

## General Terms and Conditions of pascom for software, hardware & service

In case of doubt, the German version of these GTCs shall be binding.

### A. Applicability

((1) These general terms and conditions (GTCs) for pascom GmbH & Co.KG, Berger Straße 42, 94469 Deggendorf, Germany (pascom) are the basis for all offers that are submitted to the customer by pascom and for all contracts that are concluded between pascom and the customer.

(2) The pascom services are given in the respective contract between the customer and pascom. As a specialist in complex hardware and software solutions, network technology and IP telephony, pascom provides in particular software licensing, software support, software maintenance, hardware supply and hardware maintenance services. The website [www.pascom.net](http://www.pascom.net) provides an overview of these services.

(3) Within the scope of these GTCs, the term customer refers solely to an entrepreneur, meaning a natural or legal person or a partnership with a legal personality who or which, when entering into a legal transaction, acts in exercise of his/her or its trade, business or profession. pascom does not provide services to consumers. A consumer means any natural person who enters into a legal transaction for purposes that are predominantly outside his/her trade, business or profession.

(4) These GTCs shall apply exclusively. The customer's general terms and conditions shall be void insofar as they deviate from these GTCs. Deviating general terms and conditions shall be part of the contract only if they are expressly acknowledged by pascom in writing.

(5) These GTCs shall also apply to all future offers submitted to the customer and contracts with the customer, even if this is not indicated again to the customer. If there is a newer version of the pascom GTCs upon conclusion of the contract and this is incorporated, then it shall take the place of the previous version.

### B. Definitions

The following definitions may be assumed upon use of these terms in offers, contracts or these GTCs:

(1) **Service:** An unspecific term that may include services in the areas of support, maintenance, hardware maintenance etc. The content of the services due shall be defined specifically in the relevant agreement between the parties (service contract).

(2) **Support or service periods:** Periods in which the agreed services (e.g. from support and hardware maintenance) are carried out.

(3) **Business hours:** Monday to Friday, from 8 a.m. to 6 p.m., excluding bank holidays in Bavaria and pascom company holidays.

(4) **Response times:** Period between the customer's fault report and the start of error processing.

(5) **Software maintenance:** Supply of updates and upgrades in terms of the agreed programmes and programme segments.

(6) **Support:** Umbrella term for general support services, telephone support and error processing for software.

(7) **SLA (Service-Level Agreement):** Start of error processing within a certain response time, which may (also) be outside pascom business hours.

(8) **Forum support:** Enquiries may be made only via the [www.pascom.net/forum](http://www.pascom.net/forum) online forum and will be answered there.

(9) **E-mail support:** Enquiries may be made only via the online ticket system on the mypascom customer portal and will then be answered by pascom via e-mail.

(10) **Telephone support:** Enquiries can be brought forward and answered by telephone.

(11) **Remote support:** Support and hardware maintenance services that are not performed on site but via a remote connection to the customer's IT system. pascom shall then investigate and analyse the condition of the customer's software or hardware using suitable technical equipment.

(12) **On-site support:** The support service is carried out by pascom on-site with the customer.

(13) **pascom product support:** Support services are

carried out exclusively as part of the installation and operation of pascom IP telephone systems. All current pascom versions in the LTS, STABLE and CURRENT update channels are entitled to support. Support services will be provided during installation and when repairing errors. The scope is limited to all software functions as described in the handbook. IP telephony, gateways, SIP providers and external systems that can be integrated (e.g. LDAP, phonebook etc.) are supported only using the provided guidelines. This excludes individual programming or scripting and mass changes.

(14) **IT support:** Support services that concern the customer's IT infrastructure.

(15) **Hardware maintenance:** Maintenance of contractually defined hardware.

(16) **Errors/disruptions:** Faults in hardware or software (also: programme errors) pursuant to the legal warranty/defect rights. Customers shall be offered software licensing, software support, software maintenance, hardware supply and hardware maintenance services to rectify the issue, without restricting legal rights. External influences are not considered errors or disruptions in the sense of this contract. Included as external influences are force majeure and other environmental influences or use of excessive force, incorrect handling, unusual loads, connection of additional, incompatible or unsuitable devices or software and changes made by the customer that have not been mutually agreed by the contract partners.

(17) **User support:** Support services provided by pascom to customers and their employees.

(18) **Admin support:** Support services provided to the customer, who is represented by one or several designated persons from the customer's company, who in turn claim contractual services from pascom for the customer. The designated persons are then the sole point of contact for pascom when carrying out support services. (mypascom account) Five persons.

(19) **Partner support:** Support services from pascom to the customer, who is simultaneously a partner of pascom in the context of a separately concluded contract. The support covers only the contract software passed on by the customer/partner (sublet or sold on). The customer/partner is then the sole point of contact with pascom with regard to performing support services.

(20) **User licence:** The contractually defined software may be used by no more than the maximum number of natural persons that corresponds to the licences acquired/leased by the customer (= named-user licence) or an unlimited number of natural persons may use the software but only the contractually agreed maximum

number may be simultaneously active (= concurrent-user licence). In this context, "being active" means that either the desktop client has been started and/or a mobile client is paired and/or the customer is operating an (internal or external) outgoing call.

## C. General Provisions

### Section 1: Contract conclusion and terms

(1) Offers made by pascom to the customer are binding only if they are formulated in writing or in text form.

An offer of this kind may be accepted by the customer within the acceptance period stipulated by pascom.

(2) In order to be considered valid, the contract must be concluded in written or text form. A signed fax and/or a scanned copy of the contract that has been signed by the customer and sent to pascom by e-mail shall also be regarded as the written form. An e-mail or any other legible declaration that is made on a durable medium, such as contract documentation on the pascom server, shall also be regarded as text form.

(3) The services by pascom and the remuneration services by the customer shall be agreed in the relevant contracts between the parties. In this, price lists and service descriptions by pascom shall become integral parts of the contract. Specific pascom resources may be carried out in the form of purchasing, work, service or leasing services.

(4) pascom provides guarantees only if they are expressly stated by pascom in writing. In particular, product descriptions do not constitute guarantees, but rather service descriptions. pascom takes on full responsibility for the system only if this is expressly agreed in writing.

### Section 2: Duties of the contract parties

(1) Both contract parties shall undertake to ensure especial care when carrying out contractual services. In particular, the parties shall commit to a close collaboration and exchange of information in order to quickly remedy potentially occurring problems.

(2) In the event of a recognisable delay or prevention to the services or duties of cooperation, each party shall immediately inform the other of this in text form.

(3) Furthermore, the contract parties may agree a schedule or a plan of activities and periods (milestones) for projects. In the event of delays or unfulfillment of legally prescribed or contractually agreed duties of cooperation on the customer's part (see Section 4 of this text), the milestones of this period shall be postponed

accordingly.

(4) pascom is entitled to carry out its services via individual employees and/or subcontractors.

(5) The employees used by pascom are subject solely to the official orders and supervision of pascom.

## Section 3: Remuneration, invoicing and payment date

(1) The agreed prices are net cash prices. Discounts, sales or other reductions must be agreed in writing.

(2) All prices are subject to statutory VAT. pascom is entitled to also charge for the individual parts of the services due under the contract (= invoices for partial delivery).

(3) All prices are subject to other potential tariffs and taxes that may apply nationally and internationally to the movement of goods, insofar as pascom is liable to the authorities for these fees.

(4) Services that are invoiced after time expenditure (e.g. support) shall be registered in a ticket system by pascom to which the customer shall always have access. pascom shall verify to the customer the services to be invoiced after time expenditure using records in the ticketing system. The customer must review the service records immediately after receipt and object within 10 days if he/she does not agree with an invoice. If the customer does not object within this period, this shall constitute approval of the evidence of the services.

(5) Services after the time expenditure shall be invoiced on a monthly basis and due for payment once invoiced.

(6) Services from continuing obligations (e.g. software licensing for a term, SLA, maintenance or hardware maintenance) shall be invoiced 12 months in advance and due for payment once invoiced.

(7) Invoices are to be paid upon receipt of invoice without deduction. If the invoice amount is not paid within 30 days after the invoice date, pascom shall be entitled to claim the statutory amount of default interest. The enforcement of further default rights shall not be affected.

(8) If pascom performs services that were not included in the original scope of services, pascom shall also be entitled to invoice for these, according to its applicable price lists. This also applies in particular to error rectification that does not come under the customer's warranty rights.

(9) Travel times are charged at 75 euro cents per kilometre driven. The choice of transport means falls to pascom. For travelling expenses, the respective maximum statutory rates apply.

(10) With payment via a SEPA direct debit mandate, pre-notification via invoice creation/notification shall occur three working days after the invoice date at the latest. The amount owed shall be charged upon the due date of remuneration. If a direct debit is not realised or is returned because it does not have sufficient coverage or for other reasons caused by the customer, costs arising are to be borne by the customer.

## Section 4: Customer's duties to cooperate

(1) When carrying out its services, pascom is dependent on the customer's cooperation. Therefore, the customer shall provide pascom with all required information and all other requirements for carrying out the work (such as access to work spaces, access to computers and, if necessary, software licences, telephone, network and internet connections) free of charge.

(2) Before the productive use of the services to be carried out by pascom, especially software licensing and hardware acquisition, the customer shall obtain, prepare and supply all installation requirements and the system equipment and environment at its own cost. This also includes arranging and safeguarding the test environment, as well as properly and securely carrying out the tests.

(3) The customer shall be responsible for providing appropriately qualified personnel with whom the customer's duty to cooperate can be fulfilled as part of the respective contract.

(4) The customer shall be responsible for providing suitable data protection. If the customer makes pascom aware of upcoming maintenance, disruption and error correction work, he/she shall check whether there is up-to-date data protection and make up for this if required. The review of data protection in terms of its function and outcome is also the responsibility of the customer. The customer must inform pascom immediately, at the latest right before the maintenance, disruption and error repair work begins, with the full details of actual or suspected faults in data protection.

(5) If the customer violates the duties of cooperation, pascom shall not be responsible for any delays for the period lasting from when the violation occurs to when it is resolved. Furthermore, pascom may set a reasonable deadline to carry out the duty of cooperation. In the event of considerable danger to its interests, particularly if connected to extraordinary delay of capacities for this order, pascom may also threaten to withdraw from or terminate the contract on a deadline. After an inconclusive end to the deadline, pascom is

entitled to withdraw from the contract or terminate it extraordinarily and claim compensation. Alternatively, pascom may carry out the work owed by the customer independently at the cost of the customer or have it carried out by a third party.

(6) If a third party claims that the customer has violated industrial property rights due to the use of contractual services by pascom, the customer must inform pascom of this immediately and must hand over defence against these claims at pascom's request. The customer shall provide pascom with all reasonable support in this matter.

## Section 5: Approval of services in the service contract

(1) Insofar as it concerns provision of work in a service contractually owed by pascom, the customer shall be obliged to approve this work.

(2) After completing the work, pascom shall inform the customer of the acceptability of the work. The customer shall undertake to declare approval of the acceptability within seven working days from the notification or provide notification in writing of why approval has been refused. If the customer has not replied within seven working days, both parties shall assume that the work by pascom has been considered pursuant to the contract and that acceptance is implied.

(3) Minor deviations from the agreed configuration or contractually defined use shall not entitle the customer to refuse approval.

## Section 6: Rights of use for contract software, third-party software and open-source software

(1) pascom has the exclusive usage rights for its own copyright-protected works and software that it created (contract software). pascom has non-exclusive rights of use for software, the rights of use of which it obtains from a third party.

(2) Unless agreed otherwise, the customer shall receive only the simple, non-exclusive right to use the contract software created by pascom within the context of the relevant agreed contract. In general, this right cannot be sublicensed or transferred and, if required, has a time limit. In addition, specification for purchasing and leasing licenses is given in the provisions of Part D, Sections 3 to 5.

(3) Rights of use of copyright-protected work are passed to the customer only after acceptance of the work and

full payment of the claim for work is carried out.

(4) For purchased and supplied software that is not manufactured by pascom (third-party software), the customer must conclude a separate licence contract with the third party. The rights of use shall then come directly from the contract with the provider of the third-party software.

(5) For the licensing of software that is subject to an open source licence, the provisions of the respective licence apply. pascom shall notify the customer of this separately. The above provisions shall apply regardless of a change to the source code by pascom before delivery.

## Section 7: Third-party rights

(1) pascom shall defend the customer against all claims that are derived from a violation of industrial property rights or copyright due to the contractual use of materials. pascom shall assume legal costs and compensation sums on behalf of the customer, insofar as the customer informs pascom of such claims immediately, and pascom expressly reserves the right to all legal and extrajudicial defensive measures and settlement negotiations on its own demand.

(2) If claims are made, or are expected, against the customer because of a violation of industrial property rights or copyright through the contractually specified use of the contractually agreed services, pascom shall have the right to change or replace the material at its own expense insofar as this is reasonable for the customer.

## Section 8: Guarantees

(1) The contract parties agree that it is not possible to develop or adapt software programmes so that they run faultlessly for all applications. When faults in software and hardware occur, pascom shall meet its guarantee obligations by means of the contractually agreed support, software maintenance, SLAs and hardware maintenance. If agreements of this kind have not been made or do not cover all legal warranty rights of the customer, the following provisions apply:

(2) If a service or purchase is the object of the contract and the service or the purchase item is not available in the agreed configuration or is not suitable for the contractually defined or usual use, pascom is entitled to at least three attempts at rectification or additional delivery at its discretion. The periods for rectification shall be agreed appropriately in a contractual relationship for software as standard and the specifics



shall be agreed in a relevant contractual relationship.

(3) If a continuing obligation is the object of the contract and there is a fault in the contractual service, pascom shall restore the condition to as per the contract by remote maintenance or an on-site visit to the customer, at its discretion. If the latter is chosen, the customer shall grant pascom access to the required rooms and systems.

(4) The customer shall undertake to provide pascom with verifiable documents and information on the type and occurrence of errors and to cooperate in localising the errors. Unless agreed otherwise, the customer shall report errors in text form using the ticket system. The error report should include information on the programme function and the wording of the error message, as well as describing the effects of the error.

(5) Faults and errors shall be classed according to priority:

- Errors are classed as top priority if they interfere with the customer being able to use the programme in his/her usual operations and important programme functions can no longer be realised and also not be bypassed. pascom shall provide an immediate and tailored response to the interference.
- Errors are classed as second-level priority if the work results for which the customer uses the system can generally be achieved – albeit with complications and bypassing. These kinds of errors shall be resolved as quickly as possible if they cannot be rectified in a reasonable period of time in the course of general versions or servicing work.
- Third-priority errors are if there are no discernible obstacles to using the programme. They are resolved by updates and upgrades or servicing work unless this is not acceptable to the customer.

(6) If errors cannot be corrected in a reasonable form, the customer shall agree to develop and implement a concept for sensible technical and/or organisational alternatives together with pascom.

(7) If the customer has intervened in pascom services, pascom is liable for the warranty of defects only if the type and scope of the intervention was documented precisely; the customer proves that the identified error was neither directly nor indirectly related to his/her intervention and the customer agrees in text form to bear pascom's additional costs.

(8) The warranty does not cover defects that are caused by deviations in the conditions of use intended for the programme and stated in the product information. Specifically, this includes if the customer uses versions of the operating system that are not authorised by

pascom and uses other versions instead, unless the customer is able to prove that the error also occurs when using the authorised version of the operating system.

(9) If, over the course of the repair work, it transpires that the alleged error cannot be attributed to pascom, pascom shall be entitled to invoice the customer for the time spent and the costs incurred according to their respective price lists.

(10) If pascom is unable to resolve the errors despite subsequent attempts for each individual error, the customer shall have the right to withdraw from the contract or reduce the remuneration. In the context of services and acquisition and leasing services, the subsequent attempts can also be carried out through replacements, unless the expenditure required for this is unacceptable for the customer. The customer shall commit to cooperation as part of the warranty for defects.

(11) After failed rectification, pascom is entitled to set the customer a reasonable period (at least 4 weeks) to declare whether he/she shall hold on to his/her right to rectification, withdraw from the contract or reduce the remuneration

(12) Warranty is excluded for deviations that only slightly impede ordinary suitability or the suitability defined in the contract (referred to as insignificant deviations), except in cases of wilful intent. In addition, in accordance with Section 536c of the BGB (German Civil Code), in continuing obligations, warranty rights are excluded if the customer does not immediately report an error or hazardous situation.

(13) The customer's warranty rights shall expire one year after delivery of the purchase item or acceptance of the service.

(14) In the event of carrying out a contractually owed duty by pascom in the form of a service, the warranty is excluded. This also applies to gratuitous services, insofar as damage was not caused intentionally by pascom.

## **Section 9: Period and termination of continuing obligations and service contracts**

(1) If there is an agreement between pascom and the customer in terms of carrying out services, the usual termination rights of both parties are excluded.

(2) If there is an agreement between pascom and the customer in terms of providing a continuing obligation (e.g. long-term software licencing, software maintenance and support, SLA etc.), the usual period is one year (= policy year), starting from the conclusion of the contract.

The contract shall always be extended by another policy year, unless the contract is extraordinarily terminated by one of the parties one month before the end of the contract. These periods can be changed on the basis of an individual contract.

(3) The right to extraordinary termination without notice according to statutory provisions remains unaffected.

(4) A significant reason for the extraordinary termination of continuing obligations in particular is if the customer is in arrears of the monthly remuneration for two consecutive periods.

(5) All terminations must be made in writing.

## Section 10: Liability

(1) Irrespective of legal basis, pascom is liable for wilful intent and gross negligence.

(2) In the event of other damages caused due to negligence, pascom shall be liable only in cases of expressly given warranties, guarantees or significant breaches of contract. Significant breaches of contract are understood to be the basic, elementary obligations from the respective contractual relationship, the fulfilment of which primarily enables the proper implementation of the contract, breach of which endangers the achievement of the contract's purpose and compliance with which the customer relies on. In the event of slight negligence of a significant breach of contract, liability is limited to the amount of the foreseeable, contract-typical damages. A change to the statutory distribution of burden of proof shall not take effect.

(3) Liability for physical injury (injury to life, body and health) and liability according to the Act on Liability for Defective Products (Produkthaftungsgesetz – ProdHaftG) or other indispensable laws remain unaffected by the limitations of liability.

(4) pascom shall not be liable for the loss of a customer's data and its retrieval, as stipulated in Part C, Section 10 (2), if the loss of this kind could have been prevented by data protection measures taken by the customer. Otherwise, the amount is limited to the expenditure for retrieving the customer's data.

## Section 11: Change management

(1) The contract parties agree that in the event of a later change to the service scope, an amendment of the terms of the contract may be necessary. This applies to service agreements in particular.

(2) Each contract partner may request from the other contract partner amendments to the agreed

scope of services in text form. After receiving a request amendment and a review, the recipient shall immediately return in writing his/her agreement or objection to the party making the request and justify the reasons for either decision, if required.

(3) If the customer's amendment request requires a comprehensive review, this shall be agreed separately. The review expense for this may be calculated by pascom.

(4) The contractual adjustments of the agreed conditions and services required for a review and/or amendment shall be determined in text form (additional amendment agreement/offer).

(5) Insofar as the expenditure is increased or dates are influenced, pascom shall have the right to a suitable increase in remuneration or postponement of deadlines. Insofar as this causes a decrease in expenditure, the customer may demand a reduction in remuneration. However, in this case, pascom shall be entitled to reasonable compensation for the share of the originally agreed remuneration that is ultimately omitted in carrying out the contract.

## Section 12: Confidentiality and data protection

(1) In this respect, processing of the customer's data shall take place only if this is necessary for order and business processing and is permitted within the framework of the EU General Data Protection Regulation (GDPR), the German Federal Data Protection Act (Bundesdatenschutzgesetz – BDSG), the German Telemedia Act (Telemediengesetz – TMG) and the German Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb – UWG).

(2) The contract partners shall apply customary prudence when dealing with significant and not generally known affairs of the other contract partner. Further protection of especially confidential information requires the conclusion of a separate agreement in writing (confidentiality agreement). Ideas, concepts, expertise and techniques relating to information processing may be freely used by the contract partners, insofar as no industrial property rights contradict this.

## Section 13: Other provisions

(1) For all disputes arising from a contract relationship, Deggendorf is the exclusive place of jurisdiction. This also applies to contract partners without their own place of jurisdiction in the Federal Republic of Germany.

(2) The grounds and handling of this contract

relationship shall comply with German law to the exclusion of international private law and the United Nations Convention on Contracts for the International Sale of Goods

(3) If individual provisions of these GTCs are or become ineffective, this shall not affect the validity of the other provisions. In the place of the ineffective provisions or to fill gaps, a suitable regulation should be given that is as close as possible to the sense and purpose that the contract parties intended.

(4) All amendments and supplements to the GTCs are effective in law only if they are in writing. A retrospective invalidation of the requirement for the written form must be given in writing.

## **D. Particular provisions for hardware and software**

(1) All hardware sold and supplied by pascom remains the property of pascom until all principal and accessory claims – including future and conditional claims – from the contractual services of the customer have been settled in full.

(2) Customer claims against a third party arising from resale or another legal basis (e.g. liability insurance claims), including all ancillary rights, are hereby assigned by the customer as a security to pascom, also insofar as the reserved goods are processed or incorporated. In the latter case, the assignment comprises any part of the claim value that the reserved goods have in relation to the overall item.

(3) As long as the customer meets his/her payment obligations to pascom, he/she is authorised to collect claims raised against pascom on his/her own behalf and at his/her own expense. The customer shall inform pascom of the status of the assigned claims on request at any time. pascom shall take on the assignment of claims.

## **Section 2: Hardware maintenance**

(1) pascom and the customer can conclude an additional agreement on maintenance of individual and specifically defined devices and systems (= hardware) given the existence of agreements regarding software maintenance, software support and SLA. In addition, the parties must agree on whether the hardware maintenance shall take place on site or remotely.

(2) The location of the hardware that is to be maintained shall be agreed in a contract. If there is no agreement to

this effect, the company headquarters of the customer shall be the location of the hardware.

(3) In the event that an error occurs or a disruption causes an error in the hardware, the respective agreement between the parties regarding software maintenance, software support and an SLA to this effect shall apply. Additionally, Part C, Section 8 of these GTCs shall apply. Where necessary, pascom shall bring/send replacement parts to repair errors/disruptions and shall replace faulty parts, if required. The expendable and wear parts required to repair the error/disruption are to be paid for by the customer.

(4) The acceptance of further additional hardware in the hardware maintenance agreement shall be carried out by express agreement in text form. With hardware that is not new and has not been checked by pascom, an approval inspection shall take place at the customer's expense. The same applies to hardware that the customer did not purchase directly from pascom.

(5) pascom is not liable to provide the customer with an alternative system. However, if pascom cannot repair the error or disruption for the customer, but this continues to have a severe impact on the customer as the entire system is unusable, pascom is authorised to provide the customer with an alternative system.

## **Section 3: Perpetual pascom software licences (perpetual licence)**

(1) If pascom is committed to supplying its own manufactured software, then the object of the contract is the perpetual licence of the computer programme in object code named in the offer/contract (= contract software). The quality and functionality of the contract software is in the product description. Licensing the source code is expressly not contracted.

(2) The supply of contract software shall generally take place by providing the contract software on the website [www.pascom.net](http://www.pascom.net) for customers to download.

(3) Complete payment is the condition precedent pursuant to Section 158 (1) of the BGB, particularly for the concession of the usage rights named in these contract provisions.

(4) pascom shall give the customer a non-exclusive, unrestricted right to use the contract software. The contract software may be used simultaneously by only the maximum number of natural persons that corresponds to the user licences acquired by the customer (named user). Permitted usage includes the installation of contract software, downloading into RAM and designated use by the customer. The number of

licences and the type and scope of use are determined according to the offer/contract. During the contract period, the number of licences may be increased according to the price lists, but not lowered. Without express prior agreement with pascom, the customer shall have no further right of use. In particular, he/she shall not have the right to lease or otherwise sub-licence the purchased contract software, connect it by wire or reproduce it wirelessly in public or make it accessible or available to third parties either for free or for payment, e.g. as part of application service providing or as software as a service.

(5) The customer shall be entitled to create backup copies if this is required for the security of future use. The customer shall be entitled to decompile and reproduce the contract software insofar as this is necessary to create the interoperability of the contract software with other programmes. However, this applies only on the condition that pascom has not made the information needed for this available upon request within a reasonable period of time.

(6) The customer shall be authorised to transfer permanently the contract software acquired from pascom to a third party by handing over the licence certificate and documentation. In this case, he/she shall hand over the use of the programme in full, including removing all installed copies of the programme from computers and deleting or transferring to pascom all other copies on other data carriers, insofar as he/she is not committed to a longer storage period by law. Upon request by pascom, the customer shall confirm in writing that the measures indicated have been carried out in full or state the reasons for longer retention, if required. Furthermore, the customer shall expressly agree with third parties on the observation of the scope of granting rights in accordance with Part D, Section 3.

(7) If the customer uses the contract software in a scope that qualitatively (in terms of the type of use permitted) or quantitatively (in terms of the number of licences acquired) exceeds the acquired rights of use, he/she shall immediately purchase the necessary rights of use for the permitted use. If he/she fails to do this, pascom shall then assert its rights.

(8) Copyright notices, serial numbers and other features used for programme identification may not be removed from the contract software or changed.

(9) Ancillary services, particularly the supply of data carriers, configuration and/or installation etc. are part of the scope of services only if expressly stated in the offer/contract. Additional orders are to be paid in accordance with the pascom price list.

(10) If not otherwise stipulated in the offer/contract, the maintenance services given in Part D, Section 6 are to be included in the purchase price for a year from the date of perpetual licencing of the contract software.

(11) The maintenance services shall be automatically extended by a year insofar as they are not terminated in writing by the customer or pascom one month before the end of the policy year. pascom shall notify the customer of the contract extension and the resultant applicable payment obligation in good time before the expiration of the termination period.

(12) This Part D, Section 3, shall specifically not apply to third-party software and software that is subject to an open source licence.

## Section 4: Temporary pascom software licences for partners

(1) With the leasing of temporary software use, the customer, who is a partner of pascom, is entitled to sub-licence the contract software that has been provided temporarily by pascom on his/her own behalf and at his/her own expense to third parties as an on-site solution for customers on site or over the internet in the form of an external cloud solution as software as a service.

(2) The customer shall receive subscription licences from pascom (see Section 5 as follows) for this purpose, which he/she can sublet to his/her end customers. Alternatively, the partner may qualify as a CSP and shall then receive a master licence, on the basis of which partners can grant licences to end customers according to the aforementioned size of licences provided by pascom (based on concurrent users). The partner shall undertake to engage in hosting the contract software for end customers. No contract shall be concluded between pascom and the end customer.

(3) Leasing of subscription licences to end customers by the partner shall require an effective **partner contract** between pascom and the partner. This regulates all other contractual obligations between the contract parties. In addition, these GTCs apply in Part A, B, C and D, Sections 6 to 8.

(4) In terms of supplying and providing contract software, remuneration, deadlines and delay, leasing rights of use from pascom to cloud partners, data security, maintenance services, etc., the following regulations of Part D, Section 5 (2) to (17) apply.



## **Section 5: Temporary pascom software licencing for end consumers (subscription licence)**

- (1) If pascom undertakes to temporarily lease software to customers who are end consumers, the object of the contract is the leasing of the rights of use for the computer programme listed in the offer/contract as an on-site solution with on-site customers (on-site subscription) or over the internet in the form of an external cloud solution as a software as a service (cloud subscription) for the contractually agreed duration. The quality and functionality of the contract software is in the product description. Licensing the source code is expressly not contracted. In terms of period and termination, Part C, Section 9 shall apply, insofar as not subsequently stipulated otherwise.
- (2) The provision of contract software for external cloud subscriptions is carried out by providing contract software via the online portal pascom.cloud for time-restricted online access by customers. With on-site subscriptions, customers shall install the contract software on their servers independently with an internet connection. In both cases, the respective licence authorisation shall be checked via an internet connection over the entire contract period.
- (3) With external cloud subscriptions, pascom shall ensure online availability of the contract software in the contractually agreed scope, but with an annual average of at least 99%. Availability is calculated on the basis of the time allotted in the contract period in the respective calendar month, excluding maintenance times. pascom is entitled to carry out maintenance work or have maintenance work carried out for a total of 10 hours in a calendar year. The maintenance period is on a weekday between 3 a.m. and 6 a.m. Customers shall be informed of maintenance one week before it is carried out, at the latest. The contract software is not available during maintenance work.
- (4) Parties shall comply with remuneration in accordance with the agreement. Unless otherwise agreed by the parties, pascom shall invoice the customers for the lease software at the start of an accounting period one year in advance in accordance with the price list, particularly the number of subscription licences used. In general, payment should be made via a direct debit (SEPA direct debit).
- (5) If the invoice amount is not paid within 30 days after the invoice date, pascom shall be entitled to claim the statutory amount of default interest. The enforcement of further default rights shall not be affected. In particular,

- pascom can deactivate the subscription licences concerned if the customer has defaulted on the payment by two months or more.
- (6) pascom shall give the customer a non-exclusive, time-restricted right to use the contract software as software as a service. The duration of the right of use and the opportunities and modalities of an extension or termination is determined according to the offer/contract. In principal, an unlimited number of natural persons may use the software but only the contractually agreed maximum number may be simultaneously active (= concurrent-user licence).
- (7) The number of licences may be increased at any time and reduced only after the contract period has expired. In the event of an increase, the contract period remains unaffected and then also applies to the relicensed licences. In no case does the customer have the right to lease or otherwise sub-licence the leased contract software, connect it by wire or reproduce it wirelessly in public or make it accessible or available to third parties either for free or for payment, e.g. as part of application service providing or as software as a service.
- (8) pascom shall secure the customer's data only if this has been agreed separately. Otherwise, the customer is responsible for his/her own data security. In this regard, Part C, Section 4 (4) also applies.
- (9) If not otherwise regulated in the offer/contract, the maintenance services given in Part D, Section 6 are to be included in the licencing price for the entire contractually agreed period.
- (10) If the customer uses the contract software in a scope that qualitatively (in terms of the type of use permitted) or quantitatively (in terms of the number of licences acquired) exceeds the acquired rights of use, he/she shall immediately purchase the necessary rights of use for the permitted use. If he/she fails to do this, pascom shall then assert its rights.
- (11) Copyright notices, serial numbers and other features used for programme identification may not be removed from the contract software or changed.
- (12) During the agreed period of use, pascom shall ensure the contractual usability of the leased software. This also applies for the versions leased in the context of support or software maintenance.
- (13) Further services, particularly adjustments, configuration of on-site services, etc., are part of the scope of services only if expressly stated in the offer/contract.
- (14) This Part D, Section 5, shall specifically not apply to third-party software and software that is subject to an open source licence.

(15) From the date on which the respective cloud licence is terminated, the customer shall have four weeks to export his/her data using the established export functions.

(16) Four weeks after the termination of the contract, the customer must delete the contract software immediately and irretrievably, regardless of where it is stored, as well as documentation and other documents, or definitively disable the option to use by means of suitable measures.

(17) The customer shall undertake to immediately confirm to pascom in writing the irretrievable deletion or definitive deactivation of the option to use upon request by pascom.

## Section 6: Software maintenance and support

(1) If pascom undertakes to maintain software, this shall include the following services:

(a) Leasing the respective latest programme versions (updates or upgrades) of the software in the offer/contract for the agreed period. Updates is understood to mean improved versions of the program, whereas upgrades are modified, higher-quality versions of the programme.

(b) Updating software documentation. Insofar as a considerable change to the scope of function or operation of the software takes place, completely new documentation shall be created and leased.

(c) The customer may claim software maintenance services as soon as pascom makes the software available to the customer. The customer has no claim to regular provision of software maintenance services.

(d) Software maintenance services shall be invoiced 12 months in advance and due for payment once invoiced.

(2) If pascom undertakes to provide software support, this shall include the services that are defined in Part B of these GTCs and in the respective offer/contract. Unless agreed otherwise between the parties, the respective support shall take place during pascom's business hours.

## Section 7: Modifications and installation, system integration

(1) The type and scope of standard products and implementation of the resulting projects shall be – insofar as necessary – regulated through a product specification or offer.

(2) Upon signing the contract, the customer shall name a project manager as a designated contact person for pascom who shall be at least fully authorised to

make all technical decisions in the project, especially commissioning/acceptance and defect reports. He/she must have at least a specialist qualification equivalent to the one held by the pascom employee deployed.

(3) Project handling shall be carried out by means of pascom's binding guidelines.

(4) Project meeting reports shall be prepared by pascom and reviewed by the customer. If both parties cannot agree on a standard version, both versions are to be kept and signed.

(5) Insofar as pascom is contractually obliged to install hardware or software for the customer, the reliability of hardware and software is to be proven up to the next interface with an installation test. This includes proof that the required module was installed fully.

Further proof of functions, particularly compiling test data and organisational connection in the operational environment, shall be carried out in a separate agreement if required.

(6) pascom may choose the delivery method and means of transport according to the most affordable organisational requirements for pascom. This can be changed in agreement with the customer.

## Section 8: Documentation

(1) Documentation is supplied in the scope agreed in the offer or contract.

(2) With third-party products that pascom only purchases, the customer shall receive a note on the documentation of the respective manufacturer.

(3) pascom is entitled to deliver documentation in its final version at a later stage within a reasonable period after installation.

Deggendorf, 20 September 2018