General Terms and Conditions of OctoMind

1. Scope

1.1 These General Terms and Conditions (hereinafter referred to as **"GTC"**) apply to the contracts concluded between you as the customer (hereinafter referred to as **"Customer"**) and us, OctoMind GmbH, Unterer Lussweg 5, 76227 Karlsruhe (hereinafter referred to as **"we"** or **"OctoMind"**) in connection with the provision of our Octomind software solution (hereinafter referred to as "Software").

1.2 Our GTC apply exclusively. Conflicting, additional, or deviating terms and conditions of the Customer do not become part of the contract unless something else has been expressly agreed between the Customer and OctoMind. Our GTC also apply if we perform a service unreservedly while being aware of conflicting or deviating terms and conditions of the Customer.

1.3 Our GTC apply only if the Customer is an entrepreneur (§ 14 BGB [German Civil Code]), a legal entity under public law, or a special fund under public law.

2. Tariff Configurations and Contractual Objects

2.1 OctoMind offers the Software for rental in different tariff configurations. The content and scope of the services to be provided by OctoMind in the different tariff configurations, the specific functionality of the Software, as well as the technical and organizational requirements for its use result from the respective order.

2.2 Unless expressly agreed otherwise in the order, OctoMind is always only obliged to provide those services that are provided for in the order as well as in these GTC for the tariff configuration chosen by the Customer at the respective time.

2.3 The subject of the contract with the Customer is the remunerated and temporally limited:

    2.3.1 Granting of the use of the Software for access via an internet connection as Software as a Service,

    2.3.2 Provision of storage space for the application data generated by the Customer through the use of the Software and the data required for the use of the Software (hereinafter referred to as **"Application Data"**),

    2.3.3 Provision of computing power to execute the test cases generated by the Customer through the use of the Software, and

    2.3.4 Provision of online usage aids for the Software.

3. Provision of the Software

3.1 OctoMind keeps the Software available from the date agreed in the order on a central data processing system or several data processing systems (hereinafter, even in the plural, referred to as **"Server"**) in the current version for use in accordance with these GTC. A physical transfer of the Software to the Customer does not take place. The commissioning of the Software is carried out independently by the Customer on end devices of his choice.

3.2 Agreements on access, system, and functional requirements on the part of the Customer are made in the order.

3.3 OctoMind provides the Customer with a dashboard through which the owed software functionalities can be controlled. The Customer can create a main access there and set up further

sub-accesses via this.

3.4 OctoMind is entitled to continuously develop the Software. The further development of the Software can lead to an expansion and/or change of the Software with the result that new functionalities are available, existing functionalities are optimized in terms of process and/or user guidance, or data management is adapted to the state of the art. There is no obligation to change, adapt, or further develop the Software, notwithstanding the provisions of the Service Level Agreement (Sections 11 to 16), unless such change, adaptation, or further development is necessary for the maintenance of the Software according to the state of the art.

3.5 From the date agreed in the order, OctoMind provides sufficient storage space and computing power for the Application Data on the Server.

3.6 The transfer point for the Software and the Application Data is the router exit of the Server. OctoMind is not responsible for the condition of the required hardware and software on the part of the Customer or for the telecommunication connection between the Customer and OctoMind up to the transfer point.

4. Technical Availability of the Software; Access to Application Data

4.1 OctoMind owes the availability of the Software and the Application Data at the transfer point as agreed below. "Availability" as per sentence 1 is the technical usability of the Software and the Application Data at the transfer point for use by the Customer.

4.2 The availability of the Software and the Application Data amounts to at least 99% on an annual average.

4.3 Periods during which the following occur also count towards the available usage (availability within the meaning of Section 4.2 is considered given):

4.3.1 Disruptions in or due to the condition of parts of the technical infrastructure required for the execution of the Software not to be provided by us or our agents;

4.3.2 Other outages not attributable to OctoMind, in particular during outages

- caused by incoming IT attacks. This does not apply if the protective measures to be taken by OctoMind against such attacks did not correspond to the state of the art at the time of the IT attack;

- Caused by improper use of software or hardware on the part of the Customer.

4.3.3 An only insignificant impairment of suitability for contractual use;

4.3.4 Maintenance work according to Section 4.4.

4.4 Maintenance work can take place both on weekdays and on Sundays and public holidays in the time window from 0:00 to 24:00.

5. Online Usage Aids

5.1 OctoMind provides the Customer with usage aids in English within the Software.

5.2 If a contractual update of the Software takes place, the usage aids are adjusted accordingly.

5.3 The Customer is entitled to download, save, print, and reproduce the usage aids in a reasonable number for the purposes of this contract, maintaining existing copyright notices. Otherwise, the usage restrictions agreed under Section 7 for the Software apply accordingly to the usage aids.

6. Storage Space for Application Data; Indemnification

6.1 OctoMind's performance obligations regarding storage space are limited to providing the storage space for contractual use by the Customer and securing the Application Data. OctoMind undertakes to take appropriate precautions against data loss and to prevent unauthorized access by third parties to the Customer's data, corresponding to the state of the art. For this purpose, OctoMind performs backups at least daily. Beyond that, OctoMind has no safekeeping or custody obligations. The Customer is responsible for complying with commercial and tax law retention periods.

6.2 The Customer undertakes to store on the provided storage space only such data and content whose provision, publication, and use in the Software or on OctoMind's Server does not violate applicable law, official requirements, or third-party rights. The Customer indemnifies OctoMind upon first request from all claims that third parties assert against OctoMind due to a violation by the Customer of sentence 1. In the cases of sentence 2, the Customer will also reimburse OctoMind for the costs of reasonable legal prosecution.

6.3 The Customer further undertakes to check external data and information for viruses or other harmful components before uploading them to OctoMind's Server and to use measures corresponding to the state of the art (e.g., antivirus programs) for this purpose.

6.4 The Customer is not entitled to make the storage space provided by OctoMind available to third parties for use, whether for a fee or free of charge.

7. Usage Rights to the Software

7.1 OctoMind grants the Customer a simple, temporally limited to the contract term, non-transferable, and non-sublicensable right to use the Software in accordance with the provisions in the order and (supplementarily) in this Section 7.

7.2 The Customer may only make the Software accessible to third parties insofar as opening access is necessary for the contractual use of the Software. Any access beyond the contractual use, in particular by selling, gifting, lending, renting, public reproduction, or sublicensing of the Software, is not permitted.

7.3 Reproduction or modification of the usage aids beyond the required extent provided in Section 5.3 is not permitted unless the law unavoidably allows such reproduction or modification due to the integration of the usage aids into the Software according to § 69c No. 2 UrhG. (German Copyright Act).

7.4 If the Customer violates any of the provisions in Section 7.1 and/or Section 7.2 for reasons for which he is responsible, OctoMind may, after prior notification of the Customer, block the Customer's access to the Software and/or the Application Data if the violation can demonstrably be stopped thereby.

7.5 For each case in which the Customer culpably enables the use of the Software by unauthorized third parties, the Customer shall pay an appropriate contractual penalty, the amount of which is determined by OctoMind at its reasonable discretion and which can be reviewed by the competent court in case of dispute. The contractual penalty accrues anew for each month of the violation. The assertion or payment of the contractual penalty does not exclude the assertion of a claim for injunctive relief or damages exceeding the contractual penalty against the Customer by OctoMind. A forfeited and paid contractual penalty is fully credited against such damages. Further rights of OctoMind remain unaffected.

8. Customer's Duties of Cooperation and Information

8.1 The Customer has informed himself about the essential functional features of the Software and

bears the risk of whether it corresponds to his wishes and needs; in case of doubts, the Customer has had himself advised by OctoMind's employees or by knowledgeable third parties.

8.2 The establishment of a functional hardware and software environment for the Software lies in the sole responsibility of the Customer.

8.3 The Customer tests the Software thoroughly for freedom from defects and usability in the existing hardware and software configuration before its productive commissioning. This also applies to Software that the Customer receives as part of warranty services.

8.4 The Customer observes the instructions given by OctoMind for the installation and operation of the Software; the Customer will regularly inform himself about current instructions (e.g., on software updates, operation, security aspects) on the information pages displayed within the Software and take these into account during operation.

8.5 The Customer shall perform all cooperation actions required for the performance of the contract unsolicited and at his own expense. If OctoMind has further performance obligations beyond the provision of the Software, the Customer shall cooperate to the required extent without remuneration by, for example, providing employees, workrooms, hardware and software, data, and telecommunication facilities.

8.6 In particular, the Customer is obliged to:

8.6.1 Take the necessary precautions to prevent unauthorized use of the Software. He will ensure in particular through appropriate protective measures (e.g., strong passwords, passwords on his computers, physical security) and regular review of available usage logs and, if necessary, deactivation of existing accesses (e.g., after employee departures) that no unauthorized third party can access the Software. The Customer will inform OctoMind immediately if there is suspicion that access data and/or passwords may have become known to unauthorized persons;

8.6.2 Create and maintain the access, system, and functional requirements for the use of the Software laid down in the order;

8.6.3 Create and maintain, as far as reasonable, other access, system, and functional requirements necessary for the productive use of the Software on the Customer's side;

8.6.4 Ensure that the users authorized to use the Software on the Customer's side are sufficiently familiar with its operation. The Customer will, in particular, where necessary, train users in the use of the Software;

8.6.5 Ensure that (e.g., when transmitting third-party information to the contractual servers) all third-party rights to the material used by him are respected;

8.6.6 Obtain the necessary consent of the respective data subjects in accordance with data protection regulations, insofar as he collects, processes, or uses personal data when using the Software and no statutory permission applies;

8.6.7 Check data and information sent to OctoMind for viruses and use virus protection programs corresponding to the state of the art;

8.6.8 Send user data encrypted as far as technically possible and reasonable;

8.6.9 Oblige authorized users to comply with the provisions of the contract concluded with OctoMind regarding software use that apply to them;

8.6.10 Not make any changes to the Software that result in it no longer functioning.

9. Material and Legal Defects of the Software; Liability for Initial Defects and Third-Party Rights; Other Performance Disruptions

9.1 The Customer shall notify OctoMind of defects in the Software without delay.

9.2 The parties shall immediately notify each other in writing if claims are made against them that are related to the Software.

9.3 OctoMind is only liable for defects in the Software that already existed at the time of conclusion of the contract if OctoMind is responsible for these defects.

9.4 Termination of the contract pursuant to § 543 para. 2 no. 1 BGB (German Civil Code) due to failure to grant contractual use is only permissible if OctoMind has been given sufficient time to remedy the defect and this has failed. Failure of the remedy can only be assumed if it is impossible, if it is seriously and definitively refused by OctoMind, or unreasonably delayed, or if it is unreasonable for the Customer for other reasons.

9.5 The Customer cannot reduce the ongoing rental payment in the event of defects in the Software. Any existing right of the Customer to reclaim rent paid under reservation remains unaffected.

9.6 Termination due to only insignificant hindrance of contractual use is excluded.

9.7 OctoMind is not liable for an infringement of third-party rights by the Customer insofar as this infringement results from exceeding the usage rights granted under the contract. In this case, the Customer indemnifies OctoMind upon first request from all claims of third parties. In the cases of sentence 2, the Customer will also reimburse OctoMind for the costs of reasonable legal prosecution.

9.8 The Customer can claim damages only in accordance with Section 21

10. Handling of the Software After Contract Termination

10.1 If and insofar as the contract regarding the Software is terminated (e.g., by (partial) termination), the Customer is entitled to export his Application Data and uploaded data stored on the Server. The Customer is obliged to carry out data exports according to sentence 1 before the expiry of 30 days after the end of the contract. If it is unreasonable for the Customer to carry out the data export within the period according to sentence 2, OctoMind shall, upon written request, grant a reasonable extension. After the expiry of the period according to sentence 2 and any extension according to sentence 3, OctoMind is entitled—subject to statutory retention obligations applicable to OctoMind—to delete the Application Data on the Server, so that a data export is no longer possible.

10.2 After termination of the contract, the Customer must, unless use is necessary for the data exports permissible under Section 10.1, cease using the Software and, at OctoMind's option, return any backup copies made or destroy them without delay.

11. Service Level Agreement; Scope and Delimitation

11.1 OctoMind undertakes towards the Customer, outside the statutory warranty obligations, to provide support and update services (hereinafter "**Support and Update Services**") according to the further provisions under this Section 11 as well as the regulations under Sections 12 to 16 inclusive.

11.2 The Support and Update Services always include the following services:

11.2.1 Treatment of errors that occur during the proper use of the Software (Section 12; hereinafter "**Error Handling**");

11.2.2 Provision of updates of the Software (Section 13);

11.2.3 Consulting and support services in connection with malfunctions of the Software (Section 14; hereinafter "**Support**")

11.3 The Support and Update Services also include the treatment of errors or other defects that become known in the Software independently of its use by the Customer.

11.4 Existing warranty claims of the Customer are not part of the Support and Update Services and remain unaffected.

11.5 Not included in the Support and Update Services are:

11.5.1 Services for Software that is not used under the usage conditions specified by OctoMind;

11.5.2 Adaptation of the Software to a changed hardware or software environment, including adaptation to changed operating systems;

11.5.3 Application and adaptation of interfaces and APIs;

11.5.4 Treatment of errors caused by the Customer or third parties, including disruptions due to third-party software;

11.5.5 Services for Software that has been modified by programming work not carried out by OctoMind or its agents;

11.5.6 Services for computer programs, hardware, or parts thereof that are not part of the Software;

11.5.7 Services for the Software for which updates or other error corrections provided by OctoMind have not been installed, provided the reported error has already been fixed therein, unless the installation is unreasonable for the Customer for reasons not attributable to him;

11.5.8 Services that can be provided at OctoMind's location but are provided at another location at the Customer's request;

11.5.9 Instruction and training of Software users; and

11.5.10 Services that become necessary because the Customer does not fulfill his obligations and duties under these GTC.

12. Error Handling under the Service Level Agreement

12.1 An error exists when the Software, in the system environment contractually provided for it and in case of proper application, does not exhibit the described functionality and this has more than insignificant effects.

12.2 Error handling includes narrowing down the cause of the error, error diagnosis, and services aimed at correcting the error (especially security patches and bug fixes for the Software). Error handling is carried out with the due care customary in the industry.

12.3 Error handling services can, at OctoMind's discretion, also be performed by a workaround or

update delivery and, after consultation with the Customer, also by delivery of an upgrade or a new version. However, unless otherwise expressly agreed, the Customer has no claim to delivery of an upgrade or a new version.

12.4 Error handling includes only the current version of the Software available to the Customer.

12.5 Error handling is carried out at OctoMind's discretion on-site at the Customer's premises, at the installation site of the Software, or via remote access over the internet.

12.6 Errors in the Software are to be reported by the Customer to Support (Section 14).

12.7 After receiving a sufficiently specified error description, which includes error behavior, affected components of the Software, and steps already taken, OctoMind assesses the severity of the error at its reasonable discretion and begins error handling within a time appropriate to the severity of the error. OctoMind will inform the Customer about the time likely needed for error handling.

12.8 In the case of minor errors in the Software that do not affect its operation, the treatment of the error can be postponed to the next suitable time at which OctoMind will make the Software available due to internal planning or agreements with the Customer. If this time is more than three months in the future, OctoMind will inform the Customer.

13. Updates and Upgrades under the Service Level Agreement

13.1 OctoMind is committed to the continuous development of the Software to adapt it to technical progress. This development may result in the addition of new functionalities, optimization of existing functionalities in terms of process and/or user guidance, or adaptation of data management to current technical standards. There is no entitlement to a specific scope of development.

13.2 Updates are provided to the Customer without additional charges within the framework of the existing Software on the Server.

13.3 Upgrades of the Software that introduce significantly new functionalities are not included in the scope of free improvements. If an upgrade is available, OctoMind will make an offer to the Customer for the use of these upgrades.

14. Support to the Customer under the Service Level Agreement

14.1 OctoMind provides support to the Customer in case of software errors via email, messaging tools, and through online usage aids within the Software to a reasonable extent, unless a specific scope of support is expressly agreed in the order.

14.2 Unless otherwise agreed, support to the Customer is provided during OctoMind's operating hours from Monday to Friday, excluding public holidays in Baden-Württemberg, Germany, from 09:00 to 12:00 and from 13:30 to 18:00 Central European Time (CET).

15. Cooperation and Duties of the Customer under the Service Level Agreement

15.1 OctoMind and the Customer commit to close and efficient cooperation, for which the personnel, organizational, professional, and technical responsibility of the Customer is essential. This includes, in particular:

15.1.1 Providing necessary documents, documentation, and information, especially regarding existing systems, devices, computer programs, and parts of computer programs that

are supposed to interact with the service to be provided;

15.1.2   Documenting detected errors in provided services in a reproducible or at least traceable form and informing OctoMind immediately;

15.1.3   Providing facilities, installations, and professionally suitable personnel, as required for service provision, at their own expense;

15.1.4   Fulfilling the (cooperation) obligations, performing the (cooperation) actions, and making declarations within the agreed deadlines.

15.2   Before reporting an error, the Customer is obliged to conduct an analysis of the software and hardware environment to ensure that the error is not caused by components that are not part of this contract.

15.3   If applicable, the Customer shall immediately implement updates or other measures for error correction provided by OctoMind.

15.4   The Customer is to thoroughly test the maintained software for defectiveness and usability in the existing hardware and software configuration before deployment. This also applies to software received as part of warranty services.

15.5   The Customer ensures continuous system management of the system environment in which the Software operates. The Customer shall maintain their system environment (hardware and software) on an ongoing basis.

15.6   If the Customer delays in performing actions for which they are responsible, OctoMind's obligation to perform services that cannot be provided without these actions or can only be provided with unreasonable extra effort will be suspended for the duration of the delay. The Customer shall reimburse OctoMind for any additional expenses caused by the delay based on the current daily or hourly rates. Further legal rights of OctoMind remain unaffected.

16.   Usage Rights under the Service Level Agreement

16.1   Insofar as OctoMind provides the Customer with computer programs or other copyright-protected works for use under this Support and Update Agreement, OctoMind grants the Customer usage rights to the extent that they have been granted to the Customer according to Section 7 concerning the Software, unless an explicit and written agreement specifies otherwise.

16.2   Section 16.1 applies accordingly to any claim by the Customer to the delivery of the underlying source code.

17.   Data Backup by the Customer

17.1   The Customer shall take reasonable precautions in case the Software does not function properly in whole or in part (e.g., by daily data backups on the Customer's end devices, troubleshooting, regular verification of data processing results).

17.2   Unless the Customer expressly indicates otherwise in advance, OctoMind may assume that all Customer data that OctoMind or third parties commissioned by OctoMind may come into contact with (e.g., as part of defect and error correction) are backed up.

17.3   OctoMind is not liable for the loss of data insofar as the damage is due to the Customer failing

to perform data backups contrary to his obligation under Section 17.1 and thereby failing to ensure that lost data can be restored with reasonable effort. Section 21 applies in other respects.

17.4 The Customer is himself responsible for complying with statutory retention obligations. In particular, Application Data is only available at OctoMind for a limited time after the end of the contract in accordance with the provision in Section 10.1. To comply with statutory retention obligations, the Customer must therefore generally export the Application Data and uploaded data to be retained at reasonable intervals and secure them for the legally prescribed periods.

18. Training; Other Services

18.1 Additional services by OctoMind, in particular training on the Software, must, unless explicitly provided for in the order, be agreed separately and expressly.

18.2 If remuneration is not expressly agreed in the individual order, such additional services are provided against reimbursement of the proven effort at the generally applicable prices at OctoMind at the time of commissioning.

19. Remuneration and Payment

19.1 The remuneration to be paid by the Customer for the services owed by OctoMind under the contract results from the order. If remuneration is not agreed with the Customer, the price lists valid at OctoMind at the time of the order apply; for services that are typically billed based on effort (e.g., programming activities, support), the daily or hourly rates valid at OctoMind.

19.2 The statutory value-added tax is not included in the price and will be shown separately in the invoice at the statutory rate applicable on the day of invoicing.

19.3 The prices for deliveries are understood, in the case of physical shipment, plus packaging and shipping costs. In the case of provision for retrieval over the internet, OctoMind bears the costs of making the services to be provided to the Customer retrievable on the network; the Customer bears the costs for retrieval.

19.4 Unless otherwise determined in the individual case, the remuneration owed by the Customer consists of a base price and, if applicable, depending on the intensity of use, an additional usage-dependent fee. The obligation to pay the aforementioned remuneration begins from the operational provision of the Software by OctoMind.

19.5 The base price specified in the order is to be paid monthly without deduction or—in the case of an annual subscription according to Section 20.1—annually in advance. The usage-dependent fee is settled, depending on the agreement, either at the end of each calendar month or within additional prepaid packages.

19.6 Unless otherwise specified in the individual case, the agreed remuneration is due for payment without deduction within 14 days from the invoice date. The date of payment is determined by receipt at OctoMind.

19.7 In case of default in payment, the Customer shall pay default interest at a rate of nine percentage points above the respective base interest rate p.a. Furthermore, OctoMind may charge the Customer a lump sum of 40 euros. OctoMind reserves the right to assert higher interest and/or further damages. The lump sum according to sentence 2 is credited against any damages owed, insofar as the damage is based on costs of legal prosecution. Any claims for maturity interest, especially against merchants according to § 353 HGB (German Commercial Code), remain

unaffected.

19.8 OctoMind is entitled to execute or render outstanding deliveries or services only against advance payment or security if, after conclusion of the contract, circumstances become known which are suitable to significantly reduce the creditworthiness of the Customer and through which the payment of OctoMind's outstanding claims by the Customer from the present contractual relationship is jeopardized.

20. Term and Termination

20.1 Unless otherwise agreed, the contractual relationship has a term of 12 months. The contract term begins with the conclusion of the contract, unless a later contract start is agreed in the order. After expiry of the aforementioned contract term, the contract term is tacitly extended by a further 12 months unless the contractual relationship is terminated by one of the parties with a notice period of four weeks to the respective end of the contract term.

20.2 If we have agreed with the Customer, deviating from Section 20.1, on a monthly subscription, the contract has a term of one month. The contract term begins with the conclusion of the contract, unless a later contract start is agreed in the order. After expiry of the aforementioned contract term, the contract term is tacitly extended by one further month each time unless the contractual relationship is terminated by one of the parties with a notice period of seven days to the respective end of the contract term.

20.3 The contract can furthermore be terminated by either party without notice for good cause with immediate effect. A good cause that entitles OctoMind to terminate exists in particular if the Customer violates OctoMind's usage rights by using the Software beyond the extent permitted under the contract and does not remedy the violation within a reasonable period even after a warning by OctoMind.

20.4 The termination must be in writing. Deviating from sentence 1, a termination by email is also sufficient on the part of the Customer, provided the Customer's email is sent from the contact email address stored at OctoMind to contracts@octomind.dev.

21. General Liability

21.1 OctoMind is liable—regardless of the legal grounds—for damages or reimbursement of futile expenses in accordance with the following provisions under Sections 21.1.1 and 21.1.2:

21.1.1 In case of intent or gross negligence, OctoMind is liable without limitation. In case of simple negligence, OctoMind is only liable for damages resulting from the violation of an essential contractual obligation (obligation whose fulfillment makes the proper execution of the contract possible in the first place and on whose compliance the Customer regularly relies and may rely); in this case, OctoMind's liability is, however, limited to the compensation of the typical foreseeable damage.

21.1.2 The liability exclusions and limitations resulting from Section 21.1.1 do not apply insofar as OctoMind has fraudulently concealed a defect or assumed a guarantee for the quality of the item or has assured a property of the item, for damages resulting from injury to life, body, or health, as well as in the case of liability under the Product Liability Act.

21.2 Insofar as OctoMind's liability is excluded or limited, this also applies to the personal liability of OctoMind's legal representatives and agents.

22. Confidentiality and Data Protection

22.1 OctoMind and the Customer undertake to treat all confidential information and trade secrets (**"Trade Secrets"**) of the other party obtained in the course of contract initiation and execution as confidential for an unlimited period and to use them only for the purposes of executing the contract. The Trade Secrets of OctoMind also include the Software (hereinafter the **"SaaS Contractual Items"**) and the services provided under this contract.

22.2 The Customer will only make SaaS Contractual Items accessible to employees and other third parties insofar as this is necessary for the exercise of the usage and exploitation rights granted to him. He will instruct all persons to whom he grants access to SaaS Contractual Items about OctoMind's rights to the respective SaaS Contractual Items and the duty of confidentiality and will oblige these persons in writing to maintain confidentiality and use the information only to the extent according to Section 22.1, insofar as these persons are not obliged to maintain confidentiality to at least the above extent for other legal reasons.

22.3 The foregoing obligations do not apply to Trade Secrets that:

22.3.1 Were already obvious or known to the other party at the time of their transmission by the contracting party;

22.3.2 Have become obvious without the fault of the other party after their transmission by the contracting party;

22.3.3 Have been made accessible to the other party after their transmission by the contracting party by a third party in a non-illegal manner and without restriction regarding confidentiality or exploitation;

22.3.4 Have been independently developed by one contracting party without using the Trade Secrets of the other contracting party;

22.3.5 Must be disclosed according to law, official order, or court decision—provided that the disclosing party informs the other contracting party immediately and supports it in defending against such orders or decisions; or

22.3.6 Insofar as the contracting party is permitted to use or disclose the Trade Secrets due to mandatory legal provisions or under this contract.

22.4 OctoMind complies with data protection regulations, especially when OctoMind is granted access to the Customer's operations or hardware and software. OctoMind ensures that its agents also comply with these provisions. If the Customer cannot exclude access by OctoMind to personal data at his premises, the parties will conclude a data processing agreement.

23. Export and Import Control

23.1 OctoMind and the Customer are aware that the services under the contract may be subject to export and import restrictions. In particular, there may be licensing requirements, or the use of the Software or related technologies abroad may be subject to restrictions.

23.2 The Customer will comply with the applicable export and import control regulations, especially of the Federal Republic of Germany, the European Union, and the United States of America, as well as all other relevant regulations.

23.3 The performance of the contract by OctoMind is subject to the proviso that there are no obstacles due to national and international regulations of export and import law as well as no other legal provisions.

24. Choice of Law and Jurisdiction

24.1 The relations between OctoMind and the Customer are exclusively governed by the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG) does not apply.

24.2 If the Customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law, or a special fund under public law, the place of jurisdiction for all disputes arising from the contract is the seat of OctoMind in Karlsruhe, Germany. OctoMind is also entitled to bring an action at the Customer's seat as well as at any other permissible place of jurisdiction.

25. Final Provisions; Subcontractors

25.1 OctoMind is entitled to engage third parties (e.g., freelance software programmers, other software providers) as subcontractors.

25.2 Place of performance is Karlsruhe, Germany.

25.3 Should any provision of these GTC be invalid or become invalid, contain an inadmissible time limit, or a gap, the legal validity of the remaining provisions shall remain unaffected. Insofar as the invalidity does not result from a violation of §§ 305 ff. BGB (Validity of General Terms and Conditions), a valid provision shall be deemed agreed in place of the invalid provision that comes closest economically to what the parties intended. The same applies in the case of a gap. In the case of an inadmissible time limit, the legally permissible measure shall apply in this case.