

# General Terms and Conditions of Business of ALSO Schweiz AG

Valid from 1 November 2018

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## 1. Subject matter of the contract and scope of application

**1.1** These General Terms and Conditions of Business (hereinafter “GTC”) govern the rights and obligations between ALSO Schweiz AG (hereinafter “ALSO”) and its Customers in connection with all business relationships regarding all products and services of ALSO relating to information and communication technology (“ICT”). The terms “Customers” or “Customer” include resellers and end customers (which can be consumers). Without the express written consent of ALSO, the Customer’s general terms and conditions of business shall not be applicable.

**1.2** These GTC also apply to all future business relationships, even if they are not expressly agreed another time. These General Terms and Conditions of Business and the respective Service Terms and Conditions are deemed accepted at the latest when the service is used.

**1.3** The individual contract between the parties takes precedence over these GTC and any Service Terms and Conditions. The Service Terms and Conditions and other specific terms and conditions take precedence over these GTC.

## 2. Offer and conclusion of contract

**2.1** Offers from ALSO are non-binding and solely constitute an offer to the Customer to make an application (hereinafter also called “order”). Drawings, images, dimensions, weights and other services only represent approximate values and in particular do not constitute warranted characteristics, unless they are expressly agreed as such in writing.

**2.2** To become legally effective, orders must be confirmed by ALSO in writing or online via the e-Service tool. In the case of immediate delivery, the written confirmation can be replaced by an invoice. Employees of ALSO are not authorised to agree verbal ancillary agreements or give verbal representations that go beyond the content of the written contract. Any such agreements or representations are invalid.

**2.3** The Customer is bound by the orders it places by telephone, in writing or by electronic means. If the Customer submits an order electronically or arranges for ALSO to execute it via an electronic tool provided by ALSO (e.g. Warehousing, myStore, etc.), the provisions of section 11 shall apply in particular. Orders and confirmations that are submitted and received electronically via such an e-Service tool are deemed to have been validly submitted and signed. The Customer must report to ALSO without delay any inconsistencies between the content of the order placed by the Customer and the data recorded by ALSO, otherwise it forfeits all rights.

**2.4** Conclusion of the contract is in all circumstances subject to authentication of the Customer, which will only be granted if all of the following are present: a correctly filled-out customer application form, the express acceptance of these GTC and other product-specific terms and conditions (e.g. Service Terms and Conditions) and a positive creditworthiness check of the Customer.

**2.5** Order amendments or cancellations requested by the Customer are subject to the written consent of ALSO and, if necessary, will be processed pursuant to the rules on returns in section 16. ALSO reserves the right to invoice the Customer for any costs incurred or for administrative charges.

## 3. Customer’s rights and obligations

**3.1** The Customer must notify ALSO without delay of all information required for performance of the contract and must ensure that it fulfils all obligations to cooperate without delay and to the extent required.

**3.2** The Customer undertakes to report to ALSO without delay any significant changes to its enterprise, e.g. concerning business and delivery address, shareholders, legal form, as well as any possible financial problems which could jeopardise the existence of the business.

**3.3** The Customer authorises ALSO to obtain information from third parties concerning the legal relationship and must give ALSO its written consent to this whenever requested (e.g. to clarify creditworthiness, collections, etc.).

**3.4** As long as the purchase price has not been paid in full, the Customer is obliged to maintain the products delivered by ALSO, to treat them with care and to insure them against all usual risks.

**3.5** The Customer is responsible for establishing appropriate data protection regulations in contractual relationships with third parties and with its end customers, and for informing the third parties concerned about the processing, storage and forwarding of data and, if necessary, about order data processing by ALSO. The Customer is responsible for obtaining the necessary consents for this from the third parties concerned and for submitting them to ALSO on request.

**3.6** When using services of ALSO, the Customer undertakes to take appropriate, state-of-the-art technical measures to protect against misuse of data and unauthorised access to the infrastructure. The Customer is responsible for controlling access, ensuring security and protecting the files on its system and during transmission. It undertakes to regularly secure and protect its data.

## 4. Reseller’s rights and obligations

The reseller buys and delivers the products and services to its end customers in its own name, on its own account and at its own risk. The reseller is not entitled to act towards end customers or other third parties in the name or as representative of ALSO or to conclude any transactions or contracts on behalf of ALSO. The reseller undertakes to hold the necessary authorisations from the respective manufacturers and suppliers for the resale of products and to adhere to the (contractual) resale provisions and conditions of the manufacturers and suppliers, if necessary requiring its customers to comply with these.

## 5. ALSO’s rights and obligations

**5.1** For the purpose of fulfilling its obligations, ALSO may engage at its own discretion agents and third parties (in

particular subcontractors) or employees of such third parties. However, ALSO remains responsible towards the Customer for providing the service and selling the products. Where third parties are used at the Customer's request, the Customer is solely liable for the risk of non-performance or poor performance by the sub-contractor concerned.

**5.2** ALSO will set the criteria for authenticating the Customer in accordance with section 2.4. For each Customer, ALSO will also set an individual credit limit and any other special conditions according to the level of annual sales planned by the Customer and its creditworthiness. In the event of signs of insolvency or other doubts about the Customer's creditworthiness, ALSO reserves the right at any time to adjust the credit limit or require advance payments.

## 6. Prices and terms and conditions

### 6.1. Prices

**6.1.1** The prices of products and services on price lists are denominated in Swiss francs (CHF), excluding value added tax. The prices set or confirmed by ALSO shall apply at all times. ALSO reserves the right to adjust prices and terms and conditions at any time. ALSO reserves the right to also pass on price increases by manufacturers/suppliers/insurers, etc., higher public duties and higher prices due to currency fluctuations until delivery of the products or provision of the services or during use of the services.

**6.1.2** Under certain circumstances, project prices for project-related transactions may differ from the price list. These are subject to approval by the respective manufacturer. The Customer is obliged to adhere to the respective terms and conditions imposed by the manufacturer on the project-related transaction. This applies in particular to proof of end-customer verification by the Customer.

**6.1.3** If the manufacturer refuses to give approval or if the Customer contravenes the project terms and conditions, ALSO is entitled, irrespective of the assertion of further claims, to charge the Customer the difference between the specially agreed price and the regular sales price applicable at the time of the order. ALSO reserves the right to collect this difference itself, or to assign the claim to the manufacturer.

### 6.2. Consequences of exceeding credit limits

If a Customer makes a call-off order that exceeds its credit limit, ALSO is released from its delivery obligation. If a Customer exceeds its credit limit or receives a negative credit check, it will be offered the option to call-off the goods against advance payment.

### 6.3. Scope of delivery and delivery

**6.3.1** ALSO will only deliver the ordered products and services within Switzerland and the Principality of Liechtenstein and ex the ALSO warehouse. Transport, insurance, excise duty and customs and excise formalities for re-export, etc. are the responsibility of the Customer in all cases.

**6.3.2** The Customer may collect the goods or arrange for the goods to be collected from ALSO during business hours. At the Customer's request, the goods will be forwarded by ALSO or by a third party commissioned by ALSO. The delivery terms and conditions are specified in the current "Service prices and postal arrangements" price list. ALSO will take out transport insurance based on the following terms and conditions and which is included in the forwarding charges.

The maximum liability of ALSO for damages associated with transport is:

- General cargo (per delivery note)	CHF	1,000,000.00
- Parcels sent by post (per parcel)	CHF	1,500.00
- Domestic recorded-delivery letter	CHF	500.00
- Non-domestic recorded-delivery letter	CHF	150.00

**6.3.3.** For the option to collect the goods, the Customer must, within five days of the invoice date, either collect the goods or arrange for them to be collected. The risks pass to the Customer once the invoice is issued. During the collection period, ALSO will hold the goods for safekeeping at the Customers' expense and risk. If the Customer does not collect the goods within this collection period, it is in default of acceptance. In this event, ALSO is entitled either to store the goods or to arrange for them to be stored at third parties, to forward the goods to the Customer or to withdraw from the contract. ALSO will charge the storage and forwarding costs to the Customer. The same rule shall apply to unforeseen interim storage, for which ALSO is not responsible.

### 6.4. Place of performance

The place for performing purchase contracts for products is the registered office of ALSO. For services, the place of performance is that agreed in the contract, failing which it is the registered office of ALSO.

### 6.5. Deadlines and delivery periods

Deadlines and delivery periods are non-binding. The information is provided in good faith, although without warranty, and is subject to the punctual delivery to ALSO by manufacturers and suppliers. ALSO is only liable if deadlines expressly affirmed in writing are not met. An agreed deadline will always be extended by the period by which the Customer itself is delayed in fulfilling its contractual obligations.

The date of delivery or performance, if not specifically marked on ALSO's invoice, is the invoice date.

### 6.6. Partial delivery and performance

ALSO is entitled to make partial deliveries and perform partial services. In the case of delivery contracts, each partial delivery and partial performance is deemed an independent performance. Collective and scheduled deliveries are governed by the "Service prices and postage arrangements" price list.

## 7. Due date and payment default

**7.1** All invoices from ALSO must be paid net within 14 days of the invoice date. Once this payment period has expired, the Customer is immediately deemed to be in arrears without any reminder being issued. ALSO may charge interest for late payment at 7%.

**7.2** If the Customer falls into payment arrears, all claims immediately become due for payment and ALSO is entitled, without a specific reminder, to make the provision of further services dependent on full payment of outstanding invoices, advance payments or other collateral.

**7.3** ALSO is also entitled to block the Customer's services after giving a one-off reminder specifying a deadline. All consequences arising from such termination of services shall be borne exclusively by the Customer. ALSO reserves the right to require an appropriate fee for removing the block.

**7.4** In particular, ALSO is entitled to claim reimbursement of all costs for reminders, collections, legal and court proceedings and for further damages. ALSO reserves the right, after the second reminder, to levy an administrative charge of CHF 50.00 and, for unsuccessful payment negotiations or for an instalment agreement, a one-off handling charge of CHF 150.00 (e.g. for third reminder, postage, investigations, clarifications and gathering of information/third-party services, etc.).

## 8. Software

**8.1** ALSO and/or the licensor will grant the Customer and/or its end customers the right to use the services to the extent agreed in the licensor's special agreement, which is determined by the licensor's special provisions. Where no licensing agreement has been entered into, the following will apply: The licensor will grant the Customer against payment a non-exclusive, revocable usage right limited by territory to Switzerland and the Principality of Liechtenstein and by time to the contractual term.

**8.2** If a third party asserts claims against the Customer or its end customers on the grounds of a breach of a patent, copyright or other industrial property right caused by delivered third-party products, the Customer shall inform ALSO in writing and without delay about any such breaches or asserted claims. ALSO shall forward this information to the supplier and/or manufacturer without delay, and require them to take measures to settle the situation.

**8.3** ALSO excludes any and all liability for open source software used by itself or by third parties. ALSO excludes any liability and warranty for all software made available, its installation and its error-free operation.

**8.4** When reselling or lawfully sharing software or digital content, the Customer undertakes to transfer the obligations arising from the software manufacturer's terms and conditions of utilisation and guarantee to the respective purchaser.

**8.5** The Customer must establish suitable organisational measures to ensure that software and digital content cannot be unlawfully copied. The Customer undertakes to adhere to the corresponding instructions of the licensor.

## 9. Test products

ALSO may provide the Customer with test products (goods/software). The Customer must assess the test products during the agreed test period.

This period commences on the day after delivery has been completed. Once the agreed test period has expired, the test product is deemed to have been approved if the Customer has not previously submitted a declaration rejecting it. The Customer is deemed to have met the deadline for rejection if it hands the declaration over to the post office on the final day of the test period, at the same time returning the product. If the Customer rejects a product, it undertakes to send the product back in an undamaged condition and within the deadline specified by ALSO.

## 10. Products owned by ALSO

**10.1** If ALSO provides a product or item of equipment on a rental or loan basis, it remains the property of ALSO for the entire period it is rented or loaned. It is prohibited to encumber such property in any way. The Customer must maintain the product, treat it with care and insure and protect it against all usual risks.

**10.2** In the event of seizure, retention or attachment, the Customer undertakes to inform ALSO without delay and notify the authorities that ALSO is the owner. If the Customer stops purchasing a service, it undertakes to send the product back in an undamaged condition and within the deadline specified by ALSO. If the Customer fails to fulfil its obligations, ALSO reserves the right to invoice the Customer for the equipment. The Customer undertakes to completely and irrevocably delete any and all data saved on the product before returning it to ALSO.

## 11. E-Services

**11.1** ALSO offers its (authenticated and authorised) Customers, in the context of performing its contracts for products and services, the use of services via various electronic software solutions and systems (e-Service solutions for ordering systems, online shops, warehousing, etc.). The Customer must accept separate service terms and conditions, in addition to these General Terms and Conditions of Business.

**11.2** Unless specifically stated, the Customer must provide hardware and software with the required technical functionality for using the e-Service. The Customer is responsible for the hardware and software within its control. If user data need to be entered, the Customer is responsible for inputting and maintaining these, for their content and for processing them lawfully.

**11.3** If ALSO provides the Customer with software for using a service, use of the software is subject to the licensor's terms and conditions pursuant to section 8, which must be accepted before the software is used by the authorised users.

**11.4** The Customer is not authorised to use the respective e-Service until the prerequisites for authenticating the Customer have been met (pursuant to section 2.4). The Customer will then receive the required access details, comprising name (user ID) and password (login), to access the protected customer area. As master administrator, the Customer must ensure that ALSO always has up-to-date information about the authorised users and controller(s).

**11.5** Access details and other identifiers are personal, and authorised users must keep them secret and not disclose them to unauthorised persons. Passwords must not be easy to guess or stored on the browser or computer of the Customer or third party. Passwords must be changed at least once a year. Any person who has been authenticated by ALSO is deemed to be an authorised user of the respective e-Service. The user identifier is deemed to establish the identity of the sender.

**11.6** The e-Services are available to use either free of charge or against payment. In either case, the currently valid price list of ALSO shall apply. The obligation to pay begins at the latest when the particular service is used, provided or subscribed.

**11.7** When the e-Service is granted, the Customer receives the non-exclusive right to use the e-Service tool. It is not permitted to grant sub-licences to third parties without ALSO's written consent. All rights are retained by ALSO and/or the licensor.

**11.8** The Customer is not permitted to use access details, data or content for other than the intended purpose or for its own purposes. The Customer and the respective authorised users are responsible and liable for using and calling the service lawfully and in accordance with the contract. The software solution of the respective e-Service may not be decompiled, processed, altered or otherwise decrypted.

**11.9** ALSO reserves the right at any time to alter the scope of the e-Service, including of the respective software solution, and to adapt it to current requirements.

## 12. Reservation of title

The products delivered by ALSO remain the property of ALSO until ALSO has received the purchase price in full and in accordance with the contractual provisions. Up to this date, ALSO is entitled, pursuant to Art. 715 of the Swiss Civil Code, to record the reservation of title in the reservation of title register at the respective location of the item. The Customer shall agree to registration of reservation of title in all respects of relevance to registration and shall cooperate over any additional declarations required.

## 13. Complaints

The Customer must check the products immediately after delivery or collection for completeness, conformity with the delivery documents and defects, and must report any identifiable deviations and defects in writing without delay. If no complaint is issued within six days of receipt of the products or the start of the service, the delivery/service is deemed to have been performed in accordance with the contract, unless the deviation was not identifiable despite thorough examination. Furthermore, transport damage or missing quantities which are apparent at the time of delivery must be recorded on the haulage contractor's receipt. Defects which are not notified are deemed to have been approved. If an error is not relevant or reproducible, it is not deemed to be a defect.

## 14. Warranty and guarantee

**14.1** The Customer acknowledges that ALSO does not check incoming goods delivered by manufacturers or suppliers for material defects or functionality. Responsibility for the selection, configuration, deployment and use of products and services and the results achieved with them lies with the Customer and end customer.

**14.2** In the absence of an explicit assurance, no warranties will be given to resellers and end customers. In respect of products from third parties, ALSO is only liable to resellers and end customers to the extent that the third party (e.g. manufacturer, deliverer, importer, licensor, service provider) is itself liable to ALSO. The only obligation of ALSO is to assign any warranty and/or guarantee claims it may itself have against third parties – where applicable – to the Customer. The Customer acknowledges that, on account of the respective applicable provisions of the third party, any warranty will generally be limited at the third party's choice to rectification of the defect, delivery of fault-free replacement goods or a credit note.

**14.3** The warranty deadline for consumers is determined, firstly, by the warranty given in the order confirmation and, secondly, by the product description of the manufacturer/supplier. If a warranty is given, the deadline is at least 24 months from the purchase date, in accordance with Art. 210 para. 1 Swiss Code of Obligations.

**14.4** There is generally no warranty in the case of defects due to one of the following causes:

- a) inadequate or interrupted maintenance;
- b) failure to observe the operating or installation instructions;
- c) improper use of the products;
- d) use of unapproved parts and accessories;
- e) natural wear or end of life;
- f) improper handling or treatment;
- g) unauthorised interventions by the Customer or third parties;
- h) external influences, in particular force majeure (e.g. failure of the electricity supply or air conditioning, natural hazards) as well as other reasons for which neither ALSO nor the manufacturer/supplier are liable (force majeure, section 15).

**14.5** A guarantee constitutes a voluntary contractual performance by the manufacturer/supplier which exceeds the consumer's mandatory warranty claims pursuant to Art. 210 para. 1 Swiss Code of Obligations. The reseller will be invoiced for warranties that are not covered by the manufacturer/supplier and additional costs attributable to the reseller for settling warranty or guarantee claims.

**14.6** Defects covered by warranty do not entitle the Customer to withdraw from the purchase or to declare this rescinded.

**14.7** ALSO warrants that it will provide services expertly and carefully. It is only liable to perform a contract for work and services if this is explicitly stated in the individual contract.

**14.8** In particular, ALSO gives no warranty in the case of services that its electronic systems and interfaces will function without interruption, that data will not be lost or that data will not be destroyed when being transferred.

**14.9** Its representations and warranties do not cover the availability, topicality and accuracy of content of data and information provided to the Customer electronically.

## 15. Force majeure

Delays in delivery and performance pursuant to section 6.3 above entitle ALSO to postpone delivery or performance by the duration of such disruption, plus an appropriate start-up period, or to wholly or partially withdraw from the contract, if it has not yet been fulfilled. If the disruption lasts for longer than three months, the Customer is entitled, after giving an appropriate grace period in writing of at least 14 days, to wholly or partially withdraw from the contract, if it has not yet been fulfilled. The Customer shall have no grounds to claim damages if this extends the delivery time or releases ALSO from its obligation.

## 16. Product returns

**16.1** In principle, it is not possible to exchange or return products. Products can only be exchanged or returned following prior written agreement with ALSO. Before returning products, the Customer must request a "returns number" from ALSO within 20 days of the invoice date. This returns number is valid for 10 days. Products must always be returned to ALSO or to the specified place of return within this 10-day period in undamaged and unopened packaging, together with a copy of the purchase receipt and a detailed description of the fault/defect, for the account and at the risk of the Customer. If prices have changed in the interim, ALSO will credit the goods value on the basis of the lower price. The Customer will be charged a flat-rate administrative fee in accordance with the current price list for the handling of the return consignment.

**16.2** When returning defective products, the Customer must always adhere to the set procedures defined by ALSO or by the respective manufacturer/supplier for handling returns. In the case of returns which do not include a description of the fault/defect, ALSO is entitled to conduct a fault analysis at the Customer's expense (at a minimum cost for one hour).

**16.3** ALSO reserves the right to return products to the Customer whose original packaging is missing, defective or damaged, which were returned without a returns number or were returned after the specified deadline. These returns are made at the Customers' expense and risk. If ALSO accepts the incorrectly completed return, it will always reduce the purchase price when calculating the refund.

## 17. Liability

### 17.1. Customer's liability

The Customer shall indemnify ALSO in respect of any damages, regardless of the legal basis, which are attribut-

able to i) delivered products and data or ii) non-contractually compliant utilisation of products or services by the Customer or third party. Should ALSO be the subject of legal proceedings brought by a manufacturer/supplier on the grounds that the Customer has failed to adhere to such provisions and (contractual) conditions, then the Customer shall comprehensively indemnify ALSO, including for the costs of law enforcement.

### 17.2. ALSO's liability

**17.2.1** ALSO is only liable for damages arising under warranty. All additional liability on the part of ALSO, its agents and third parties acting on ALSO's behalf for any type of damage and on any legal ground is excluded to the maximum extent permitted by law. In particular, ALSO is not liable for damages not incurred by the product itself, such as consequential damages, loss of earnings or other material or immaterial damages of the injured party.

**17.2.2** Beyond this, ALSO's liability, if any, is restricted to direct damages up to the respective purchase price and only if the Customer demonstrates that these were caused intentionally or by gross negligence or omission on the part of ALSO.

**17.2.3** In the case of services, ALSO is only liable for providing its services diligently and professionally. Defective contractual performances shall be subsequently rectified by ALSO.

**17.2.4** ALSO accepts no liability for any software made available by ALSO or third parties (including web applications, etc.), or for its installation or error-free, uninterrupted operation. In particular, it is not liable for error-free handling, accuracy and completeness, data loss, misuse or other consequential damages such as lost earnings, production downtime, etc.

**17.2.5** ALSO's liability, if any, for transport damages is always restricted to the insured performance pursuant to section 6.3.2.

**17.2.6** The products are intended for normal commercial or private utilisation in accordance with the operating instructions. They are not intended to be used for security systems, nuclear power stations, military installations, medical equipment (in particular those with a life-support function) or for the manufacture of weapons. All possible liability for use in these fields is herewith rejected.

**17.2.7** This exclusion of liability does not extend to personal injury, damage caused by intentional or gross negligence or damage subject to product liability. Further mandatory statutory liability provisions remain unaffected.

## 18. Termination of the contract

### 18.1. Termination of the contract

**18.1.1** Where the contract is established on a permanent basis, the parties shall determine the start of the contract.

**18.1.2** Except where otherwise stipulated, this Agreement is valid for one (1) year from the start of the contract. The start of the contract shall be determined by the parties.

**18.1.3** The Customer and ALSO may each give written notice one (1) month before the end of a contract year that they no longer intend to extend the contract. If no written notice is given, the contract is automatically extended for another contract year.

**18.1.4** ALSO may end the contract at any time for good cause. In particular, good cause is deemed to be present in the following cases:

- a) Repeated delays in payment and default
- b) Bankruptcy or imminent bankruptcy of the Customer
- c) Moratorium
- d) Force majeure
- e) Failure to comply with confidentiality and data protection provisions

## **18.2. Restriction of contract**

If the Customer's utilisation deviates from the customary intended use or the Customer's conduct is unlawful or contrary to the contract, ALSO can compel the Customer to act lawfully and in accordance with the contract, change, restrict or stop provision of services without notice or consideration, terminate the contract without notice or consideration and, if necessary, request compensation and release from liability for third-party claims.

## **18.3. Consequences of terminating the contract**

**18.3.1** Following termination of the contract, all rights of the Customer to use the services and their content expire. This also applies if individual works or services have been provided to optimise personal use and/or server performance. ALSO will also delete the user data contained in the service.

**18.3.2** Following termination of the contract, the Customer shall irrevocably delete the content and data provided or downloaded, in particular personal data. The Customer shall return to ALSO all intellectual property rights, except in the case of a paid licence for unlimited use.

**18.3.3** ALSO reserves the right to claim compensation for damages and other expenses for premature termination due to breach of contract, misuse or for any other good cause.

## **19. Assignment/set-off/retention**

**19.1** In the absence of ALSO's written consent, the Customer is not entitled to assign rights and obligations and any claims against ALSO or to set these off against claims which ALSO has against the Customer.

**19.2** Any right of retention the Customer may have in respect of ALSO's products is completely excluded.

**19.3** ALSO may at any time transfer or assign the rights and obligations arising out of this contract to other companies within the ALSO Group. If necessary, the Customer will be informed of this in good time.

**19.4** The Customer may neither transfer nor assign rights and obligations under its contract with ALSO without ALSO's written consent.

## **20. Confidentiality obligation and information security**

**20.1** The contractual parties undertake to keep facts and data confidential that are neither public nor generally accessible. These include, in particular, prices, information about prices, availability, product data and other confidential data and information of a commercial nature, e.g. discounts, retailers' margins, bonuses, configurations, content of e-Service solutions or other advance performances and personal data. In case of doubt, all information and data must be treated confidentially. This obligation must also be imposed in writing on third parties involved (employees, agents, contractors). The Customer undertakes to use these facts and data only for the purpose of the contractual relationship with ALSO and not to pass them on to third parties without ALSO's prior, explicit, written consent. Neither is the Customer entitled to store any information or data received, in writing or electronically, on computers other than its own or those it exclusively controls. The duty of confidentiality shall continue to exist after termination of the contractual relationship or after fulfilment of the agreed service or use of the service. This shall not affect any legal obligations to provide information.

**20.2** The Customer undertakes that it, its employees and third parties it has brought in will comply with the operational, technical and security-relevant regulations and planned protective measures in accordance with the latest state of technology and knowledge, in particular with regard to access and access requirements for systems and password and identification features (passwords, login data, etc.). The Customer is solely responsible for ensuring information security.

## **21. Data protection and data storage**

**21.1** ALSO shall comply with the applicable Swiss law when processing customer and personal data (Swiss Data Protection Act (DPA) SR 235.1) and, where applicable, European data protection law (Regulation (EU) 2016/679 (General Data Protection Regulation)); in particular, with regard to monitoring the behaviour of data subjects located in the EU (Art. 3 (2)(b) GDPR) and with regard to the supply of products and services to data subjects in the EU and the EEA (Art. 3 (2)(a) GDPR).

**21.2** ALSO shall provide information at [https://also.ch/ec/cms5/en\\_6110/6110/legal/datenschutzerklaerung/index.jsp](https://also.ch/ec/cms5/en_6110/6110/legal/datenschutzerklaerung/index.jsp) about the rights of the Customer and end customers as data subjects, the data categories, the processing purposes and justifications, the categories of data recipients, etc. The Customer declares that it has taken note of the data protection declaration and has, as necessary, obligated its end customers to comply with the declaration.

**21.3** If ALSO processes personal data of the Customer or end customers as a processor, a separate order data processing contract must be concluded. This can be the case in connection with cloud services, maintenance and repair and any warranty work.

## 22. Export

The export and re-export of products or software is subject to international export control provisions. In particular, the Swiss, European and US export provisions must be observed. The Customer undertakes to independently inform itself about the relevant foreign trade regulations and export control provisions, and to independently obtain the necessary permits from the relevant foreign trade authorities before exporting products. Each further delivery of products by the Customer to third parties (i.e. to end customers), with or without the knowledge of ALSO, also requires the transfer of export licence conditions. If claims are brought against ALSO on the grounds that the Customer has failed to obtain the export licences required for the products delivered by ALSO, then the Customer must comprehensively indemnify ALSO for this, including for law enforcement costs.

## 23. Anti-corruption

**23.1** Bribery and corruption means the misuse of entrusted powers for personal gain, including, for example, offering, promising, granting, accepting or requesting a personal benefit in return for an unlawful or ethically unacceptable act, breaching a fiduciary duty or other unlawful act or rewarding a person, a company or an authority or official for such an act, in particular criminal acts within the meaning of Art. 322<sup>ter</sup>, 322<sup>quinqüies</sup>, 322<sup>septies</sup> and 322<sup>octies</sup>, 322<sup>decies</sup> Swiss Criminal Code, Art. 4a Federal Act against Unfair Competition and Art. 5 Swiss Antitrust Act. Personal benefits include all types of gifts, loans, fees, rewards or other incentives (taxes, services, donations, etc.) that are not legally permitted benefits, benefits contractually approved by the third party or minor, customary benefits.

**23.2** ALSO will act to counter all forms of bribery and corruption. Cooperation between the Customer and ALSO should be based on objective and comprehensible criteria and must not be unfairly influenced by the granting or acceptance of personal benefits, such as inappropriate gifts or invitations. The Customer shall therefore not offer or grant any personal benefits to employees of ALSO that are intended to or have the capability to unfairly influence business and decision-making processes. The Customer shall also oblige its employees not to offer, grant or demand such benefits for themselves.

**23.3** ALSO's representatives and employees, as well as those of the Customer, are instructed to inform ALSO without delay of any violations of this provision of which they become aware.

A culpable breach of the obligations under section 23 entitles ALSO to terminate existing agreements or contracts with immediate effect without notice or to withdraw from them without cost consequences for ALSO, without prejudice to other rights such as rights of termination and withdrawal. ALSO reserves the right to claim compensation for any other damages.

## 24. Intellectual property rights

**24.1** These GTC and all other materials (e.g. manuals) are know-how of ALSO or the manufacturer and are protected by copyright or other intellectual property rights. They may not be used or copied without the express consent of ALSO or the third party. All proprietary rights to software, etc., are and shall remain the property of the manufacturer, supplier, licensor or of ALSO.

**24.2** In particular, the name and/or logo of ALSO must not be used in any form without the prior written consent of ALSO. Approval may be refused or revoked by ALSO at any time. The same applies to names and logos of manufacturers.

## 25. Amendments to these GTC

ALSO reserves the right to amend these GTC and special general contractual conditions (e.g. Service Terms and Conditions, etc.) at any time. ALSO will inform customers and end customers beforehand and in an appropriate manner, especially in the case of deviations that are to their disadvantage. The current and older versions can be viewed on the internet at [www.also.ch](http://www.also.ch) at any time. Changes to or deviations from the GTC in the form of ancillary agreements or individual agreements must be made in writing and signed by the parties in order to be valid. This formal requirement can also only be waived by written agreement.

## 26. Severability clause

Should a provision in these GTC or other agreements concluded thereunder be or become ineffective, this shall not affect the validity of the remaining provisions of the GTC or the remaining contractual conditions and agreements as a whole.

## 27. Applicable law and place of jurisdiction

The contractual relations of the parties, including these GTC and all contracts or individual agreements concluded thereunder, are subject exclusively to substantive Swiss law, excluding the conflict of laws provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Sales Convention) and the Hague Convention and private international law. The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is ALSO's place of business. ALSO furthermore reserves the right to take legal action against the Customer at its regular place of jurisdiction. This shall not affect the legally prescribed, mandatory place of jurisdiction.