Software License Agreement

1. Subject Matter of these Terms and Conditions

1.1 PRÜFTECHNIK Condition Monitoring GmbH, Oskar-Messter-Str. 19-21, D-85737 Ismaning (hereinafter referred to as "prüftechnik") shall provide the Customer with the software ("Contractual Software") described in the attached data sheet or offer in its object code on a data carrier or, at its own discretion, to be downloaded from the internet in accordance with the following provisions.

1.2 The terms and conditions contained in this Agreement and in the offer shall take precedence over any and all deviating or additional terms and conditions of the Customer, in particular in terms and conditions of purchase, orders or other documents. This shall also apply if prüftechnik concludes the Agreement without reservation although it is aware of the Customer's contrary or deviating terms and conditions. Any terms and conditions contained in an offer shall take precedence over the terms and conditions of this Agreement.

1.3 Further services in relation to the Contractual Software (e.g. customization, maintenance or training) are not the subject matter of this Agreement.

1.4 The provisions of the privacy policy (http://www.pruftechnik.com/legal-notice/data-privacy.html) shall also apply.

2. prüftechnik's Services

2.1 The Customer shall receive the Contractual Software in its object code for the operating system set out in the data sheet or offer on a data carrier or as an electronic copy for downloading from the internet.

2.2 The range of functions, the requirements for the hardware and software environment and other information relating to the properties of the contract software shall be exclusively that set out in the supplied documentation and datasheet or the quotation. Beyond this prüftechnik shall not owe any software qualities. In particular the Customer cannot infer any such obligation from other representations of the Contractual Software in public statements or in advertising by prüftechnik unless prüftechnik has expressly confirmed such a deviating quality in writing.

2.3 The dispatch and transmission of the Contractual Software and, as the case may be, of the associated services shall be at the Customer's risk and cost unless otherwise stipulated in the offer letter.

2.4 The documentation is either on the supplied data medium for printing out at home or is available in the form of the online help section. Documentation in paper form shall only be supplied upon special request, as the case may be for an extra charge.

3. Customer's Rights of Use

3.1 prüftechnik shall grant the Customer a non-exclusive right of use, which is unlimited in terms of geography and time, without the right to grant sub-licenses as follows:

3.1.1 The Customer shall be entitled to use the software for the normal, specified use within the undertaking stipulated in the offer for the quantity stated therein (e.g. number / named users / installations, servers, CPU) and in the country of destination stipulated therein. Other types of use are not covered by the right of use, in particular the software may not be leased or loaned to third parties or provided to third parties for temporary use as part of EDP services, in particular as part of operating a computing center or outsourcing, as part of application service providing agreements or in any other way and may not otherwise be used for the purposes of third parties.

3.1.2 The Customer may make one back-up copy of the original data carrier supplied to him provided that this is necessary for the purposes of securing the future use of the software (e.g. in the case of a system failure). The back-up copy must be marked as such and must be labelled with the original data carrier's copyright notice. If the hardware on which the software is used is exchanged the software must be erased from the hardware used up until then.

3.2 The Customer is entitled to use the Contractual Software beyond the above-described rights of use only following prüftechnik's consent. If the Customer fails to obtain consent and exceeds the above rights of use prüftechnik shall be entitled to issue an invoice for the amount that accrues for the more far-reaching use in accordance with prüftechnik's then current price list, unless the Customer can prove a substantially lower loss on the part of prüftechnik. This shall be without prejudice to any further-reaching non-contractual claims for damages.

3.3 The Customer shall be entitled to amend, extend and otherwise modify the Contractual Software within the meaning of Paragraph 69 c no. 2 of the German Copyright Act (UrhG) only to the extent that the Act mandatorily allows the aforementioned. Any defects that occur shall be rectified under the warranty or, as the case may be, under a valid support contract. There shall be a defect only if the properties of the Contractual Software deviate from the program description in the user documentation or the Contractual Software does not satisfy its objectively intended object and additionally the execution of the Contractual Software is interfered with not only negligibly. If there is a support contract in place or there is a case of liability for defects in quality (Sachmangelhaftung) prüftechnik must be notified of any such defect without undue delay. If prüftechnik starts to rectify the defect within a reasonable period then any attempts by the Customer to rectify the defect himself shall be unlawful. Otherwise the Customer can make modifications to and copies of the Contractual Software that are necessary to rectify the defect. The Customer may not make any modifications that go beyond the rectification of defects so permitted.

3.4 The Customer can ask prüftechnik for the interface information required to bring about interoperability of the Contractual Software subject to payment. Said information may only be used to create interoperable programs which do not have substantially similar forms of expression and may only be passed on if this is absolutely necessary for the stated purpose. If and to the extent that prüftechnik is not prepared to send the Customer the interface information within a reasonable period or only in return for an unreasonably high charge, the Customer may undertake a decompilation within the limits of Paragraph 69 e of the German Copyright Act (UrhG). The Customer must immediately destroy information thereby acquired that does not concern interfaces.

3.5 If in the course of making subsequent improvements or in the course of maintenance prüftechnik provides the Customer with add-ins (e.g. patches, bug fixes) or with further developments of the software (updates, upgrades), which replace versions of the Contractual Software previously provided, said add-ins or further developments shall be subject to these terms and conditions. In that case the rights of use in relation to the previous version of the Contractual Software shall lapse.

3.6 Unless otherwise expressly provided, the Customer shall not obtain any further-reaching rights to the software, in particular no right to the software's source code.

4. Product Activation

The Customer can exercise the above-mentioned rights of use only if he activates the copy of the software in the manner stipulated by prüftechnik. Usually, the Customer shall receive notification from prüftechnik after receipt of payment that the Contractual Software can be activated and, as the case may be, appropriate activation codes. The precise procedure can at all times be read on prüftechnik's website. If the Customer changes hardware, the software may have to be reactivated. prüftechnik applies said measures in order to ensure that only properly licensed copies of the software are used. prüftechnik does not collect, process or use any personal data on the Customer's computer when activating the product.

5. Fee

5.1 Upon payment of the fee stated in the offer the Customer shall be granted the rights of use described in Clause 3.

5.2 All prices are deemed to be plus statutory value added tax (Umsatzsteuer) and, if appropriate, carriage and packing.

5.3 The fee shall be due immediately upon conclusion of the Agreement unless otherwise stipulated in the offer.

5.4 prüftechnik reserves title to all copies of the Contractual Software until the licence fees have been paid in full. In the event that the contract is breached by prüftechnik, in particular if prüftechnik is in default with payment, the Customer shall be entitled to demand the return of all copies of the Contractual Software to which the Customer has reserved title at the expense of prüftechnik or, if applicable, to demand the assignment of any rights held by prüftechnik against third parties. In this case, on request prüftechnik shall confirm in writing to the Customer that it has not retained any copies of the Contractual Software and that all installations of the Contractual Software have been irrevocably deleted from the systems of prüftechnik or the third party. Before the final transfer of title, prüftechnik shall only be able to dispose of the rights to the Contractual Software with the prior written consent of the Customer.

6. Customer's Obligations

6.1 The Customer shall import and install the Contractual Software, inspect it for its operational capability and report any defects that may occur to prüftechnik without undue delay after receipt. The Customer shall have sole responsibility for setting up an operationally capable and adequately dimensioned hardware and software environment for the software.

6.2 The Customer shall keep the software handed over safely in order to exclude the possibility of misuse. He shall give third parties access to the software only with prüftechnik's prior written consent.

6.3 The Customer shall not be permitted to alter or remove any of prüftechnik's copyright notices, marks and/or control numbers or symbols. If the Customer edits the software, said notices and marks must be included in the adapted version.

6.4 The Customer shall take reasonable precautions for the event that the software does not work properly, either in whole or in part (adequate back-up of data, regular checks of the data processing results).

6.5 The Customer is entitled to pass the Contractual Software in its original condition and as a whole together with a copy of these Terms and Conditions on to a subsequent user if the third party declares his agreement to these Terms and Conditions. Said right to pass on does not extend to passing on copies or partial copies of the Contractual Software and also not to passing on the modified or edited versions or copies or partial copies made thereof. If passed on, the Customer must delete all versions and copies of the Contractual Software remaining with him. The Customer must report any passing on of the Contractual Software

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to prüftechnik in writing. The deletion of versions of the Contractual Software remaining with the Customer must be confirmed to prüftechnik in writing upon request.

7. Liability for Defects in Quality *(Sachmängel)* **and Defects in Title** *(Rechtsmängel)*

7.1 prüftechnik does not give any guarantee for the software unless a specification has expressly been designated in writing as "guaranteed".

7.2 There is a defect in the software if the properties of the software deviate from the product description or the software does not satisfy its objectively intended object and additionally the execution of the software or its fitness for use is interfered with not only negligibly. Sequence errors due to hardware errors or operating errors or non-reproducible errors do not constitute defects within the meaning of this provision.

7.3 Obvious defects in the sample of the software supplied must be reported in writing by the Customer without undue delay, however no later than within a preclusion period of ten days as of receipt of the software. Latent defects must be reported in writing within a preclusion period of ten days since discovery of the defect.

7.4 When a defect is reported the Customer shall, however, first rule out the possibility that the defect reported is attributable to an operating error. For this the Customer shall have the burden of proof. The Customer must report defects in writing and must enclose therewith a detailed description of the error picture. Costs incurred by the Customer for checking the Contractual Software shall be borne by him alone.

7.5 prüftechnik shall be answerable for defects, which are present when the Contractual Software is delivered, for a period of one year as of delivery in accordance with the following rules:

7.6 In the case of defects in the documentation prüftechnik shall rectify the defect by notifying the Customer in writing how the incorrect passages in the documentation should read correctly. There shall be a defect in the documentation only if the specified use of the Software or of the documentation by the Customer is thereby unreasonably impeded.

7.7 If there is a defect in the Contractual Software prüftechnik can, at its option, remedy the defect or supply the Customer with a version of the software that is free from defects. A defect can also be remedied by supplying updates, patches or bug fixes, which the Customer imports himself, or a reasonable bypass solution. If the defect is not reasonably remedied by a deadline set by the Customer the Customer must set prüftechnik a further reasonable deadline to remedy the defect. If the rectification fails because of the same defect a total of three times or if prüftechnik has not remedied the defect after the expiry of the deadlines the Customer can demand a pro rata reduction in the fee (abatement) or, in the case of defects which are not negligible, can rescind the Agreement. Remedying a defect at the Customer shall extend the period of limitation only with regard to said particular defect.

7.8 The Customer shall be obliged to accept a new version of the software unless the original functional scope would thereby be reduced or the acceptance were to give rise to significant disadvantages for the Customer.

7.9 If third parties assert claims, which would hinder the Customer from exercising the rights of use granted to him, the Customer shall notify prüftechnik thereof in writing without undue delay. The Customer authorizes prüftechnik to conduct the dispute with the third party, whether in or out of court, alone.

7.10 prüftechnik shall take defensive action against the claims at its own cost and shall indemnify the Customer against all reasonable costs and damage associated with the defensive action against the claim unless they were caused by conduct on the part of the Customer that was in breach of duty.

7.11 Damage which is attributable to faulty data carriers, improper installation by the Customer or third parties as well as editing or modifying the software not in accordance with the contract including rectification or maintenance work that was not authorized by prüftechnik is excluded from the liability for defects in quality *(Sachmängelhaftung)* and from the liability for defects in title *(Rechtsmängelhaftung)*.

7.12 If in the course of a requested remedying of a defect it subsequently transpires that the trouble reported by the Customer is not attributable to a defect in the software, in particular if it is due to an operating error, prüftechnik shall charge the Customer for the expense incurred in accordance with the price list for prüftechnik's services as applicable from time to time.

7.13 prüftechnik's liability for defects in quality *(Sachmängelhaftung)* and for defects in title *(Rechtsmängelhaftung)* is exhaustively governed by this Clause subject to the provisions of Clause 8 (Liability).

8. Liability

8.1 prüftechnik shall be liable - on the merits - under this Agreement for damage to the Customer,

- which prüftechnik or its statutory representatives or vicarious agents has brought about intentionally or grossly negligently,
- which occurred due to a breach by prüftechnik of a duty whose fulfilment makes the correct execution of the Agreement possible in the first place and which the contract party can normally expect compliance with (cardinal duty),
- -if said claims result from the German Product Liability Act *(Produkthaftungsgesetz)*,

- -if in the case of contracts for sale *(Kaufverträgen)* or contracts for work and services *(Werkverträgen)* prüftechnik gave a guarantee for the quality of the thing or prüftechnik made a fraudulent misrepresentation,
- -which arises out of an injury to life, body or health due to a breach of duty by prüftechnik or one of its statutory representatives or vicarious agents.

8.2 prüftechnik shall be fully liable in the case of damage caused intentionally or grossly negligently or in the case of an injury to life, body or health. Otherwise the claim for damages shall be limited to the foreseeable damage typical for the contract, in the case of late performance *(Verzug)* to 5% of the contract value. The liability under the German Product Liability Act *(Produkthaftungsgesetz)* shall remain unaffected thereby.

8.3 In cases other than the cases mentioned in 8.1 to 8.2 above prüftechnik's liability is excluded - irrespective of the cause in law.

8.4 Claims for damages against prüftechnik shall be time barred following the expiry of 12 months after they arose. In the case of intent or gross negligence on the part of prüftechnik, in the case of fraudulent nondisclosure of a defect, in the case of personal injury or defects in title *(Rechtsmängel)* within the meaning of Paragraph 438(1) no. 1 a of the German Civil Code (BGB) and in the case of guarantees (Paragraph 444 of the German Civil Code (BGB)) the statutory periods of limitation shall apply. The same applies to claims under the German Product Liability Act *(Produkthaftungsgesetz)*.

8.5 Insofar as prüftechnik's liability is excluded this shall also apply to the personal liability of prüftechnik's white-collar workers, blue-collar workers, employees, representatives and vicarious agents.

8.6 prüftechnik shall be liable for the loss of data only if the Customer has taken reasonable precautions against the loss of data, in particular by making back-up copies of all programs and data in a machine-readable form at least once per day or the loss of data could not have been avoided even if this obligation had been complied with. In all other respects prüftechnik's liability for loss of data is subject to the limitations of this Clause 8.

8.7 prüftechnik does not accept any liability for third-party software supplied together with prüftechnik's products, whether for the type, scope or quality of said software. The Customer shall be obliged to initially assert any claims, of no matter what kind, against the developer of the third-party software. For this, prüftechnik hereby already assigns any rights it may have to the Customer and promises to support the Customer as far as is economically reasonable in the assertion of said claims. If court action to enforce the Customer's claims against the third-party software developer fail finally and absolutely, prüftechnik shall be secondarily liable.

9. Confidentiality

9.1 The Customer undertakes to carefully protect the software together with the documentation and other information material, such as the separately supplied interface description, as well as the back-up copy against unauthorized discovery by third parties, which includes discovery by unauthorized employees.

9.2 The Customer shall indemnify prüftechnik against the damage incurred due to any breach of this obligation.

10. Final Provisions

10.1 The transfer of rights and obligations arising out of this Agreement by the Customer to a third party shall require the prior written consent of prüftechnik.

10.2 The Customer shall not be entitled to exercise a right of retention because of any other claim that does not derive from this Agreement. The Customer can assert a right of setoff only against claims against prüftechnik which are not disputed or which have been established as final and unappealable.

10.3 The invalidity of one or more provisions of this Agreement shall not affect the validity of the remainder of the Agreement. The contract parties shall endeavor to replace the void provision by a valid provision which comes as close as possible to the economic purpose intended by the void provision. The same shall apply in the event that there is a gap in the Agreement requiring regulation.

10.4 Any amendments or additions to the Agreement including to this Clause as well as amendments or additions to the Schedules to the Agreement are required to be in writing in order to be effective. E-mail or other forms of electronic transmission does not constitute written form for the purposes of this regulation.

10.5 The place of performance shall be prüftechnik's registered office (seat). This Agreement shall be governed by German law to the exclusion of the CISG. The exclusive place of jurisdiction shall be the Munich (Landgericht [Regional Court] I). prüftechnik shall also be entitled to sue the Customer at his registered office (seat).

Position as per: 30 November 2015

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