GENERAL TERMS AND CONDITIONS OF PAESSLER AG

Sec. 1. Scope

(1) The applicability of these General Terms and Conditions presupposes that a contract between Paessler AG (registered on the Commercial Register of the Nuremberg Local Court at HRB 23757, hereinafter "we") and the "customer" is concluded.

(2) Third parties that distribute our services to their contractual partners may use the contract with their respective contract partner to establish their own terms of contract, which may deviate from our General Terms and Conditions. The obligation on the part of the third party to effectively include our Special Terms and Conditions for the licensing of software in its contract with its respective partner shall remain unaffected.

Sec. 2. Contractual basis

(1) Contracting parties are we and the customer. Third parties shall neither be entitled nor obliged by this contract. The contractual provisions also apply to the legal successors of the respective contracting parties.

(2) Our General Terms and Conditions are intended to be incorporated into contracts that are used to distribute our services to our customers. They do not apply to contracts for the procurement of services by us.

(3) Our offers and services are exclusively for entrepreneurs as well as legal entities under public law and separate funds under public law. An entrepreneur is a natural or legal person or a partnership with legal capacity, that execute their commercial or independent professional activity when a legal transaction is concluded, partnership with legal capacity is a partnership with the ability to acquire rights and to pay debts.

(4) Terms and conditions of the customer that deviate from our General Terms and Conditions or Special Terms and Conditions shall not be deemed incorporated into, or to constitute the substance of, this agreement, whether by silence or by references to letters of the customer with such contract terms, or by unreserved acceptance of an offer from the customer or by our unreserved performance of services. Individual agreements deviating herefrom shall have priority.

(5) The parties are in agreement that our General Terms and Conditions shall apply to contracts for subscriptions and to contracts for the acquisition of licenses for our software and to contracts for the maintenance of our software in their respective most current version.

(6) Our Special Terms and Conditions (e.g. in respect of software licensing and software maintenance) shall, in the case of any conflicts or discrepancies, take precedence over our General Terms and Conditions. Individual agreements made shall take precedence over the General Terms and Conditions.

(7) If we should provide a translation of the contract texts to the customer in a language other than German, such translation is provided only for informational purposes, and shall not constitute an integral element of the contract; in cases of discrepancies between the German and the foreign-language version, the German version shall apply exclusively.

Sec. 3. Formation of contract

(1) Our offers to conclude a contract are subject to change and non-binding, except where our offer expressly otherwise provides.

(2) Where we make an offer to our customer to enter into contracts with us by electronic transaction via our website, then in addition to (1), the following shall apply:

1. Offers on our website merely constitute a non-binding request to the customer to submit offers to conclude a contract.

2. Where the customer clicks on the button labelled "Buy now" or on a button with a comparable text (e.g. "Place a binding order"), the customer is deemed to submit a binding offer to conclude the contract. The customer shall be bound by its order until the expiration of a period of seven calendar days from the date of placing its order.

3. We shall provide reasonable, effective, and accessible technical means to the customer by which the customer may ascertain and correct data entry errors prior to final placement of its order. Prior to placing its order, the customer will be able to review and amend the order details.

4. After placing the order, the customer shall receive an email from us containing an automated confirmation of receipt reflecting the substance of the customer's order. This confirmation of receipt does not constitute our binding acceptance of the customer's order, but rather merely furnishes documentation of the fact that the customer's order was received by us, except where the

email expressly declares our acceptance of the customer's order in addition to providing confirmation of receipt.

5. Contracts shall only be deemed formed at such time as the customer receives our confirmation of acceptance. We shall confirm acceptance by a communication forwarded by email, by forwarding a license key or by forwarding an invoice to the customer. We shall be entitled to accept the customer's order up to the end of seven calendar days from the date the customer placed the order. Silence on our part in response to the customer's order shall not constitute acceptance.

Sec. 4. Special right of rescission in respect of software licensing

(1) Where we enter into a contract for licensing of software with the customer, we are deemed to grant the customer a right to rescind the contract, subject to the following provisos:

1. The right of rescission is vested exclusively in our end customer. In particular, sales partners such as distributors or re-sellers are not entitled to exercise it.

2. The right of rescission shall cease upon the expiration of a period of 30 calendar days from the date the contract for the licensing of the software was formed.

3. Rescission is effected by a declaration made to us. In order to be valid, such declaration must be in written form. The declaration is not required to contain any grounds of justification.

4. Upon exercise of rescission, we shall refund the compensation paid by the customer to it within 30 calendar days (depending on the tax position, this may in certain cases be after deduction of any taxes previously remitted by us), and shall do so concurrently at the same time as the customer's de-installation and deletion of the software and return of the license to us.

5. Neither of the parties shall be obliged to disgorge or provide compensation in respect of use that takes place prior to rescission.

(2) The provisions set forth above neither exclude nor limit the customer's statutory rescission rights.

Sec. 5. Our services

(1) We bear an obligation to perform the services agreed. The scope of our services shall be determined by the specification of services in effect as of the time of our offer (in particular: the user documentation http://www.paessler.com/support/manuals) and, by way of supplementation, shall also be determined by the Special Terms and Conditions applicable in each case, e.g. terms and conditions on licensing or maintenance of our software.

(2) Descriptions of services do not constitute any warranties or representations regarding the qualities of our services.

(3) We will enable customers to inform themselves regarding the qualities of our software prior to contracting. The customer shall bear responsibility for ascertaining whether our software meets its requirements and expectations.

(4) We are entitled to partially perform services except where this is unreasonable to the customer.

(5) In addition, we shall be entitled to make use of third parties to perform our services.

(6) Deadlines for performance shall be deemed extended by periods during which we are prevented by circumstances for which we bear no fault from performing the service, as well as by a reasonable start-up period after the obstacle to our performance has ceased. The same shall apply in respect of the period in which the customer fails to perform acts of cooperation.

Sec. 6. Software licensing

(1) We shall provide our software to the customer for its use within the agreed scope of use, in exchange for the agreed compensation, and this shall not be subject to any limitation in time or geographical scope and shall be governed by the law of sales, except where the parties have otherwise agreed.

(2) As a part of our software, we shall provide the user documentation for our software to the customer; such documentation is provided exclusively in electronic form in English, in a format of our choosing.

(3) Delivery of the software shall be effected by providing the software for internet download and forwarding to the customer the link with which to download it ("Download Link") as well as the license key.

(4) We shall provide our software to the customer exclusively in executable form (object code). We do not bear any obligation to supply source code to the customer.

(5) Our software is subject to legal protections. In line with the contract with the customer and with the Special Terms and Conditions on Software Licensing, we grant the customer a non-exclusive right to use the software, within the scope agreed in our contract; this right is unlimited as to its term or geographical scope.

Sec. 7. Compensation and terms of payment

(1) The customer is obliged to pay the agreed compensation. Subject to deviating provisions, the claim is due 30 days after invoicing if the payment method is purchase on account and immediately for all other payment methods.

(2) All prices are quoted net of the applicable statutory VAT in each case, if any. The customer shall be responsible for any customs duties and similar charges when services are supplied abroad.

(3) We do not assume the costs of any funds transaction by which the customer performs its obligation to pay the compensation.

(4) Deduction of a cash discount is only permitted on the basis of a separate agreement, which is only valid if made in written form. Any individual agreements departing herefrom shall take precedence.

(5) The customer is permitted to exercise a right of set-off against our claim for payment of the compensation, without any contractual limitations, and in accordance with the provisions of applicable law, in respect of claims for payment arising out of the contract based on our failure to perform our supply obligation or due to defects of the goods or services. The customer may only exercise a right of set-off in respect of claims other than those listed in the first sentence hereof where such claims are undisputed or have been legally adjudicated or are ripe for decision in connection with litigation.

(6) The customer shall only be entitled to exercise a right of retention to the extent that its counter-claim is based on the same contractual relationship.

Sec. 8. Customer's duties of cooperation

(1) Our performance of services in line with the contract, and, in particular, in a timely manner, shall be subject to the condition precedent that the customer has previously gratuitously performed its duties of cooperation in line with the parties' contract and, in particular, has done so in a timely manner. Where the customer fails to perform its duties of cooperation, or fails to perform them in line with the parties' contract, our duty to perform services shall cease to the extent that, and for the period that, performance of such services is premised on the customer's prior performance of its duties of cooperation. Our claim for compensation shall remain unaffected thereby. The customer shall bear the disadvantages and additional costs arising out of a breach of duties and obligations and, where such costs are the result of its failure to perform its duties of cooperation.

(2) It shall be the customer's responsibility, at its own cost and expense, to procure the necessary system prerequisites for operating our software, and in particular, to keep the hardware, third-party software and Internet connections required for this purpose available.

(3) It shall be the customer's responsibility to assert written claims to us in respect of deficiencies and defects of our services, in a verifiable and detailed form, indicating the information that is expedient to enable us to ascertain defects, and in particular, indicating the steps in the working process that led to the occurrence of the defect, its impacts and the way in which the defect manifested itself.

(4) It shall be the customer's responsibility to download new program versions of software after we have been informed of and have eliminated any deficiency, and to install the same, except where this is neither possible for the customer nor reasonable to do so.

(5) Where we do not undertake to assume responsibility for storing data for the customer (e.g. to store archive data for the customer), it shall be the customer's responsibility to itself secure its data in line with the state-of-the-art, and to do so prior to installing our software for the first time and prior to installing new program versions of our software, wherever there are indications that a fault may be present, which could, upon an informed assessment, be due to a cause lying within our software, and at intervals that are appropriate to the application such that the customer is able to restore the data with reasonable efforts.

(6) It shall be the customer's responsibility to secure the installation files required for new installation and the associated license keys.

Sec. 9. Customer's rights in the case of software defect

(1) The customer is entitled to assert rights for defects of the software in line with what is provided by law, except where the Parties have otherwise agreed.

(2) In the event of any substantive defect or fault of the software, we shall be obliged and entitled, at our option (which we shall exercise within a reasonable time) initially to remediate (e.g. eliminate the fault), or to supply a replacement (e.g. furnish a new program version which is free of defects). Elimination of the defect may also consist of our demonstration to the customer of the reasonable options in line with the contract for avoiding the impacts of the fault.

(3) In the event of any defect in title of the software, we shall be entitled and obliged at our option (which We shall exercise within a reasonable time) to initially effect subsequent performance by procuring a legally valid option for using the software or by using replacement software or modified software of equal value. The customer shall accept the new program version if the scope of functionalities as required by the parties' contract is preserved and where it is reasonable to require the customer to accept this.

(4) Where subsequent performance has failed or where the reasonable time set by the customer for subsequent performance has elapsed to no avail, or where such time may be dispensed with pursuant to applicable law, the customer may, in line with the rules of applicable law, resile from the contract or abate the compensation to a

reasonable extent. However, where the defect is non-material, the customer shall have no right of rescission.

(5) Our liability to pay compensation for damages and losses and frustrated expenditure shall be limited in line with secs. 11 and 12.

(6) Where, following notification of a substantive defect by the customer, we perform work or services to search for or eliminate the fault without being obliged to do so, the customer shall be liable to compensate us for any damages or expenditures arising from our works and services to search for or eliminate the defect, except where the customer has not breached any obligations in reporting the defect or is not responsible for its breach.

Sec. 10. Third-party Intellectual Property rights

The customer shall notify us promptly in writing where third parties assert Intellectual Property rights (e.g. copyright or patent rights) in the software. The customer shall support us to a reasonable extent in defending against any such claims.

Sec. 11. Liability

(1) Our liability shall be governed by the provisions of applicable law, without any contractual limitations as follows

a) for intentional acts;

b) for losses based on the fact that we fraudulently conceal a defect of the software or have assumed a warranty for the qualities or features of the software;

c) for losses arising out of injury to life, limb or health, based on an intentional or negligent breach by us or otherwise on an intentional or negligent act of one of our legal representatives or vicarious agents;

d) for losses based on intentional or grossly negligent breach by us or otherwise on intentional or grossly negligent acts of one of our legal representatives or vicarious agents;

e) under the Product Liability Act.

(2) In all cases other than those defined in sub-para. 1, our liability shall be limited to compensation for losses which are typical to the contract and foreseeable, where the loss was based on a negligent breach of material duties by us or by one of our legal representatives or vicarious agents. Material duties are duties, the performance of which are *sine qua non* to proper performance of the contract and as to which the customer regularly relies and is entitled to rely on their being complied with.

(3) In cases other than those defined in sub-paras. 1 and 2, We hereby disclaim our liability for negligence.

(4) The defence of contributory negligence shall remain unaffected hereby.

(5) The provisions set forth above in respect of our liability for damages shall apply to all contractual and extra-contractual claims for damages against us, irrespective of the legal bases thereof, and *mutatis mutandis* to our liability for compensation of frustrated expenditures.

Sec. 12. Prescription of customer's claims for defects of software

(1) The following shall be deemed prescribed in line with the provisions of applicable law, without any contractual limitation:

a) claims of the customer against us in the case of a liability for intentional acts or omissions;

b) claims of the customer against us for defects of the software where we have fraudulently concealed the defect or where we have assumed a warranty for the features or qualities of the software;

c) claims of the customer against us for defects of the software where the defect consists of an *in rem* right of a third party, on the basis of which disgorgement of the software may be demanded;

d) claims of the customer for compensation of losses

aa) arising out of injury to life, limb or health, based on an intentional or negligent breach by us or otherwise on an intentional or negligent action by one of our legal representatives or vicarious agents;

bb) based on an intentional or grossly negligent breach by us or otherwise on an intentional or grossly negligent act of one of our legal representatives or vicarious agents;

cc) under the Product Liability Act.

(2) In cases other than those listed in sub-para. 1, the prescription period for claims of the customer for substantive defects of the software shall be one year from the date the software was delivered.

Sec. 13. Data protection and data security

(1) We collect, process and use personal data in line with the provisions of applicable law and contractual rules. Our employees who are engaged to process data bear an obligation of data secrecy. For further information, please refer to our Privacy Policy (available in the current version at https://www.paessler.com/company/privacypolicy).

(2) Where we collect, process or use personal data for the customer on the basis of a contractual obligation, or, to the extent that we undertake testing or maintenance of automated processes or data processing systems at the direction of the customer and it is not possible in this context to rule out access to personal data, we shall not be obliged to perform our services until such time as the customer has furnished the requisite legal prerequisites to us, e.g. has concluded an agreement on contract data processing with us which satisfies local law.

Sec. 14. Export controls

(1) All of our products are subject to export control regulations. The customer hereby undertakes that it shall comply with the export control regulations applicable to its country. These laws include limitations regarding the destination of goods and services, the end-users thereof, and the end use thereof.

(2) The customer furthermore acknowledges that in all cases it is prohibited from exporting, re-exporting, selling/or passing on or disclosing the software in all of the countries listed under the internet address given below, and that even activation of the software is, in all cases, prohibited in such countries: https://www.paessler.com/company/terms/export-control.

(3) If the customer knows or has suspicions that impermissible exporting of the services by a third party might be taking place as set forth in the provisions shown above, the customer is prohibited from disclosing or passing on the products to any such third party. In addition, subject to our prior consent in individual cases, the customer is prohibited from disclosing or passing on anything to persons or institutions as to whom the customer knows or has reason to suspect that such parties may be involved in designing, developing or producing nuclear technology or nuclear, biological or chemical weapons.

Sec. 15. General provisions

(1) This contract shall be governed by the law of the Federal Republic of Germany, but excluding application of the United Nations CISG.

(2) Jurisdiction and venue for all disputes arising out of or in connection with this agreement between us and any customer who is a legal merchant, legal entity under public law or separate funds under public law shall be vested in the courts at our place of registration. Mandatory legal rules regarding exclusive jurisdiction and venue, including sec. 689 (2) of the Civil Procedure Code ([German acronym:] ZPO) shall remain unaffected hereby.

(3) No amendments or addenda to our agreement with the customer shall be valid unless made in written form. The foregoing also applies to any rescission of the 1st sentence hereof. Individual agreements departing herefrom shall take precedence.

(4) To the extent we have agreed with the customer to written form for declarations (including under sub-para. 3), or so agree in future, the written form requirement will also be deemed met where the communication is provided by fax, email or, at the time of contracting, an exchange of declarations satisfying the written form requirements. Sec. 127 (2) and (3) German Civil Code [German acronym: BGB]

shall, however, have no application in any further and other respects.

(5) Where, prior to or at the time of contracting, the customer furnishes an email address for forwarding our contract declarations, further declarations by us of legal relevance made to that email address shall likewise be deemed to have been received by a person who is authorized to accept service on behalf of the customer.

(6) Where terms of the agreement have not become incorporated into the parties' contract, whether in whole or in part, or where they have become invalid, this shall not affect the validity of the remaining provisions of this agreement. To the extent that the terms have not become incorporated into the parties' contract or are not invalid, the substance of the parties' contract shall be governed in line with the statutory rules.

Mandatory information for customers in respect of contracts entered into electronically (pursuant to sec. 312i (1) (2) BGB, in conjunction with Art. 246c of the Introductory Law to the German Civil Code [German acronym:] EGBGB)

1. The individual technical steps giving rise to formation of contract are described in Sec. 2.

2. The customer's order data, including the contract terms and conditions, shall be stored by us for purposes of performing the contract with the customer. The customer may archive the order data by storing the web page which is shown to the customer at the time that its order is complete, and by storing our email confirming receipt of its order.

3. The means by which the customer may ascertain and correct data entry errors prior to providing its registration declaration is described in Sec. 2 (2) (3).

4. The order process for contracting is carried out in German or in English or in Spanish or in French. The contract terms and conditions themselves are provided in German, and an English translation thereof is likewise provided.

5. We have not undertaken to comply with any codes of conduct.