Terms and Conditions for i-ROM Services

Version July 1, 2021

1   Material Scope and Subject Matter of the Contract

1.1   The following terms and conditions (the "TC i-ROM Services") shall apply to the provision of consulting and calculation services as well as software development services by i-ROM GmbH, Neukirchen, to its customers.

1.2   General terms and conditions of the Customer shall not become part of the contract.

1.3   The customer does not obtain the contractual services as a consumer, but for the purpose of his commercial or independent professional activity or, in the case of a university, for its purposes.

2   Type and scope of services

2.1   The type and scope of the services to be provided by i-ROM result from the contractual agreements, usually after an order based on i-ROM's offer, and from these General Terms and Conditions (TC).

2.2   i-ROM is free in the provision of the contractual services in terms of content and time within the framework of the contractual agreements as well as the General Terms and Conditions i-ROM Services, unless otherwise stipulated by contract in individual cases. Partial services are permissible as far as they are reasonable for the Customer.

2.3   i-ROM is entitled to use other, equally qualified employees or external companies and freelancers for the provision of services instead of the vicarious agents named in the contract, unless otherwise stipulated in the contract.

2.4   Scope of Services for Consulting and Calculation Services:

 a)   The specifications provided by the Customer for consulting and calculation services shall not be checked by i-ROM, unless expressly agreed otherwise in individual cases. If specifications of the Customer are recognizably incorrect for i-ROM even without separate examination, i-ROM shall point this out to the Customer.

b)   The contractually agreed consulting and calculation services shall be rendered by i-ROM to the best of its knowledge and belief and in accordance with the recognized rules of technology using computer programs in accordance with the current state of the art. The calculation is usually based on a numerical simulation. The models created for this purpose inevitably and even with the application of all due care customary in the industry never fully correspond to reality. This can lead to discrepancies between the calculation results obtained in this way and the actual properties of the objects under investigation. Therefore, the work results provided by i-ROM must always be validated by the client with suitable methods with regard to the requirements of the object under investigation.

c)   The consulting and calculation services provided by i-ROM do not replace a proper and comprehensive testing of the manufactured products for their suitability for the intended use prior to their application. I-ROM assumes no responsibility for the

feasibility in the production of the simulated models or for the achievement of other goals of the customer, unless otherwise expressly agreed in individual cases.

d) The Customer shall bear the risk for the technical and economic usability of the consulting and calculation services provided by i-ROM.

e) If i-ROM also supplies scripts, macros or other software modules within the scope of consulting and computation services, the provisions of Clause 2.5 shall apply accordingly.

2.5 Scope of services for software developments:

a) Software developments may consist of the new development, further development or adaptation of software.

b) The software development and - if contractually agreed - the associated documentation and installation description shall be prepared in accordance with the contractually agreed requirements. The software including documentation shall, at i-ROM's option, either be delivered on a data carrier or can be downloaded from an FTP server. The installation of the software as well as the instruction of the Customer shall only be carried out by i-ROM if and insofar as this is contractually agreed.

c) In addition to the delivery of the software, i-ROM is only obliged to deliver the corresponding source code if and insofar as this is contractually agreed. Documentation on the source code will only be supplied if and to the extent that this is contractually agreed. In this case, documentation may be included in the source code (comment lines) if and to the extent that nothing else is agreed. The source code (including documentation, if applicable) shall, at i-ROM's option, either be delivered on a data carrier or can be downloaded from an FTP server.

3 Performance deadlines

3.1 The performance periods shall be based on the contractual agreements.

3.2 The performance period shall be extended appropriately if and to the extent that the Customer fails to provide the cooperation and materials required for the performance of the service.

4 Subsequent changes of the service

4.1 If the Customer has expressed to i-ROM requests for changes with regard to the agreed service, these can only be taken into account within the framework of a mutually agreed change to the existing contract. The same applies if after conclusion of the contract it turns out that the service cannot be provided as agreed according to the Customer's specifications.

4.2 i-ROM shall agree to a corresponding amendment of the contract for an appropriate additional fee if the change in performance is possible and reasonable for i-ROM under the given circumstances. For this purpose, the following procedure is agreed: i-ROM shall submit to the Customer, after receipt of a written request for a change, a written offer to adjust the contract, taking into account the effects of the change on the agreed schedule and on the remuneration. In doing so, i-ROM will take as a basis the anticipated change in the time required compared to the hours calculated for the provision of the originally agreed service. The contents of this offer shall only become part of the contract upon receipt of a written order from the Customer by i-

ROM and shall amend or supplement the contract, in particular with regard to the service, the schedule and the remuneration.

5 Prices and terms of payment

5.1 The Customer shall pay the agreed remuneration to i-ROM when due. All prices and costs are exclusive of the statutory value added tax. The deduction of cash discount is excluded.

5.2 Unless otherwise agreed in the respective contract, the following shall apply: The remuneration is due for payment monthly for service contracts, at the latest after completion of the service, for work contracts after acceptance. I-ROM may already demand partial payments at reasonable intervals before or during the performance of the activity in accordance with the status of the contractual services.

5.3 The Customer may only offset undisputed or legally established claims and mutual claims from the same contractual relationship. The same shall apply to the assertion of a right of retention.

6 Obligations of the Customer to Cooperate

6.1 The Customer shall be obligated to provide i-ROM with all cooperation services and supplies required for the execution of the contract immediately after the order has been placed. In addition, the Customer shall provide i-ROM with all information, documents and materials necessary and expedient for the performance of the contract, which i-ROM may request.

6.2 The Customer shall inform i-ROM already during the execution of the contract about problems and difficulties recognizable to him.

7 Notice of Defects and Acceptance

7.1 If i-ROM has to produce a work result specified in the contract, the Customer shall be obliged to carefully inspect the delivered work result within two weeks after receipt and to notify i-ROM of any defects.

7.2 The Customer is obliged to accept the work result produced in accordance with the contract. Acceptance shall take place within two weeks after delivery of the work result by declaration in text form. Acceptance may not be refused due to insignificant defects. The Customer's failure to accept the work product within a reasonable period of time set by i-ROM, although he is obliged to do so, shall be deemed equivalent to acceptance.

8 Rights of use

8.1 i-ROM shall remain the unrestricted owner of all copyrights and exploitation rights as well as all other industrial property rights to the software used by i-ROM for the performance of services.

8.2 Unless otherwise contractually agreed, i-ROM shall also remain the owner of all copyrights and other industrial property rights to the contractual work results (calculation results, software developments, etc.) as well as the owner of the rights to and to all inventions that arise in the course of the performance of the contract.

8.2 Subject to the following provisions, i-ROM grants the Customer a non-exclusive right to use the contractual work results to the extent necessary to achieve the purpose of the contract. Insofar as the work result owed under the contract is a

consulting or calculation service, i-ROM grants Customer an exclusive, transferable right of use to the specific consulting and calculation results (contractually agreed reports, models, etc.) with the proviso that i-ROM and its other customers are not thereby prevented from performing calculations in the same field.

8.3   i-ROM is not entitled to provide or make available the specific consulting and calculation result to another customer for use.

8.4   Insofar as the contractual service consists in whole or in part of a software development, i-ROM shall grant the Customer a simple right to use it for its own purposes. The Customer shall not be entitled to transfer rights of use to such work results to third parties or to permit third parties to use such work results. The customer may only edit, redesign or translate such work results or produce works dependent thereon if the delivery of the source code is also an object of the contract. The granting of the rights of use to the contractually delivered software development does not grant the customer the right to use the underlying application software. The transfer of the application software shall generally be made within the framework of a separate contract.

8.5   Only if and to the extent expressly agreed in the contract shall the Customer be granted a simple, non-transferable right to use the source code. The Customer shall be entitled to use the source code by its employees and by third parties commissioned by it, but only for the Customer's purposes, whereby the employees and commissioned third parties must first be obligated in writing to keep the source code confidential. The Customer shall be liable to i-ROM for any violation of the confidentiality obligations or the rights of use by employees or commissioned third parties as for its own violations.

8.6   The Customer is not entitled to rent, lend or sell the contractual work results, with the exception of the calculation results, to third parties or to make them available or accessible in any other way for purposes other than use for the Customer or to use them for the purposes of third parties.

8.7   The granting of the rights of use shall be subject to the condition precedent of full payment of the contractually agreed remuneration to i-ROM. Upon acceptance or delivery, the Customer shall receive a provisional right of use. However, if the full payment of the contractual remuneration is not made within a period of 30 calendar days after the due date of the final payment, the provisional right of use shall expire and the Customer may not continue to use the work results until full payment has been made.

8.8   i-ROM is and remains entitled in particular to use the know-how used or gained within the scope of the execution of the contract without restriction also for third parties and to process the same or similar orders with it. The contractual confidentiality obligation remains unaffected by this.

9   Confidentiality

9.1   The parties undertake to treat as confidential the information disclosed to them or becoming known to them by the other party (disclosing party) in the course of the conclusion and performance of the contract, unless such information is generally known, has not been developed by the other party itself or becomes generally known at a later date without breach of the duty of confidentiality. The parties shall take all necessary precautions to protect the confidential information from

unauthorized access, unauthorized disclosure, accidental disclosure, duplication, dissemination and other unauthorized use. Further legal provisions remain unaffected. As far as i-ROM is entitled to provide the contractual services by third parties, confidential information may be handed over to them for the purpose of the execution of the contract. Both parties are obliged to ensure that employees and third parties who gain access to the confidential information are subject to at least as strict written confidentiality obligations as those stipulated above for the parties prior to the transfer.

9.2   i-ROM undertakes to keep consulting and calculation results strictly confidential and not to disclose or transmit them to other cu

10   Termination, withdrawal and cancellation

10.1   Contracts for work and services may be terminated by the Customer at any time until completion of the work. In this case, i-ROM shall be entitled to the agreed remuneration, however, i-ROM must take into account that which it saves in expenses as a result of the cancellation of the contract or acquires or maliciously refrains from acquiring through other use of its business (§ 649 BGB).

10.2   If, in the case of service contracts, a specific time (fixed time quota) or a contractually agreed duration for the provision of the service has been contractually agreed, the provision under Section 10.1 shall apply accordingly.

10.3   The right of both parties to terminate for cause shall remain unaffected.

11   Claims due to material defects and defects of title

11.1   The Customer shall immediately give notice in writing of any material defects and defects of title. Material defects shall be notified by the Customer stating the exact circumstances under which they occurred and giving a detailed and comprehensible description of the effects of the material defect.

11.2   Insofar as i-ROM is obligated to subsequent performance due to a defect, i-ROM shall be entitled, at its own discretion, to subsequent performance by remedying the defect or by new delivery. Subsequent performance may also be effected by delivery of a new version, an update, upgrade, patch or release, otherwise also by delivery of equivalent items.

11.3   If the Customer cannot reasonably be expected to accept the subsequent performance or the type of subsequent performance chosen by i-ROM, the Customer shall inform i-ROM thereof in writing without undue delay.

11.4   The Customer shall cooperate to a reasonable extent in the search for and analysis of a material defect and its cause and, in particular, enable i-ROM to inspect the items, provide all necessary and relevant information and allow inspection of the documents from which more detailed circumstances of a notified defect could arise.

11.5   Claims and rights due to a defect shall become statute-barred within one year from the statutory commencement of the limitation period.

11.6   In the event that i-ROM has fraudulently concealed a defect, a defect has been caused intentionally or by gross negligence on the part of i-ROM, in cases of injury to life, body or health or insofar as a guarantee of quality assumed by i-ROM is sufficient, the statutory provisions on liability and limitation in the case of defects

shall remain unaffected. The provisions on the suspension of the expiry and the recommencement of periods shall also remain unaffected.

11.7 Clause 12 shall apply to claims for damages and reimbursement of expenses in the event of defects.

12 Liability

12.1 i-ROM shall only be liable for damages, irrespective of the legal grounds, if these are caused by intent or gross negligence or the intentional or negligent breach of essential contractual obligations, the fulfillment of which makes the proper execution of the contract possible in the first place and on the compliance with which the contractual partner may regularly rely. In case of simple negligence, i-ROM's liability shall be limited to the foreseeable damage typical for the contract. For consequential harm caused by a defect i-ROM shall only be liable in case of intent or gross negligence; the Customer's statutory claims for compensation for damage caused by delay shall remain unaffected. The aforementioned liability regulations shall also apply accordingly to the liability for compensation of futile expenses.

12.2 The aforementioned limitations and exclusions of liability shall not apply to damages resulting from injury to life, body or health for which i-ROM is responsible as well as to liability under guarantees and under the Product Liability Act.

12.3 The above provisions shall also apply in favor of i-ROM's employees and vicarious agents.

13 Export regulations

Software products and technical know-how in connection with these software products are subject to the respectively applicable export regulations of the country of the purchaser as well as those of the respective country of manufacture. With regard to the contractual services, the Customer is obliged to observe all applicable legal provisions of the Federal Republic of Germany, the European Union and the United States of America that restrict the sale, delivery, export or transit of goods, software, technology and technical support or related trade and brokerage transactions (e.g. country and person-related embargoes).

14 Miscellaneous, place of jurisdiction and applicable law

14.1 The Customer's claim for performance of the contractual service is not assignable.

14.2 Should any provision of the contract or of these General Terms and Conditions be or become invalid, this shall not affect the legal validity of the remaining provisions. In place of the invalid provision, a valid provision shall be deemed to have been agreed which comes as close as possible to what was intended by the parties.

14.3 In case of different interpretations of the German and English text of this contract, the German version shall prevail.

14.4 If the Customer is a merchant, a person under public law or a special fund under public law, the courts at the registered office of i-ROM shall have local jurisdiction for all disputes arising from or in connection with this contract. Exclusive legal places of jurisdiction remain unaffected by this regulation. Place of performance for the services of both parties is the registered office of i-ROM. Notwithstanding the above

provision, i-ROM shall always be entitled to appeal to the court at the Customer's place of business.

14.5   The legal relations in connection with this contract shall be governed by the laws of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980 and excluding the German conflict of laws rules.