

General Terms and Conditions of AUVESY Data Management Solutions Co., Ltd. for the subscription of the data management solution and additionally agreed upon assistance and additional support services in this context.

傲晖数据软件（南京）有限公司关于订阅数据管理解决方案及附加服务的通用条款

AUVESY Data Management Solutions Co.,Ltd
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Qixia District Nanjing
China
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Applicability of the General Terms and Conditions

In all contractual relationships between us (“AUVESY-MDT”) and you (“contracting party”) in which AUVESY-MDT provides the standard version of the data management solution and, if applicable, provides assistance and additional support services in connection with the data management solution, these general terms and conditions apply exclusively, unless otherwise contractually agreed upon. These general terms and conditions apply accordingly to pre-contractual relations (especially clause 4.9 Confidentiality and clause 4.12 Liability). For custom-specific programming including scripting, the General Terms and Conditions for Custom-specific Programming shall apply.

通用条款的适用

在我们（“AUVESY-MDT”）与您（“签约方”）之间的所有合同关系中，AUVESY-MDT 提供标准版的数据管理解决方案，并在可适用的情况下提供与数据管理解决方案相关的协助和额外支持服务，除非合同另有约定，否则这些一般条款和条件完全适用。通用条款相应地适用于合同前关系（特别是第 4.9 条保密条款和第 4.12 条责任条款）。对于包括脚本在内的定制专用程序，应适用定制专用程序的通用条款。

1. Definitions

定义

AUVESY-MDT	AUVESY Data Management Solutions Co.,Ltd, Jinma Lu 3, Maqun, Qixia District Nanjing 傲晖数据软件（南京）有限公司，南京栖霞区金马路 3 号
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Backup Copy 副本	Duplication of the software for backup purposes 为备份目的而进行的软件复制
Civil Code	Civil Code of the People's Republic of China 中华人民共和国民法典
BI User BI 用户	A BI User is a consumer / person who receives content (dashboards, reports) and has access to a BI toolset, reviewing and interacting with this content, to make business decisions. BI 用户是一个消费者/人，他接收内容（仪表板，报告）并可以访问 BI 工具集，审查和互动，以做出商业决策。
Confidential Information/Business or Trade Secrets 机密信息/业务或商业机密	Practical knowledge in its entirety, resulting from experience and testing, which is secret, that is not generally known or easily accessible, essential, that is relevant and useful for the subject matter of the contract (the subscription of the software and, where applicable, other support services under the contract and these T&Cs), and which is identified, that is which is described in a sufficiently comprehensive manner so as to make it possible to determine whether it fulfils the criteria of "secret" and "essential". 从经验和测试中获得的全部实用知识，这些知识是机密的，是不为大众所知或不容易获得的，是必不可少的，与合同相关有用的信息（订阅软件以及在适用情况下，合同和本条款下的其他支持服务），是可以确定的，即以足够全面的方式描述，以便能够确定它是否符合“机密”和“必不可少”的标准。
Contract 合同	The contract concluded between the contracting party and AUVESY-MDT. The offer transmitted by AUVESY-MDT and signed by the contracting party is also considered as contract 签约方与 AUVESY-MDT 之间签订的合同。由 AUVESY-MDT 转交的报价并由签约方签署的也被视为合同。
Contractually agreed condition and quality 合同商定的性能和质量	The condition and quality of the software as described in the product description and additionally in the user documentation, including the functions of the software described therein.

	产品说明中以及用户文件中所描述的软件的状况和质量，包括其中所描述的软件的功能。
Customer-specific programming, adaptations, software enhancements or further developments 客户特定的编程、改编、软件优化处理或进一步开发	Programming, adaptations, software enhancements or further developments that are carried out at the request and according to the specifications of the contracting party 应签约方的要求并根据签约方的标准进行的编程、改编、软件优化或进一步开发。
Insignificant Defect 轻微瑕疵	A defect is insignificant if it is easily recognizable and can be remedied quickly with little efforts 如果一个瑕疵很容易被识别，并且可以轻易地迅速补救，那么属于轻微瑕疵。
Instance 实例	The productive server environment for which the standard version of the data management solution is provided. An instance comprises a maximum of one physical production site. If the physical location is functionally subdivided (such as into production halls, production lines or cost centers), each independent functional unit as such is considered as one independent instance. 为提供标准版数据管理解决方案的生产性服务器环境。一个实例最多包括一个实际生产场所。如果实际地点在功能上被细分（如分为生产车间、生产线或成本中心），则每个独立的功能单元都被视为一个独立的实例。
Jobs 实例权限	Rights of use (licenses) claimed per contracted instance 每个合同实例所要求的使用权（许可证）。
Maintenance 维护	Maintenance of the contractually agreed condition and quality of the software in accordance with section 2 of these T&Cs during the contract term 在合同期内，按照本条款第 2 条的规定，维护合同约定软件的质量，保持其属性。
Other Software Products/Programs 其他软件产品/程序	All other software products/programs, which the contracting party obtains in addition to the software from AUVESY-MDT.

	所有其他的软件产品/程序，除了从 AUVESY-MDT 获得的软件外，签约方还获得了其他的软件。
Party 合同方	The contracting party or AUVESY-MDT (together "the Parties") 订约方或 AUVESY-MDT（合称“合同双方”）
Release 发布	Release of a new version of the software 发布新的软件版本
Remote Support 远程技术支持	Remote support carried out by AUVESY-MDT including remote diagnosis, remote corrections and overwriting of new versions 由 AUVESY-MDT 进行的远程支持，包括远程诊断、远程修正和覆盖新的版本
Software 软件	The standard version of the data management solution in its respective current update/upgrade 当前的更新/升级版的数据管理解决方案的标准版本
State of the Art 当前版本	The current version of the software with the current patches and updates; beta versions are not included in the current version of the software 具有当前补丁和更新的软件的当前版本；测试版不包括在软件的当前版本中
T&Cs 通用条款	General Terms and Conditions 通用条款
Third Party 第三方	Natural or legal persons who are not a party to the contract 不属于合同一方的自然人或法人
Third-Party Software 第三方软件	Third-party software/programs included in the installation package of the software 软件的安装包中包含的第三方软件/程序
Update 更新	Bug fixes and improvements of existing features leading to a new release level within the respective version 对现有功能的错误修复和改进，导致在相应的版本中出现新的发布级别
Upgrade 升级	Introduction of new features in a new version with a higher version number 在版本较高的新版本中引入新功能

2. Provision of the Software

软件的提供

2.1 Provision of the Software and User Documentation

软件和用户文件的提供

AUVESY-MDT provides the current version of the software to the contracting party in executable form (as object code) as download on the internet, alternatively on a suitable data carrier, together with the user documentation in printed or electronic form. Unless otherwise agreed upon, AUVESY-MDT may also provide the software by e-mail.

AUVESY-MDT 以可执行的形式（目标代码）即互联网上下载，或者以合适的数据载体提供给签约方当前版本的软件。同时还提供印刷版或电子版的用户需知文件。除非另有约定，AUVESY-MDT 也可以通过电子邮件提供软件。

2.2 Installing the Software

软件的安装

2.2.1 AUVESY-MDT does not owe the installation of the software. The contracting party installs

the software on its IT system and puts the software into operation. Prior to the productive use of the software, the contracting party shall test the software under its conditions of use. AUVESY-MDT is not liable for any damage caused by the contracting party during the installation.

AUVESY-MDT 不承担软件的安装工作。签约方将软件安装在其 IT 系统上，并投入使用。在有效使用软件之前，签约方应在其使用条件下对软件进行测试。在安装过程中产生的任何损坏，AUVESY-MDT 不予负责。

2.2.2 The contracting party informs AUVESY-MDT in written form (text form is sufficient), in

which instances the contracting party uses the software as required for counting the instances. The same applies to any subsequent change of the installation sites and instances. AUVESY-MDT reserves the right to perform an annual license audit.

订约方以书面形式（文本形式即可）通知 AUVESY-MDT，签约方在哪些情况下使用计算实例所需的软件。这也适用于随后的任何安装地点和实例的改变。

AUVESY-MDT 保留进行年度审核许可证的权利。

2.3 Right of Use (Grant of License)

使用权（授予许可证）

2.3.1 AUVESY-MDT grants to the contracting party a non-exclusive right to use the software and

the user documentation as determined in the contract (non-exclusive license). The right of use (license) is limited in time to the term of the contract and not sub-licensable. Unless otherwise agreed upon,

AUVESY-MDT 授予签约方一项非独占性的权利来使用合同中确定的软件 and 用户文件（非独占许可）。该使用权（许可）在时间上仅限于合同期限内，且不可转让。除非在以下情况另有约定：

- i. the contracting party acquires a single-user right of use (license) for each contractually agreed instance and jobs as well as BI User claimed and used by the contracting party.

如果合同里有关于实例，实例权限及 BI 用户的约定，那么签约方会获得单用户使用权（许可证）。

- ii. the software shall be used by the contracting party only on such configurations for which AUVESY-MDT has released the software in writing (text form is sufficient). The contracting party informs AUVESY-MDT immediately about any change of a configuration.

签约方只能在 AUVESY-MDT 以书面形式发布的配置上使用该软件（文本形式即可）。签约方应立即通知 AUVESY-MDT 关于配置的任何变化。

- 2.3.2 Unless otherwise agreed upon and unless these T&Cs provide otherwise, the contractual use of the software shall include the installation as well as loading, display and running of the installed software in accordance with its intended use as well as the creation of backup copies or copies as a replacement. Existing marks and copyright notices on the software must be applied equally to any copy of the software. The contracting party shall use the user documentation for internal purposes only. The creation of any copy of the software shall only be allowed within the scope of the contracting party's own permitted use. The contracting party shall not modify or enhance the software and associated documents, including the user documentation, or create any derivative works thereof. In all other respects the type and scope of the right of use (license) shall be determined by the contract.

除非合同还有本通用条款另有规定，软件的使用应包括安装以及按照预定用途加载、显示和运行已安装的软件，以及创建备份或副本作为替代。软件上现有的标记和版权声明必须同样适用于该软件的任何副本。签约方应将用户文件仅用于内部目的。签约方可在自己允许的使用范围内创建该软件的任何副本。签约方不得修改或加升级软件和相关文件，包括用户文件，或创造任何衍生文件。在其他方面，使用权（许可）的类型和范围参照合同规定。

- 2.3.3 Upon receipt of written consent (text form is sufficient) by AUVESY-MDT and under complete abandonment and relinquishment of its own right of use (license), the contracting party shall be entitled to sell and transfer its right to use the software (license) to third parties. The contracting Party shall ensure that the third party will comply with the software protection (clause 2.4) and only use the software to the extent as agreed upon between AUVESY-MDT and the contracting party. In all other respects the contracting party is not entitled to provide third parties with a copy of the software received or, if applicable, any created backup copy; the contracting party is

in particular not entitled to sell, lend, rent out or license out the software in any other way or to publicly reproduce or display or make the software accessible.

在收到 AUVESY-MDT 的书面同意（文本形式即可）并完全放弃其自身的使用权（许可证）的情况下，签约方有权向第三方出售和转让其软件使用权（许可证）。签约方应确保第三方遵守软件保护规定（第 2.4 条），并且仅在 AUVESY-MDT 和签约方商定的范围内使用该软件。此外，签约方无权向第三方提供软件副本或（如适用）任何创建的备份副本；签约方尤其无权以任何其他方式出售、出借、出租或许可使用该软件，或公开复制、展示或使他人访问该软件。

2.4 Software Protection

软件防护

- 2.4.1 The contracting party acknowledges that the software (in its current and in any future version) including the user documentation and any further documentation handed over to the contracting party in connection with the software are protected by copyright. Reference is made to clause 4.9.

签约方已知晓，软件（当前和未来的任何版本），包括用户文件和交给签约方的与该软件有关的任何进一步的文件，均受版权保护。请参考第 4.9 条。

- 2.4.2 The contracting party shall ensure that the software is during the term of the contract and 1 year after termination of the contract

protected against any improper use. This includes in particular the obligation of the contracting party to secure the software, that is the original data carrier as well as any existing copy of the software including backup copies and all associated documentation, against any unauthorized third-party access by means of suitable measures and to keep the original data carrier, any copy of the software and any associated documentation in a secured location.

签约方应确保在在合同期内以及合同结束后 1 年内保护软件，以防止任何不当使用。尤其是签约方有义务确保软件，即原始数据载体以及软件的任何现有副本，包括备份副本和所有相关文件，通过适当的措施防止任何未经授权的第三方访问，并将原始数据载体、软件的任何副本和任何相关文件保存在一个安全的地方。

2.5 Maintenance

维护

- 2.5.1 AUVESY-MDT shall maintain the contractually agreed condition and quality of the current

version of the software during the term of contract. The contractually agreed condition and quality is determined in the contract, the respective product description and additionally in the user documentation.

在合同期内，AUVESY-MDT 应维护合同约定的当前版本软件的性能和质量。在合同，产品说明以及用户文件中对于软件的状态和质量有明确规定。

2.5.2 In order to meet maintenance obligations incumbent on AUVESY-MDT, AUVESY-MDT carries out

any maintenance and servicing measures required according to the state of the art. AUVESY-MDT shall only be obliged to further development, modification or adaptation of the software, if and to the extent this is required for the maintenance of the contractually agreed condition and quality of the software (reference is made to clause 2.6).

为了履行维护义务，AUVESY-MDT 将根据技术水平采取任何必要的维护和服务措施。AUVESY-MDT 只有在维持合同约定的软件性能和质量所需的范围内，才有义务对软件进行进一步的开发、修改或调整（参见第 2.6 条）。

2.5.3 Unless otherwise agreed upon and unless these T&Cs provide otherwise, maintenance does not include modification or adaptation of the software to altered use conditions at the contracting party as well as to technical and functional developments such as change of the IT environment, in particular any change of hardware or operating system, adaptation to the functional scope of competing products or enabling the compatibility to new data formats. Further, customer specific adaptations, enhancements or further developments as well as adaptations, enhancements or further developments, which are offered separately as new programs in the price list of AUVESY-MDT (that is new features, new modules or add-ons) are not included. The parties may, however, separately and for remuneration agree on the modification, adaptation and further development of the software beyond the scope determined in clause 2.5 and 2.6; insofar the General Terms and Conditions for Custom-specific Programming shall apply.

除非合同及本通用条款另有规定，维护工作不包括根据签约方使用条件的改变以及技术和功能的发展对软件进行修改或调整，如 IT 环境的改变，特别是硬件或操作系统的改变，适应竞争产品的功能范围或实现对新数据格式的兼容。此外，符合客户需求的调整、升级或进一步开发，会在 AUVESY-MDT 的价格表中作为新程序单独提供（即新功能、新模块或附加组件），不包括在维护内。但是，双方可以单独商定在第 2.5 条和第 2.6 条规定的范围之内对软件进行修改、改编和进一步开发，费用由签约方承担；在此情况下，应适用定制编程的通用条款。

2.6 Further Developments

进一步开发

2.6.1 AUVESY-MDT develops the respective current version of the software to the extent required pursuant to clause 2.5 and provides the contracting party with the further developed version of the software including associated documentation according to clause 2.1 after its release by AUVESY-MDT. Clause 2.2 applies accordingly. The

respective development status is evident from the version designation. The respective current version of the software is also further developed in case of change of law or any provisions relevant for the software requiring such further development. In case the further developed version is not compatible with the previous version, AUVESY-MDT provides migration support to a reasonable extent.

AUVESY-MDT 根据第 2.5 条的要求开发相应的当前版本的软件，并在 AUVESY-MDT 发布后根据第 2.1 条向签约方提供开发的软件版本，包括相关文件。2.2 条适用。开发状态可从版本名称中看出来。如果法律或与软件相关的任何规定发生变化，则该软件的相应当前版本也将进一步开发。如果进一步开发的版本与以前的版本不兼容，AUVESY-MDT 会在合理范围内提供支持。

- 2.6.2 Previous versions will be available for 1 year after the release of the subsequent version and afterwards discontinued. At the request of the contracting party, support services for older versions of the software can be agreed upon separately and for remuneration; insofar section 3 of these T&Cs applies.

以前的版本将在后续版本发布后保留 1 年，之后停止使用。根据签约方的要求，双方可以商定在签约方继续付费的前提下，对旧版本软件继续支持服务；在此情况下，本条款与细则第 3 条适用。

- 2.6.3 In case a manufacturer of system software, which is required for the use of the software, releases a succeeding version, AUVESY-MDT shall assess after its availability whether the software interacts properly with such succeeding version of the system software and release the software if this is the case. Otherwise AUVESY-MDT endeavors to adapt the software to such succeeding version of the system software of the manufacturer or to have it adapted within a reasonable period of time. The reasonable period of time begins with the availability of such succeeding version of the system software for AUVESY-MDT after its release for distribution. After adaptation of the software to the succeeding version of the system software, AUVESY-MDT further develops the software only on this basis.

如果软件所需的系统软件的制造商发布了系统软件后续版本，AUVESY-MDT 将在该版本上市后评估软件是否能与后续版本的系统软件兼容，如果能，则发布软件。否则，AUVESY-MDT 将尽力使软件与后续版系统软件相适应，或在合理的时间内使其适应。该合理期限从系统软件的后续版本发布后开始。在软件适应后续版本的系统软件后，AUVESY-MDT 仅在此基础上进一步开发该软件。

- 2.6.4 The contracting party shall ensure that its systems, in particular its system software, have the respective technical state the software requires in the context of further developments according to this clause. AUVESY-MDT shall inform the contracting party in time from when and in which technical state this should be provided for the software.

签约方应确保其系统，特别是其系统软件，在根据本条款进一步发展的情况下，具有该软件所需的相应技术状态。AUVESY-MDT 应及时通知签约方，从何时起为软件提供何种技术状态。

- 2.6.5 Prior to the introduction of a succeeding version of system software, the contracting party shall determine whether AUVESY-MDT has released the software for this system software.
在引入任何系统软件的后续版本之前，签约方应确定 AUVESY-MDT 是否已经发布了软件。
- 2.6.6 Clauses 2.6.3 and 2.6.4 shall apply mutatis mutandis to any other third-party program which is obtained via AUVESY-MDT and with which the software is to interact as well as for any third-party program which constitutes freeware or is in the public domain (such as Linux).
对于通过 AUVESY-MDT 获得的、与本软件相互作用的任何其他第三程序，以及免费软件或属于公共领域的任何第三程序（如 Linux），可以参照第 2.6.3 条和第 2.6.4 条。

2.7 Remediation of Defects/Warranty

瑕疵修复/质保

- 2.7.1 AUVESY-MDT warrants that the software corresponds to the contractually agreed condition and quality when used in accordance with the contract (see clause 2.5) and does not infringe any third-party rights when used by the contracting party in accordance with the contract. The provisions of Chinese law or similarly mandatory requirements for the software shall be complied with.
AUVESY-MDT 保证在按照合同规定使用软件的情况下，软件符合合同约定的性能和质量（见第 2.5 条），且不存在产权瑕疵。此外，软件的性能和质量符合中国法律法规。
- 2.7.2 In case any defects occur during the use of the software, the contracting party shall notify AUVESY-MDT of the defect without undue delay and in a comprehensible form stating the information useful for the identification of the defect (such as description of the symptoms of the defect, as far as possible, proven by written records, hard copies or any other documents illustrating the defect). The notice of defect shall enable the reproduction of the defect. The burden of proof for the existence of any defect in the software is borne by the contracting party. Upon request by AUVESY-MDT the notification of the contracting party shall be made in writing (text form is sufficient). Likewise, the contracting party shall report without undue delay in case that third parties assert any claims of intellectual property rights that oppose the exercise of the right of contracting party to use the software (license).
在按照合同规定使用软件的过程中，如果出现了任何瑕疵，签约方应立即通知 AUVESY-MDT，并提供瑕疵的有效信息（尽可能描述瑕疵的状况，并以书面记录、硬拷贝或任何其他说明瑕疵的文件加以证明）。此次通知应能再现瑕疵。对于软件中存在的任何瑕疵的举证责任由签约方承担。根据 AUVESY-MDT 的要求，签约方的通知应以书面形式进行（文本形式即可）。同样，如果第三方提

出任何知识产权方面的诉求，影响到签约方行使软件使用权（许可），签约方应立即通知 AUVESY-MDT，不得无故拖延。

2.7.3 To the extent the software has a material defect or defect in title, for which the contracting party is not responsible, the contracting party has the right to reduce the rent, but subject to the following provisions:

在软件有重大瑕疵或存在所有权瑕疵的情况下，且签约方不对瑕疵负有责任，签约方拥有减免费用的权利，但须符合以下规定：

- i. AUVESY-MDT shall at its choice remove the reported defect free of charge (repair) or provide the contracting party with a defect-free version of the software (replacement). AUVESY-MDT may also repair the defect by delivering a new program version or supplying a bypass solution. In case the defect does not or does only insignificantly impair the function of the software, AUVESY-MDT may under exclusion of any further defect claims remedy the defect by delivering a new version or an update within the scope of its version, update and upgrade planning. In case of defects which seriously affect the use of the software, AUVESY-MDT shall provide a workaround solution if necessary before the final remediation and make sure that the defect will no longer have serious effects. In case of defects of title AUVESY-MDT shall at its own choice

AUVESY-MDT 清除瑕疵（修复）或向签约方提供无瑕疵的软件版本（替换）。AUVESY-MDT 也可以通过提供一个新的程序版本或提供一个其他解决方案来修复该瑕疵。如果瑕疵没有对软件功能造成损害，或损害不大，AUVESY-MDT 在其版本、更新和升级计划的范围内通过提供新的版本或更新来修补瑕疵，在此情况下，签约方无索赔诉求。如果软件瑕疵严重影响了软件的使用，AUVESY-MDT 应在瑕疵最终修复前提供必要的变通方案，以确保该瑕疵不对软件使用产生严重影响。如果出现所有权方面的瑕疵，AUVESY-MDT 可自行选择：

- provide the contracting party with the right to use the software (license) as agreed upon;
向签约方提供约定的软件使用权（许可）。
- replace the software or modify it in such a way that the allegation of infringement is removed without unreasonably impairing the contractual use by the contracting party; or
替换软件或对其进行修改，以消除所有权瑕疵，修改时不得对签约方的软件使用造成不合理的损害；或
- may conclude a termination agreement with the contracting Party. In the event that the contract is terminated by mutual agreement, AUVESY-MDT has to refund to the contracting party any remuneration paid in advance for the term remaining after the termination date

双方签订终止合同。在此情况下，AUVESY-MDT 退还签约方为终止日期后的时间段已经支付的预付费。

To the extent this is reasonable for the parties in good faith taking into account both parties' interests and considering the efforts required for defect remediation by AUVESY-MDT, the parties may agree that AUVESY-MDT remediates the defect with delivery of the next software version.

考虑到双方的利益和 AUVESY-MDT 修复瑕疵所需的努力，本着诚信原则，双方可以协商 AUVESY-MDT 交付新版本，以履行其修补瑕疵的义务。

- ii. If due to the defect the suitability of the software for the contractual use is reduced more than insignificantly, the contracting party is entitled to reduce the remuneration appropriately. The assertion of a reduction is excluded

如果由于瑕疵，软件的适用性大幅降低，签约方有权适当减少费用。以下情况除外：

- if the defect cannot be reproduced or directly indicated by machine-generated output, or
如果该瑕疵不能被机器生成的输出所复制或直接显示，或
- if the contracting party does not notify the defect within the time and in the form stipulated in clause 2.7.2.
签约方没有按照条款 2.7.2 的规定及时履行告知义务

In case of a defect due to circumstances AUVESY-MDT is responsible for or in case AUVESY-MDT is in delay with defect remediation, the contracting party is entitled to a compensation in accordance with clause 4.12. The assertion of a claim for damages is excluded in case the contracting party does not notify the defect within the time and in the form stipulated in clause 2.7.2.

如果瑕疵是由于 AUVESY-MDT 造成的，或者 AUVESY-MDT 在修复瑕疵时出现延误，签约方有权根据第 4.12 条要求赔偿。如果签约方未按第 2.7.2 条的规定履行告知义务，AUVESY-MDT 不负责赔偿。

- iii. In case a defect reduces the suitability of the software more than only insignificantly and AUVESY-MDT did not remedy this defect after the expiry of an appropriate period set by the contracting party in writing, the contracting party may extraordinarily terminate the contract.

如果瑕疵使软件的适用性大大降低，而 AUVESY-MDT 在签约方以书面形式规定的适当期限内未对该瑕疵进行修复，则签约方可在不事先通知的情况下立即终止合同。

- iv. Subject to the requirements set out in sec. 713 of the Civil Code the contracting party is entitled to self-remediation. Upon request of the contracting party AUVESY-MDT will provide the contracting party with the necessary and available interfaces in order to carry out the self-remediation. AUVESY-MDT is not obliged to provide the source code. AUVESY-MDT is not obliged to remedy any defects which arise in the course and context of self-remediation by the contracting party or any third party commissioned by the contracting party for the purpose of self-remediation.

在符合《中国民法典》第 713 条规定的前提下，签约方有权自己修复瑕疵。根据签约方的要求，AUVESY-MDT 将向签约方提供必要的和可用的接口，以便进行修复。AUVESY-MDT 没有义务提供源代码。如果签约方或签约方委托的任何第三方在修复过程中造成任何软件瑕疵，AUVESY-MDT 没有义务对其进行补救。

2.7.4 AUVESY-MDT is not obliged to remedy any defect if and to the extent the contracting party unauthorized changes the software or intervenes in the software in any other way. Further, AUVESY-MDT is not liable for any defects which arise due to improper operation, operating conditions or the use of unsuitable equipment by the contracting party. If it turns out that the circumstance due to which the contracting party cannot/could not use the software in accordance with the contract is not based on a defect of the software, AUVESY-MDT is entitled to claim compensation for any expenses which are incurred by AUVESY-MDT for the elimination of this circumstance. Expenses pursuant to this clause are charged according to the price list of AUVESY-MDT valid at the time of the elimination of the circumstance and on an hourly basis.

如果签约方擅自改变软件或以任何其他方式干预软件，AUVESY-MDT 没有义务对瑕疵进行修理，除非签约方在根据第 2.7.2 条及时告知 AUVESY-MDT 有瑕疵存在，且瑕疵不是由签约方改变或干预软件造成的。此外，AUVESY-MDT 对由于签约方的不当操作、操作条件或使用不合适的设备而产生的任何瑕疵不承担责任。如果事实证明，签约方不能正常使用软件的情况并非基于软件的瑕疵，则 AUVESY-MDT 有权要求签约方赔偿其修理瑕疵产生的任何费用。费用根据 AUVESY-MDT 价格表按小时收取。

2.7.5 The contracting party shall support AUVESY-MDT within the scope of reasonableness in the remediation of defects and provide AUVESY-MDT with access to the software and documentation to the extent necessary to remediate the defect; the contracting party shall in particular send work results to AUVESY-MDT for inspection, make machine time available and/or implement corrective measures provided by AUVESY-MDT.

签约方应在合理的范围内支持 AUVESY-MDT 对瑕疵修补工作，并在必要范围内向 AUVESY-MDT 提供软件和文件的使用权；签约方尤其应将工作报告发送给 AUVESY-MDT 进行检查，提供机器时间和/或执行 AUVESY-MDT 提供的纠正措施。

2.7.6 The limitation period for claims due to defects is 12 months after discovery of the defect by the contracting party. Hereof excluded is the liability for injury to life, body and health and the liability for gross negligence. An enhancement of the scope of use of the software does not result in a new warranty period.

由于瑕疵引起的索赔的时效期为从签约方发现瑕疵起 12 个月内。如果瑕疵对生命、身体和健康产生伤害，且 AUVESY-MDT 有重大过失责任，则本段第 1 句不适用。软件使用范围的扩大并不延长保修期。

3. Assistance and Additional Support Services

援助和额外支持服务

At the request of the contracting party the parties may agree on assistance and additional support services by AUVESY-MDT in addition to the provision of the software according to section 2 of these T&Cs. The provision of assistance and additional support services requires that the contracting party holds a valid right of use (license) regarding the software according to section 2 of these T&Cs.

应签约方的要求，双方可商定由 AUVESY-MDT 在根据第 2 条的规定提供软件的基础上提供协助和额外支持服务，前提是签约方必须持有有效的软件使用权（许可证）。

3.1 Installation and Implementation Support by AUVESY-MDT

由 AUVESY-MDT 提供安装和支持服务

3.1.1 At the request of the contracting party, and in deviation from clause 2.2 the parties may agree separately and for remuneration on
应签约方的要求，双方可以有如下约定：

- i. the installation of the software by AUVESY-MDT,
由 AUVESY-MDT 安装软件
- ii. a short Demo by AUVESY-MDT and/or
由 AUVESY-MDT 作简短的演示和/或
- iii. support by AUVESY-MDT in putting the software into operation and testing it under the conditions of use at the contracting party's premises prior to its productive use.

AUVESY-MDT 对软件投入运行进行支持，进行测试，之后签约方再进行使用。

2.2 条不适用，且安装和支持服务需要收费

3.1.2 The contracting party shall provide AUVESY-MDT with expert operating personnel at the latest at the time of the installation, respectively the testing of the software under the conditions of use at the contracting party's premises. The contracting party shall in particular ensure that the operating personnel provided have the necessary system administrator and network rights for installation and implementation support in accordance with this clause. The contracting party shall confirm the successful installation in writing (text form is sufficient).

latest at the time of the installation, respectively the testing of the software under the conditions of use at the contracting party's premises. The contracting party shall in particular ensure that the operating personnel provided have the necessary system administrator and network rights for installation and implementation support in accordance with this clause. The contracting party shall confirm the successful installation in writing (text form is sufficient).

签约方应最迟在安装时向 AUVESY-MDT 提供专家级操作人员，在签约方的场所对软件进行使用条件的测试。签约方应特别确保所提供的操作人员具有必要的

系统管理员和网络权限，以便根据本条款进行安装和实施支持。签约方应以书面形式确认安装成功（文本形式即可）。

3.2 Information on Interfaces

接口信息

To the extent interfaces to other programs exists in the software of AUVESY-MDT and at the request of the contracting party, the parties may agree separately and for remuneration on the provision of necessary information by AUVESY-MDT regarding the interfaces. 在 AUVESY-MDT 的软件中存在与其他程序的接口的情况下，应签约方的要求，双方可单独商定由 AUVESY-MDT 有偿提供有关接口的必要信息。

3.3 Further Support Services

进一步的支持服务

- 3.3.1 At the request of the contracting party, the parties may agree separately and for remuneration on the provision of further support services by AUVESY-MDT which go beyond the services as determined in section 2 as well as in clause 3.1 and clause 3.2 (such as support and maintenance services for old versions, support regarding third-party software and/or hardware used by the contracting party in connection with the software, consulting services or trainings). The scope of such services is determined in the contract.

根据签约方的要求，双方可以就 AUVESY-MDT 提供的超出第 2 条以及第 3.1 和 3.2 条规定的服务（如旧版本的支持和维护服务，对签约方使用的与软件有关的第三方软件和/或硬件的支持，咨询服务或培训）的进一步支持服务进行单独商定，签约方需对进一步的支持服务进行付费。服务的范围详见合同。

- 3.3.2 Further support services within the meaning of this clause do not include customer-specific programming of the software, in particular scripting. The parties may agree on such services separately at the request of the contracting party and for remuneration. Insofar the General Terms and Conditions for Custom-specific Programming apply.

进一步支持服务不包括针对客户的特定软件进行编程，特别是脚本。双方可以根据签约方的要求单独商定此类的有偿服务。在此情况下，针对客户特定编程的通用条款适用。

- 3.3.3 Regarding further development and maintenance of third-party software, the terms of the respective manufacturer apply. In case the parties agreed separately on the maintenance of third-party software, AUVESY-MDT provides the contracting party with new versions which AUVESY-MDT receives from the manufacturer. Clause 2.6.3, 2.6.4 and 2.6.5 apply accordingly.

关于第三方软件的进一步开发和维护，适用各制造商的条款。如果双方就第三方软件的维护达成协议，AUVESY-MDT 向签约方提供从制造商那里收到的新版本。第 2.6.3、2.6.4 和 2.6.5 条相应适用。

3.4 Obligations of the Contracting Party

签约方的义务

- 3.4.1 To the extent reasonable and appropriate in the proper course of business, the contracting party examines services provided by AUVESY-MDT in accordance with section 3 including any provided documentation immediately after performance by AUVESY-MDT; this includes in particular an examination regarding completeness of services and operability regarding basic program functions. The same applies to parts of further software products/programs, which the contracting party uses only occasionally.

在合理和适当的范围内，签约方根据第 3 条规定对 AUVESY-MDT 提供的服务进行检查，包括 AUVESY-MDT 在完成服务后提供的文件；检查范围包括服务的完整性和基本程序功能的可操作性。检查也适用于签约方并不经常使用的其他软件产品以及程序。

- 3.4.2 In case the contracting party discovers any defect during the examination it shall report these to AUVESY-MDT without undue delay. Clause 2.7.2 applies accordingly. In addition, the contracting party assigns the defect at the time of notification to a support category in the sense of Annex 1 to these T&Cs.

签约方如在检查中发现任何瑕疵，应向 AUVESY-MDT 报告，不得无故拖延。对于这一责任第 2.7.2 条同样适用。此外，签约方在通知时将该缺陷归入附件 1 中的支持类别。

- 3.4.3 If the defect was not evident on correct inspection (concealed defect), it be reported to AUVESY-MDT without undue delay after its discovery. Clause 3.4.2 applies accordingly.

签约方在检查过程中没有发现的瑕疵（隐藏瑕疵），应在发现后立即报告给 AUVESY-MDT，不得延误。第 3.4.2 条同样适用。

3.5 Right of Use (License) and Protection of the additional Software Products/Programs

其他软件产品及程序的使用权（许可证）和保护权

- 3.5.1 To the extent AUVESY-MDT provides the contracting party with further software products/programs developed by AUVESY-MDT in the course of providing services in accordance with section 3, AUVESY-MDT grants the contracting party a right of use (license) regarding these software products/programs to the same extent AUVESY-MDT has granted a right of use (license) to the contracting party regarding the software. Reference is made to clause 2.3.

如果 AUVESY-MDT 根据第 3 条向签约方提供额外服务，并在此过程中提供其他软件/程序，则 AUVESY-MDT 授予签约方关于这些其他软件或程序的使用权（许可证书），其效力与签约方的软件使用权相同。请参考第 2.3 条。

- 3.5.2 In case the provision of services in accordance with section 3 includes independently executable additional software developed by AUVESY-MDT, the granting of rights of use (licenses) to the contracting party is subject to the resolute condition that a newer version of such additional software is provided. Once new versions of further software products/programs are provided, the rights of use (license) regarding preceding versions automatically expire. AUVESY-MDT shall, however, tolerate, the use of the preceding version by the contracting party till the provided new version of further software products/programs is installed or, in case of a defect of the new version, till this defect is remediated.

如果 AUVESY-MDT 提供其开发的独立可执行的附加软件给签约方作为额外服务，则授予签约方的使用权（许可证）必须以提供该附加软件的最新版本为条件。一旦提供其他软件或程序的新版本，有关前一版本的使用权（许可证）将自动失效。然而，AUVESY-MDT 应允许签约方使用先前的版本，直到安装新版本。或者在新版本存在瑕疵的情况下，签约方也可使用先前的版本，直到瑕疵修复。

- 3.5.3 The contracting party shall not be entitled to use any further software products/programs which have become unnecessary by performance according to the contract. The contracting party shall deinstall such further software products/programs and shall return any backup copies or original data carriers to AUVESY-MDT.

签约方无权使用任何根据合同约定已经变得不必要的其他软件产品或程序。签约方应卸载这些软件产品或程序，并将备份副本或原始数据载体返还给 AUVESY-MDT。

- 3.5.4 Clause 2.4 shall apply accordingly.

第 2.4 条视情况适用。

3.6 Remediation of Defects/Warranty

瑕疵的修补/质保

- 3.6.1 AUVESY-MDT warrants that services according to section 3 are free of defects and third-party rights. The provisions of chinese law or similarly mandatory requirements regarding the services according to section 3 shall be complied with. To the extent the services according to section 3 have a material defect or a defect in title, sec. 770 et seq. of the Civil Code shall apply accordingly, unless otherwise provided for in these T&Cs. Clause 2.7.2 shall apply accordingly. In case sec.781 of the Civil Code is applicable clause 2.7.3 shall apply accordingly.

AUVESY-MDT 保证根据第 3 条提供的服务不存在瑕疵和权利瑕疵。服务应遵守中国法律法规。如果根据第 3 条规定提供的服务存在实质性瑕疵或权利瑕疵，《中国民法典》第 770 条及以下条款应相应适用，除非本通用条款另有规定。第 2.7.2 条应相应适用于此规定。在《中国民法典》第 781 条适用的情况下，2.7.3 条应相应适用。

- 3.6.2 The contracting party is entitled to self-remediation. Upon request of the contracting party, AUVESY-MDT will provide the contracting party with the necessary and available interfaces in order to carry out the self-remediation. AUVESY-MDT is not obliged to provide the source code. AUVESY-MDT is not obliged to remedy any defects which arise in the course and context of self-remediation by the contracting party or any third party commissioned by the contracting party for the purpose of self-remediation.

签约方有权自己修补瑕疵。根据签约方的要求，AUVESY-MDT 向签约方提供必要的和可用的接口，以便进行修复瑕疵。AUVESY-MDT 没有义务提供源代码。如果签约方或签约方委托的任何第三方在瑕疵修复过程中造成任何软件瑕疵，AUVESY-MDT 没有修复义务。

- 3.6.3 Clause 2.7.4, 2.7.5 and 2.7.6 shall apply accordingly.

第 2.7.4，2.7.5 和 2.7.6 条相应地适用此规定。

4. General Rules

通用规则

Unless otherwise provided for in section 2 and 3 of these T&Cs, the following provisions shall apply to the provision of the software pursuant to section 2 and to the provision of assistance and additional support services according to section 3 of these T&Cs.

下列规定应适用于根据第 2 条提供的软件和根据本第 3 条提供的额外支持服务，除非第 2 条和第 3 条另有规定。

4.1 Remuneration

费用

- 4.1.1 The remuneration is stipulated in the contract (in particular in the offer signed by the contracting party).

合同里有费用规定（特别是在签约方签署的报价中）。

- 4.1.2 To the extent AUVESY-MDT provides at the request of the contracting party and on the basis of a separate agreement about assistance and additional support services within the meaning of section 3, such assistance and additional support services are remunerated separately and according to expenditure, unless otherwise agreed upon. If and to the extent not otherwise stipulated in the contract, the hourly rates and travel

expenses for assistance and additional support services within the meaning of section 3 are based on the valid price list of AUVESY-MDT in place at the time the invoice is rendered. Travel time is calculated at 50% as working time. To the extent the parties did not agree otherwise, AUVESY-MDT may invoice the services on a monthly basis. Any one-time fees incurred as part of the installation and implementation support will be invoiced to the contracting party at the beginning of the contract relationship. In case of an increase of remuneration due to modification in scope regarding the assistance and/or additional support services according to section 3 which the parties agreed upon in writing, the increased amount is calculated pro rata temporis for the remaining term of the current billing interval. For this purpose the remuneration for one calendar day – depending on the agreed billing interval – is calculated at 1/30 of the monthly remuneration, 1/180 of the semi-annual remuneration or 1/360 of the annual remuneration; the invoicing shall take place as of the month succeeding the change agreed upon.

如果 AUVESY-MDT 应签约方的要求并在单独协议的基础上提供第 3 条所指的援助和额外支持服务，这种援助和额外支持服务将按支出单独计费，除非另有约定。如果合同中没有另外规定，第 3 条所指的协助和额外支持服务的每小时费率和差旅费以开具发票时 AUVESY-MDT 的有效价格表为依据。旅行时间按 50% 计算为工作时间。在双方没有其他约定的情况下，AUVESY-MDT 可以按月开具服务发票。在安装和支持过程中产生的任何一次性费用将在合同开始时向签约方开具发票。如果由于援助或额外支持服务范围的修改而导致费用的增加，并且双方以书面形式达成一致，则增加的金额将在当前计费间隔的剩余期限内按比例进行计算。为此，一个历日的费用为--根据商定的计费间隔--如果是按月付费，月度费用的 1/30、如果是按半年付费，半年费用的 1/180 或按年度付费，年度费用的 1/360 计算；发票应在商定的变更后的第一个月开具。

- 4.1.3 Unless otherwise agreed upon, payments are due without any deduction within 30 days after the contracting party receives the invoice. In case the contracting party is in default of payment, AUVESY-MDT will notify the contracting party in writing (text form is sufficient). The right of use (license) of the contracting party rests if and to the extent the contracting party does not settle the outstanding amount within 4 weeks after receipt of the notice from AUVESY-MDT.

签约方收到发票后 30 天内应付款，不得扣减，除非双方另有约定。如果签约方拖欠付款，AUVESY-MDT 将以书面形式通知签约方（也可是文本形式）。如果签约方在收到 AUVESY-MDT 通知后 4 周内没有结清欠款，则签约方的使用权（许可证）将被取消。

- 4.1.4 The contracting party may only set off claims where its counterclaim is undisputed or the title is recognized by declaratory judgement and it may only base a right of retention on undisputed or legally established claims.

签约方只能在其诉求无争议或有法院判决承认的情况下抵销 AUVESY-MDT 的诉求，或行使保留权利。

- 4.1.5 In case the contracting party has rightfully extraordinarily terminated the contract

within a billing interval, AUVESY-MDT shall refund any remuneration already paid for the billing interval in question on a pro rata temporis basis.

如果签约方在一个计费区间内有效终止了合同，AUVESY-MDT 将按时间比例退还已经为该计费区间支付的费用。

4.2 Remote Support

远程支持

- 4.2.1 The contracting party shall enable remote support for AUVESY-MDT for defect remediation according to section 2 and section 3 as well as for the provision of assistance and additional support services according to section 3. For this purpose, the contracting party provides in coordination with AUVESY-MDT and at the expense of the contracting party a connection to the telecommunication network so that the systems of both parties can be linked with each other. Further, the contracting party provides AUVESY-MDT with a user profile/password controlled by the contracting party to enable AUVESY-MDT to log into the system of the contracting party. The line is released by the contracting party.

签约方应根据第 2 条和第 3 条为 AUVESY-MDT 提供远程支持，以修复瑕疵，并根据第 3 条提供协助和附加支持。为此，签约方与 AUVESY-MDT 协调，并由签约方出资提供与电信网络的连接，以便双方的系统相互连接。此外，签约方为 AUVESY-MDT 提供一个由签约方控制的用户资料及密码，以便其登录签约方的系统。该线路由签约方发布。

- 4.2.2 AUVESY-MDT informs the contracting party about the services rendered via remote support.

AUVESY-MDT 告知签约方进行了哪些远程服务。

- 4.2.3 If and to the extent data is transferred to AUVESY-MDT for the purpose of troubleshooting or reproduction, AUVESY-MDT shall adhere to all technical and organizational measures in its own sphere to which the contracting party has to adhere itself according to applicable requirements by law.

如果数据被转移给 AUVESY-MDT，以进行故障排除或复制，AUVESY-MDT 应遵守任何签约方需要遵守的技术和组织规定。

- 4.2.4 If and to the extent AUVESY-MDT is not enabled by the contracting party to provide remote support in accordance with this clause, the contracting party shall reimburse AUVESY-MDT for the additional expenses (travel time and additional costs for the remediation of defects and errors) which incur for the on-site remediation measures. The expenditure according to this clause is charged according to the price list applicable at AUVESY-MDT at the time of support and on an hourly basis.

如果签约方不允许 AUVESY-MDT 根据本条款提供远程支持，则签约方应向 AUVESY-MDT 赔偿因修复措施而产生的额外费用，包括旅行时间和修复瑕疵产生的额外费用。费用按小时计算，具体见价格表。

4.3 Support and Response Times

支持及回应时间

4.3.1 The support and response times are determined in Annex 1 to these T&Cs.

附件 1 中规定了支持与回应时间。

4.3.2 For services in connection with the provision of the software according to section 2, the terms regarding the Standard Support apply. The parties may agree on the provision of Premium Support for a separate fee according to section 3 of these T&Cs.

普通支持条款适用于根据第 2 条提供的与软件有关的服务。双方可以根据第 3 条的规定，协商是否提供高级支持，并另行收费。

4.3.3 Support requests of the contracting party are handled at AUVESY-MDT by a trained and experienced support personnel who evaluate the support request upon receipt (e-mail, support ticket/telephone) according to priority and classify accordingly in a support ticket (please refer to Annex 1 to these T&Cs). Classification is made in the classes "LOW", "NORMAL" and "HIGH". Support cases are processed according to their priority. Support cases with the classification "HIGH" are processed before support cases with the classification "NORMAL". Support cases with the classification "LOW" have the lowest priority in the processing order. For support cases of the category "HIGH" and "NORMAL" AUVESY-MDT provides a workaround solution until complete remediation within the remediation period if and to the extent a support request cannot be remediated within the remediation period.

签约方的支援请求由在 AUVESY-MDT 方经验丰富的技术人员进行处理。技术人员在收到支持请求（电子邮件、报错或电话）时根据优先级进行评估，并进行相应分类（请参考附件 1）。分类分为“低”、“正常”和“高”三个等级，根据等级技术人员进行处理。分类为“高”的请求在“正常”的请求之前处理。分类为“低”的请求的处理优先级最低。如果签约方的“高”和“正常”类别的请求在期限内得不到回应，AUVESY-MDT 将提供一个变通的解决方案，直到完成支持服务。

4.4 Further Obligations of the Contracting Party

签约方的其他义务

4.4.1 The contracting party shall install the respective current version of the software and other agreed services properly and shall use them in accordance with the contract.

AUVESY-MDT informs the contracting party about new releases of the software.

签约方正确安装当前版本的软件和其他商定的服务，并按照合同规定使用。

AUVESY-MDT 会通知签约方有关软件的新版本。

4.4.2 Unless otherwise agreed upon, the contracting party shall exclusively use the respective current version of the software. This does not apply if such use is not reasonable for the contracting party, for example because the respective current version is defect and the use of the current version thereby would impair the operational

procedures of the contracting party. In such case the contracting party informs AUVESY-MDT in writing (text form is sufficient) without undue delay.

除非另有约定，签约方应使用软件的当前版本。如果这种版本不适用于签约方，例如，相应的当前版本有瑕疵，使用当前版本会损害签约方的操作程序。在这种情况下，签约方应以书面形式（文本形式即可）通知 AUVESY-MDT，不得无故拖延。

- 4.4.3 The contracting party shall not make any unauthorized modifications or enhancements to the software and is liable for any damages caused by such unauthorized modification and enhancement.

签约方不得擅自对软件进行任何修改或升级。一旦过程中出现任何瑕疵，签约方需要为此负责。

- 4.4.4 The software is maintained by qualified personnel at the contracting party. For this purpose the contracting party appoints uniformly responsible contact persons, who are responsible to AUVESY-MDT for giving and receiving binding information and who can make all decisions in connection with the provision of the software according to section 2 and the provision of assistance and additional support services according to section 3. If and to the extent it turns out that such contact persons are not sufficiently qualified for the maintenance of the software, the contracting party shall, after communication with AUVESY-MDT, appoint another qualified personnel as contact person. In addition, AUVESY-MDT provides the contracting Party training program.

软件由签约方的合格人员维护。为此，签约方指定联络人。联络人负责为 AUVESY-MDT 提供和接收信息，并在 AUVESY-MDT 根据第 2 条提供软件以及根据第 3 条提供额外支持服务的过程中做决定。如果签约方的负责联系人没有足够的资格维护该软件，则签约方应在和 AUVESY-MDT 沟通的前提下另外指定负责人。此外，AUVESY-MDT 为签约方提供培训服务。

- 4.4.5 Hard- and software of the contracting party shall correspond to the respective requirements communicated by AUVESY-MDT. The (hardware and software) environment conditions at the contracting party shall correspond to the specifications of the product description and meet the system and environment requirements as described on the homepage of AUVESY-MDT (AUVESY-MDT.com/de).

签约方的硬件和软件应符合与 AUVESY-MDT 商定的要求。签约方的（硬件和软件）环境条件应与产品说明的规格相符，并满足 AUVESY-MDT 主页（AUVESY-MDT.com/de）上描述的系统和环境要求。

- 4.4.6 The contracting party provides AUVESY-MDT in time and free of charge with the information and additional resources (such as auxiliary systems for the provision of assistance and additional support services in the sense of section 3, such as Teamviewer, license or server number of the software) necessary for the provision of the contractually agreed services and grants AUVESY-MDT sufficient access to

hardware and software in the contracting party's environment. The contracting party grants AUVESY-MDT access to affected software systems as is necessary for the performance of the contract. If and to the extent AUVESY-MDT is not granted access or not granted access at the agreed times or not to the necessary extent, the contracting party reimburses AUVESY-MDT any additional expenditure (travel times and additional costs for the remediation of defects or errors) which incur as a result. The expenditure according to this clause is charged according to the price list applicable at AUVESY-MDT at the time the service is provided and on an hourly basis. This does not apply if the contracting party is not responsible for not granting access or not granting proper access at the agreed time.

签约方应及时免费向 AUVESY-MDT 提供合同约定的服务所需的信息和额外资源（如第 3 条里的额外支持服务的辅助系统，如 Teamviewer、软件的许可证或服务号），并允许 AUVESY-MDT 在签约方的环境中访问其硬件和软件。签约方允许 AUVESY-MDT 在履行合同的必要情况下访问受影响的软件系统。如果 AUVESY-MDT 不被允许进入软件系统，或没有在约定的时间被允许进入，或没有达到必要的程度，签约方应向 AUVESY-MDT 偿还由修复瑕疵而产生的任何额外开支（包括因旅行时间和修复瑕疵产生的额外费用）。费用按小时计算，详情见价格表。如签约方不存在责任，则本规定不适用。

- 4.4.7 For security reasons, an employee of the contracting party will be present during the performance of services by AUVESY-MDT according to section 2 and section 3 and ensure the adherence to own operational safety regulations. At the time of placing the order, at the latest, however, before execution of work, the contracting party forwards the safety regulations, if such exist, to AUVESY-MDT in writing (text form is sufficient).

出于安全考虑，在 AUVESY-MDT 根据第 2 和第 3 条提供服务期间，将有一名签约方的雇员在场，确保遵守操作安全规定。在 AUVESY-MDT 接到任务时，最迟在任务执行前，签约方将其安全规定（如有）以书面形式提交给 AUVESY-MDT（文本形式即可）。

- 4.4.8 Before AUVESY-MDT renders the agreed services, the contracting party performs all tasks in due time which are not in scope of the agreed services (such as implementation of network requirements) and which were communicated with AUVESY-MDT in advance as a condition for the provision of the service by AUVESY-MDT.

在 AUVESY-MDT 提供服务之前，签约方在适当的时候完成所有虽不属于合同约定，但是必不可少的任务，用以 AUVESY-MDT 提供的服务能顺利进行（如网络要求的实施）。在签约方完成此类任务时，应与 AUVESY-MDT 进行沟通。

- 4.4.9 The contracting party shall take all necessary and reasonable measures to secure any data and programs of the software provided by AUVESY-MDT and, where applicable, further software products/programs according to the specifications by AUVESY-MDT (AUVESY-MDT.com/de) and shall thereby ensure that these can be restored with reasonable effort. Data backups shall take place in accordance with the specifications of AUVESY-

MDT or in the absence of such specifications according to generally accepted principles of secure data processing. In any case, the contracting party shall carry out a current data backup before AUVESY-MDT performs any services regarding the software at the systems of the contracting party and keep the data backup available during performance of service by AUVESY-MDT.

签约方应根据 AUVESY-MDT (AUVESY-MDT.com/de) 的规范, 定期采取任何必要及合理措施, 以确保 AUVESY-MDT 提供的软件的数据和程序的安全, 确保进 AUVESY-MDT 其他软件产品及程序的安全, 并确保这些数据和程序可以通过合理努力被恢复。数据备份应按照 AUVESY-MDT 的规范进行。如果无规范, 数据应按照公认的安全数据处理原则进行备份。在任何情况下, 签约方在 AUVESY-MDT 提供服务之前, 都要对当前的数据备份, 并在 AUVESY-MDT 履行服务期间保持数据备份可用。

4.5 Beta Versions

测试版本

Upon request, the contracting party is granted access to beta versions of the software which are provided "as is". To the extent legally permissible, any warranty and liability of AUVESY-MDT regarding the use of beta versions is excluded. The contracting party is only entitled to use such beta versions for test purposes. A use of the beta versions in productive systems is not permitted.

根据要求, 签约方可访问软件的测试版, 这些测试版是 "按现状 "提供的。在法律允许的范围内, AUVESY-MDT 对测试版本的使用不做任何保证和承担责任。签约方仅有权将此类测试版用于测试目的。测试版不允许在生产系统中使用。

4.6 Services not included

不包括的服务

The following services are not subject to these T&Cs:

以下服务不包含在通用条款中:

4.6.1 AUVESY-MDT is not responsible for remediation of malfunctions and damages which are the result of improper use of the software respectively further software products/programs or other influences; in particular malfunctions and damages which are the results of force majeure, influence from an unauthorized third party or his system (which are not specified in any contract concluded between the contracting party and AUVESY-MDT), modification of the environment by the contracting party, operating errors, non-compliance with warning notices and generally usual guidelines regarding the operation of IT devices;

由于不正确使用软件、其他软件产品、程序, 或由于其他影响因素而造成的故障和损害, AUVESY-MDT 不承担责任; 特别是由于不可抗力、未经授权的第三方影响或第三方系统影响 (在签约方与 AUVESY-MDT 签订的任何合同中没有明确

规定)、签约方操作环境的改变、操作错误、不遵守警告以及违反有关 IT 设备操作的准则而造成的故障和损害。

- 4.6.2 Any services beyond the scope of maintenance obligations according to clause 2.5 and assistance and additional support services as determined in section 3;
第 2.5 条 和第 3 条规定范围外的服务
- 4.6.3 Remediation of malfunctions and damages to the software or further software products/programs which have arisen during/by programming work carried out by the contracting party;
在签约方的编程工作中, 签约方对软件或其他软件产品及程序造成了故障和损害, AUVESY-MDT 对此故障损害进行修复。
- 4.6.4 Remediation of malfunctions and damages caused by non-compliance or infringement of the obligations of the contracting party as stipulated in clause 4.4 (in particular clause 4.4.4);
对因不遵守或违反第 4.4 条 (特别是第 4.4.4 条) 规定的签约方的义务而造成的故障和损害进行修复。
- 4.6.5 Remediation of malfunctions and damages which could have been avoided if indications and instructions in the product description or user documentation (according to AUVESY-MDT.com/de) of the software or further software products/programs were complied with;
对于签约方如果遵守软件或其他软件产品及程序的产品说明或用户文件 (根据 AUVESY-MDT.com/de) 中的指示和说明的情况下可以避免的故障和损害进行修复。
- 4.6.6 Services concerning the software or services according to section 3 if these were modified by the contracting party or a third party and the remediation of malfunctions and damages which are not related to the software or services according to section 3.
签约方或第三方对软件和服务进行了修改, 对与第 3 条规定的软件或服务无关的故障和损害进行修复。

4.7 Information Security

信息安全

AUVESY-MDT shall take all necessary and reasonable technical and organizational measures to ensure an adequate data security regarding any transferred personal data of the contracting party. The state of the art, the implementation costs, the type, scope and purposes of the processed data as well as the probability of occurrence and severity of both the information security risk and the data protection risk for the data subjects under data protection laws are to be taken into account. Abstract control measures

(access control etc.) and their essential technical and organizational implementation measures which ensure confidentiality, integrity, resilience and rapid recoverability of the used systems and data processed therein are described in the appendix to the data processing agreement concluded between the contracting party and AUVESY-MDT. The latter concrete technical and organizational implementation measures are subject to technical progress and further development. AUVESY-MDT may unilaterally modify and change these measures at any time as long as the existing security level within the abstract control measures is not reduced overall.

AUVESY-MDT 应采取所有的必要及合理的技术和组织措施，以确保签约方的个人数据的安全，在此过程中应考虑技术水平、实施成本、所处理数据的类型、范围和目的，以及根据数据保护法，数据主体的信息安全风险和数据处理风险的发生概率和严重程度。在签约方和 AUVESY-MDT 签订的数据处理协议的附录中规定了相关的控制措施（访问控制等）及其基本的技术和组织措施，用以确保所使用的系统和其中处理的数据的保密性、完整性、弹性和快速恢复性。具体技术和组织措施根据技术进程和发展进行实施。AUVESY-MDT 可以随时单方面修改和变更这些措施，前提是，采取了合同规定的控制措施后，现有整体安全水平没有降低。

4.8 Data Protection

数据保护

For the personal data contained in the data of the contracting party, the contracting party is, in general, the controller within the meaning of applicable data protection laws. In this respect, AUVESY-MDT acts, in general, only as processor within the meaning of applicable data protection laws. The contracting party shall ensure to only make such personal data accessible to AUVESY-MDT for which the controller has ensured lawfulness of processing and transfer of data according to data protection laws. The rights and obligations of the parties in such data processing relationship are determined in the data processing agreement concluded separately between the contracting party and AUVESY-MDT. To the extent AUVESY-MDT processes data of the contracting party for the preparation of analyses for own purposes, AUVESY-MDT is, in general, the controller according to applicable data protection laws. AUVESY-MDT shall ensure that such analyses will not include any personal data.

一般来说，对于签约方数据中包含的个人数据，签约方是信息保护法意义上的控制者，也是信息处理者。只有在 AUVESY-MDT 确保会合法处理转移数据的前提下，签约方才能将个人数据交给 AUVESY-MDT。数据处理协议规定了双方的权利和义务。如果处于自身目的处理签约方的数据，用于分析准备，则 AUVESY-MDT 根据适用的信息保护法是控制者。AUVESY-MDT 应确保此类分析不包括任何个人数据。

4.9 Confidentiality

保密性

4.9.1 The parties shall keep confidential all information of

the respective disclosing party obtained prior to and in the course of the performance of the contract designated in writing as confidential or which is according to other circumstances obviously recognizable as business or trade secret of the disclosing party. The rights to confidential information shall remain the exclusive property of the disclosing party. The non-disclosure obligations remain valid for another period of 2 years after the contract is terminated. A right of retention and/or a right to set-off of the receiving party with respect to all confidential items and documents of the disclosing party is excluded.

双方应对自己在履行合同之前和过程中获得的、以书面形式指定为机密的或根据其他情况明显可视为披露方的商业或贸易秘密的所有披露方的信息进行保密。保密信息的权利仍属于披露方。合同终止后，此项义务在两年内仍然有效。接收方对披露方的所有机密项目和文件的保留权和/或抵消权不属于此项。

- 4.9.2 The receiving party shall protect confidential information of the disclosing party in the same manner as it protects its own comparable confidential information but at least with all reasonable care. The parties shall oblige their employees, external staff and subcontractors to maintain confidentiality by means of suitable contractual regulations that comply and correspond with these T&Cs.

接收方应以保护其自身可比的保密信息的方式来保护披露方的保密信息，至少合理谨慎。双方应与各自的雇员、外部员工和分包商签订相关的，并符合通用条款规定的合约，来规定以上人员的保密义务。

- 4.9.3 Confidential information of the disclosing party may only be used for the performance of the purposes, rights and obligations arising from the contract and these T&Cs as well as for the fulfillment of any legal obligation. Further, AUVESY-MDT may include the name and the business name of the contracting party as well as a short description of the rendered services in a reference list for advertising purposes regarding the software. Any further use of names or information for reference purposes shall require prior written consent of the contracting party. Any use of confidential information for other purposes shall require prior written consent (text form is sufficient) of the disclosing party. The receiving party is in particular prohibited from exploiting or imitating confidential information of the disclosing party itself in any way (in particular by way of so-called "reverse engineering") or having it exploited or imitated by third parties.

披露方的保密信息只用于履行合同和本条款中规定的目的、权利和义务，以及履行法律义务。此外，AUVESY-MDT 可以将签约方的名称和企业名称，以及对所提供服务的简短描述列入参考清单，用于有关软件的广告。任何为参考目的而进一步使用姓名或信息的行为都需要事先得到签约方的同意。任何出于其他目的的使用保密信息，应事先得到披露方的书面同意（文本形式即可）。接受方尤其禁止以任何方式（特别是通过所谓的“反向工程”）利用或仿造披露方的保密信息，或让第三方利用或仿造。

- 4.9.4 Disclosure of confidential information to third parties, both directly and indirectly,

such as a description or summary, shall only be permissible to the extent required by the purposes, rights and obligations arising from the contract as well as by any legal obligation, if the disclosing party provides its prior written consent (text form is sufficient) and if the third party is subject to essentially comparable confidentiality obligations as stipulated in these T&Cs. The third party's handling of the confidential information shall be attributable to the disclosing party. Employees, external staff and subcontractors, to whom confidential information should be disclosed as part of the performance of the contract are not third parties within the meaning of this clause. 只有在披露方事先书面同意（文本形式即可），并且第三方愿意遵守本通用条款中规定的保密义务的情况下，在合同的目的、合同规定的权利和义务以及法定义务要求的范围内，信息才能直接或间披露给第三方，如描述或摘要，第三方对机密信息的处理应视作为披露方行为。雇员、外部工作人员和分包商不属于第三方。

- 4.9.5 Reproductions of confidential information shall, as far as this is technically possible, contain all references and notices regarding its confidential or secret nature as contained in or attached to the original.

在技术可行的情况下，机密信息的复制应包括原件中包含的，或附在原件上的关于其机密性的所有注释和批注。

- 4.9.6 Confidential information/business or trade secrets shall be exempt from the obligations above if and to the extent the receiving/disclosing party demonstrates that the information

保密义务不适用于以下情况，前提是接收方或披露方能证明该信息：

- i. Is already known to the receiving party prior to disclosure by the disclosing party;
在披露时已为接收方所知
- ii. is, or later becomes publicly available or generally known through no act or default of the receiving party;
非因接收方的行为或过失而被公开或普遍知道
- iii. Has been communicated to the receiving party by a third party, unless the receiving party is aware that the third party by disclosing the information has breached a confidentiality obligation towards the respective other party;

已由第三方告知接收方，除非接收方知道第三方的披露行为违反了保密义务。

- iii. Has been developed by the receiving party independently and without use of any confidential information of the other party;
由接收方独立开发的，并且没有使用另一方的任何保密信息
- iv. Is subject to mandatory disclosure by administrative or judicial order; or 受行政或司法命令的强制披露；或
- v. Must be disclosed to a third party in order to comply with a legal obligation.

为了履行法律义务而必须向第三方披露。

In case of clause 4.9.6.v. and clause 4.9.6.vi., the disclosing party shall inform the other party without undue delay and to the extent permitted by applicable laws of the order or legal obligation, as the case may be, so that the other party may attempt to prevent the disclosure by taking legal action. In the event that such legal action is not taken by the other party, the disclosing party will disclose only that portion of the confidential information that is specifically ordered or legally required to be disclosed and will use its best efforts to obtain an assurance from the third party that the confidential information in question will be kept confidential. In the event of a court order for the disclosure of confidential information the parties shall take all reasonable and lawful actions to avoid and/or minimize the extent of the disclosure. The parties shall make it clear in the course of disclosure that the information is confidential.

如果出现第 4.9.6.第 5 条和第 4.9.6.第 6 条情况，披露方应在法律或法定义务允许的范围内，即刻告知另一方，以便另一方采取法律行动阻止披露。如果另一方没有采取这样的法律行动，披露方将只披露被特别命令或法律要求披露的那部分机密信息，并将尽最大努力从第三方那里获得有关机密信息保密的保证。如果法院命令披露机密信息，各方应采取一切合理合法的行动，避免和/或尽量减少披露的范围。双方应在披露过程中明确表示该信息是保密的。

4.10 Third-Party Claims

第三方索赔诉求

- 4.10.1 The parties shall inform each other without undue delay if a third party asserts any claims against a party based on a breach of duty arising from the obligations of the respective other party in the context of the provision of the software respectively the use of the software or any services in accordance with section 3. The party concerned shall only take legal action against the third party in consultation with the party responsible for the breach of duty or authorize the latter to settle the dispute.

如果第三方根据第 3 条的规定，在提供软件，或使用软件或任何服务的过程中，基于对方义务范围内的违约行为而对一方提出索赔，这一方应立即通知对方。当事人只能在与违约责任方协商后对第三方采取法律行动，或授权后者解决争端。。

- 4.10.2 The parties mutually indemnify each other from any liability for third-party claims, including the associated reasonable costs of legal defense which are based on a breach of duty arising from the obligations of the respective other party in the context of the provision of the software respectively the use of the software or any services in accordance with section 3.

在出现第三方向一方索赔的情况下，一方可向另一方要求索赔，包括相关合理的辩护费用，前提是另一方违反了第 3 条规定里的义务。

4.11 Disruptions in the Provision of Services, Delay

服务的中断、延迟

4.11.1 If and to the extent a circumstance for which AUVESY-MDT is not responsible, including strike or lockout, impairs the adherence to schedules, AUVESY-MDT may request an appropriate postponement of the deadlines. If and to the extent expenditures increase due to the circumstance the contracting party is responsible for, AUVESY-MDT may request remuneration of the additional expenditure incurred by AUVESY-MDT.

如果出现某种状况，且 AUVESY-MDT 对此状况并不负有责任，比如罢工或停工，而导致无法遵守原定时间计划，AUVESY-MDT 可以要求适当推迟义务履行的截止时间。如果由于签约方的原因导致开支增加，AUVESY-MDT 可以要求补偿其额外开支。

4.11.2 In case AUVESY-MDT is in default for more than 30 (thirty) days, the contracting party may from this point in time onwards request a contractual penalty of 0.5% of the value of services that cannot be used for their intended purpose for each additional week but no more than 5% of the order value.

如果 AUVESY-MDT 延迟履行义务超过 30 天，签约方可以从此时开始，每增加一周，要求支付无法使用的服务价值的 0.5% 的补偿，但补偿总额不超过订单价值的 5%。

4.12 Liability

赔偿责任

4.12.1 AUVESY-MDT is liable for damages based on an intentional or grossly negligent breach of duty, also by a legal representative or vicarious agent of AUVESY-MDT, for damages resulting from injury to life, body or health, according to the provisions of the Product Quality Law as well as to the extent of warranty AUVESY-MDT has provided.

根据《产品责任法》的规定以及 AUVESY-MDT 提供的质保范围，如果 AUVESY-MDT 公司，其法定代表人或代理人有故意或重大过失违约行为，且造成人身伤害，AUVESY-MDT 需承担责任。

4.12.2 AUVESY-MDT is not liable for damages resulting from a slightly negligent breach of duty, also by a legal representative or vicarious agent of AUVESY-MDT. This shall not apply to damages resulting from a breach of duty, which is essential for the execution of the contract, or in case of violation of the duty the contractual purpose is endangered and, therefore, the contracting party may regularly trust in fulfilment of the duty (breach of cardinal obligations); insofar, however, liability is limited to the amount of damages foreseeable at the time of the conclusion of the contract and typical for this contract type.

AUVESY-MDT 对因 AUVESY-MDT，其法定代表人或代理人的轻微过失而造成的损害，不承担责任。但如果出现违反了合同的主要义务，或者由于违约义务合同目的无法实现，且签约方信任 AUVESY-MDT 可以履行义务的情况（违反基本义务），第 1 句不适用。责任限于在签订合同时可预见的、该合同类型的典型损害金额。

4.12.3 AUVESY-MDT is not liable for the loss of data and/or programs to the extent such damage results in the failure of the contracting party to perform backups and thereby ensure that lost data can be restored with reasonable efforts.

如果合同方在备份数据的时候丢失了数据和/或程序，且合同方确认丢失的数据可以被恢复，AUVESY-MDT 不承担任何责任。

4.12.4 Any further liability by AUVESY-MDT for any legal reason whatsoever is excluded.

AUVESY-MDT 不承担其他责任。

4.13 Term and Termination

期限与合同终止

4.13.1 The commencement of the contract, the contract term and the termination of the contract are determined in the contract (in particular in the offer signed by the contracting party).

合同中确定合同的开始、期限和终止（特别是在签约方签署的要约中）。

4.13.2 To the extent the provision of assistance and support services by AUVESY-MDT in the sense of section 3 is impossible or unfeasible due to any modifications initiated by the contracting party, improper operation or any constellation with third-party software and the contracting party does not remedy or stop this condition after receipt of a warning by AUVESY-MDT, AUVESY-MDT is entitled to terminate the contract with a 30-day notice period. The same shall apply, if the contracting Party is unable to provide qualified personnel that meet the requirements of AUVESY-MDT. AUVESY shall set an appropriate period for the contracting Party to provide qualified personnel before termination.

由于签约方的修改软件、不当操作或与第三方软件连接导致 AUVESY-MDT 无法履行第 3 条里的义务，AUVESY-MDT 应向签约方提出警告。如果签约方在收到警告后没有补救或停止这种状况，AUVESY-MDT 有权解除合同，解除期限为 30 天。如果签约方不能提供符合 AUVESY-MDT 要求的合格人员，则 AUVESY-MDT 也可以解约。

AUVESY-MDT 在解约前应规定一个适当的期限，以便签约方提供合格的人员。

4.13.2 The right to terminate without notice for good cause remains unaffected. Good cause, which entitles AUVESY-MDT to terminate the contract, shall be deemed to exist, if continued adherence to the contract would constitute unreasonable hardship for AUVESY-MDT, in particular in case the rights of AUVESY-MDT are seriously violated by the contracting party by using the software or further software products/programs beyond the scope permitted according to the contract and these T&Cs and if the contacting party does not stop the violation within a reasonable period of time after receipt of a warning from AUVESY-MDT.

如果出现重大理由双方可以立即解约。如果继续遵守合同对 AUVESY-MDT 来说极不合理，则被视为重大理由，尤其是当出现签约方在使用软件还有服务的时候

候，没有按照合同和通用条例的要求，严重损害了 AUVESY-MDT 的利益，且在收到了 AUVESY-MDT 发出警告后的合理期限内，仍未停止该侵权行为的情况下，AUVESY-MDT 可以立刻解约。

4.13.3 Ordinary termination of the contract and termination for good cause without notice both require written form.

正常或非正常终止合同需要书面形式。

4.14 Obligations upon and after Termination of the Contract

合同终止期及其后的义务

4.14.1 After termination of the contract, the contracting party shall discontinue the use of the software respectively further software products/programs and shall return them to AUVESY-MDT as well as all program copies (including backup copies) and any documentation, materials and other documents provided unless the contracting party is subject to retention periods by law. In this case the contracting party shall inform AUVESY-MDT without undue delay and shall delete the documents after expiry of the retention period by law. Deletion includes deletion of aforementioned information/data from every computer or any similar device, from every text processing program on or in which information within the meaning of this clause is saved and/or filed. The same shall apply to any documents, whether in written, electronic or any other form. Upon request the contracting party shall without undue delay present AUVESY-MDT with a written confirmation regarding compliance with its obligations within the meaning of this clause. Notwithstanding the obligation to return or delete according to this clause, the parties shall continue to be bound by the obligation of confidentiality. The return or deletion shall be carried out at the contracting party's own expense.

合同终止后，签约方应停止使用该软件和其他软件产品/程序，并将该软件和其他软件产品/程序以及所有程序副本（包括备份副本）以及任何文件、材料和其他提供的文件归还给 AUVESY-MDT，除非签约方依法有保留期限。在这种情况下，签约方应及时通知 AUVESY-MDT，并在法律规定的保留期结束后删除文件。上述信息/数据须从每台计算机或任何类似的设备中删除，从保存文档的每个文本处理程序中删除。此规定也应适用于任何文件，无论是书面、电子或任何其他形式。根据要求，合同方应立即向 AUVESY-MDT 提交一份关于其遵守本条款义务的书面确认。尽管根据本条款有归还或删除的义务，但双方应继续受保密义务的约束。归还或删除的费用由签约方自行承担。

4.14.2 To the extent AUVESY-MDT provides the contracting party with the software and/or further software products/programs as download, AUVESY-MDT may waive the obligation to return according to clause 4.14.1 and request the contracting party to delete the software and/or further software products/programs as well as any other program copies, provided documentation, material and any other documents.

如果 AUVESY-MDT 将软件和/或其他软件产品/程序以下载的形式提供给签约方，则 AUVESY-MDT 可根据第 4.14.1 条放弃返还的义务，并要求签约方删除该软件和/或其他软件产品/程序以及任何其他程序副本、提供的文件、资料 and 所有其他文件。

4.14.3 In addition, the contracting party shall completely and permanently delete at its own expense from all its servers any installed program copies and any stored documentation.

此外，签约方应自费从其所有服务器上完全永久地删除所有已安装的程序副本和存储的文件。

4.14.4 Any use of the software and/or further software products/programs by the contracting party after termination of the contract is not permitted.

签约方在合同终止后不得使用软件和/或进一步的软件产品/程序。

4.15 External Staff and Subcontractors

外部工作人员及分包商

AUVESY-MDT is entitled to deploy qualified external staff and subcontractors for service provision with the contracting party's prior written consent (text form is sufficient). The contracting party may not refuse its consent without good reason. In case the contracting party refuses its consent without good reason, any claims of the contracting party for compensation due to delay of the services by AUVESY-MDT are excluded.

AUVESY-MDT 有权在事先得到签约方书面同意的情况下，发展合格的外部人员和分包商提供服务（文本形式即可）。签约方不得无故拒绝。如果签约方无正当理由拒绝，则由于 AUVESY-MDT 延迟服务而为签约方带来的损失，AUVESY-MDT 不负责。

4.16 Appointment of Contact Persons

指定联络人

4.16.1 The parties shall appoint uniformly responsible contact persons who discuss and consult the execution of the contract as required. The contact persons of the contracting party are available to AUVESY-MDT for any information required for the execution of the contract. The contact persons may make decisions in the context of the contract execution or bring them about without undue delay. The contact persons of AUVESY-MDT shall document any decisions made. In the event of any conflicts, each party will first call the contact persons for resolution.

双方应指定统一负责的联系入，联系入按要求讨论和协商合同的进展。签约方的联系入可向 AUVESY-MDT 提供执行合同所需的任何信息。联络人可以在合同执行过程中做出决定，或在没有不当延迟的情况下做出决定。AUVESY-MDT 的联络人应记录所做的决定。如出现冲突，双方将首先打电话给联系入寻求解决。

4.16.2 Neither party is entitled to represent the other party in any legal transactions nor to make any legally binding declarations for the respective other party. Likewise, the contact persons appointed by the parties are not entitled to legally represent the other party or both parties as a whole or to make legally binding declarations on their behalf.

任何一方都无权在任何法律交易中代表另一方，或为另一方作出任何具有法律约束力的声明。同样，双方指定的联系人也无权在法律上代表一方或双方，或代表他们做出具有法律约束力的声明。

4.17 Export and Import Restrictions

进出口限制

To the extent the software and/or further software products/programs are subject to export and import restrictions (including licensing/permission/authorization obligations or any restriction applicable abroad regarding the use of the software or related technologies), the contracting party shall comply with applicable export and import control regulations as well as any other applicable regulations. The fulfilment of the contract by AUVESY-MDT is subject to the condition that there are no obstacles of performance and fulfillment of the contract due to national and international export and import laws as well as any other legal regulations.

如果软件和/或其他软件产品/程序受到进出口限制（包括许可证/许可/授权义务或任何适用于国外的关于使用该软件或相关技术的限制），签约方应遵守适用的进出口控制法规以及其他适用法规。AUVESY-MDT 履行合同的条件是，不存在由于国家和国际进出口法律以及任何其他法律规定而导致的履行和执行合同的障碍。

4.18 Final Provisions

最终条款

4.18.1 Unless otherwise stipulated in the contract or in these T&Cs any modification or adjustment of the contract as well as any declaration or notification according to the contract (such as the exercise of any rights under this contract, termination of the contract, reminders (dunning) or setting of deadlines etc.) shall be made in writing. This shall also apply to the waiver of the written form requirement itself.

除非合同或本通用条款另有规定，任何关于修改、调整合同以及声明或通知（如行使本合同下的任何权利、终止合同、提醒（催款）或设定最后期限等）都应书面进行。放弃书面形式的要求本身也需要书面形式。

4.18.2 In case any provision of the contract or these T&Cs is or becomes invalid or Unenforceable, the validity of the contract or these T&Cs shall not be affected thereby. The parties shall be obliged to replace the invalid or unenforceable provision by a valid respectively enforceable one best achieving the economically desired result. The same applies in case of a regulatory gap.

如合同或通用条款的某个规定无效或不可执行，整个合同或通用条款的有效性不受影响。双方有义务用一个有效的、可执行的条款来取代无效的或不可执行的条款，以达到最佳的效果。这个同样适用于条款漏洞。

- 4.18.3 Chinese law shall apply exclusively to all contractual and non-contractual claims to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. The conflict of laws provisions shall not apply.

中国法律适用于所有合同和非合同索赔，《联合国国际货物销售合同公约》不适用。冲突法不适用。

- 4.18.4 The exclusive place of jurisdiction for all disputes arising from and in connection with the contract is Nanjing.

合同争议地为南京。

- 4.18.5 This T&Cs consist of an English and Chinese version. In case of discrepancies between the English and the Chinese version, the English version shall prevail.

本通用条款由英文和中文版本组成。如果中英文版本之间存在差异的差异，应以英文版本为准。

Annex 1: Overview Support Services

附件：支持服务一览

1. Classification of Support Cases 支持服务的等级分类

Classification of Support Cases	
LOW	Support cases relating to text errors (e.g., spelling or grammar) or which affect the usability, such as graphic errors, incorrect color gradients or the arrangement of control surfaces and control fields.
NORMAL	Support cases relating to malfunctions, a feature request, license errors, comparison errors or system crashes which do not affect the server used for the software but which only allow a limited further operation of the software.
HIGH	Support cases relating to server downtime on the server used for the software or any direct influence of the AUVESY-MDT software on the productive system of the contracting party.

支持服务的分类	
低级	对文本错误（如拼写或语法）或影响可用性的支持，如图形错误、不正确的颜色梯度或控制面和控制域的安排。
中等	对故障、功能要求、许可证错误、比较错误或系统崩溃有关问题的支持，这些问题不影响软件使用的服务器，但只允许有限地进一步操作软件。
高	对与软件所使用的服务器停机或 AUVESY-MDT 软件对合同方生产系统的任何直接影响提供的支持。

2. Support and Response Times 支持与回应时间

Support and Response Times			
Support Service	Description	Standard Support	Premium Support
Online Support	Access to the current online support regarding the software on octoplant.info	✓	✓
Updates	Provision of software updates according to availability.	✓	✓
Upgrades	Provision of version upgrades according to availability (as a rule, two software upgrades are made per calendar year); the contracting party is entitled to one released upgrade but not a certain number of released upgrades.	✓	✓
Support portal	Access to the support portal octoplant.info (24 hours, 7 days a week).	✓	✓
Online Support Ticket System	Access to the online support ticket system which enables the contracting party to transparently track its requests via tickets. AUVESY-MDT warrants the availability of the support portal for the contracting party.	✓	✓
Telephone Support	Access to telephone support during the business hours of AUVESY-MDT from Monday to Friday from 09:00am to 12:00pm (noon) and 01:00pm to 05:00pm. All times refer to China standard time. The public holidays are excluded from this regulation; on such public holidays the contracting party is not provided with supervised support.	✗	✓
Support Contingent for the AUVESY-	The number of tickets for the AUVESY-MDT support portal. A ticket contains one request or issues of the contracting party. If a large number of requests or issues are presented within one ticket they shall be distributed to several new tickets.	12 tickets/year	unlimited tickets/year

MDT Support Portal			
Support Contingent for Telephone Support or Remote Support	The number of hours in which telephone or remote support services are provided by AUVESY-MDT. AUVESY-MDT informs the contracting party about the used-up quota before AUVESY-MDT provides any further services. Telephone support exists if, regardless of the technical conversion (e.g., voice over IP), a support service is provided by means of acoustic communication. A remote support exists if, regardless of the technical implementation (e.g., Teamviewer), a support service is provided by means of visual communication even if only screens are shared between the contracting party and AUVESY-MDT in real time. Acoustic communication does not necessarily have to take place during remote support; communication during remote support can also take place non-verbally (e.g., through text messages).		24 hours/year
Response Times	AUVESY-MDT responds to support requests via the support portal within a response time of 4 hours within working hours.	 A qualified answer will be given within 48 hours.	 A qualified answer will be given within 24 hours.
	All response times refer to working days; response times pause on non-working days (Saturday/Sunday as well as public holidays).		
Employees of the Contracting Party who are entitled to Support Services	Number of employees with the help of which the contracting party may claim support services by AUVESY-MDT. The use of support services by the contracting party's employees requires the employees of the contracting party to be qualified on administrator level for the software and, if applicable, other services obtained from AUVESY-MDT according to section 3 of these T&Cs after corresponding AUVESY-MDT trainings. If no training program exists for the software or other services	 Up to 3 administrators	 Unlimited number of administrators

	according to clause 3 of these T&Cs obtained from AUVESY-MDT abovementioned regulation does not apply.		
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支持服务与回应时间			
支持服务	任务描述	普通支持	高级支持
在线服务	可在 octplant.info 上获得有关软件的当前在线支持。	✓	✓
更新	根据可用性提供的软件更新	✓	✓
升级	根据可用性提供版本升级（按照规则，每年进行两次软件升级）；签约方有权获得一次已发布的升级，但无权获得一定数量的升级	✓	✓
支持门户	访问支持门户网站 octplant.info（每周 7 天，每天 24 小时）。	✓	✓
在线服务系统	获得进入在线问题支持系统的权限。使签约方能够选择随时透明地追踪请求。AUVESY-MDT 保证为签约方提供使用门户网站的权限。	✓	✓
电话服务	在 AUVESY-MDT 的工作时间内，从周一到周五的上午 09:00 到 12:00（中午）和下午 01:00 到 05:00，可以通过电话寻求支持。所有时间都是指北京时间。公共假期不在此规定范围内；在这些公共假期内，签约方无法得到监督支持。	✗	✓
AUVESY-MDT 对门户网站提供的支持	AUVESY-MDT 支持门户的报错数量。一个报错包含签约方的一个请求或问题。如一个报错中出现了大量的请求或问题，应分配到几个新的报错中。	12 张票据/年	每年票据数量不限

电话或远程支持	AUVESY-MDT 提供电话或远程支持服务的小时数。在 AUVESY-MDT 提供任何进一步的服务之前，AUVESY-MDT 会通知签约方已使用的配额。支持服务以电话方式进行。如果不考虑技术转换（如 IP 语音），支持服务通过声音通信的方式提供。不论何种技术实现方式（如 Teamviewer），支持服务是通过视觉通讯的方式提供的。即使签约方和 AUVESY-MDT 之间只有屏幕的实时共享，也可以提供远程支持。在远程支持期间不一定有声音交流；远程支持期间的交流也可以通过非语言方式进行（例如通过文本信息）。		24 小时/年
响应时间	AUVESY-MDT 在工作时间期间，在 4 小时内对通过门户网站提出的请求作出回应。	 于 48 小时内提供满意回复	 于 24 小时内提供满意答复
	所有回复时间在工作日内；非工作日（周六/周日以公共假日）服务暂停。		
有权要求提供服务的签约方雇员	可以要求 AUVESY-MDT 提供支持服务的签约方雇员人数。签约方雇员使用支持服务的前提条件是，签约方雇员在接受了相应的 AUVESY-MDT 培训课程后，具有软件和通用条款第 3 条规定的其他服务（如适用）的管理员资格。如果没有相关的培训课程，上述规定不适用。	 最多 3 位管理人员	 不限管理人员人数