Dexor S&M GmbH – General Terms & Conditions for Business Customers Non legally binding translation of German AGB (www.dexor.de/agb)

§ 1 Applicability / General Scope

(1) These Terms & Conditions are applicable to all present and future business relations between DEXOR GmbH (hereafter: DEXOR) and its business customers as defined in § 14 BGB (hereafter: Customers; together: the Parties).

(2) These Terms & Conditions are applicable to all quotations, deliveries and services (hereafter: deliveries) supplied by DEXOR.

(3) Any conflicting or deviating terms are rejected by DEXOR unless DEXOR has explicitly agreed to in writing.

(4) All subsidiary or other agreements as well as amendments and modifications to these Terms & Conditions are subject to written confirmation by DEXOR.

§ 2 Quotations & Orders

(1) By placing an order the Customer submits a binding offer to conclude a contract with DEXOR. The Customer hereby confirms that it understands and agrees to be bound with respect to all use and handling of the ordered goods or services by the then-current DEXOR Terms & Conditions which may be reviewed on the DEXOR website (www.DEXOR.de/tac)

(2) All orders are subject to approval and acceptance by DEXOR, which will be made either by written declaration or by delivery and invoicing of the ordered goods or services. A confirmation of receipt does not constitute a binding acceptance of an order.

(3) Quotations, calculations, drawings, sketches, cost estimates, and other documents attached to proposals or order confirmations remain the exclusive property of DEXOR. The Customer shall use these documents only for the agreed purpose and shall not duplicate them without DEXOR's agreement. These documents and all copies made thereof may not be disclosed to any third party and shall be returned to DEXOR or destroyed on request.

(4) DEXOR is constantly improving and refining its products and services to provide new features to its Customers and to ensure its Customers always get the top-of-the-line products. Deviations of the supplied product from the ordered product are therefore admissible, as far as they are reasonable in relation to the Customer.

§ 3 Shipping Policy

(1) DEXOR products shall be delivered in accordance with what is stated in the order form unless it conflicts with these Terms & Conditions. DEXOR products may be delivered as software package, virtual appliance or hardware appliance (hereafter: products). Partial deliveries shall be permitted, if this is reasonable for the Customer and nothing else was expressly agreed upon.

(2) Software packages as well as virtual appliances usually are made available to download from DEXOR servers or will be delivered on removable media such as CD, DVD or USB flash drive.

(3) Hardware appliances (DEXOR Software including operating system and hardware) will be physically delivered subject to the shipping conditions as described hereafter.

(4) Whilst DEXOR makes every effort to deliver ordered products within the quoted timescale, delivery dates are only estimations. The Customer shall be entitled to claim liquidated damages for delayed delivery only after written request within a reasonable time and in so far as it can be proved that the delay has been caused through the fault of DEXOR and that the Customer has suffered a loss as a result of such delay.

(5) Damages for delayed delivery shall not exceed ½ per cent of the net contract price of the part of the supplies in delay for every full week's delay and shall in no case whatsoever altogether exceed 10.000 EUR. No damages at all shall be due for the first two weeks of delay. Liability due to intend or gross negligence remains unaffected hereby.

(6) The delivery time shall be reasonably extended if hindrances occur which DEXOR cannot prevent despite using the required care, regardless of whether they affect DEXOR or the Customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilization, war, revolution, serious breakdown

in the works, accidents, labor conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God.

(7) In so far as such adaptation exceeds 2 months or is economically not justifiable, both parties shall be entitled to terminate the contract or the parts affected thereby. If a party wishes to terminate the contract it shall – after having recognized the consequences of the event – immediately inform the other party.

(8) All deliveries will be made ex works. Subject to DEXOR's right of stoppage in transit, delivery of the products to the carrier shall constitute delivery to Customer and title and risk of loss shall thereupon pass to Customer.

(9) Selection of the carrier and delivery route shall be made by DEXOR unless specified by Buyer. DEXOR's liability with regard to packaging and dispatch is limited to premeditation and gross negligence.

(10) On the Customer's request DEXOR will cover the delivery with transport insurance; the costs accrued thereby shall be at the Customer's expense.

(11) All delivered products shall remain the property of DEXOR until the sales price has been paid in full, including related costs and charges

(12) During the period of the reservation of title, the Customer shall, at its own cost, maintain the supplies and insure them for the benefit of DEXOR against theft, break-down, fire, water and other risks. It shall further take all measures to ensure that DEXOR's title is in no way prejudiced.

(13) The Customer is not permitted to provide reserved products as security or lien or to create any other charge on them. He is also obliged to notify DEXOR immediately of any attachment of the products by a third party, or of any damage to the products or loss of products suffered.

§ 4 Payment Terms

(1) All deliveries and services from DEXOR are subject to the terms of payment as stated on the invoice. Invoices will be deemed to have been accepted by the Customer unless no objection had been made within 14 days.

(2) If nothing to the contrary has been expressly agreed in writing, all DEXOR prices are ex works, excluding packaging, plus the statutory rate of value added tax.

(3) Unless otherwise stated all invoices issued by DEXOR are due and payable without deduction within fourteen (14) days of the date of the invoice via direct bank transfer on the account of DEXOR stated on the invoice.

(4) Unless prices have not been expressly agreed as fixed prices they are subject to adjustments due to changes in wages, materials and sales costs for deliveries that take place three months or more after conclusion of the contract.

(5) With respect to amounts that are not paid on time DEXOR reserves the right to charge dunning costs as well as default interests at a value of five percent (5 %) over the respective rate of discount of the European Central Bank or, if less, the maximum amount allowed by applicable law.

(6) Customer has no right to charge amounts with counterclaims, unless it is determined that the claim is undisputed or has been validated by a court. Customer does not have the right to a lien and plea for the unfulfilled contract unless the counterclaims are based on the same contractual relationship.

§ 5 Software License Terms

(1) DEXOR retains all right, title and interest, including all copyright and Intellectual Property rights, in and to, the delivered Software and all copies thereof.

(2) DEXOR grants to the Customer a limited, non-sublicensable, non-transferable, nonexclusive License to use the Software in accordance with the terms of the correspondent License Agreement and subject to the DEXOR Terms & Conditions set forth herein.

(3) Unless otherwise explicitly agreed upon in writing the Customer initially receives a provisional License on a temporary basis, which will be replaced by a full and permanent License after full payment of the sales price according to the valid Licensing Terms.

(4) Software usually is activated by delivery of a license key or entitlement system, which may be designed to allow use of the Software in compliance with the scope of the License granted and termination of the License for non-compliance with the applicable License. Further, licensed Software may contain a metering or instrumentation capable of verifying license entitlement and transmitting reports or statistics on the Software usage to DEXOR or a third party engaged by DEXOR to collect any such reports or statistics.

(5) Documentation pertaining to the Software (written information whether contained maintenance policies, user or technical manuals, training materials, support policies, specifications, copyright attributions or otherwise) will be made available by DEXOR with the Software in any manner (including on CD, via email, on the website or other on-line format) and contain software functionality and service descriptions according to the valid Licensing Terms. It will be updated or amended by DEXOR from time to time. Any public statements or advertisements do not represent an indication of quality and do not imply any form of guarantee.

(6) Modifications to the Software as well as new releases which are not free updates as determined in DEXOR's sole discretion such as those providing enhanced functionality or performance, or that otherwise improve or add to, delete or otherwise modify any aspect of the Software are only available, if the Customer purchases additional Maintenance Services to the Software by signing a Software Maintenance Agreement.

(7) These Terms & Conditions remain applicable to the Software including all modifications (e. g. patches), updates and upgrades hereto.

(8) With licensing of Software DEXOR provides no other rights to Customer not expressly set forth herein (including any rights to maintenance and support, training, or other development services relating to the Software). Any rights of Customer to any such services shall be solely as provided separately in a Service, Support and Maintenance, or other Agreement between DEXOR and Customer and subject to the conditions therein.

§ 6 License Restrictions

(1) Customers are not entitled to grant any sublicenses, lease, lend or in any way (including „Application Service Providing" (ASP)) let anyone else, whether directly or indirectly or against compensation or free of charge, use or in any way dispose of the Software; provided, however, that nothing herein shall prevent the Customer from using the Software in its ordinary course of its business. Exemptions are provided only for distribution partner on the basis of an Original Equipment Manufacturer Agreement or a Software Reseller Agreement.

(2) Customer are not entitled to use, copy or in any other way transfer or use the Software in any manner except as stated in the License Agreement as well as these Terms & Conditions.

(3) Copies of the Software may be made for purposes expressly permitted by the License Agreement as well as for safety or archival purposes only, and for no other purpose whatsoever. These Terms & Conditions shall apply also to such copies. All copies on removable media such as CD have to be marked with copyright notices and to be made inaccessible for third parties.

(4) Customers may not modify, reverse engineer, decompile, or disassemble the Software or information or material connected to the Software, except to the extent expressly permitted by mandatory law.

(5) Marking and/or information regarding patent, copyright or copyright notices in Software or computer media through which the Software is accessible to the Customer may not be removed, changed or modified in any way. The same applies to corresponding marking of all documentation provided by DEXOR.

(6) The Customer may use, access, display, run or otherwise interact with as many copies of the Software as corresponds to the number of user-licenses. The Customer may store or install a copy of the Software on a storage device, such as a network server, used solely to run the Software on the Customer's other computers over an internal network; however the Customer must acquire and dedicate a License for each separate computer that may access the Software from the storage device. The Customer shall introduce routines and control functions in order to ensure that the number of computers that may access the Software do not exceed the number of Licenses granted according to the Order Form. Customer is obligated to inform DEXOR about changes in the use of the Software and to acquire additional Licenses if necessary.

(7) DEXOR retains the right to charge up to twice the license price for the time of improper use of licensed Software if the Customer missed to inform DEXOR about same. DEXOR furthermore reserves the right to terminate the License with immediate effect and to claim further damages in case of the knowingly improper use of licensed Software by the Customer. Upon any termination, the Customer must return or destroy the Software Materials in its possession, together with all copies, in the realistic manner stipulated by DEXOR.

§ 7 Customer's Responsibilities

(1) At delivery, the Customer shall examine the functionality and quality of the Software. If the Customer concludes that the Software considerable deviates from the agreed specifications or requirements for the Software, the Customer shall notify DEXOR in writing within fourteen (14) days of delivery, with all available details regarding the alleged Defect.

(2) If at any other time the Customer discovers such item was not as warranted as described herein it also shall notify DEXOR promptly (at least within 14 days) in writing.

(3) In order to take advantage of the fully scope of service of DEXOR products as to reliability and performance commitments, the Customer has to maintain a proper and adequate environment such as specific hardware and software requirements, and use the DEXOR products in accordance with the instructions furnished. The Customer is solely responsible for setting up an appropriate technical infrastructure and shall properly train its personnel in the use and application of DEXOR Software or systems.

(4) The Customer agrees to test all modules and applications of the Software thoroughly within the specified environment with regard to usability and reliability before starting any operative use. The Customer shall take adequate precautions to counter situations where the program does not operate properly in whole or in part.

(5) In order to avoid data loss, the Customer is solely responsible for protecting and backing up the data and information stored on the computers on which the Software is used and should confirm that such data and information is protected and backed up before contacting DEXOR for technical support.

§ 8 Warranties & Limitation of Liability

(1) DEXOR provides products "as is" to be used in accordance with the respective product description and user manual. It shall be emphasized that, given the present state-of-the-art, it is technically not feasible to produce software or hardware that meets all conceivable combinations of applications and that are fully protected against any external intentional manipulation. DEXOR disclaims all warranties and representations, express or implied, including the implied warranties of non-infringement, merchantability, and fitness for a particular purpose. DEXOR shall be liable solely for a breach of an essential contractual obligation, on whose fulfillment the Customer may reasonably rely on (cardinal obligation).

(2) DEXOR's warranties shall be limited to typical contractual foreseeable damages, with regard to services on a monthly basis at the maximum up to the respective monthly fee. DEXOR shall not be liable for loss of Customer's data, content, or other information in connection with the use of the Software as a result of Customer's negligence to appropriate protecting and backing up of data, content and other information. In no event DEXOR shall be responsible to, or liable to Customer, or any third party, whether in contract, warranty, tort (including negligence) or otherwise, for any damages, including, but not limited to, incidental, special, indirect or consequential damages that include, but are not limited to, damages for any loss of profit, revenue or business, as a direct or indirect result of Customer's access and use of DEXOR Software. Without limiting the foregoing, DEXOR shall be liable pursuant to legal provisions only in case of intent or gross negligence.

(3) In case of a defect DEXOR will provide the Customer with appropriate support within reasonable time from the date Customer has notified DEXOR in writing of the defect. DEXOR shall repair or replace the product at the Customer's option and free of charge. If the Customer's choice is impossible or involves a disproportionate effort, the Customer is eligible only to the other option of supplementary performance. The foregoing warranties cover only reimbursement for expenses which may be incurred in connection with repair or replacement at the original contractual place of performance.

(4) If case of a repair or replacement, DEXOR will be liable for the new or improved product according to the Terms & Conditions of the original product.

(5) If attempts for repair or replacement by DEXOR fail within reasonable time, the Customer may cancel the contract or demand a price reduction. Upon termination the Customer must return all supplied products (including all copies) to DEXOR within 14 days, but not before a return authorization had been obtained from DEXOR.

(6) The applicable warranty period shall be 12 months after delivery of Software unless the parties have otherwise mutual agreed to in writing. Warranty claims against DEXOR are not transferable and can be made valid only by the Customer.

(7) These Warranties shall not apply
a. to DEXOR Evaluation Licenses provided under a Software Evaluation Agreement (SEA) to a Reseller or Customer for a defined evaluation period and made available for test purposes only,
b. to installed products which are not installed or used to DEXOR 's specifications,
c. to products which have been repaired or altered by others than DEXOR without DEXOR's prior written consent,

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