



SOFTWARE LICENSE AGREEMENT No. 0218/19

I. Contracting Parties

Univerzita Pardubice (University of Pardubice)

Legal form: a public university established by the applicable law
Registered office: Studentská 95, 532 10 Pardubice
Represented by: prof. Ing. Jiří Málek, DrSc., as the Rector
ID number: 00216275
VAT number: CZ00216275
Bank connection: Komerční banka, a.s., branch office in Pardubice
Bank account No.: 37030561/0100
Contact person: [REDACTED]
[REDACTED]

hereinafter referred to as the "User"

thinkstep AG

Registered office: Hauptstrasse 111-113, 70771 Leinfelden-Echterdingen, Germany
Incorporated in: Corporate Register maintained by Court in Stuttgart, Germany

Represented by: [REDACTED]

ID number: HRB735525
VAT number: DE164716839
Bank connection: [REDACTED]

Bank account No.: [REDACTED]
Contact person: [REDACTED]

hereinafter referred to as the "Provider"

(hereinafter jointly referred to as the "Contracting Parties")

entered on the below stated day, month and year, pursuant to Section 2079 and subsequent provisions and pursuant to Section 2358 and subsequent provisions of Act No. 89/2012 Coll., Civil Code, as amended, for the purpose of education and support of the research-development activities, the following software license agreement (hereinafter referred to as the "Agreement"). This Agreement shall be further governed by Act No. 121/2000 Coll., on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (Copyright Act), as amended.

II. General Provisions

1. The purpose of the Agreement is to provide the User – for the purposes of education and support of research-development activities – with the **software product for the life cycle assessment** (life cycle assessment hereinafter also referred to as "LCA"), including the subsequent Software upgrade (hereinafter referred to as the "Upgrade") for the below stated period.



2. The Provider hereby declares it is an authorized distributor of the software product Gabi Software (hereinafter referred to as "Software"), developed / manufactured by thinkstep AG. (hereinafter referred to as the "Manufacturer"), in the territory of the Czech Republic, and is entitled / authorized to provide the Software to the User, including the licenses necessary for its use and accesses to databases, at minimum within the extent stipulated in this Agreement. The Provider further declares that the use of the Software will not infringe personal or proprietary rights of third parties, respectively the rights of the Manufacturer. The license shall mean the software product license within the meaning of the Copyright Act, i.e. a non-exclusive title to exercise the right for the use of the software product, by all means of normal use, to the extent, time and form stipulated in Article III., Section 1 herein (hereinafter referred to as the "License").
3. The resource document for the conclusion of this Agreement is the bid dated 15. April 2019 under the public contract titled as "**Delivery of software for life cycle assessment**" (hereinafter referred to as the "Public Contract") contracted pursuant to Section 31 of Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter referred to as "Public Procurement Act").

III. Subject-Matter of Agreement

1. Under the terms and conditions of this Agreement, the Provider shall provide the user with a non-exclusive License, on the basis of which the User will be entitled to use the Software, namely:
 - 10 Licenses for the Software for life cycle assessment (LCA), of which 2 Licenses with access to LCA databases and 8 Licenses without access to LCA databases;
 - for unlimited period of time;
 - Software update and technical support until 31.12.2022;
 - all in English language.
2. The Provider is obliged to allow the User to install the Software independently, to the extent necessary for the agreed use, in the form of a program system for Windows 10, based on specific requirements for the use of the Software, in the User's environment. An integral part of the installation shall be the putting of the Software into operation and verification of basic functions.
3. A part of the Agreement shall also be the Upgrade for a predefined period of time, including:
 - a. Provision of user support (hereinafter referred to as the "Support") in English. The Support shall mean the help / assistance with solving technical problems, installations and Software functions, by e-mail, based on the mutual agreement by phone, by remote desktop or by Provider's representative visit in the User's site.
 - b. Program updates (hereinafter referred to as the "Updates"). Updates shall mean the provision of repairs / patches and functional supplements to the Software.
4. The Upgrade period under this Agreement shall be until 31.12.2022 following the Software, respectively the Licenses activation.
5. The Provider is obliged to provide the User with user training for the delivered program product (Software), within the extent of at least 3 working days (3 x 8 hours), for 4 employees of the User, in the place and time of fulfillment pursuant to Article IV. herein.

The training must at least include:

 - Software use and operation;
 - import of databases;
 - visualization and export of outputs.

6. The User is obliged to ensure, by suitable means and measures, the compliance with the correct use of the Software under the terms and conditions of this Agreement, both by its employees and by third parties who will use or install the Software.
7. The Provider declares that neither the Software nor any other fulfillment under this Agreement is subject to any legal defects or other defects / burdens which would interfere with the proper use of the Software by the User.
8. The User is not obliged to make use of the Software, respectively the Licenses.

IV. Method and Time of Fulfillment

1. The Provider is obliged to allow the User to perform a separate installation of the Software pursuant to Art. III., par. 2 herein, no later than **within 10 days** from the effective date hereof, in these addresses: Univerzita Pardubice (University of Pardubice), Fakulta chemicko-technologická (Faculty of Chemical Technology), Ústav environmentálního a chemického inženýrství (Institute of Environmental and Chemical Engineering), Studentská 573, and Katedra ekonomiky a managementu chemického a potravinářského průmyslu (Department of Economy and Management of Chemical and Food Industry), Stavařov 97, 532 10 Pardubice. The person(s) authorized by the User to accept the Software, shall be the contact person(s) stipulated in Art. I. herein (or other person(s) authorized by the User). An integral part of the installation shall be the provision of the related documentation and certificates (in English) which apply to the Software.
2. The Provider is obliged to provide the user training pursuant to Art. III, par. 5 herein, no later than **within 15 calendar days** from the activation of the installed Software, resp. the License, according to par. 1 of this Article.
3. The Software installation, activation and verification of basic functions as well as the provision of the user training shall be acknowledged in writing, by means of a summary handover protocol, indicating the date of activation and provision of the user training.
4. Within the scope of the Upgrade (during the effective period of the software support), the Provider is obliged to notify the License User in writing or orally on further development of the Software, at least every 6 months.

V. Price

1. In accordance with Act No. 526/1990 Coll. on Prices, as amended, the Contracting Parties agreed on the following total purchase price:

Total purchase price excl. VAT: EUR 21 675

The total purchase price is structured as follows:

- a) Price for 10 LCA Licenses (incl. Upgrade) within the scope pursuant to Art. III.:
Price excl. VAT: EUR 14 175
- b) Price for user training within the scope pursuant to Art. III., par. 5:
Price excl. VAT: EUR 7 500

2. The total price under par. 1 of this article is agreed as the maximum permissible price which cannot change during the entire effective period of this Agreement. Such an agreed price includes all the Provider's costs and expenses associated with the fulfillment of its obligations and liabilities under this Agreement (e.g. costs for transport, provision of the License, license fees and copyrights, insurance, Upgrade etc.).
3. The Seller hereby declares it assumes the risk of change in circumstances pursuant to Section 1765, par. 2 of the Civil Code, and the Section 1765, par. 1 and Section 1766 of the Civil Code shall not apply to the Seller.

VI. Invoicing and Payment Terms and Conditions

1. The right to invoice the price stipulated under Art. V., par. 1, subparagraph a) herein and the price stipulated under Art. V., par. 1, subparagraph b) herein, originates in favor of the Provider on the day of the user training completion / provision.
2. Upon the origination of the right to invoice, the Provider is obliged to issue and - within 15 days from the issue date - to deliver to the User the original tax document (hereinafter referred to as the "invoice"). In particular the Provider is obliged to issue **two separate invoices**, the first for the price stipulated under Art. V., par. 1, subparagraph a) for the duly delivered Software, resp. Licenses, its activation and access to LCA database, and the second for the price stipulated under Art. V., par. 1, subparagraph b) for the user training. Each invoice shall have the particulars of the proper accounting and tax document, within the meaning of the applicable legislation, especially Act No. 235/2004 Coll., on Value Added Tax, as amended (hereinafter referred to as "VAT Act"). Each invoice shall include the number of this Agreement in the title. **Also each invoice shall indicate that the delivery is for the project under OP RDE "Modernization of practical education and improvement of practical skills in technical study programs", reg. No. CZ.02.2.67/0.0/0.0/16_016/0002458.**
3. Together with each invoice, the Provider shall also submit the handover protocol signed by the User pursuant to Art. IV, par. 3 herein.
4. The maturity of each invoice shall be 30 (thirty) calendar days from the date of invoice delivery to the address of the registered office of the User, as set in Article I. herein. The same maturity shall apply also to other payments (contractual penalties, punitive interests, compensations of damage etc.), in each case from the delivery of the notice of payment (application for payment) to the other Contracting Party.
5. Should the invoice contain incorrect or incomplete data or the required documents are not attached thereto, the User is entitled to return it back to the Provider before its maturity date without the risk of going into default. The Provider shall be obliged to correct the returned invoice or eventually issue a new one, free of any discrepancies. In such a case the new maturity period shall start to run, pursuant to Section 4 herein, from the date of delivery of the corrected / new invoice.
6. Payment of the purchase price shall mean the write-off of the due amount from the User's account and its directing to the bank account of the Provider.
7. The User does not provide advance payments. Each payment shall be made in EUR currency only. The User shall make the payment by means of a bank wire to the bank account of the Provider set out in Article I. herein.

8. The Contracting Parties hereby acknowledge that in accordance with the Value Added Tax Act, the place of delivery shall be the registered office of the User, i.e. in the Czech Republic, and that the User shall – within the statutory deadline and under the reverse-charge procedure – disclose and pay the applicable VAT at the rate and in the amount pursuant to the legislation in force as at the taxable fulfillment date.
9. The Provider hereby declares it assumes the risk of change in circumstances pursuant to Section 1765, par. 2 of the Civil Code, and the Section 1765, par. 1 and Section 1766 of the Civil Code shall not apply to the Provider.

VII. Right of Use / Ownership Title

1. The License User is entitled to install the program on as many User's own computers as the number of Licenses acquired.
2. The Provider may exercise its rights and fulfill its obligations either directly or through the Manufacturer.
3. The License User is entitled to make copies of data carriers for the backup purposes. The License User shall neither modify nor copy the received Software for other purposes than backup. Also the User shall not provide the Software to third party.
4. The License User does not acquire copyrights for the Software or any other industrial copyrights. The source code of the program remains the property of the Manufacturer. The executable program as well as all the related documentation handed over to the User shall become the property of the User.
5. The User is entitled to install the License on additional devices of the User, provided that it ensures the original installation will no longer be used (e.g. by deinstalling it, by physically liquidating the original device etc.). In these cases the Provider shall be obliged to provide the necessary support and concurrence no later than within 14 days from the notice (e.g. to re-register the License to the new device), should such concurrence is necessary in order for the License to be fully functional again.

VIII. Confidential Information and Obligation of Confidentiality

1. Both Contracting Parties undertake to maintain confidentiality regarding all confidential information associated with the fulfillment of this Agreement. For the purposes of this Agreement, "confidential information" shall mean such information that is subject to protection as trade secret and / or that is subject to protection pursuant to provisions governing the intellectual property and / or that is protected against access of unauthorized persons by generally binding legal regulations. Confidential information includes information disclosed / shared in any form, i.e. orally, in writing, in electronic form, in form of audio, visual or audio-visual recording or otherwise. Confidential information also means all information regarding any business, marketing, technical, production and other procedures and knowledge related to the Provider's business and / or User's activities, descriptions or parts of descriptions of technology processes and formulas, technical formulas and technical know-how, as well as business and marketing plans, conceptions and strategies or any part thereof, bids and offers, contracts, agreements or other stipulations with third parties, and also information which has a real or at least potential

value and which is not readily available in the relevant business circles and should be kept secret, irrespective of whether it is expressly identified as confidential information or not.

2. Information which is not considered as confidential:
 - a. information specified in this Agreement;
 - b. information available to either Contracting Party before the Contracting Party in question received it from the counterpart, provided that the Contracting Party in question is able to prove it by its records;
 - c. information which becomes publicly known without contribution by either Contracting Party;
 - d. information which has been – after signature of the Agreement – received from third party who did not obtain such information either directly or indirectly from either Contracting Party and who – by disclosing such information to the Provider – did not infringe the obligation of confidentiality, whether such obligation was statutory or contractual;
 - e. information which is the result of an independent development by either Contracting Party, without previous knowledge of the confidential information, whereas the Contracting Party in question is able to prove this by its records;
 - f. information which has been expressly identified by both Contracting Parties, in written form, as “free for disclosure”, which means that neither Contracting Party is obliged to keep such information in secrecy and is free to disclose it to third parties, as deemed necessary.
3. Only the Contracting Party who provided the confidential information is entitled to freely dispose with such information. The disclosure of confidential information to the other Contracting Party does not establish any privilege or right to further dispose of such information. Without the prior written consent by the disclosing party, it is strictly prohibited for the receiving party to dispose of the confidential information in any way, especially to provide it to third parties or to make use of it for its own benefit or for the benefit of third parties.
4. Each Contracting Party undertakes to make, for the protection of confidential information of the other Contracting Party, at least the same effort, as if it was its own confidential information, unless the Agreement expressly stipulates otherwise.
5. Each Contracting Party is entitled to use the confidential information only in the course of fulfilling its obligations under this Agreement. The Provider may share the information with the Manufacturer, however, the liability towards the User for the protection of confidential information remains on the part of the Provider anyway.
6. In case that confidential information was or could be disclosed to unauthorized person, each Contracting Party undertakes to notify the User thereof without any unreasonable delay and implement all measures necessary to prevent from harm or to limit the extent of the harm already caused.
7. The confidentiality obligation under this Article applies to the Provider until the confidential information becomes generally known.
8. Notwithstanding the foregoing, the Contracting Parties are entitled to disclose confidential information to persons cooperating in the fulfillment / performance under this Agreement, provided that such persons will be obliged to protect the confidential information to the same extent as the Contracting Parties under this Agreement. The Provider undertakes not to use the User’s confidential information obtained in connection with this Agreement (i) otherwise than for the purposes of this Agreement. (ii) to the detriment of the User or to damage its goodwill and reputation. The disclosure of confidential information of any Contracting Party under this



Agreement based on the applicable laws, judicial, administrative or other similar resolution, will not be considered as a breach of the confidentiality obligation, however, the disclosing Contracting Party is obliged to notify the other Contracting Party of such obligation to disclose its confidential information without any unreasonable delay so the other Contracting Party may take the necessary steps to protect its justified interests.

IX. Warranty and Liability

1. The Provider hereby accepts the warranty for functional integrity of the Software pursuant to Art. II. herein.
2. The warranty period is 18 months, starting from the activation date of the Software, resp. of the License. The Provider shall be obliged to remove the claimed defects in cooperation with the User within 30 calendar days from the written (incl. by electronic means) notification or within other deadline agreed with the User.

X. Penalty Clause

1. In the case of the Provider's delay with delivery of the subject-matter of fulfillment (delivery of Software, activation of Software, resp. License) pursuant to Art. IV., par. 1 herein, the Provider shall be obliged to pay the User a contractual penalty of 0.05 % of the price pursuant to par. 1, subparagraph a), Art. V. herein, excluding VAT, for each commenced day of such default, as compared to the originally agreed deadline / term, up to the total price, excluding VAT, pursuant to par. 1, subparagraph a), Art. V. herein.
2. In the case of the Provider's delay with the provision of user training pursuant to Art. IV., par. 2 herein, the Provider shall be obliged to pay the User a contractual penalty of CZK 500 for each commenced day of such default, as compared to the originally agreed deadline.
3. In the case of the Provider's delay with the removal of defects claimed during the warranty period pursuant to Art. IX., par. 2 herein, the User is entitled to request the Provider to pay a contractual penalty of CZK 500 for each commenced day of such default, until the signature of the protocol of defect removal.
4. In the case of the User's delay with payment of the price pursuant to par. 1, subparagraph a) or b), Art. V. herein, the Provider may charge the User a late interest of 0.05 % of the due amount for each commenced day of such default, as compared to the originally agreed maturity.
5. In the case of the Provider's delay in connection with the Upgrade provided pursuant to Art. III., par. 3 herein, the User is entitled to request the Provider to pay a contractual penalty of CZK 500 for each commenced day of such default, until the demonstrable provision of the requested user Support or Software Update. The Provider is in default in connection with the provided Upgrade in case it fails to provide the User with the requested Support within 7 calendar days from the request date (the request can be sent by electronic means too) or fails to provide the User with the Update (available patch or functional supplementation of the Software) within 7 calendar days from the date it became available.
6. Should the Provider breach its confidentiality obligation under the provisions of Art. VIII. herein, it shall compensate the User for the damage suffered in accordance with the applicable laws and

regulations. Also the Provider will be obliged to pay the User a contractual penalty of CZK 1,000 for each individual breach of the confidentiality obligation pursuant to Art. VIII. herein (even if no harm was caused to the User in connection with such breach). By paying the contractual penalty, the obligations of the Provider to continue with meeting the obligation of confidentiality as well as to compensate the User for any potential harm suffered remain unaffected.

7. Should the User breach its confidentiality obligation under the provisions of Art. VIII. herein, it shall compensate the Provider for the damage suffered in accordance with the applicable laws and regulations. Also the User will be obliged to pay the Provider a contractual penalty of CZK 1,000 for each individual breach of the confidentiality obligation pursuant to Art. VIII. herein (even if no harm was caused to the Provider in connection with such breach). By paying the contractual penalty, the obligations of the User to continue with meeting the obligation of confidentiality as well as to compensate the Provider for any potential harm suffered remain unaffected. The User does not commit a breach of this obligation if the information in question was provided under the applicable legislation of the Czech Republic, especially the Public Procurement Act or Act No. 106/1999 Coll., on Free Access to Information, as amended.
8. Contractual penalties are not added to the compensation of potential harm which can be recovered separately, along with the contractual penalty, in full amount.

XI. Cessation of Obligations

1. The cessation of obligations under this Agreement is governed by the relevant provisions of the Civil Code and this Agreement.
2. The Contracting Parties agreed that a substantial breach of this Agreement pursuant to Section 2002, par. 1 of the Civil Code, in addition to the cases specified in Section 2002 of the Civil Code, also means:
 - a) delay of the Provider with the delivery of the subject-matter of fulfillment (delivery of Software, activation of Software, resp. License or provision of user training) within the agreed term, as stipulated in Art. IV., par. 1 and 2 herein, exceeding 30 calendar days;
 - b) delay of the user with the payment of the purchase price exceeding 30 calendar days, whereas the Provider shall be obliged – before withdrawing from the Agreement – to notify the User in writing of the non-performance of its obligations and give the User a reasonable time to remedy the default;
 - c) a failure to provide the agreed type and version of the Software.
3. Withdrawal from this Agreement must be in writing and becomes effective on the day of delivery of the written notice to the other Contracting Party.
4. In case of withdrawal from this Agreement, both Contracting Parties are obliged to settle their mutual obligations and claims under this Agreement or pursuant to applicable laws within 30 days from legal effects of such withdrawal or within any other deadline stipulated between the Contracting Parties.
5. The termination of the effectivity of this Agreement by withdrawal or otherwise shall not affect the rights for contractual penalties and compensation of damages as well as other obligations the nature of which implies they should survive the termination hereof.

XII. Contact Persons

1. Communication between the Contracting Parties shall be carried out in particular through the mandated personnel – authorized persons of the Contracting Parties.
2. Authorized persons are not entitled to modify this Agreement, amend or cancel it, unless they prove they are authorized to do so by presenting the valid power of attorney granted by persons authorized to act in the name and on behalf of the particular Contracting Party in contractual matters. The Contracting Parties are entitled to unilaterally change the authorized persons, however, they are obliged to notify the other Contracting Party of such change without any unreasonable delay in writing.
3. All enforcement of claims, communications, requests, notices, sharing of information etc. between the Contracting Parties under this Agreement shall be made in writing and delivered to the other Contracting Party either personally, by registered mail, e-mail or using the electronic signature.

XIII. Final Provisions

1. In matters not explicitly stipulated herein, the rights and obligations of the Contracting Parties are governed by the relevant provisions of the generally binding legislation in force in the territory of the Czech Republic, excluding its conflict of laws provisions, especially by Act No. 89/2012 Coll., Civil Code, as amended, by the Public Procurement Act and other laws and regulations applicable to the subject-matter of this Agreement.
2. All disputes which cannot be settled by the Contracting Parties in an amicable manner shall be resolved by a competent court in the Czech Republic, having the subject-matter and territorial jurisdiction.
3. This Agreement was made in four counterparts. Each counterpart has the validity of the original document. Two counterparts shall be provided to the User and the other two to the Provider.
4. This Agreement may be amended or changed only by written, mutually agreed and signed, in ascending order numbered amendments which become an integral part of it. For this purpose the “written form” does not include the exchange of e-mails or other electronic messages. The invalidity of the amendment due to failure to comply with the required form can be challenged at any time, even when the fulfillment has already started. Changes to the identification or contact data are not considered as the amendment of the Agreement.
5. If, for any reason, any provision of this Agreement is found to be invalid, the validity of the remaining provisions of the Agreement shall remain unaffected. In such a case the Contracting Parties are obliged, without undue delay, to replace the invalid provision by a new valid provision which will correspond to the meaning and purpose of this Agreement.
6. By signing this Agreement the Contracting Parties acknowledge they are aware that this Agreement is subject to the obligation of its disclosure pursuant to Act 340/2015 Coll., on Special Conditions for Effectiveness of Certain Contracts, the Disclosure of These Contracts and the Register of Contracts (Act on Register of Contracts), as amended. The User shall ensure its disclosure without undue delay, no later than within 30 days from the date of conclusion of the Agreement. The Provider hereby agrees with the disclosure of the Agreement in the register of contracts.
7. The Provider undertakes to cooperate in the exercise of financial inspection. Pursuant to Section 2, subparagraph e) of Act No. 320/2001 Coll., on Financial Control in Public Administration and



on the Amendment to Certain Acts, as amended, the Provider is the person obliged to cooperate in the exercise of financial inspection carried out in connection with the payment for the goods from public resources or from public financial subsidy. The Provider undertakes to make its subcontractors obliged in the same way.

8. The Provider is obliged to keep all documents for the period and in the manner prescribed by the applicable legislation (Act No. 563/1991 Coll., on Accountancy, as amended, and Act No. 499/2004 Coll., on Archiving and Records Management and on Amendment to Certain Acts, as amended).
9. The Contracting Parties hereby declare the facts set out in this Agreement are not considered as trade secrets and therefore they grant the permission to use and disclose them without any additional terms.
10. This Agreement comes into force on the day of signature by the last Contracting Party and becomes effective upon its publication in the register of contracts pursuant to Act No. 340/2015 Coll., on Special Conditions for Effectiveness of Certain Contracts, the Disclosure of These Contracts and the Register of Contracts (Act on Register of Contracts), as amended.
11. The Contracting Parties hereby declare they have read this Agreement thoroughly and that the Agreement was negotiated after mutual discussions based on their free will, definitely, seriously and intelligibly, in witness whereof the authorized representatives of both Contracting Parties attach their signatures below.

29. 04. 2019

In Pardubice, on.....

on behalf of the User:

prof. Ing. Jiří Málek, DrSc.
Rector

08. 05. 2019

In on.....

on behalf of the Provider:

Executive, Chairman of the Board of
Directors etc..



General clauses

1. Scope

1.1 The clauses of these general terms and conditions apply to all contracts between thinkstep AG ("thinkstep") and the client in the allocation of software and database products, software maintenance and service, technical support webhosting and IT-related as well as consulting and training services, general services or any other service to be provided by thinkstep. They also apply to future transactions even if they are not referred to explicitly.

1.2 For the purpose of this agreement,

- a. "perpetual licenses" shall refer to the purchase of software against a one-off payment, where upon full payment, thinkstep grants the client the non-exclusive, indefinite right to use the contractual software and the accompanying information as per the scope listed in the individual agreement or the special contract terms for the software,
- b. "temporary license contracts" shall refer to software leases where the client is granted a non-exclusive temporary right to use the contractual software and the accompanying information as per the scope listed in the individual agreement or the special contract terms for the software, or where thinkstep agrees to webhost their software for the client on a temporary basis against remuneration to be agreed upon, including software leases against a recurring fee (hereinafter "subscription"), SaaS, webhosting contracts or any other individually agreed contracts referring to an ongoing obligation;
- c. "maintenance" shall refer to the delivery of software and database content updates/upgrades as well as technical support services for the contractual software outside of the warranted and/or statutory limitation period which are settled with a flat maintenance fee or as part of a subscription license contract as described below;
- d. "paid expert services" shall refer to services other than the maintenance described above such as but not limited to installing and customising the software, programming additional features, instruction, training as well as hosting against additional remuneration to be agreed and expert consultancy as described below.

1.3 "Special contract terms for the GaBi software product" or "Special contract terms for the SoFi software product", special terms for webhosting, SaaS or any other special contract terms as well as the open source license terms apply additionally in their respective most recent version.

1.4 Other additional terms of the client that deviate from these regulations only apply if thinkstep has approved of these in writing. If the client is not in agreement with these, they must notify thinkstep immediately in writing.

1.5 Should contradictions or ambiguity between terms arise, the terms and agreements shall prevail in descending order [hierarchy] as follows:

- a. individual contractual agreements;
- b. special contract terms in sections 1.3;
- c. these general terms and conditions as per section 1.1.;
- d. additional terms and conditions of the client, if approved and applicable.

2. Contract conclusion/products and services/subcontractors

2.1 Unless otherwise stated in thinkstep's offer, thinkstep's range of products is subject to change. A contract is formed when thinkstep confirms the order or with delivery/invoice of the client's legally binding order. If thinkstep submits an offer, the contract is concluded with acceptance of the order by the client. Unless otherwise stated in the offer, offers are valid for three weeks from the offer date.

2.2 The respective service results from the binding order confirmed by thinkstep or from the offer confirmed by the client (hereinafter referred to as "offer" for both alternatives) or the delivery note.

2.3 thinkstep can let the contractual services be performed by third parties (subcontractors) unless the client has justified objections against the third party.

3. Service provision/contractual alterations

3.1 thinkstep provides the services covered by the contract on the dates agreed upon in writing. In the event of hindrances due to force majeure, industrial disputes or other circumstances which thinkstep is not responsible for, the agreed upon dates will be appropriately postponed – at least by the duration of the hindering events.

3.2 If the client wants to change the contractually determined volume of services to be provided by thinkstep, they should forward the request for alteration to thinkstep in writing. Requests for alteration may be rejected by thinkstep if the implementation within the scope of contract fulfilment is unreasonable for thinkstep. thinkstep has to inform the client about this immediately after checking the request for alteration. If checking the individual request of alteration requires more than 2 hours, thinkstep has the right to invoice the exceeding expenses as per its current pricelist. Upon checking, thinkstep submits a binding offer to the client which becomes contractual content with the client's written order confirmation even with regard to dates for provision of service. Any delays or down time that arise within the scope of contract fulfilment due to checking the request for alteration, extends the contractually agreed upon execution date appropriately.

4. The client's obligation to cooperate

4.1 Where it is agreed that remote access is required (in particular for rectification of defects), the client has to install the certified remote access software offered by thinkstep or provide its own software programme. If thinkstep carries out tasks directly at the client's premises, the client will provide on time and free of charge appropriate rooms, equipment, software, documents with examples of the defects and data material, test data and hardware as well as competent employees, or better, employees that have been trained by thinkstep, unless this is not reasonable for the client.

4.2 The client is to notify thinkstep immediately about any defects that arise. Reports of defects should be made by competent employees, or employees trained by thinkstep, in writing, or via telephone and subsequently in writing – in the most comprehensible manner stating detailed circumstances of their arising, their effects and - if the client can make a statement on this – the possible causes.

4.3 If it is not clear which system components produced an error, the client will carry out an analysis of the software environment together with thinkstep and, after consultation with thinkstep, shall call in third party companies with the necessary know-how with regard to the software environment. The appropriate costs will be borne by thinkstep if it emerges that the error is to be attributed to the software delivered by thinkstep. If the opposite is true, thinkstep is entitled to charge the client for the incurred costs.

4.4 If the client does not own the necessary user rights to the documents (particularly information) that it makes available to thinkstep, the client will inform thinkstep about this when handing them over. In the event of claims against thinkstep due to a violation of a third party's rights, the client must indemnify thinkstep immediately from liability upon their first request.

4.5 When work from thinkstep is to be accepted, the client must, without undue delay, give written notice of the acceptance as soon as the work has largely been carried out or when an acceptance is requested by thinkstep. The acceptance can be refused if at least one main component is defective or there are several minor defects. The acceptance is considered effected if the client (particularly when carrying out test runs) fails to specify the reasons for refusing acceptance in writing within 15 working days (Monday – Friday) after provision of services by thinkstep or corresponding request by thinkstep. The acceptance is also considered effected if the client makes use of the services provided by thinkstep (acceptance of operative production). The client has to provide the test data necessary for the acceptance. Defects determined within the scope of the acceptance procedure are to be rectified by thinkstep within an appropriate period, after which the regulations of this paragraph apply to the subsequent acceptance procedure accordingly.

4.6 If the client fails to cooperate even after setting appropriate deadlines, thinkstep is entitled to terminate any continuing obligation contract of services with immediate effect or to revoke from such. In this case, thinkstep is furthermore entitled to draw up an account of all accumulated tasks according to expense as per the remuneration agreed upon between the parties or as per thinkstep's current pricelist.

5. Data back-up

The client will back-up their entire data, structures and programmes regularly, especially prior to, but not limited to, thinkstep starting a task such as defect rectification works or installing updates/upgrades or hotfixes as per the status of technology corresponding to the operating requirements. The client ensures that the current data (from data storage media in machine-readable form) can be reproduced with reasonable expenditure.

6. Rights of use

6.1 Instructions of use, documentation and other written materials which thinkstep creates within the scope of contract fulfilment are given to the client upon request in copy for contractual usage for the client's own purposes if the owed remuneration has been paid. The client is obligated to observe existing legal trademark, copyright and other intellectual property rights.

6.2 Unless agreed otherwise, thinkstep grants the client a non-exclusive permanent right of use to results for the client's own purposes.

6.3 The client is not allowed to duplicate the documents obtained from thinkstep within the scope of contract fulfilment, except for the client's own purposes. Forwarding these documents to third parties who are not part of the company is only allowed with prior written consent from thinkstep. Upon termination of the contract, the client has to immediately return the documents and materials given during the contract duration. Any copies are to be deleted.

6.4 The client may not extract or reuse the contents of the databases. The client may not temporarily or permanently reproduce, display, distribute or communicate to the public the whole or partial content of the databases, unless and only to the extent that the re-production, display, distribution or communication contains only an insubstantial part of the database contents and is solely for the purpose of supporting or explaining any results obtained through the permitted usage of the Software. Any usage of database content to be documented for internal as well as permitted external applications is to be cited as described in the special contractual terms. For the purpose of clarification and without being exhaustive, individual aggregated datasets pertaining to the client's business as a result of using the database and software may be published.



- 7. Non-disclosure/data protection/nominating references**
- 7.1 The contractual partners commit to maintain confidentiality on all the commercial and industrial information they become aware of in the course of contract execution or information regarded as confidential even after the contract is terminated and commit the respective employees accordingly. The information and documents are not to be available to third parties who are not involved in contract execution. The contractual partners must protect the contractual subject matter as they would their own confidential documents. Each contractual partner can demand documentation of the type and scope of the organisational measures taken.
- 7.2 The obligation of non-disclosure does not apply to information and documents which were common knowledge and accessible at the time of disclosure, or which the receiving contractual partner was already aware of at the time of disclosure or was justifiably given access to by third parties.
- 7.3 The client will be informed that thinkstep will collect, save, process and if necessary, forward its data within the scope necessary for contract execution and on the basis of data protection regulations.
- 7.4 Unless otherwise stated, both contractual partners are allowed to nominate each other as a reference and use each other's name and logo on their website or printed material for marketing purposes.
- 8. Remuneration and terms of payment**
- 8.1 The remuneration and the terms of payment (payment dates) are stated in the offer. The agreed upon remuneration in return for services and deliverables provided by thinkstep and other amounts invoiced by thinkstep are due upon receipt of invoice by the client and are payable within 30 days without discounts excluding the statutory VAT. The remuneration owed for temporary license contracts, (including but not limited to subscription and web hosting) or maintenance contracts is to be paid annually in advance or pro rata temporis. The value date on the receiving account determines the punctuality of a payment.
- 8.2 thinkstep has a right to have expenses refunded, especially expenses for appropriate travelling and overnight costs.
- 8.3 For contracts that are invoiced according to hourly or daily rate, travel time will be charged with 50% (fifty percent) of the respective rate.
- 8.4 If long-term contracts are invoiced according to expense, thinkstep's current pricelist at this point of time applies. When contracts are concluded in the final quarter of a year, the agreed upon prices apply for the following year.
- 8.5 thinkstep reserves the right to adjust the agreed upon remuneration of a continuing obligation as well as the price list after the Initial Term, provided thinkstep has informed the client about alteration of the remuneration at least 3 (three) months in advance in writing. If remuneration is increased by more than 5% (five percent) the client is entitled to terminate the continuing obligation within a period of 3 (three) months after receipt of the demand for increment effective at the end of the current price period.
- 9. Counterclaims and retention**
- 9.1 The client is entitled to offset any counterclaims if they have been awarded without the possibility of further recourse by a court of law or if they are a recognised by thinkstep.
- 9.2 The client can exercise the right of retention only if its counterclaim is based on the same contractual relationship. If there are no defects affecting the usage of the software, the client is only entitled to temporarily retain the contractually owed remuneration corresponding to the amount of the expense of rectifying the defect.
- 10. Reservation of proprietary right**
- 10.1 thinkstep reserves proprietary rights and title to objects such as data storage media and user handbooks until full payment of the respective purchase price is made; when paying using cheques or foreign currency, the rights are reserved until the cheque or foreign currency revocation period lapses.
- 10.2 In the event of attachment or other interference by third parties, the client has to inform thinkstep in writing immediately.
- 10.3 If thinkstep asserts the reservation of proprietary right in accordance with the legal requirements, the right to continued use expires.
- 11. Defects of quality and title**
- 11.1 Definition of defects**
Defects of quality occur if the contractual item fails to display the contractually agreed upon characteristic or is not suitable for the contractually agreed upon usage. Defects of title exist if the necessary rights for the contractual usage of the contractual item could not be effectively granted to the client.
- 11.2 Alterations by the client**
If the client or third parties authorised by the client interfere with the contractual item delivered by thinkstep or the work performance provided, in particular through manipulation or other alterations, thinkstep will only rectify defects if the client can prove that the defect is not connected to the interference and that the interference does not hinder analysis or rectification of the defect.
- 11.3 Exemption of rectification of defect**
The client's right to rectification of defect is exempted if the defect cannot be reproduced or cannot be shown on the basis of handwritten or automatically recorded printouts.
- 11.4 Notice of defects/Defect categories for response time** thinkstep is to be notified by the client about defects that arise as per the specifications of the regulation in section 4.2. (the client's obligation to cooperate) and they are to be divided into the following defect categories for defect rectification:
- a. **Category 1: Severe defect**
The entire software or a component of the software cannot be used. The arising defect cannot be dealt with using organisational means.
- b. **Category 2: Average defect**
The functionality of the entire software or a component of the software is not affected in such a way that it cannot be used. The defect can be dealt with using organisational or other economically justifiable means.
- c. **Category 3: Slight defect**
A slight defect has no important effects on the current functionality and usability. The usage of the entire software or a component of the software is not restricted/only marginally restricted.
- 11.5 Response time**
The response time for the error analysis and the subsequent defect rectification begins from receipt of the notification and is calculated according to office hours during the operating hours at the support centre responsible for the client. The support centre is listed on thinkstep's website. The response time is:
- a. **Category 1 defects**
thinkstep starts the error analysis and rectification of Category 1 defects immediately. If the defect can be rectified using temporary measures, then operability should be restored using these temporary means and the defect should be fixed permanently in the next release.
- b. **Category 2 defects**
thinkstep starts with the error analysis and rectification of Category 2 defects within 7 (seven) days after receipt of the notification.
- c. **Category 3 defects**
thinkstep starts with the error analysis and rectification of Category 3 defects within 4 (four) weeks after receipt of the notification.
- 11.6 Form of defect rectification (supplementary performance)**
thinkstep will choose how to rectify a defect that it has been notified about as per the contract through one of the following measures:
- a. Allocation of an update/upgrade or hotfix to the client stating all the information necessary for the installation. The regulation in section 19.4 is to be adhered to. If the client has concluded a webhosting contract parallel to software usage, thinkstep installs the new programme version directly to the server on which the software covered by the contract is hosted;
- b. Instructions to the client on how to deal with the problem or on the rectification of defects (workaround). The client will implement these recommendations on possible actions with the help of competent staff unless the implementation is unreasonable for him;
- c. If the client operates the software on his own server, thinkstep is to be granted remote access for the rectification of defects. In case access is denied, extra expenses arising on site due to rectification of defect will be remunerated by the client according to the current pricelist of thinkstep;
- d. Rectification of defects on site occurs if the alternative measures are not suitable.
- 11.7 Supplementary performance in case of defects of title (violation of third parties' trademark, copyright or other intellectual property rights)**
The supplementary performance in case of defects of title occurs when thinkstep provides the client legally faultless usage of the software. thinkstep is entitled to exchange the affected software with similar software that corresponds to the contractual provisions unless this is not acceptable for the client. If third parties assert trademark, copyright or other intellectual property rights against the client, the client has to inform thinkstep immediately in writing. In consultation with the client, thinkstep can choose to ward off the claims or satisfy them. The client is not allowed to admit claims of third parties. thinkstep wards off claims against the client at its own costs and indemnifies the client from all costs and damages associated with the rejection of claims as long as this is not based on the client's conduct that is contrary to duty.
- 11.8 Reduction, revocation or compensation**
The client has the right to choose either to revoke from the respective contract, (or in the case of temporary contracts, maintenance or any other continuing obligation contracts, to terminate the agreement), or to demand a corresponding reduction of the remuneration paid and demand compensations as per section 12 instead of performance ("Schadenersatz statt der Leistung", Section 281 BGB (German Civil Code)) or compensation of vain expenses if
- a. the defect is not rectified despite supplementary performance being provided twice;
- b. thinkstep is not in a position or not willing to rectify or deliver in addition,
- c. if thinkstep fails to rectify or deliver additionally within an appropriate deadline;
- d. or if the supplementary performance fails due to other reasons.



The revocation or termination declaration shall only become effective for the contract for which it has expressly been declared; other contracts between thinkstep and the client shall remain unaffected. In case of only slight defects, the client has no right of revocation or termination. If there is a work and services contract promising a predefined deliverable in a turnkey state ("Werkvertrag"), the client also has the right to rectify the defects itself and demand compensation of the necessary expenses.

- 11.9 In case of malice or a guarantee issued by thinkstep, the statutory remedies for defects of quality and title remain unaffected.
- 11.10 Prior to commencement of the rectification of defects, the client is obligated to save data as per section 5 (data back-up)
- 12. Insurance/liability**
- 12.1 In the event of damage, thinkstep is obligated to inform the client about the scope of the business liability insurance and product liability insurance. thinkstep will inform the insurer about event of damage according to the insurance conditions.
- 12.2 thinkstep pays damages or reimbursement of vain expenses, in the following scope:
- in case of intent or adoption of a guarantee regarding the agreed upon characteristic even of its legal representatives and assistants in the full amount;
 - in cases of liability according to the German Product Liability Act ("Produkthaftungsgesetz");
 - in cases of damage to life, health and body.
 - in case of gross negligence also of its legal representatives and assistants which should have been avoided by the obligation to exercise diligence;
 - for slight negligence also of its legal representatives and assistants as long as a duty is violated whose adherence is of great importance for the achievement of the contractual purpose (essential contractual obligation) and only amounting to the typical and predictable damage.
- 12.3 For each individual case of damage, the liability is limited to thrice the license or purchasing price amount in case of time-limited software allocation or limited to the typical damages predictable upon contract conclusion at the maximum. Other than stated above, liability for damages caused due to slight negligence and due to lost profits, additional expenditure at the client, downtime and/or due to declines in sales is excluded.
- 12.4 The client is responsible for regularly saving his data [section 5 data back-up]. If the data loss is the fault of thinkstep, thinkstep will be liable exclusively for the duplication and recovery costs which would have been incurred had the data been duly saved.
- 12.5 For defects of contractual items provided for a limited period of time which were already present during contract conclusion, liability regardless of negligence as per Section 536 a paragraph 1.1. of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*) is excluded.
- 12.6 thinkstep is not liable for the functionality of the telephone lines to the server covered in the contract. Nor is thinkstep liable in case of power or server failures which are not in thinkstep's scope of influence, nor in other cases of force majeure such as unpredictable, unavoidable and extraordinary happenings
- 13. Statute of limitation**
- 13.1 Claims of the client due to defects of quality and title within the framework of longterm software allocation become time-barred within a year after delivery. If the defect of title exists in a third party's right in rem due to which the software can be demanded, the statutory limitation period applies.
- 13.2 For other claims of the client from the contract as well as from obligations according to Section 311 paragraph 2 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*), a limitation period of one year from the commencement of the statutory limitation period applies. The claims become time barred at the latest with the lapse of the statutory maximum period [Section 199 paragraph 3 and 4 *BGB*].
- 13.3 In case of intent and gross negligence, the statutory limitation periods apply.

Specific clauses on software allocation

- 14. Copyright protection**
- The software products, databases and database contents as well as programme libraries and executable scripts (also called "software", "software products" or "contractual software") allocated to the client by thinkstep are copyright protected universally. Additionally, the license terms of other software or database manufacturers apply for the software tools or databases integrated in the software, as described in the respective special contractual terms.
- 15. Limitations of granted rights of use**
- 15.1 **Backup copies and duplication**
- The client is allowed to create backup copies which are necessary for the secure operation of the software and the database content. These are to be marked as such and (if technically possible) are to be furnished with the copyright annotation of the original data storage medium. A user handbook issued by thinkstep may only be copied for in-house purposes.

- Other copies of the software, individual modules and/or database contents – especially the installation on another server for example as a test and/or development system or any other virtual environment – requires the prior written consent of thinkstep and are nevertheless to be remunerated additionally in any case.
- 15.2 **User identifications/programme alterations/interoperability/decompilation**
- The client has no right to hand over user identifications and/or passwords, for the software or for database content connected to the software, to third parties.
 - The client is not authorised to alter partially or wholly, to modify or adapt the software and/or a user handbook that has been issued. The retranslation or decompilation of the allocated programme code is only permissible under the conditions of Section 69 e of the German copyright law (*Urheberrechtsgesetz*). If the client is not able or willing to carry out the exceptional operation allowed as per the copyright law on its own or by its employees, it has to give thinkstep the opportunity – before and in preference to commissioning a third party company – to do the desired work for establishing interoperability within an appropriate period at an appropriate pay. When commissioning a third party company, the employees are to be obligated to maintain confidentiality. Proof of this is to be presented to thinkstep in writing.
 - The removal of copy protection or similar protection routines is only permitted if this protective mechanism affects or hinders problem-free programme usage. The client is prohibited from altering or removing copyright annotations, tag/brand label and/or ownership information of thinkstep or other third parties on or from the software and the user handbook.

16. Transferring the software

- 16.1 **Resale in perpetual software allocation**
- The client is entitled to sell or give away the software received under a perpetual license agreement and contained in the data storage media, including accompanying information, to a third party provided that the third party agrees that the existing license terms will continue to apply to such third party, and that the third party is located within the European Economic Area. In case of transfer, the client has to give the new user all programme copies including any available backup copies or destroy the copies if does not hand over. As a result of the transfer, the client's right to use the programme expires. The client has to inform thinkstep of the name and full address of the buyer in writing.
- 16.2 **Temporary transfer for commercial purposes**
- The rental or leasing [also by way of Application Service Providing] for commercial purposes of perpetual software is only allowed with thinkstep's prior written approval.

17. Termination of rights of use in software leasing and contract rescission

- 17.1 Upon termination of a temporary license contract as a software lease, the client is obligated to give back all obtained original data storage media as well as the complete accompanying information given to him and any other documents at no cost. The proper return also covers the complete and final deletion of all existing copies. thinkstep can waive the return and order deletion of the contractual software as well as destruction of the documents. If thinkstep exercises this right to choose, the client has to guarantee thinkstep of the executed deletion and destruction expressly in writing.
- 17.2 If the contract on long-term allocation of software is to be rescinded, the regulations in paragraph 1 apply provided that the termination time of the lease contract supersedes the time of regranting the services received from the contract for long-term software allocation.

18. Third Party Content

The software products and Database of thinkstep were developed by using proprietary software and open source software and they contain proprietary as well as open source software tools. The GaBi-database contains Information, Data and Datasets of third Parties ("Third Party Content"), especially from the Database of ECOINVENT. The usage of Third Party Content is generally restricted in the same way as thinkstep Proprietary content as under this terms and conditions. Nevertheless the usage of third Party content may be restricted by the third party. In this event thinkstep will mark such content as Third Party Content in an adequate manner. Upon customer's request thinkstep will provide the additional license terms for Third Party Content. However, if Third Party Content is publicly available, e.g. data of the Greenhouse Gas Protocol, the client has the option to use data of the original source; in this case those authorization rights apply.





thinkstep

19. Open Source Software

The software products and databases of thinkstep were developed by using open source software and they contain open source software tools. For open source components contained in software products or databases of thinkstep, the applicable open source license terms shall have priority over these general terms and conditions.

Please find a list of the open source software contained in the software products and databases of thinkstep and the applicable open source license terms on

<http://www.wiki-software.com/it-sources/open-source-terms-conditions/>

<http://www.ggb-itware.com/it-support/external-documentations/open-source-terms-conditions/>

Specific clauses on software maintenance

20. Scope of Maintenance

Maintenance means the delivery of software and database content updates/upgrades as well as technical support services for the contractual software outside of the warranted and/ or statutory limitation period which are settled with a flat maintenance fee. For temporary software leases (subscription), the maintenance is included in the subscription fee. For perpetual licenses, an initial one year maintenance contract is to be concluded at the same time as the perpetual license contract. thinkstep provides maintenance only for the current software version.

21. Delivery of updates/upgrades and hotfixes

- 21.1 Updates/upgrades are revisions of individual functions with individual new functions in existing areas. Hotfixes are pure rectifications of defect in case of category 1 defects.
- 21.2 If this is necessary for new versions of contractual software, the client will carry out adjustments of hardware and software system environment especially new versions of the operating system and other third party software in good time and at his own cost.
- 21.3 thinkstep grants the client the right to use the new version of the contractual software in the scope that the client was entitled to use the original contractual software through the license terms.
- 21.4 The client has to obligate his employees who use the software to install the delivered updates/upgrades and hotfixes immediately if the additionally applicable special contractual terms do not contain deviating regulations.

22. Hotline support

thinkstep provides the client a hotline for technical support in case of technical questions and problems within the statutory or warranty period, or as part of a maintenance or temporary contract. The hotline can be used by the client's administrators (max. 5 people to be appointed) during the normal office hours (Monday to Friday from 9:00 a.m. to 5:00 p.m. CET) with the exception of public holidays in Baden-Wuerttemberg (Germany).

Specific clauses on Paid Expert Services

23. Scope of Paid Expert Services

- 23.1 The individual contract (offer) contains the regulations related to the services e.g. with regard to their precise task, the remuneration, the contract duration, place of performance, time scope etc.
- 23.2 thinkstep reserves the right to select employees or third parties as subcontractors who provide the owed services.
- 23.3 Information that is necessary for the completion of the services will be transferred by the client in due time. The client provides the necessary computer capacities that are required for fulfilling the tasks on appropriate data processing equipment at no cost.
- 23.4 If the client does not adhere to an agreed upon deadline for service to be provided by thinkstep (e.g. installation of software), thinkstep is entitled to invoice the remuneration owed by the client for this service.

24. Duration/termination

- 24.1 Unless otherwise stated in the offer by individual agreement, temporary contracts and maintenance contracts and any other continuing obligation contracts begin with the effective date and run for one year (the "initial term"). After the initial term, the contract shall automatically renew for another year (the "Renewal Term") unless terminated in writing 3 (three) months before the end of the term by either party.
- 24.2 In case of termination, the remuneration will be regulated as follows: For the services provided until then, the entire remuneration will be due. The claim for remuneration is not applicable for services that are not to be fulfilled due to premature termination.

General final clauses

25. Written form

- 25.1 All agreements which contain an alteration, addendum or elaboration of the contractual terms as well as special confirmations and agreements are to be put down in writing.
- 25.2 Under reservation of 26.3, the usage of e-mail suffices the requirement of the written form if the receipt is reconfirmed to the sender or sender acknowledges receipt by answering.
- 25.3 Terminations are required to be in written form.

26. Place of fulfilment/applicable law/legal venue

- 26.1 Place of fulfilment for deliveries and services is Leinfelden-Echterdingen (Germany).
- 26.2 These contractual terms and the contracts concluded on their basis are subject to the substantive law of the Federal Republic of Germany excluding the UN Convention on Contracts for the International Sale of Goods.
- 26.3 If the client is a businessman, legal entity under public law or public law special fund, the legal venue for all disputes arising from this contract is the court responsible for thinkstep's company headquarters. thinkstep is however entitled to assert its own claims at the client's legal venue.

27. Assignment/severability clause

- 27.1 Claims arising from contracts concluded with thinkstep can only be assigned with thinkstep's prior written consent, except to affiliate companies, an affiliate being any company where a majority of shares or voting rights are directly or indirectly held by the client or which controls the client through a majority of shares or voting rights or that is under common control with the client.
- 27.2 Should individual clauses of these contractual terms be or become partially or completely ineffective, or should there be a loophole in these contractual terms, the validity of the rest of the clauses will not be affected.

As of November 2016





Special contractual terms for the GaBi software product of thinkstep AG in the licensing of software, database contents and datasets as well as software maintenance

Scope

These contractual terms apply in addition to the general terms and conditions of thinkstep AG (hereinafter referred to as "thinkstep") and the system requirements (technical specification) in the current software version.

Specific clauses on software licensing

1. Contractual item/delivery and scope of services

1.1 thinkstep licenses the GaBi software with software license key to the client for own usage on a continuing basis or temporarily depending on the contractual agreement at the price agreed upon. An Online User Manual is available for the client. The allocation of released updates/upgrades and the usage of the support hotline are included in the scope of the maintenance or subscription contract.

1.2 The software covered by the contract will be delivered in executable form (object code). The source code is not a contractual item.

2. Granting of rights of use

2.1. The contract delivered by thinkstep to the client grants the following rights to use the software:

a. In case of perpetual licensing

Upon complete payment of the agreed price, thinkstep grants the client the simple (non-exclusive) permanent right to use the contractual software and the accompanying information as per the scope listed in section 3 and in the offer. Until full payment is made, the client will be given revocable permission to use the software as per the contract. Furthermore, the client acquires ownership of any delivered data storage media and accompanying information.

b. In case of subscription licensing

In case of subscription licensing (software rental agreement), thinkstep grants the client the simple (non-exclusive) temporary rights to use the contractual software and the accompanying information as per the scope listed in section 3 and in the offer if full payment agreed upon during the contract duration has been made. Until full payment is made, the client will be given revocable permission to use the software as per the contract.

2.2 GaBi database content and its datasets

Upon full payment of the agreed upon price, the client has the right to use individual datasets from the respective GaBi database content in client projects in the scope listed as per section 3.2 in the following.

3. Scope of rights of use

3.1 Scope of use of the GaBi software product (full version, academy version, education version)

The scope of use granted to the client for the software, delivered with software license keys including accompanying information, is determined as per the client-specific functionalities listed in the offer. Additional licenses are only distributed when a current main license has previously been purchased for use by the same client or by one of the client's affiliates.

a. Full version

With the full version, the client is entitled to use the software with the agreed upon number of licenses delivered by thinkstep during the agreed upon duration for commercial business, without purpose or installation-related restrictions.

b. Academy version

If the contractual item is an academy version, the client is not allowed to carry out projects which are financed by companies with the software. thinkstep retains the right to reject an application or cancel a license if it is suspected that the license is being, or will be, used inappropriately.

c. Education version

If the client was licensed an education version of the software in a licensed scope by thinkstep as per the contract, the client has to use the software exclusively for the purpose of teaching in universities. The GaBi Education license may only be used for education purposes in programs up to and including the level of master, or equivalent, only at Universities and Colleges. PhD students in non-OECD countries may also use GaBi Education. Projects directly funded by industry or public bodies are not permitted with this version. thinkstep retains the right to reject an application or cancel a license if it is suspected that the license is being, or will be, used inappropriately.

d. Test or demo version

In case of a test or demo version, the client receives the non-transferrable simple right to use the licensed software in the company as per the conditions for the test period. The GaBi test or demo license may not be used for commercial purposes or for projects. It should only be used for the evaluation of the software and database. The database included in the Demo version is intended purely for demonstration purposes and therefore contains some non-representative assumptions.

3.2 Scope of usage of the GaBi database content and its datasets

The client may not extract or re-utilise the contents of the databases. The client may not temporarily or permanently reproduce, display, distribute or communicate to the public the whole or partial content of the databases, unless and only to the extent that the reproduction, display, distribution or communication contains only an insubstantial part of the database contents and it is solely for the purpose of supporting or explaining any results obtained through the permitted usage of the software. Any usage of the database content to be documented for internal as well as permitted external applications is to be cited as a literary quote: e.g., "GaBi: Software and database contents for Life Cycle Engineering. thinkstep AG, Stuttgart, May 2011". For the purpose of clarification and without being exhaustive, individual aggregated datasets pertaining to the client's business as a result of using the database and software may be published. For the purpose of clarification, distributing software with data imported from GaBi





thinkstep

database is not permitted.

4. Term of subscription licensing

4.1 A subscription agreement starts with the formation of the contract and is concluded with the correspondingly installed software license key for a period of one year. After this contract term, the contract shall automatically renew for another year unless terminated in writing three months before the end of the term.

4.2 The right to terminate this contract without notice remains unaffected for both contractual partners if there is an important reason. An important reason exists

- a. if the other contractual partner continuously and despite repeated warning violates against the duties arising from this contract;
- b. if the client defaults payment by more than two months;
- c. if insolvency proceedings are instituted on the assets of the other or the institution of the insolvency proceedings is rejected due to lack of assets.

Specific clauses on software maintenance

5. Contractual item

5.1 The free allocation of released updates/upgrades and the usage of the support hotline as thinkstep's General terms and conditions are included in the subscription licensing or in separate maintenance contracts for perpetual licenses. Maintenance contracts only apply to the current version of GaBi software. The delivery of new additional modules with new functional areas is to be remunerated independently.

5.2 Updates/upgrades will be delivered in an executable code to the client per automated download or per e-mail, or if desired, per data storage medium at thinkstep's choice. The source code is not a contractual item and will therefore not be delivered.

As of March 11th, 2015

