

## General Terms and Conditions

per April, 1st 2020

### 1) General

**1.1** Only these General Terms and Conditions (“GTCs”) shall govern the delivery of goods and services from attocube systems AG, Eglfinger Weg 2, 85540 Haar (“attocube”).

**1.2** The GTCs apply to both online and off-line transactions.

**1.3** The GTCs apply to goods and services that are delivered to business enterprises (Unternehmern), to quasi-governmental independent legal entities (juristische Personen des öffentlichen Rechts) and to special public sector funds (öffentlich-rechtliche Sondervermögen) within the meaning of § 310 (1) of the German Civil Code (BGB).

A business enterprise is any individual or legal entity or any partnership with legal capacity that is engaging in its trade or independent professional activity when it utilises the goods and services delivered by attocube.

**1.4** Other provisions, including general terms and conditions, of the customer shall not apply, even if attocube did not expressly reject them or if it knowingly and unconditionally accepted or implemented them.

### 2) Individual contract

**2.1** Offers made by attocube are non-binding.

**2.2** Any purchase orders must be placed by the customer in writing or in text form (Textform) (including email and facsimile). attocube will not be bound by such purchase orders until they have been confirmed in writing or in text form (including email and facsimile) or, at the latest, when attocube executes the order.

**2.3** After the purchase order is placed, the customer will be provided via email or facsimile with a confirmation that the purchase order was received.

This confirmation of receipt and any follow-up status reports will still not constitute an acceptance of the offer by attocube, but will instead serve merely as communication to the customer. The individual contract will be formed when attocube sends via email an order confirmation to the customer within four

weeks following receipt of the purchase order or when it delivers the ordered products and informs the customer thereof via email. If attocube does not accept the purchase order within four weeks following receipt thereof, then the customer will be entitled to revoke its purchase order prior to receiving the order confirmation or the execution of delivery.

**2.4** When placing online purchase orders, the customer must first select the desired product in attocube’s web store. The customer will then enter its order information (including the delivery address).

Thereafter, the customer will be afforded the opportunity to review all information once again and to make any corrections if necessary. The customer may correct any entry errors by clicking the “back” button before clicking the button “place binding order”. By clicking the “place binding order” button, the customer is making an offer to conclude an individual contract. The customer will remain bound by its offer for a period of four weeks following attocube’s confirmation receipt of the purchase order.

After the purchase order is placed, the customer will be provided via email with a confirmation that the purchase order was received. This confirmation of receipt and any follow-up status reports will still not constitute an acceptance of the offer by attocube, but will instead serve merely as communication to the customer. The individual contract will be formed when attocube sends via email an order confirmation to the customer within four weeks following receipt of the purchase order or when it delivers the ordered products and informs the customer thereof via email.

**2.5** If an order confirmation is issued, then it will govern the subject matter and scope of performance for the individual contract.

### 3) Product conditions and qualities, guarantees

**3.1** The condition and qualities (Beschaffenheit) of the products and software (“Products”) are definitively set forth in the individual contract. Unless otherwise stipulated in the individual contract, export licenses issued by the German Federal Office of Economics and Export Control (Bundesamt für Wirtschaft und Ausfuhrkontrollen) are not a condition or quality of the Products. The individual contract will not be impacted by any missing or rejected export license for

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items included in the purchase order. The parties are free to negotiate and agree on a price reduction in accordance with section 12.7 below if an export license is rejected or omitted. Any and all information and advice in connection with the Products of attocube are given on the basis of attocube's previous experiences. Any and all values and data provided in this regard – including performance information and references to technical standards and norms (e.g., the DIN standards) as well as images, sketches and technical information – represent average values established in trials conducted under ordinary laboratory conditions. Any published values and data, particularly those found in advertising, brochures and other documents, do not qualify as an agreed condition or quality. attocube cannot assume any obligation to comply exactly with the values and possible applications. Such a compliance obligation will arise only if the individual contract expressly provides that the information constitutes a representation about the quality or condition. If the individual contract does not expressly provide any limits or parameters for deviations, then the deviations customary in the industry will be allowed in any case.

- 3.2** attocube shall be bound by guarantees only if they are expressly identified as guarantees in the individual contract and attocube's obligations under the guarantee are expressly stipulated in the individual contract.

#### 4) Development Work

- 4.1** If attocube performs development work and services with respect to the Products (e.g., pure development, updating development, engineering services, construction of prototypes (hereinafter collectively referred to as "Development Work")) and such activity becomes the subject matter of the individual contract between attocube and the customer, then the provisions under this section 4 shall also apply. Unless the individual contract provides otherwise, only the results of the Development Work (i.e., the Product or other outcome to be developed for the customer in accordance with the stipulations stated in the individual contract - such as a marketable Product specifically in the form of a component or a construction element ("Development Outcome")) will be surrendered to the customer. The customer will

not receive the actual Development Work itself, including its documentation and the relevant materials, and will not acquire any rights related thereto. Section 5 will remain unaffected thereby.

- 4.2** Development Work is performed as a service within the meaning of § 611 BGB.
- 4.3** The customer is obligated to cooperate, and specifically to coordinate, on the implementation of attocube's Development Work. In this connection, it shall at a minimum appoint a contact person and a representative and shall continually keep such appointment updated throughout the course of the Development Work. Any discussions that may be required between the customer and attocube shall be held solely by and between the relevant contact persons. The foregoing also applies accordingly to any exchange of information.

To the extent required to create the Development Work, the customer shall provide all necessary technical and other information. For purposes of performing and documenting attocube's Development Work, attocube and the customer may jointly prepare and maintain a scope of work document /performance specifications (Lasten- und Pflichtenheft).

- 4.4** All sketches, documents (also in digital format), devices, tools, objects or other operating materials or resources, which attocube furnishes to the customer to perform the Development Work ("Provisions"), are made available on a loaner basis only. The customer is obligated to handle Provisions with care. Moreover, it is obligated at its own expense to insure Provisions against the risks of fire, water damage and theft.

Provisions shall be used solely to achieve the contractual purpose and, unless otherwise stipulated in writing in the individual contract, must be returned to attocube free of charge and in a clean condition, even if such Provisions have been adapted or changed, once the contractual purpose has been achieved but in any case after the contract ends.

- 4.5** During the performance of the duties in connection with the Development Work, each party may recommend in writing changes to the agreed duties under the schedule and realization plan in terms of the substance, timing and quantity of such duties

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(“Change Request”). In the event a Change Request is made by one of the parties, both parties shall exchange information about the effects on the contract administration, specifically with regard to pricing, scheduling and the technical feasibility. If the recommended change would materially influence the planned approach, then the parties shall mutually confer and agree in writing on the duration and costs of a detailed evaluation, the preliminary estimate regarding feasibility, and the consequences. Changes require the written consent of both parties in the form of an amendment (“Addendum Agreement”); the consent to the Addendum Agreement may not be rejected without a written, substantively justified reason, provided that the changes are technically feasible and economically reasonable. Unless otherwise agreed in writing, attocube will be entitled to implement the recommended changes in accordance with the Addendum Agreement once that Addendum Agreement is concluded.

- 4.6** Unless otherwise expressly agreed in writing, the performance of the Development Work will also not be deemed a promise or representation on part of attocube that the Development Work is suitable for the purpose contemplated by the customer.
- 4.7** attocube reserves the right to terminate individual contracts concerning Development Work for good cause (aus wichtigem Grund) or to amend the contract due to a frustration of the contractual purpose (Störung der Geschäftsgrundlage), specifically if the goal of the Development Work cannot be achieved or can be achieved only by incurring disproportionately high costs in terms of time commitment and financial resources.

### 5) Intellectual property rights to Development Work

- 5.1** “Intellectual Property Rights” (“IP Rights”), within the meaning of the GTCs, are all rights to any Development Work, regardless of whether the rights are registered or not, above all patents, rights to inventions, copyrights or copyrighted rights of use including related intellectual property rights, rights to utility patents (Gebrauchsmustern), designs, trademarks and other logos, business secrets and know-how as the entirety of non-patentable practical experiences which attocube has acquired or over which it may exert control based on its work, its experience or its attempts,

as well as any other rights to intellectual and industrial property.

- 5.2** attocube will remain the owner of all IP Rights, which already existed prior to the commencement of the Development Work commissioned by the customer and/or which are unrelated to the respective Development Work (“Existing IP Rights”).

attocube will also remain the owner of the Existing IP Rights even if such rights were used by attocube to achieve the goals of the Development Work commissioned by the customer, for example to the extent that the Existing IP Rights are integrated into or otherwise connected to the Development Outcome or to the extent that the Development Outcome is based on the Existing IP Rights.

In that situation and following the full satisfaction of any and all claims, based on whatever legal grounds, arising from the business relationship, attocube shall grant the customer a nonexclusive (simple), restricted right to the Existing IP Rights for purposes of using (utilizing), marketing, distributing and selling the Development Outcome, which was produced by attocube on the basis of the Development Work and was delivered to the customer, to the extent provided for in the individual contract.

Unless otherwise stipulated in writing in the individual contract, any processing or further development of the Development Outcome by the customer is prohibited. The customer may not issue any sublicenses to the rights granted above without attocube’s prior written consent.

- 5.3** attocube will also be entitled to any and all IP Rights that arise after the commencement and/or during the performance of the relevant Development Work (“New IP Rights”).

Following the full satisfaction of any and all claims, based on whatever legal grounds, arising from the business relationship, the customer shall be granted a nonexclusive (simple), restricted right to the New IP Rights for purposes of using (utilizing), marketing, distributing and selling the Development Outcome, which was produced by attocube on the basis of the Development Work and was delivered to the customer, to the extent provided for in the individual contract. Unless otherwise stipulated in writing in the individual contract, any processing or further

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### 6) Prices

- 6.1** Only those prices, which are listed in the order confirmation from attocube or in the individual contract, are binding.
- 6.2** All prices are listed as net prices and without value added tax, which the customer must also pay in the amount required by law (as amended from time to time).
- 6.3** Unless otherwise expressly agreed, attocube's prices are listed in each case ex works attocube (EXW per Incoterms 2020). The customer is responsible for paying any and all freight costs, packaging costs, public charges (including withholding tax) and customs duties.

### 7) Payments

- 7.1** The payment dates and payment periods agreed to in the individual contract apply. Unless otherwise provided in the individual contract, payments must be made on a net basis within 10 days from the invoice date. For purposes of determining the timeliness of the payment, the date on which the funds are received on the account identified by attocube in the invoice will be dispositive. Any bills of exchange or drafts (cheques) will not be considered a completed payment until after they have been encashed and are accepted without an obligation to present and protest them.
- 7.2** If payment is not received on or before the payment due date, then attocube will be entitled - without having to issue an additional formal dunning notice (Mahnung) - to demand default interest in the statutorily prescribed amount of nine percentage points higher than the per annum base interest rate, and such interest shall begin accruing on the day following the payment due date and without prejudicing the possibility of enforcing claims based on higher actual damages.

**7.3** The customer may withhold payments based on its counterclaims or set-off its counterclaims against such payments only if such counterclaims are undisputed or have been reduced to final judgment *res judicata*. The customer may not assert a right to withhold counter-performance (Zurückbehaltungsrecht) if such counterclaims are not based on the same contractual relationship.

**7.4** If, due to the customer's financial situation, it emerges that the performance of the customer's existing or future payment obligation is at risk (specifically if (i) the customer has generally ceased making payments, (ii) insolvency proceedings have been commenced against the customer's assets or a petition related thereto is filed, (iii) garnishment orders or civil judgment enforcement proceedings (Zwangsvollstreckungsmaßnahmen) are instituted against the customer, or (iv) bills of exchange or drafts are challenged or reversed debits (Lastschriftrückgaben) are issued, and namely also against or to a third-party), then attocube will be entitled, at its option, to withhold any counter-performance until the prices are first paid or until appropriate security is provided. The foregoing will also apply if the customer is repeatedly late in making payments (at least in two successive calendar months or in three calendar months spread out over a 12-month period) and, as a result thereof, there is a legitimate concern about the client's technical solvency or creditworthiness.

The enforcement of more extensive claims remains unaffected thereby.

### 8) Delivery

- 8.1** Unless expressly agreed otherwise, attocube shall deliver ex works (EXW per Incoterms 2020). At the customer's request, attocube may arrange the shipment for the customer. In that case, the risk shall pass to the customer as soon as the Product to be delivered is physically delivered to the person executing the transport.
- 8.2** Delivery periods and delivery dates are set forth in the individual contract and will be deemed to have been agreed and therefore binding only after there has been an express written confirmation.

Delivery periods will begin to run on the date that the order is confirmed by attocube, but not before all

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details in the purchase order are clarified and any documentation within the meaning of section 13.1 has been provided.

**8.3** For any delivery periods and delivery dates, which have not been expressly identified as binding in written in the order confirmation, the customer may - two weeks following such dates or following the expiration of such period - set a reasonable grace period for delivery. Only after this grace period has expired can attocube be considered in performance default (Verzug), provided that it is at fault.

**8.4** The customer will be deemed in performance default with regard to its duty of formal acceptance ("formal acceptance default"; Annahmeverzug), if it fails to accept the contractually conforming deliveries prior to the expiration of a binding delivery period or on or before a binding delivery date.

In the event of nonbinding delivery periods or delivery dates, attocube may notify the customer that the delivery can be made; if the customer does not accept the delivery within two weeks from receipt of the tender notice (Bereitstellungsanzeige), then it will be deemed in formal acceptance default.

If the delivery is not received by the customer or by an authorized freight forwarder on or before the delivery date based on reasons for which attocube is not responsible, then the risk of any accidental deterioration or loss will pass from attocube to the customer when notice of shipment tender (Anzeige der Versandbereitschaft) is made.

Formal acceptance default will also arise in the foregoing situations, if attocube stores Products at the customer's request.

**8.5** Notwithstanding attocube's rights based on the customer's performance default, the delivery dates and delivery periods will be extended by the period of time during which the customer is unable to discharge the obligations it owes to attocube.

If the customer has committed a formal acceptance default, then attocube will be entitled to demand compensation for any expenses it incurs thereby. The customer shall bear the storage costs starting on the date the formal acceptance default begins.

**8.6** If attocube breaches a duty, then attocube will be liable for damages only in accordance with the provisions set forth in section 15 below.

**8.7** attocube is entitled to make instalment deliveries if such deliveries would be reasonable for the customer, above all if the delivery of the remaining Products or services can be secured and the customer does not face any significant extra effort or incurs any significant additional expenses as a result thereof. Any permissible instalment delivery may be invoiced separately.

**8.8** In the case of delivery periods and delivery dates that are not expressly designated as fixed, the customer is entitled to rescind the contract after two reasonable grace periods have passed without a conforming performance. The right to rescind the contract does not apply if attocube is not responsible for the impediment to delivery, the impediment is only temporary in nature, and the postponement of the delivery date is appropriate for the customer. The foregoing applies above all to the cases set forth in section 16.1.

**8.9** If the customer is entitled to a contractual or statutory right of rescission and if attocube grants the customer a reasonable grace period for asserting that right, then the right of rescission will lapse if the rescission is not declared prior to the expiration of that grace period.

### 9) Installation and commissioning

**9.1** If the installation, commissioning and testing of attocube's Products are stipulated in the individual contract, then attocube shall perform such work in accordance with the individual contract.

**9.2** The installation, commissioning and testing of attocube's Products is performed in each case as a service within the meaning of § 611 of the German Civil Code (BGB).

**9.3** If no details regarding the installation, commissioning and testing are stipulated in the individual contract, then attocube shall perform such service in its own discretion.

**9.4** At attocube's request, the Products must be subject to a formal inspection and acceptance. The customer will

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be obligated to engage in such formal inspection and acceptance if the Products exhibit the condition and qualities agreed to in the individual contract. If appropriate and/or to the extent customary in the industry, attocube may also demand formal inspection and acceptance for products delivered on an instalment basis.

If there are only insignificant defects (unwesentliche Mängel), the customer will not be entitled to refuse the formal inspection and acceptance.

- 9.5** In terms of implementing a formal inspection and acceptance, the risks shall pass in accordance with section 8.1 as well.

### 10) Retention of title

**10.1** attocube will retain title to all delivered Products (“Secured Products”) until all claims and receivables, regardless of their legal grounds and which have arisen from the business relationship between attocube and the customer, are satisfied. If a current account relationship exists, then attocube will retain title to the Products until all payments are received from all recognized account balances.

**10.2** The customer is obligated to handle the Secured Goods with care. Moreover, it is obligated at its own expense to insure the Secured Goods against the risks of fire, water damage and theft and to do so at the goods’ invoiced value (including value added tax). The customer will be entitled, but only as part of its business operation and as long as it is not in performance default, to further process the Secured Goods, to combine or commingle such Secured Goods with other items of property (Sachen), or to resell them. Any other disposition of the Secured Goods is prohibited.

**10.3** Notwithstanding section 10.2, the customer will be entitled and authorized to engage in resale, only if it can be assured that the claims and receivables generated from that resale will pass to attocube.

If the customer defers the purchase price payment for its own buyer, then it must retain title to the Secured Goods vis-à-vis the buyer under the same terms and conditions under which attocube retained title when it delivered the Secured Goods. The customer is not otherwise authorized to resell the goods.

**10.4** The customer's claims and receivables from the resale of the Secured Goods are hereby assigned to attocube. They serve as collateral to the same extent that the Secured Goods do. attocube hereby accepts this assignment.

If the Secured Goods are sold by the customer together with other goods that are not supplied by attocube at a single all-around price, then the assignment of the receivables from the sale will be for the amount of the invoice value (including value added tax) of the respective Secured Goods that were sold by attocube.

If the assigned receivable is included in a current account, then the customer hereby assigns to attocube a part of the balance corresponding to the amount of this receivable, including the final balance from the current account. attocube hereby accepts this assignment.

The customer is authorised to collect on the claims and receivables assigned to attocube, unless or until attocube revokes such authority. attocube will be entitled to revoke the aforementioned authority, specifically if (a) the customer fails to duly discharge its payment obligations owed under the business relationship with attocube, (b) insolvency proceedings are commenced against the customer’s assets or a petition related thereto is filed, (c) garnishment orders or civil judgment enforcement proceedings (Zwangsvollstreckungsmaßnahmen) are instituted against the customer, or (d) bills of exchange or drafts are challenged or reverse debits (Lastschriftrückgaben) are issued, (and namely also against or to a third-party).

If the conditions for exercising the right of revocation are met, then the customer must, at the request of attocube, report without undue delay the assigned receivables and the debtors thereunder to attocube, provide all information necessary to collect on the receivables, hand-over to attocube the relevant documentation and notify the debtors of the assignment. attocube itself is also entitled to notify the debtors about the assignment.

**10.5** If the customer engages in any processing, combining or commingling of the Secured Goods, such action will be deemed to have been carried out for attocube. If the customer processes, combines or commingles the Secured Goods with items of property not belonging to attocube, then attocube shall be entitled to

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co-ownership of the new item in the ratio of the invoice value of the Secured Goods (including VAT) to the value of those third-party items. The rules that apply to the Secured Goods are the same as those that apply to any newly created item of property.

If attocube's ownership expires due to the processing or the inseparable combination or commingling, then the customer shall here and now convey to attocube the ownership rights, to which it is entitled in the newly combined item or the item of property, and namely, to the extent of the invoice value of the Secured Goods (including value added tax), and shall hold such items free of charge and in safe custody for attocube. The co-ownership rights yielded thereby will be deemed to be Secured Goods within the meaning of section 10.1.

**10.6** The customer is under an obligation, in the event of a compulsory attachment or seizure and any other impairment of the ownership interests, to indicate and signal that attocube is the owner of the Secured Goods. Seizure or other attachment of the Secured Goods by third parties must be reported in writing to attocube without undue delay. All intervention costs shall be borne by the customer, insofar as they cannot be recouped from the third party.

**10.7** If the value of the collateral securing attocube exceeds the secured receivables by a total of more than fifty (50) percent, then at the request of the customer, attocube shall be obliged, at its choosing, to release part of that collateral.

**10.8** If attocube asserts its retention of title, then such assertion shall not be deemed a rescission of the contract unless attocube expressly declares this rescission in writing. The right of the customer to possess the Secured Goods will lapse if it does not discharge its obligations under this contract.

### 11) Rights to software, etc.

**11.1** Subject to section 11.2 and except for backup copying purposes any and all software, programs, documentation, images, sketches, subsequent updates, calculations and other written documentation (hereinafter referred to as "Seller IP") may in the absence of attocube's prior written consent not be disclosed to any third parties and also neither copied nor otherwise duplicated even for one's own purposes. Any use of

the Seller IP for purposes other than the contractual purposes set forth herein is prohibited.

**11.2** attocube holds the copyrights and any other industrial property rights existing in the software and the documentation related thereto. attocube grants the customer a nonexclusive right of use, which may not be sublicensed, to the software and corresponding documentation that had been provided, in order to internally operate the attocube Products, for which the software and documentation are made available. The right of use is limited to operating the attocube Products; copies may be made solely for this purpose and only to the extent necessary for that purpose.

The customer may use the software and documentation solely for the number of workstations stipulated in the individual contract. The customer's right of use may not be transferred.

**11.3** Source codes will not be made available, unless their transfer is carried out on the basis of a separate written agreement.

### 12) Warranty

**12.1** The customer's assertion of its warranty rights with regard to the Products is subject to the requirement that it must inspect the Products without undue delay at the time of delivery in accordance with § 377 of the German Commercial Code (HGB) and that it must duly report any defects found. Formal acceptance of the Products may not be refused if the defects are insignificant.

**12.2** The customer is obligated to file defect notifications (Mängelrügen), specifically identifying the defect, in writing or in text form (including via email or facsimile).

The objectionable Product must be made available to attocube for inspection in its original packaging. If the original packaging is no longer available, then attocube will make such packaging available to the customer in ex-change for a fee. The customer shall bear the shipping costs in this regard.

**12.3** The customer will not be entitled to any warranty rights (a) if the defects were caused by ordinary wear and tear; (b) with respect to Products that were sold as downgraded or used Products; or (c) if attocube's

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operating or maintenance instructions were not complied with, changes were made to the Products, parts were swapped or consumable materials were used, which do not comply with the original specifications; the foregoing will not apply if the customer can prove that the defect is not attributable to one of the circumstances described above under (a) through (c).

- 12.4** In the event that the defect notifications are legitimate and timely filed, attocube agrees to remedy the defects through subsequent performance (Nacherfüllung), which attocube shall carry out either by curing the defect or by delivering a non-defective (conforming) Product.

attocube has the right to refuse subsequent performance in the event that performance is objectively impossible (unmöglich) or disproportionate (unverhältnismäßig). attocube may refuse subsequent performance, if the customer fails to provide it with the objectionable Products for inspection within a reasonable period of time following attocube's request.

The subsequent performance will be provided without thereby recognizing any legal duty.

- 12.5** If the enforcement of defects is illegitimate, then the customer shall bear the reasonable costs incurred by attocube, unless such failure is not attributable to its fault. The same rule applies if attocube mistakenly provides subsequent performance without having been required to do so.
- 12.6** In the event of subsequent improvement (Nachbesserung), the remaining portion of the original prescription (limitation) period will continue to run when the improved Products are returned to the customer. The same applies in the event of a subsequent delivery (Nachlieferung).
- 12.7** In the event there are defects, the customer may in accordance with the statutory provisions rescind the contract or demand a price reduction, but in the case of delivery periods and delivery dates that were not expressly defined, such remedies may not be enforced until at least two grace periods reasonably set by the customer for subsequent performance have lapsed without successful or conforming performance, unless setting the deadline for subsequent performance is deemed legally superfluous under the applicable statutory provisions.

Section 17 remains unaffected thereby. In the event of a contractual rescission, the customer will be liable for any deterioration, loss or forfeited benefits caused by an intentional act or omission (Vorsatz) and any form of negligence (Fahrlässigkeit).

- 12.8** Subject to any compensatory damage claims set forth in section 15 and to the terms of section 17 below, no additional defect remedy rights (Mängelrechte) of any kind exist.
- 12.9** The prescription period for any defect remedy claims is one year from the date of delivery. The foregoing does not apply if (i) a defect has been concealed in bad faith, or (ii) a guarantee (Garantie) has been made regarding the Product conditions and qualities (i.e., representation by the seller that the Product has a condition or quality at the time when the risk passed and that the seller will strictly and absolutely guarantee the Product for the consequences of a missing condition or quality) (in this regard, the provision in the guarantee could apply). In the event the customer has compensatory damage claims, this limitation will also not apply in the following situations: (i) when liability is based on the German Product Liability Act; (ii) when there has been an injury to life, body or health; (iii) where there has been an intentional act or omission, and (iv) when the officers and directors or managing employees of attocube were grossly negligent in their acts or omissions.

### 13) Duties of the customer, resale, export control rights

- 13.1** The sale, resale and disposition of Products as well as any technology or documentation related thereto could become subject to the export control laws of Germany, the European Union or the United States and, in some cases, the export control laws of other countries. A resale to countries subject to embargoes or to prohibited persons or to persons, who use or could use the Products for military applications, for nuclear, biological or chemical weapons or for nuclear technology, will require approval.

The customer is obligated (a) to comply with any such laws and regulations, (b) to ensure that the Products are not directly or indirectly delivered to countries, with respect to which the export or import of attocube Products is prohibited or restricted, (c) to procure all permits or licenses necessary for the export or import, and (d) to comply with all of the statutory provisions

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applicable to it and with all regulatory requirements in connection with the attocube Products. attocube is entitled to require the customer to submit the appropriate documentation.

- 13.2** attocube may refuse to discharge its duties, if and as long as the aforementioned laws would be thereby violated.

If the customer fails to discharge the aforementioned duties or fails to do so in a timely manner, then the performance periods will be extended, respectively the performance dates deferred, for a reasonable additional start-up period. If the delay on the part of the customer is two or more weeks, then attocube may rescind the individual contract in question.

### 14) Other services

- 14.1** If any works and services, such as orientation briefings and instruction on the use of the Products or on handling the related tools, are stipulated in the individual contract ("Other Services"), then this section 14 will apply.
- 14.2** Unless otherwise expressly stipulated in the individual contract, attocube shall provide the Other Services as services within the meaning of § 611 of the German Civil Code (BGB).
- 14.3** attocube shall provide the Other Services in accordance with the terms of the individual contract. Section 8 above shall apply mutatis mutandis to the performance of the Other Services.
- 14.4** To the extent no details regarding the Other Services are stipulated in the individual contract, attocube will provide the Other Services in its own discretion.
- 14.5** The customer shall pay the agreed price for the Other Services in accordance with the terms of the individual contract and section 7 above.

### 15) Liability

- 15.1** attocube shall incur liability only if there has been a breach of material contractual duties (vertragswesentlicher Pflichten), which the individual contract, according to its content and purpose, seeks to impose especially on attocube or the performance of which makes it possible to duly perform the individual contract in

the first place and the compliance with which is a fact upon which the customer does, or should be allowed to, routinely rely. attocube's liability in those cases will be limited to the typical damages that were foreseeable at the time the contract was concluded. The limitation of liability to typical damages, which were foreseeable at the time the contract was concluded, also applies in the same manner to any damages that were caused by the gross negligence of attocube employees or agents who are not statutory representatives or managing employees.

- 15.2** Insofar as attocube is liable pursuant to section 15.1, attocube's liability will be limited to: (a) twice the price of the respective Product or service, in connection with which the damages arose; (b) in the case of damages caused by a delay, 5% of the invoice value (including value added tax), as agreed to with attocube, attributable to the delayed portion of the delivery or service; and (c) in the case of a loss or change of data caused by the delivered software, the extent that would have been unavoidable even if the customer had complied with its obligation to back-up the data at adequate intervals, but at least daily, unless this is not possible due to attocube's fault. If, in the cases set forth in section 15.1 above, the damages are covered by an insurance policy (not including fixed-sum insurance policies (Summen-versicherungen)) that was executed by the customer for the relevant loss event, then attocube will be liable only for the customer's detriment related thereto; e.g., higher insurance premiums or interest charges up until the claim is settled (adjusted) by the insurance carrier.
- 15.3** In the cases set forth in section 15.1, attocube will not be liable for any indirect damages, consequential damages and lost profits.
- 15.4** The prescription (limitation) period for compensatory damage claims based on defects is governed under section 12.9.

In the other cases set forth in section 15.1, the prescription period will be two years following the date on which the claim arose and the customer gained knowledge of the circumstances giving rise to the claim. Notwithstanding the customer's knowledge, the claim will be barred by prescription three years after the event triggering the damages.

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**15.5** Notwithstanding the foregoing limitations on liability, attocube will continue to remain liable (a) for any bad faith concealment of a defect, (b) for defects on the basis of having provided an express guarantee regarding a condition or quality (Beschaffenheitsgarantie) (in this regard, the liability provision or prescription period stipulated in the guarantee itself could apply), (c) for any claims based on the German Product Liability Act, (d) for damages from injuries to life, body or health, (e) damages based on an intentional act or omission, or (f) damages based on gross negligence on the part of attocube's statutory representatives or managing employees.

**15.6** The foregoing limitations of liability also apply to the customer's compensatory damage claims against the statutory representatives, managing employees, employees or agents of attocube.

### 16) Force majeure

**16.1** If attocube is hindered from performing its duties and/or from delivering Products or services due to a force majeure such as mobilisation, war, terrorism, riots, natural disasters, fire, pandemics or other unforeseeable circumstances for which attocube is not responsible – e.g., strikes or lawful lockouts, operational or transport disruptions, difficulties in procuring raw materials or lack of supply by suppliers or lack of performance by subcontractors - then the agreed performance dates and delivery dates or the agreed performance and delivery periods shall be postponed or extended in each case by the duration of the hindrance plus a reasonable start-up period. attocube shall also not be responsible for the aforementioned circumstances even if they occur during an already existing delay on the part of attocube.

attocube shall inform the customer as soon as possible about the beginning and the expected end of such circumstances.

**16.2** If the individual contract can no longer be performed for the foreseeable future due to such hindrance, then both attocube and the customer may rescind the individual contract by written notice given to the respective other contracting party.

### 17) Infringement of IP Rights

**17.1** If claims are asserted against the customer based on an infringement of an IP Right because the customer has been using attocube's Products in the contractually defined manner, then attocube may, at its own discretion, procure the right for the customer to continue using the Products or modify the Products in such a way that there is no longer any infringement. The prerequisite for this remedy is that the customer must inform attocube without undue delay and in writing about such third-party infringement claims and that attocube retains the right to manage the defence against, and out-of-court actions related to, such claims.

**17.2** If attocube selects the approach outlined in section 17.1, then the customer will not be entitled to any more extensive claims based on an infringement of copyrights or industrial property rights, subject to compensatory damage claims as restricted under section 15 above.

### 18) Disposal

**18.1** The customer must observe attocube's Product-related information when disposing of the Products and must ensure that the Products are properly disposed of in accordance with the statutory provisions.

**18.2** The customer is obligated to dispose of the Products at its own expense. If the Products or their components are resold, the customer must transfer this obligation to the next buyer.

### 19) Confidentiality

**19.1** Unless expressly agreed in writing or otherwise stipulated in the GTCs, the information provided to attocube by the customer in connection with the purchase orders will not be deemed confidential, unless the confidentiality of that information is obvious.

**19.2** The parties agree (a) to treat as confidential and not to disclose to any third parties and (b) to disclose only to employees who require the information to perform their work and who are subject to the relevant confidentiality requirements, the agreed price, fees and commercial terms and conditions as well as all

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business, technical and other clearly confidential information of the respective other party. These duties apply for a period of five years beginning on the date when the respective confidential information is received.

These duties do not apply to confidential information that is or becomes generally known through no fault of the recipient party or that is required to be disclosed based on statutory provisions or regulatory orders.

**19.3** If the confidential information is no longer needed, then such information and any and all copies thereof must be either deleted or returned to the other party (deletion or return at the latter's option).

**19.4** The parties agree to comply with the applicable data protection laws, including the German Federal Data Protection Act and the EU General Data Protection Regulation (EU 2016/679).

### **20) Advertising and marketing campaigns**

Advertising and marketing campaigns of the customer using the name or trademarks of attocube or its business relations will require attocube's prior written consent.

### **21) Subcontractors**

attocube is entitled, in its own discretion, to engage subcontractors to perform the contract.

### **22) Assignment**

The claims and receivables held against attocube may not be assigned to third parties. Section 354a HGB is not affected thereby.

### **23) Miscellaneous**

**23.1** Exclusive jurisdiction and venue shall lie with the competent courts of Mu-nich. attocube is nevertheless also entitled to enforce any claims against the customer at the customer's registered place of business

**23.2** Only German law applies, to the exclusion of the UN Convention on Contracts for the International Sale of Goods and to the exclusion of the rules on conflict of laws (private international law) that are applicable in Germany.

**23.3** At attocube's option, the contract language may be either German or English. In the event there are any discrepancies between the German and English versions, the German version will prevail.

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