



1 Subject matter of the agreement

- 1.1 Subject matter of these licensing terms and conditions (“General Terms and Conditions Licence Regarding the Provision of Software for a Limited Period of Time”) is the provision of the standard software described in the order form including the computer program contained therein, the information contained therein (e.g. graphics, pictures, logos, animations, videos, sounds, music, texts, forms, applications, databases) - hereinafter collectively referred to as: SOFTWARE - and the granting of rental licences to utilise the SOFTWARE to the customer by Heidelberg mobil international GmbH, Berliner Strasse 41, D-69120 Heidelberg (hereinafter referred to as: “HD Mobil”).
- 1.2 The conclusion of the agreement takes place by the placing an order by the customer and the acceptance of this order by HD Mobil. When placing the order, the order form of HD Mobil must be used. HD Mobil is not obliged to accept an order.
- 1.3 The licensing of the SOFTWARE takes place exclusively pursuant to the order in connection with these licensing terms and conditions. Other general terms and conditions do not apply.

2 Delivery, installation and training

- 2.1 The SOFTWARE is delivered to the customer by HD Mobil in the manner agreed in the order form.
- 2.2 Together with the SOFTWARE, HD Mobil provides the customer with documentation in accordance with the product description. The documentation forms part of the SOFTWARE.
- 2.3 In the event that in the course of the order, the installation of software by HD Mobil in return for separate remuneration is agreed, the following applies:

The SOFTWARE may be used only in case of an installation by HD Mobil. As additional service, HD Mobil or any third party commissioned by HD Mobil supports the customer in the installation of the SOFTWARE. The date of the installation must be coordinated jointly. The customer provides HD Mobil with the hardware and software environment necessary for the installation at its



own expense. The installation services provided by HD Mobil are paid by the customer on an actual time and materials basis. The amount of the installation fee follows from the order form. Working hours or working days already commenced are charged on a pro rata basis. Any applicable statutory VAT is added to the installation fee. The installation fee is billed together with the licence fee.

2.4 Services with regard to training, implementation or adjustment of the SOFTWARE require the conclusion of a separate written agreement, with respect to the conclusion of which neither party has a claim vis-à-vis the respective other party.

2.5 The customer is obliged to examine the SOFTWARE after the installation and prior to the operational utilisation for its capability to function and freedom from defects.

3 Licence fee

3.1 From the conclusion of the agreement or from the commencement of the licence, as the case may be, regulated differently in the order form, the customer is obliged to pay to HD Mobil the licence fee agreed in the order form.

3.2 It is hereby pointed out to the customer that the capability of the SOFTWARE to function may be impaired, as soon as the scope of use agreed pursuant to the order form or the respective Technical Specifications actually increases. HD Mobil is entitled, to provide for respective technical routines in the SOFTWARE.

3.3 Unless agreed otherwise in the order form, an agreed basic fee must be paid annually in advance at the latest within 14 days from the conclusion of the agreement. Any additional or ongoing licence fee agreed in addition thereto is due for payment monthly, in each case, in advance as of the 3rd working day of the calendar month. The payments must be made cashless to the account specified by HD Mobil in the order form or separately. With respect to the timeliness of the payment, it is not the time of the remittance of the money, which is relevant, but the time of the crediting of the money.



3.4 The respectively applicable statutory VAT is added to the licence fee and any other prices.

4 Rights of use

4.1 The parties agree that the SOFTWARE is a protected computer program within the meaning of the German Copyright Act. Unless otherwise regulated hereinafter in an express manner, all rights of use with regard to the SOFTWARE under copyright law remain with HD Mobil. The regulations contained in this Section 4 bind the parties also under the law of obligations.

4.2 HD Mobil grants to the customer the following non-exclusive and non-transferable rights of use with regard to the SOFTWARE limited in terms of time to the term of the licence agreed in the order form, restricted in terms of territory and content pursuant to these licensing terms and conditions, to the extent that this does not conflict with rights of third parties - in particular pursuant to Section 4.7, with the customer already now accepting the granting of the rights:

- a) the right to make the SOFTWARE available at the place of use specified in the product description or the order form to the user groups mentioned in the product description (e.g. own employees, visitors to trade fairs) and to the number of users specified in the product description or the order form, to the number of mobile devices used by users (“Right to Make Publicly Available”),
- b) the right to store in the database of the SOFTWARE data pursuant to the system requirements of the SOFTWARE and to reproduce data at the place of use specified in the product description or the order form at the request of the user groups mentioned in the product description (e.g. own employees, visitors to trade fairs) for the purpose of the display on the mobile devices up to the number regulated in the product description or the order form,
- c) the right to adjust the SOFTWARE - in the areas expressly allowed in the product description to be modified - respectively to the Corporate



Design of the places of use specified in the product description or the order form and to modify the SOFTWARE in this respect,

to the extent that, in each case, this is necessary for the utilisation of the SOFTWARE for the intended uses of the SOFTWARE agreed in the product description or the order form at the place of use agreed therein.

4.3 To the extent that no other intended use is agreed in the product description or the order form, the following intended uses apply:

- a) In the event that the provision of the SOFTWARE takes place for the purpose of the Field Force or Sales Force Automation, the intended use is the management of the service or sales staff.
- b) In the event that the SOFTWARE is provided to trade fair or convention companies or organizers, i.e. to customers, who organize or host trade fairs or conventions in their own enterprise, the intended use is the utilisation of the SOFTWARE as a trade fair guide. In terms of territory, the utilisation of the SOFTWARE is - in this case – restricted to the rooms and real property, whose lessee and actual possessor or whose owner the customer is and which are located in the Federal Republic of Germany. The utilisation for events in other rooms or on other real property or for events of third parties is not permitted.

4.4 The customer is obliged to observe the other rights of use of HD Mobil. In particular, the customer is not entitled:

- to decompile the, to conduct reverse engineering of the or to disassemble the SOFTWARE. Information about interfaces is provided to the customer on request only in accordance with § 69e German Copyright Act, in particular exclusively for the purpose of the achievement of the interoperability of a program created independently;
- to modify the SOFTWARE or parts thereof. This applies also to the correction of errors, unless the correction of errors takes place on and according to instructions from HD Mobil;



- to remove designations of authorship, serial numbers as well as other characteristics used for the purpose of the program identification;
- to make the SOFTWARE publicly available;
- to grant sublicenses, to sell, to give away, to lend, to rent out or distribute the SOFTWARE otherwise

unless something to the contrary follows expressly from Section 4.2.

4.5 The customer is entitled to reproduce the SOFTWARE, to the extent that this is necessary for the utilisation of the SOFTWARE in accordance with the intended use pursuant to these licensing terms and conditions within the scope of the agreed intended use at the agreed place of use, e.g. the installation on the hardware of the customer including on the mobile devices operated at the agreed place of use and the loading into the respective main memory. Furthermore, the customer is entitled to make, in each case, one backup copy of the data storage mediums provided to it. A reproduction for other purposes is not permitted.

4.6 The customer is entitled to utilise the Deep Map™ platform, which the SOFTWARE is based upon, and the related libraries only as part of the SOFTWARE in its entirety. A separate utilisation is excluded. In particular, the customer is not entitled to modify, to decompile, to reproduce for other purposes than the immediate operation of the SOFTWARE in accordance with the intended use or to exploit in any other way the Deep Map™ platform and the related libraries or to conduct a parallel development or to have a parallel development conducted.

4.7 The customer is aware that the Deep Map™ platform and, as the case may be, the SOFTWARE was developed using open source software and components. The customer covenants to HD Mobil to observe the open source licence terms made reference to in the product description or the related annex, and indemnifies HD Mobil against any liability due to violations of these open source licence terms, unless neither the customer, nor its statutory representative nor its vicarious agents are at fault. At the request of the customer, HD Mobil provides the relevant open source licence terms.



- 4.8 The customer is only entitled to utilise the SOFTWARE on that hardware, which is described in the product description. The utilisation on any other hardware and also on any hardware with only partially different hardware components requires the express written approval of HD Mobil.
- 4.9 The other regulations in §§ 69d para. 2 and 3, 69e German Copyright Act remain unaffected.
- 4.10 The customer does not receive the source code of the SOFTWARE.
- 4.11 The customer agrees that HD Mobil is named as author at a suitable place within the SOFTWARE (e.g. in the course of a presentation with regard to the copyright, which is integrated into the SOFTWARE) and that a reference is made to the Deep Map™ platform at a suitable place (e.g. “powered by Deep Map™”).

5 Term of the agreement

- 5.1 The term of the agreement follows from the order form. Except as otherwise agreed in the order form, the delivery takes place on the day of the commencement of the licence.
- 5.2 The agreement is concluded for a fixed term for the period agreed in the order form (fixed rental period). After the expiry of the fixed rental period, the agreement is extended subject to the conditions stated in the order form, in each case, for a further 12 months, unless it is terminated by one of the parties with a notice period of at least three months with effect as of the end of the respective term of the agreement.
- 5.3 The right of both parties to terminate extraordinarily for good cause remains unaffected.
- 5.4 In addition to the cases provided by statute, good cause for an extraordinary termination by HD Mobil exists, in particular, but not limited to, also if
- a) the customer is in default on its payment obligations pursuant to these licensing terms and conditions in connection with the order form,



- b) the customer utilises the SOFTWARE in violation of the rights of use granted to the customer pursuant to Section 4 of these licensing terms and conditions;
- c) a creditor of the customer attaches claims vis-à-vis HD Mobil and if the attachment is not released again within two weeks.

5.5 Both parties, respectively, are entitled to give notice of extraordinary termination, if

- a) the opening of insolvency proceedings with regard to the assets of the respective other contracting party is applied for by it itself (own application) or any third party, however not the respective other contracting party, or if such an application - irrespective of the person filing the application - is rejected due to a lack of assets or
- b) the respective other contracting party is being liquidated.

5.6 Any notice of termination must be made in writing and must be sent by registered mail.

5.7 After the termination of the agreement, the customer is obliged to hand over or to destroy the data storage media and backup copies made, to uninstall the SOFTWARE and to delete any remaining rests of the SOFTWARE from the IT system in such manner that a restoration is excluded. HD Mobil must be provided - without request - with a written confirmation and - on request - with proof of the proper and complete destruction and deletion.

5.8 In case of the extraordinary termination by the customer due to reasons, which HD Mobil is responsible for, HD Mobil is obliged to reimburse the customer for the licence fee paid in advance on a pro-rata temporis basis for the period from the date on which the extraordinary termination takes effect. There is no payment of interest. Claims for damages vis-à-vis HD Mobil are limited pursuant to these licensing terms and conditions.

5.9 With the termination of the agreement, all rights of use of the customer with regard to the SOFTWARE expire, without the necessity of a declaration of the part of HD Mobil.



6 Liability for material defects

- 6.1 The liability for material defects with regard to the SOFTWARE is determined in accordance with the following provisions by landlord and tenant law (§§ 535 et seqq. German Civil Code), with the liability for initial defects, which does not depend on the existence of fault, being excluded.
- 6.2 The customer did inform itself about the material characteristics of the SOFTWARE and bears the risk, whether the SOFTWARE corresponds to its wishes and needs. The functionality of the SOFTWARE is determined by the description in the product description and the agreements concluded in writing in addition thereto, if any, and apart from that by the quality usual for software of the same kind and which the customer may expect taking into account the nature of the SOFTWARE. Technical data, specifications and performance information in public statements, in particular in advertising materials of HD Mobil do not constitute quality descriptions. It does not constitute a defect, if a functionality existing at the time of the initial installation is no longer or not properly available due to an update, a new release or any other change of the operating system or the system or hardware environment of the customer. The functionalities and descriptions presented in the product description do not constitute guarantees, unless expressly agreed otherwise in writing.
- 6.3 HD Mobil provides and preserves the SOFTWARE in a condition in conformity with the agreement pursuant to the Section 6.2 above. The obligation to preserve does not comprise the adjustment of the software to changed operating conditions and to technical and functional developments such as changes of the system environment, the operating system or the hardware, adjustments to the range of functions of competing or comparable products or the achievement of the compatibility with new data formats. With regard to maintenance services in excess of the preservation, a separate maintenance order may be agreed in the order form in accordance with the maintenance terms and conditions.



- 6.4 Errors and access failures due to external circumstances not caused by HD Mobil create warranty claims (in particular claims for damages and/or reduction) only, if and to the extent that the utilisation is impaired substantially and HD Mobil would be able - technically and economically - to limit these impairments to an extent that can reasonably be expected. Short-term impairments of the aforementioned kind do not create warranty claims based on material defects.
- 6.5 In the event that the customer asserts a reduction, the customer is - for the time being - obliged to pay the agreed rent in full also in case of the existence of a defect, unless the basis and the amount of the reduction are undisputed or have been determined in a final and legally binding manner. Any claims of the customer for a (also partial) reclamation of the remuneration pursuant to § 812 para. 1 BGB remain unaffected.
- 6.6 A notification of defects must be made immediately in accordance with § 536c BGB (*German Civil Code*) by means of a comprehensible description of the error symptoms proven, to the extent possible, by means of records, hard copies or other documents illustrating the defects. The notification of defects must allow the reproduction of the error. For the purpose of the error analysis and of the correction of errors, the customer agrees to provide HD Mobil with a secure and suitable remote data access to the system, on which the SOFTWARE is installed. The remote data access must at least support the ADSL standard. Furthermore, the customer undertakes to ensure that one of its employees experienced in the operation of the SOFTWARE makes the notification of defects, is - for the period of the remote data access - present at the computer and is reachable by phone. For this, the customer names a technical contact person in the order form.
- 6.7 The liability for damages or reimbursement of expenses is determined, by way of supplement, pursuant to Section 8 of this agreement. This applies also to the liability due to defects.
- 6.8 The liability for material defects is excluded



- a) to the extent that the customer or third parties not authorised thereto by HD Mobil made changes to the SOFTWARE, unless these changes did not have an effect on the coming into existence of the defect or that these changes were made on and according to instructions of HD Mobil;
 - b) to the extent that the SOFTWARE is not used in compliance with the order form in connection with these licensing terms and conditions and the system requirements, as summarised in the product description, if any, or as communicated to the customer, unless this does not have an effect on the coming into existence of the defect;
 - c) if the SOFTWARE is not utilised in a properly licensed and maintained system environment, unless this does not have an effect on the coming into existence of the defect;
 - d) with respect to computer programs or parts thereof, which do not form part of the SOFTWARE, in particular, HD Mobil does not accept any responsibility with respect to the system environment in which the SOFTWARE is utilised;
 - e) if updates or other measures provided to the customer by HD Mobil for the purpose of the correction of errors or of updating have not been installed and the reported error has already been corrected therein or would not have occurred as a result thereof, unless the installation cannot reasonably be expected from the customer due to reasons the customer is not responsible for.
- 6.9 The warranty claims become time-barred in one year from the knowledge or grossly negligent lack of knowledge of the circumstances giving rise to the claim, at the latest after one year from the termination of the licence. A shorter statutory limitation period as well as the regulation in Section 6.4 remain unaffected. With regard to claims for damages in case of damages due to injuries to life, body or health, which arise from a negligent breach of duties by HD Mobil or an intentional or negligent breach of duties by any of its statutory representatives or any of its vicarious agents, or with regard to claims for damages in case of damages, which arise from a grossly negligent



breach of duties by HD Mobil or an intentional or grossly negligent breach of duties by any of its statutory representatives or any of its vicarious agents, the statutory periods apply in deviation from the sentences above.

6.10 In the event that after a respective examination by HD Mobil an alleged defect is not to be classified as a defect, which is subject to the liability of HD Mobil for material defects (fictitious defect), the customer can be charged for the services provided by HD Mobil for the purpose of the verification and the correction of errors at the respectively applicable rates of remuneration plus the expenses incurred. This does not apply, if the customer would not have been able to recognise the fact that it is a fictitious defect even when exercising due care.

7 Freedom from rights of third parties

7.1 HD Mobil warrants that the SOFTWARE is free of rights of third parties, which conflict with its utilisation in conformity with the agreement pursuant to the order form in connection with these licensing terms and conditions.

7.2 In the event that third parties are entitled to such rights and that they assert such rights, the customer must notify HD Mobil thereof immediately in accordance with Section 6.6 and must grant all powers of attorney and all powers to HD Mobil, which are necessary to defend the SOFTWARE against the asserted rights of third parties.

7.3 To the extent that such defects of title exist, HD Mobil is (a) entitled - at its option - (i) to remove the rights of third parties, which impair the utilisation of the SOFTWARE in compliance with the agreement, by means of legal measures, or (ii) to eliminate their assertion, or (iii) to change or replace the SOFTWARE in such a manner that it no longer violates external rights of third parties, if and to the extent that this does not substantially impair the owed functionality of the SOFTWARE, and (b) obliged to reimburse the customer for the incurred necessary reimbursable legal costs.

7.4 In the event that the measures pursuant to Section 7.3 fail within a reasonable period of additional time to meet the obligations set by the



customer, Section 6 applies, *mutatis mutandis*, with the proviso that no further setting of a period by the customer in excess of Section 7.3 is required.

8 Liability for damages or reimbursement of futile expenses

8.1 HD Mobil is liable in case of intent or gross negligence. The liability of HD Mobil for losses resulting from a simple negligent breach of a material contractual obligation (cardinal obligation) is limited to losses that are typical of the contract and foreseeable. A cardinal obligation exists, if the fulfilment of this cardinal obligation is a precondition for the proper implementation of the agreement and if the customer is regularly entitled to rely on the fulfilment of this cardinal obligation. The liability of HD Mobil for damages or reimbursement of futile expenses for the simple negligent breach of contractual obligations, which are not material, is excluded.

8.2 In the course of the determination, whether HD Mobil is at fault, it must be taken into account that software cannot technically be created free from defects.

8.3 The typical and foreseeable loss within the meaning of Section 8.1 is limited - with respect to the amount - to the twofold amount of the licence fee attributed to a calendar month for every individual case of loss and to the licence fee attributed to the period of six calendar months for all cases of loss. In the course of the calculation of the limitation of the amount, only such pecuniary losses may be taken into account, which were caused by HD Mobil due to simple negligence.

8.4 It is expressly pointed out by HD Mobil that it is the own responsibility of the customer to ensure that an own data backup is made and a verification of the success of this data backup is conducted as well as to backup and verify this data backup itself on a regular basis. Pursuant to these licensing terms and conditions, HD Mobil is liable for the loss of data only up to that amount, which would have been caused for their restoration in case of a proper and regular backup of the data. Furthermore, HD Mobil is not liable for the loss of program extensions of the customer to the SOFTWARE or for damages, which were caused by data changes due to such program extensions.



- 8.5 A fault on the part of its statutory representatives and vicarious agents is attributed to HD Mobil.
- 8.6 All exclusions of liability and restrictions on liability mentioned above and contained in these licensing terms and conditions do not apply in case of an intentional or negligent injury to life, body or health. The liability pursuant to the German Product Liability Act and because of guarantees remains unaffected.
- 8.7 All exclusions of liability and restrictions on liability of HD Mobil contained in these licensing terms and conditions also apply for the benefit of its vicarious agents and statutory representatives as well as for the liability in tort.
- 8.8 The regulations in this Section 8 apply, *mutatis mutandis*, to the liability of HD Mobil for the reimbursement of futile expenses.

9. Provision of contents and operation of the mobile solution

- 9.1 The SOFTWARE is intended to access - in accordance with the product description - via the World Wide Web or an intranet a database, in which data are stored, in particular location-based data (hereinafter referred to as: DATABASE). The DATABASE forms part of the SOFTWARE.
- 9.2 The customer itself is responsible for the proper and functional inputting of data into the DATABASE, for the **legality, correctness and suitability of these data** as well as for the keeping ready of the data for the retrieval via the World Wide Web or the intranet by means of the SOFTWARE, unless expressly otherwise agreed with regard to the operation pursuant to the operating terms and conditions or with regard to the provision of services pursuant to the service terms and conditions. With respect to contents and data supplied by the customer or third parties, who are not vicarious agents of HD Mobil or stored in the database of the SOFTWARE, HD Mobil does not assume the responsibility for the content.

10 Confidentiality

- 10.1 The contracting parties keep confidential all information to be treated as confidential, which they become aware of in the course of this contractual



relationship, and disclose this information to third parties - irrespective of the purpose - only with the written approval of the respective other contracting party. The confidentiality obligation continues to exist also beyond the end of the term of the licence. Statutory disclosure obligations or disclosure obligations ordered by public authorities remain unaffected.

10.2 Such information is to be treated as confidential (i) which was designated expressly as confidential by the contracting party giving the information or (ii) whose confidentiality clearly follows from the circumstances of the provision.

10.3 The confidentiality obligation does not apply to such information or parts thereof, with respect to which the receiving contracting party provides proof that this information or parts thereof (i) was/were known or generally accessible to the receiving contracting party prior to the date of receipt, (ii) was/were known or generally accessible to the public prior to the date of receipt or (iii) became known or generally accessible to the public after the date of receipt without this occurring due to a breach of this Section 10 on the part of the receiving contracting party.

10.4 At the request of the other contracting party, each party is obliged to provide proof in writing of respective confidentiality obligations signed by its employees.

11. Examination and control rights

The customer is obliged to provide to HD Mobil on request information about the proper extent of the utilisation of the SOFTWARE, in particular, whether the customer utilises the SOFTWARE - qualitatively and quantitatively - within the scope of the acquired licences. For this purpose, the customer sends - on request - a record of the extent of the utilisation (hereinafter referred to as: Record). After prior notice, HD Mobil or any third party commissioned by HD Mobil, who is obliged to maintain confidentiality, are entitled to monitor the preparation of the Record either on site at the customer or by means of remote data access during the normal business hours of the customer. In this respect, HD Mobil pays attention to the fact that the business operations of the customer are disturbed as little as possible due to the monitoring of the



preparation of the Record. The customer agrees to perform all acts of cooperation, which are necessary for the preparation of the Record and for the monitoring of the preparation of the Record and which can reasonably be expected from the customer. The provisions of Section 6.6 with regard to the duty to cooperate with respect to the remote data access apply, *mutatis mutandis*. The costs of the preparation of the Record are borne by the customer, with HD Mobil itself bearing its own costs and the costs of any third party commissioned by HD Mobil. HD Mobil is entitled to use the information obtained due to the Record exclusively for the verification of the observance of the quantitative and qualitative scope of the granted rights of use, which was agreed pursuant to these licensing terms and conditions, for the assertion of own rights as well as for the defence of own rights of use and own rights related to copyright.

12 Final provisions

- 12.1 The customer agrees that it can be named publicly by HD Mobil as a reference (e.g. in the Internet or in information material of HD Mobil). No further obligations of the customer vis-à-vis HD Mobil or any third party arise therefrom.
- 12.2 The customer is not entitled to set-off any counterclaims against claims of HD Mobil arising out of this agreement or to assert counterclaims by way of a right of retention or, respectively, right to refuse performance, unless the counterclaim - with regard to the basis and the amount - is undisputed or has been determined in a final and legally binding manner. The possibility for the customer to bring a separate action based on § 812 BGB remains unaffected.
- 12.3 The application of the law of the Federal Republic of Germany excluding the conflict of law rules is agreed. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 does not apply.
- 12.4 The parties agree that the registered office of HD Mobil is the exclusive place of jurisdiction with regard to all disputes arising out of or in connection with this agreement, provided that the customer is a businessman within the



meaning of the German Commercial Code or that at the time of the bringing an action the customer does not have a registered office in the Federal Republic of Germany. HD Mobil is also entitled to bring an action at any other place of jurisdiction.

12.5 In order to be valid, amendments and supplements to this agreement must be made in writing. This also applies to an agreement by which it is intended to deviate from the written form requirement. At the time of the conclusion of the agreement, no verbal side agreements have been concluded.

12.6 In the event that individual provisions of this agreement are or become invalid, this does not affect the validity of the remaining provisions.