolutely free from deficiencies.
7.4 The customer is obligated to inform .riess promptly and in writing on possible software bugs, stating the outcome of such bugs, their consequences and circumstances under which they occur. Warranty claims shall only exist there, where the notified defect is reproducible or where it can be repeated using outputs created be machines.
7.5 .riess will rectify duly notified deficiencies either by way of subsequent performance or substitute delivery. .riess will initially decide about the way of rectification, either per subsequent performance or by substitute delivery. This shall not affect the right of .riess to refuse the chosen type of subsequent performance under the statutory conditions. To the extent that this can be reasonably expected from the customer, .riess shall, for the purpose of rectification, be entitled to provide the customer with a new version of the contractual software e. g. an “update”, “service release/patch”, which will be free from a notified deficiency and/or where the latter has been removed.
7.6 If such subsequent performance fails or cannot be reasonably expected from the customer, or if is not possible or if .riess lawfully or unlawfully refuses it or if the subsequent performance is not realized within a rectification period to be granted by the customer and/or if it is not necessary pursuant to the statutory provisions, the customer may withdraw from the contract or reduce the purchase price. This right of withdrawal shall, however, not exist in case of insignificant deficiencies. The declaration of the withdrawal and/or the reduction will void the customer's claim to the delivery of the contractual software which is free from software bugs.
7.7 .riess shall not be liable there, where faults of the contractual software result from a modification of the conditions of use or of operation, from operating errors, from changes to the software programs, such as modifications, adjustments, connections with other programs and/or another form of use which is contrary to the contract, unless the customer proves that such fault existed already at the time of delivery of the contractual software and where it is not directly caused by one of the above events.

VIII. Termination, consequences of the termination of the contract

8.1 .riess reserves the right to terminate or withdraw from the respective contractual relationship with the customer regarding the provision of the contractual software, if necessary without notice, for good cause. A good cause would in particular exist when the customer is in breach of one of the above restrictions of use and fails to satisfy the required obligation within an appropriate period granted to this end.
8.2 On termination of the contractual relationship, the customer will return to .riess within ten days all original data carriers, including all software documentation, at its own expense, and will permanently delete or destroy all other existing copies of the contractual software, such as backup copies, copies on its system, etc. Customer shall confirm in writing to .riess the complete deletion and destruction.
8.3 With termination of the contractual relationship the customer shall no longer be entitled to use the granted right of use. Any further use of the contractual software will violate the rights of .riess.

IX. Applicability of the .riess-General Terms and Conditions-GENERAL

The general provisions for the conclusion of contracts, supplies, remuneration and payments, retention of title and rights, liabilities, limitation and the legal venue, etc. as set out in the General Terms and Conditions of .riess -.riess-General Terms and Conditions-GENERAL - shall apply analogously to the contractual relationships in connection with the licensing of software programs. In case of inconsistencies or deviations, these .riess-General Terms and Conditions-SOFTWARE shall take precedence over the .riess-General Terms and Conditions-SOFTWARE MAINTENANCE and .riess-General Terms and Conditions-GENERAL.

General Terms and Conditions of .riess engineering europe gmbh for software maintenance services
.riess General Terms and Conditions-SOFTWARE MAINTENANCE

I. Scope

The following General Terms and Conditions of .riess engineering europe gmbh (.riess) – for the maintenance of software – .riess-General Terms and Conditions-SOFTWARE MAINTENANCE – apply to all contractual relationships with other companies or persons under public law (customers) in connection with the provision of software maintenance services and form part of the contract, unless agreed otherwise between .riess and the customer in writing in the order confirmation issued by .riess and/or the software transfer and service certificate or the license agreement and/or software maintenance certificate, or in a separate written agreement. The .riess-General Terms and Conditions- SOFTWARE MAINTENANCE complete the General Terms and Conditions of .riess - .riess- General Terms and Conditions-GENERAL- and the conditions of contract of .riess for licensing of software - .riess-General Terms and Conditions-SOFTWARE -, which both form part of the contract next to the .riess-General Terms and Conditions-SOFTWARE MAINTENANCE.

II. Software maintenance / supply of current program versions

2.1 .riess will provide the customer with all the new program versions (updates) of the software, provided that they are currently marketed by .riess and are available (contractual software). This shall not apply to extensions of the software to be maintained and which .riess offers and markets separately as new and independent products.

2.2 At the customer's request, the new program versions will be provided – where possible or depending on the customer's request – on a data carrier or in unembodied format as a download over the internet using access credentials provided to the customer by .riess. In case that .riess transmits the new program version as a download to the customer, .riess will warrant the availability of the contractual software on a server for download by customer.

III. Consulting and support through the .riess Service Center in case of software bugs

3.1 .riess will provide telephone or electronic support in case of malfunctions and faults where software errors, faults or other cases of difficulties occur in connection with program processes of the contractual software to be maintained in accordance with the specifications set out in the software maintenance certificate and the error classes and response times defined separately and agreed therein.

3.2 .riess will analyze notified malfunctions of the contractual software and offer to the customer telephonic consulting services regarding the possibilities to bypass identified malfunctions. In doing so, .riess will use its best efforts to inform the customer on how and until when errors may be eliminated and/or if, if yes, the customer has a possibility to bypass malfunctions. To do so, .riess will deploy skilled staff.

3.3 Whether there is an error related to the use in compliance with these provisions, depends on the performance characteristics set out in the product description and/or other documentation of the contractual software. An error would exist in particular there, where the contractual software fulfils functions set out in product description and/or the other documentation, but issues incorrect results, cancels the processes without control or does otherwise not perform properly so that using the maintained contractual software is impossible or significantly restricted. An error under this provision does not exist if the aforementioned faults are caused by improper use and/or operation of the contractual software, or by the customer's implementation or modification of existing implementations, for example.

3.4 If .riess offers a new program version to the customer in order to avoid or eliminate defects or fail-outs of other software or hardware, customer will have to use it and will have to install it to its hardware pursuant to the installation instructions of .riess as soon as it can be reasonably expected from the customer.

IV. Customer's duty to cooperate

4.1 Customer will assist .riess free of charge and in all respects in the implementation of the software maintenance services.
The customer will in particular

- advise in writing a person in charge with the required decision rights and powers of attorney in connection with the implementation of the services for the term of the contract;
- in case of error messages, observe the symptoms that have occurred and the system and hardware environment in detail and – if necessary, using forms provided by .riess – report an error to .riess without delay in a suitable form, stating information that is useful for the consulting services, such as the number of users affected, a description of the system and hardware environment, as well as any third-party software and documents loaded simultaneously;
- to provide information on identified malfunctions to .riess in a reproducible form on a suitable data carrier or in a suitable electronic form;
- within its abilities and employing its best efforts, assist .riess in the determination of the cause of a fault and, if necessary, encourage its employees to cooperate correspondingly with the people deployed by .riess;
- allow the access via remote maintenance software;
- install the new program versions of the contractual software received from .riess in accordance with the documentation and, if applicable, the special instructions issued by .riess and comply with the suggestions for troubleshooting and bug fixing provided by .riess;
- have all data used or created in connection with the maintained contractual software ready in machine-readable form as back-up copy which enables the recovery of lost data at reasonable expense;
- provide new operational versions of operating system, data base or of other third-party software required for the application of the contractual software at its own expense insofar as this is necessary for the creation of a new program versions of the contractual software to be maintained;
- provide suitable and trained staff for the installation and start-up of new program versions of the contractual software.

4.2 The above obligations to cooperate constitute material contractual obligations. In case that the customer is in breach of its obligations to cooperate, .riess shall no longer be obliged to provide its services.

V. Remuneration, invoicing

5.1 The amount of the remuneration to be paid by the customer for software maintenance depends on the order confirmation or the relevant software maintenance certificate.

5.2 Depending on the contractually agreed settlement periods, monthly, quarterly, half– yearly, yearly, the periodical software maintenance royalty will be charged for the first time on the first day of the month following the purchase of the contractual software. The next invoices will then be produced to the beginning of the agreed settlement period. The continued provision of the services through .riess will be conditional on the timely payment of the software maintenance royalties.

5.3 In order to compensate for cost increases, .riess shall be entitled to review the periodical software maintenance royalty subject to three months' prior notice with effect to the beginning of a service year. In this case the customer shall be entitled to terminate the software maintenance upon one month's notice with effect to the beginning of the next service year and if the royalties are increased by more than 5%.

VI. Other services

6.1 Unless expressly set out in one of the subsections above, .riess shall not be obliged to provide further services to the customer. Within its operational possibilities, however, .riess will provide further services related to the contractual software to be maintained but not set out in one of the above subsections to the customer at the latter's request. These additional services will be charged in accordance with a separate agreement.
This applies in particular for the following services:

- Services provided by .riess at customer sites;
- Services in connection with software which are not covered by these provisions;
- Services, which are provided at customer's request outside the usual working hours of .riess;
- Services that become necessary due to improper handling of the maintained contractual software and/or breaches of obligations by the customer, regardless of whether they have been carried out by the customer, its vicarious agents or other persons not authorized by .riess, which also include malfunctions due to improper handling or operation of the contractual software or due to the customer's implementation or modification of existing implementations, for example.
- Services required due to events of Force Majeure or to other conditions, for which .riess is not responsible;
- Services required in connection with the installation of a new program version acquired by the customer, particularly trainings related to such software;
- Services resulting from altered and/or new requirements of the customer. This includes in particular the assistance of the customer with the adaptation as well as the creation of user software and/or general IT-technical issues, which are not directly related to the contractual software to be maintained;
- Updates of earlier customer-specific adaptations, settings and extensions required after a change of version in order to be maintained properly.

VII. Disruptions in the performance

7.1 To the extent that .riess is obliged to deliver new program versions to the customer, the warranty provisions set out in the .riess-General Terms and Conditions-SOFTWARE shall apply analogously to faults in this software.

7.2 With regard to the services performed for the software maintenance, .riess will be liable for the timely and proper provision of the services but not for an economic or other result expected by the customer.

VIII. Duration, termination

The provisions of the software maintenance certificate or otherwise the provisions set out in the subsection 5.3 shall apply mutatis mutandis.

IX. Rights of use

9.1 .riess grants to the customer the rights to use the new program versions provided in connection with the software maintenance in the same scope as they exist to the contractual software allowing for a compliant use and/or by which they are supposed to be substituted.

9.2 In case that formerly licensed program versions are substituted for the customer, e. g. due to subsequent performance or software maintenance, customer's right of use for the older contractual software will expire within two weeks from the time customer starts the productive use of the new software. For registration purposes the customer shall be entitled to make one copy respectively of the technically substituted contractual software.

X. Applicability of the .riess-General Terms and Conditions-GENERAL and of the .riess-General Terms and Conditions-SOFTWARE

The general provisions for the conclusion of contracts, supplies, remuneration and payments, retention of title and rights, liabilities, limitation and the legal venue, etc. as set out in the General Terms and Conditions of .riess - .riess-General Terms and Conditions-GENERAL - shall apply analogously to all contractual relationships in connection with the provision of software maintenance services. To the extent that new program versions are delivered to the customer in connection with the software maintenance services, the software licensing conditions arising of the .riess-General Terms and Conditions-SOFTWARE — shall apply mutatis mutandis. In case of inconsistencies or deviations, these .riess-General Terms and Conditions-SOFTWARE MAINTENANCE shall take precedence over the .riess-General Terms and Conditions-SOFTWARE and .riess-General Terms and Conditions-GENERAL.