General Terms and Conditions

Tvarit GmbH

In relation between Tvarit GmbH, Ludwigstr. 31, 60327 Franfurt am Main, Germany (hereinafter: "***Tvarit***") and its customers (hereinafter: "***Customer/ Client***") – together hereinafter referred to as "***Parties***"– the following General Terms and Conditions (hereinafter: "***GTC***") apply.

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General Terms and Conditions

A. Definitions and Terminology

Unless otherwise stated, the definitions and terminology listed below apply when interpreting the following terms used within the *GTC* or within a relating *Order*:

Term	Definition/Terminology
Affiliate Companies	Company which is related to one of the *Parties* pursuant to § 15 AktG.
Application Data	Data generated by the Customer that is required for the use of the *Software Services* or Data that arises within the course of its use and which includes proprietary Customer Data.
Authorised User	*Employee/s of the Customer* who are authorised to use the *Tvarit Software* and therefore, have access to the *Software Services*.
Confidential Information	Every piece of information no matter if in writing or orally passed which is by nature of the matter confidential or a secret, or where the other Party has to recognise the confidentiality due to the external circumstances of the conveyance. *Confidential Information* particularly includes, without limitation, product descriptions, specifications, *Documentation*, source code, prices, business plans, reports, and marketing projections.

Confidential Information does not include information:

- that the other *Party* was aware of before being disclosed in performance of an *Order* and where no confidentiality agreement has been concluded;
- legitimately disclosed by a third party without restrictions relating to confidentiality;
- that is otherwise publicly known;
- that was gained or developed independently and without use of *Confidential Information*;
- that has been released for disclosure in writing; or
- that is disclosed on the basis of a court order, provided that the Party affected by it has been informed in good time in order to be able to initiate legal protection measures.

Customer Data	Any Data submitted, provided by the Customer for and during the use of the Services
Customer Obligation	Every action the *Customer* has to undertake/ supply in the context of an *Order* or as stated in the *GTC and accompanying documents*.
Data	Any electronic or other data, including data obtained from systems, databases, MES, ERP, PLC, sensors, production assets, BI, analytic systems, etc.
Error ("*Sachmangel*") of Software Services	Repeatable error or malfunction such that the *Software Services* do not substantially comply with the agreed upon quality described in the respective Order and/or *Documentation*.
Deviation ("Sachmangel") of the *Services*	Substantial deviation from the specifications agreed for the *Services* in the respective Order and/or *Documentation*. If the Parties have not agreed on a specification, the *Services* shall be performed to a reasonable standard of workmanship („mittlerer Ausführungsstandard").
Disclosing Party	A party to the GTC that discloses Confidential Information.
Documentation	Instruction manual, product/ service overview, Service Description, available manuals as well as *System Requirements* for the *Software Services*, provided by *Tvarit* to its *Customers*. The *Documentation* will be provided either in an electronic, printable format, or as a video; it will not be customer-specific.
Force Majeure	Any event which is unforeseen by, beyond the control of the party prevented from or delayed in performing its obligation, including without limitation, internet failures, computer equipment failures, telecommunication equipment failures, power failures, breakdown of plant or machinery, epidemic, pandemic any government regulation, act of God, floods, war, electrical failure, civil disturbances, riots, etc

Intellectual Property	All present and future rights conferred under statute, common law or equity, title and interests in and to the patents, trademarks, service marks, trade names, registered designs, copyrights, rights of privacy and publicity and other forms of intellectual property, know-how, inventions, formulae, confidential or secret processes, trade secrets, any other protected rights or assets and any licenses and permissions in connection therewith, in each and any part of the world and whether or not registered or registrable and for the full period thereof, and all extensions and renewals thereof, and all applications for registration in connection with the foregoing and "Intellectual Property Rights" shall mean all rights in respect of the Intellectual Property.
Personal Data	Part of the data which is defined as personal data as stipulated by the General Data Protection Regulation (GDPR).
Project	Unique and limited in time undertaking of the *Customer*, e.g., the *integration or configuration* of the *Software Services*, or where *Tvarit* is supporting with *Services, as more elaborately specified in the Order*.
Order	Order to perform specific *Services* by *Tvarit* and/or provision of *Software Services*. *Order* consists of an offer by *Tvarit* and the acceptance of the *Customer*.
Receiving Party	A party to the GTC that receives Confidential Information.
Service(s)	Any activity *Tvarit* is performing in favour of the *Customer* as part of an *Order*, including *Software Services* as well as related consulting or other services.
Service Centre	AWS or Microsoft Azure or any other Cloud Service Provider.
Software Services	Cloud-based services provided in addition to the *Tvarit Software* and *Tvarit Software*.
System Requirements	Minimum technical client-side requirements needed to run the Software Services including without limitation ports and browsers and internet connection. System Requirements are listed in the Documentation of the Software Services or in the respective *Order*.
Tvarit Software	Standardized TVARIT Industrial AI (TiA®) Software-as-a-Service including the relevant *Documentation*.

Update	This covers all new states of the *Tvarit Software* and/or the *Software Services,* which introduces new features, modifies or drops existing features, or rectifies *Errors including all upgrades*.
Working Day	Monday to Friday between 8 a.m. and 4 p.m. Central European (Summer) Time, excluding public holidays at Frankfurt, and December 24th and 31st.
Working Hour	A *Working Hour* is defined as a 60-minute time unit within one *Working Day*.
Work Result	Every deliverable which has been achieved/provided as part of an *Order* governing *Services* performed by *Tvarit*.

B. Preamble

The *Customer* agrees to use the *Software Services* offered by *Tvarit* as well as accompanying *Services,* in accordance with the GTC, the Acceptable Use Policy, Documentation and Orders, as applicable. *Tvarit* offers the use of the *Software Services* for the respective term and for a monthly-fees. The Parties shall regulate the use of the *Software Services* and any *Services* against payment of the agreed fees exclusively within the scope of the *GTC*.

C. General Terms

I.   Orders and Inclusion of the GTC

1. *Orders:* The *Parties* shall agree on the provision of the *Software Services* as well as accompanying or additional *Services* and their relevant scope using *Orders*. *Orders* contain and determine the details of the provision of the respective *Services*. In addition to the description of the respective *Services* ordered, the *Order* shall also contain the point in time from which the *Software Services* and any accompanying or other *Services* shall be provided, including, if applicable, a time period for the performance of the *Services*.

Orders consist of an offer by *Tvarit* and the acceptance order of the *Customer*. Offers and acceptance orders are usually exchanged via e-mail. The acceptance order can be placed by signing the offer or via a purchase order form.

All *Orders* are only valid if composed in text form and shall always refer to the *GTC*. An acceptance order of the *Customer* including additions, limitations, or other changes compared to the original offer of *Tvarit* shall only become legally binding after *Customer* has received an explicit written confirmation by *Tvarit*.

2. Possible Service Portfolio of an *Order*:
The following *Services*, including without limitation, may be part of *Orders*:

- Provision of *Software Services*; and/or
- *Services* including configuration or consulting *Services* in conjunction with the set up and use of the *Software Services* or otherwise.

The *Services* owed by *Tvarit* are described in the specific *Order* and – if applicable – the documents attached to it.

3. Order of Precedence: The provisions of the *Order* shall overrule the provisions of the *GTC,* where and to the extent the harmonious construction of conflicting provisions is not possible.

II.   Contradictory General Terms and Conditions

In case the General Terms and Conditions of the *Customer* include provisions contrary to the provisions of the *GTC* of *Tvarit*, the *GTC* of *Tvarit* shall prevail.

III.   Customer Obligations

1. Customer Obligations:

1.1   General *Customer Obligations:* Unless stated otherwise, and subject to further obligations in the respective Order, the *Customer* is obliged to perform the following *Customer Obligations*:

- appointment of a contact person for IT, data, process and manufacturing who is available as necessary for the contractual performance. The contact person of the *Customer* shall be additionally responsible for the performance and coordination of the *Customer Obligations*;
- transfer of historical data ("data dump") for AI modelling;
- Ensure part-wise traceability (DMC);
- Provide Data as per the data requirements of Tvarit;
- ensuring the accuracy, quality, integrity, reliability, and appropriateness of the Data;
- ensuring that the Data provided does not infringe any third-party intellectual property rights;
- ensuring meetings with domain/process experts;
- feedback on model performance and joint assessment;
- Implement prescriptions from the Tvarit Software operationally in a timely manner, but not later than 2 weeks, and validate them in production in a timely manner;
- real-time transmission of the required data via MQTT/OPC UA;
- secured data access (based on common industry protocols and data format standards) to all required process parameters, meta-data and other sensor data necessary for model creation according to TVARIT requirements;
- ensure meetings with the Authorised Users for the necessary understanding for the creation of the Customer dashboards;
- notification of *Errors/ Deviations*.
- provide data with precise description of Error;

- assessment of the fitness of the *Tvarit Software* and *Software Services* with respect to *Customer's* intended use.

1.2. Data Protection and Security: The *Customer* in particular shall ensure that all *Application Data* processed with the *Software Services* is protected and backed-up. The *Customer* shall establish redundant data backup and appropriate systems to process and to secure data in order to ensure the proper use of the *Software Services*, and to check and monitor the results provided by the *Software Services*.

In case the *Customer* collects, processes or uses personal data, it shall ensure that it is authorized to do so according to the applicable laws, especially data protection regulations and in case of a violation, the *Customer* shall indemnify *Tvarit* from any claim of third parties and against any losses, damages, expenses, costs and/or legal proceedings that may arise against Tvarit as a consequence of such violation. The *Customer* shall pay particular attention to the fact that it has to obtain the consent of the persons concerned for the transmission of personal data and shall obtain such consent, if mandated under applicable law.

1.3 Responsibility for *System Requirements:* The *Customer* shall ensure that the customer-side operating conditions and *System Requirements* for the use of the *Tvarit Software* as described in the *Orders or Documentation* are established and maintained for the term of an *Order* at its own expense. The Customer shall be responsible of the data connection required for the use of the *Software Services*.

Tvarit shall not be responsible for any non-functioning of the Software Services arising from failure of the Customer to comply with this Section C.III.1.3.

Any change in the System Requirements carried out by the Customer that may adversely impact the functioning of the Software Services shall be intimated to Tvarit by the Customer, 3 days before being carried out.

1.4 Additional *Customer Obligations:* Additional or more detailed *Customer Obligations* may be stipulated in the respective *Order* (esp. in offers by *Tvarit*) or Documentation and, if applicable, in the further provisions of the *GTC*.

2. Relevance of the *Customer Obligations*. *Customer Obligations* are major contractual obligations, whose breach shall cause unprecedented and special damage to Tvarit.

3. Consequences of Insufficient Cooperation: *Tvarit* is not responsible or liable for delay of *Services* and resulting damages to the *Customer* which arise out of a delayed or a failed *Customer Obligation*. Consequences of insufficient or delayed or non-performance of *Customer Obligations* do not constitute a deficiency in performance of Services. Delay in provision of Services that result from a delayed or failed *Customer Obligation* shall not impact the payment of fees.

In case *Customer* does not perform, or does not deliver in time the *Customer Obligations*, the deadlines set for the delivery of *Services* by *Tvarit* will be prolonged accordingly (see also

Section C.VI). *Tvarit* will inform *Customer* about changes and prolongation and refer to the specific *Customer Obligation* which has not been performed accordingly. Apart from that, the statutory provisions shall apply.

If the *Customer* does not comply with the conditions of use and *System Requirements*, the obligation of *Tvarit* to remedy *Errors* does not apply. In such a case, *Tvarit* will make reasonable efforts to provide support according to Section D.VIII.

If the data provided by *Customer* is not sufficient for the development of AI models or the provision of the Software Services according to the respective *Order*, *Tvarit* may make a separate offer for consultancy *Services* to support *Customer* in measures to improve the data quality. Section C.VI. applies additionally in such a scenario.

4. Grant of Rights by Customer: Unless otherwise stated in the respective *Order*, *Customer* assigns to *Tvarit* exclusive, transferable, perpetual, worldwide, Royalty-free and irrevocable right to own and use all protectable results arising out of the cooperation, including any feedback, suggestions, enhancement requests, or recommendations to the *Tvarit Software* and *Software Services*, the moment they start to exist. This includes in particular the right to modify, make copies and derivatives and to distribute. The rights granted by *Customer* do cover all types of use whether known or unknown. The rights to Customer Data and Application Data shall remain with the Customer, though Tvarit shall be granted a world-wide, royalty-free, non-exclusive,

licence to use the Customer Data and Application Data in connection with the provision of Services.

IV.   Fees and Terms of Payment

1. Fees, Taxes: *Tvarit* receives for the *Software Services* and/or the *Services* delivered in accordance with the respective *Order* the fees stipulated in that *Order*. The fees agreed upon in the *Order* does not include any bank charges, fund transfer charges or fund conversion charges, administration fees, or taxes applicable by law (e.g., value added tax (VAT), valid at the time of invoicing, or comparable taxes). When delivered within the European Union *Customer* has to provide *Customer's* value added tax identification number (VAT-ID) on time before the date of delivery to prove *Customer's* tax exemption. In case the VAT-ID is not provided, *Tvarit* reserves the right to bill the VAT to the *Customer*. When delivered outside of the European Union, *Tvarit* reserves the right to bill the VAT of the third country separately insofar *Tvarit* is held responsible for this tax debt by the authorities of that third country without any time limits.

2. Currency: All prices in *Orders* are quoted in Euro, unless otherwise specified.

3. Terms of Payment: The monthly subscription fee for the *Software Services* is invoiced annually in advance, unless otherwise agreed in the Order. The first invoice will be invoiced after the kick-off meeting with the *Customer*. Additional Services not included in the subscription fee are invoiced on a monthly time spent basis or fixed fees basis, as specified in the Order. The fees is payable

within fourteen (14) days of the receipt of the invoice without deduction on account of withholding taxes or otherwise. If the Customer deducts or withholds any taxes in pursuance of applicable laws, the Customer shall pay such additional amounts to Tvarit as would cause the amount Tvarit actually receives net of deducted or withheld taxes to equal the full price as per the Order. Invoices can be issued and delivered electronically at Tvarit's discretion.

4. **Event of Default:** In the event of default ("Verzug"), the statutory provisions apply. Where the Customer fails to make payments within a period of 30 days from the date it becomes due, Tvarit is entitled to terminate access to the *Tvarit Software* and the Services for the period till which such default continues, after giving a 7 days' written notice to the Customer. In addition to the statutory provisions, the Customer shall be liable for interest on the delayed payments at 2% per month.

5. **Price adjustment:** *Tvarit* may make a change in the fees of the billing periods at its reasonable discretion. The *Customer* shall be notified of this in writing three months in advance. In the event of a price increase, the *Customer* shall have the right to terminate the *Order* within a period of four weeks after notification of the price increase as of the date on which the price increase would take effect.

V. Third Party Components and Infringement of Third-Party Rights

1. **Third Party Components**: The Tvarit Software and the Software Services may include certain third-party software and/ or open-source software/s, which may be used only in accordance with the third-party software licenses set forth in or accompanying such software/s. The applicable Third Party or open-source Software Licenses are listed either in the Documentation or a repository made available by Tvarit. Tvarit shall have no liability for the Customer's use of any third-party or open-source software, except as hereinbelow provided.

2. **Notice of defect of Title:** *Customer* will notify *Tvarit* without undue delay about any alleged defect of title ("Rechtsmängel") or infringement of intellectual property rights in connection with the *Software Services* and/or *Services* rendered as part of an *Order*. *Customer* shall appropriately support *Tvarit* to defend such claims.

3. **Indemnification:** *Tvarit* indemnifies *Customer against* any proven infringement of any patent or copyright or other intellectual property rights that result from a conventional use of the *Services* (including but not limited to the provision of the *Tvarit Software*) rendered as part of an *Order* and are culpably caused by *Tvarit* and not on account of any act or omission of the Customer. Indemnification is granted only if

- *Tvarit* is notified about the alleged claims without undue delay;
- *Tvarit* shall be in charge to defend such claims or settle the case – as far as legally possible; and
- *Customer* shall support *Tvarit* appropriately and provide all necessary information.

Tvarit will cover reasonable costs for *Customer's* support. The limitation of liability set forth in Section C.VII of the *GTC* apply.

4. *Customer's* Rights: In case *Services* are affected by an infringement action with respect to intellectual property rights, *Tvarit* shall at its own discretion and under consideration of *Customer's* interests do one of the following:

- *Tvarit* may obtain the rights for the *Customer* to continue the use of such *Services* at no additional charge; or
- *Tvarit* will substitute or change the *Services* to resolve the infringement of intellectual property rights or the defect of title.

In case none of the alternatives mentioned above are undertaken by Tvarit, *Customer* is entitled to terminate the *Order* for cause and may exercise the rights stipulated in the statutory provisions with respect to defects of title, where eligible.

VI. Milestones

1. Milestones: As part of an *Order* or the performance thereof, milestone due dates may apply for rendering the *Services*. Milestone due dates are only binding if specially stated by *Tvarit*.

2. Change of Milestone Due Dates:

2.1 Delays: When *Tvarit* learns about circumstances that might delay the rendering of *Services*, *Tvarit* will notify *Customer*. The *Parties* will promptly and collaboratively work on the most reasonable solution to such issue in the best interest of both *Parties*.

2.2 No Default in case of delayed or failed *Customer Obligation:* *Tvarit* is not responsible for delays of *Services* that result from a delayed or failed *Customer Obligation*. Delay in provision of Services that result from a delayed or failed *Customer Obligation* shall not impact the payment of fees. Where Tvarit is unable to provide Services as a result of a failure or delay of any *Customer Obligation*, the Customer shall, within a period of seven (7) days, provide an alternate solution.

3. Deadline Extension: In case *Tvarit* does not deliver the *Services* in time, Tvarit will make best endeavours to deliver the Services within such extended time as is reasonable within the circumstances, without any obligations on Tvarit's part. Such deadline extension is obsolete when *Customer* accepts *Services* within that time and/or the *Parties* agree on further activities and *Services*.

4. Postponement of Milestone Due Dates by *Customer:* In case *Customer* wants to postpone the performance of *Services* ten (10) *Working Days* prior to the due date, *Tvarit* is entitled to bill for the actual expenditure incurred by it on account of such postponement, subject to a minimum amount of € 5,000.

VII. General Limitation of Liability

Tvarit is, regardless of legal cause (default, material Error, Defect of Title, infringement of intellectual property rights, defective performance), only liable according to the following provisions:

1. Unlimited Liability: *Tvarit* is liable without limitation in the following cases:

- intention and gross negligence;
- injury to life, body, or health regardless of degree of fault;
- subject to section C.VI.2.2, granting of guaranties. Any product/ service descriptions within Documentation shall not be deemed guaranteed unless separately agreed in writing;
- malice aforethought ("Arglist").

2. Limited Liability for ordinary negligence:

Where *Tvarit* violates an essential contractual obligation acting in ordinary negligence, *Tvarit* is liable for the typical contractual foreseeable damages, provided that the Customer Obligations are not violated. Essential contractual obligations are such obligations that are necessary to perform the *Order*. Additional liability for the ordinary negligent breach of non-essential contractual obligations is excluded.

3. Product Liability Act: The liability of *Tvarit* according to the Produkthaftungsgesetz (Product Liability Act) will remain unaffected by the aforementioned provisions.

4. Exclusion of Liability: Any additional liability, and any special, punitive, indirect, incidental or consequential loss or damages is excluded. This applies particularly for

- the strict liability of *Tvarit* according to section 536a Abs. 1 Alt. 1 BGB (German Civil Code) for Errors already existing at the time of the conclusion of the contract,

- the lack of economic success of the *Customer*,
- damages caused by Force Majeure,
- damages where the *Customer* is solely responsible for (e.g. abuse of access codes, non-compliance with reasonable safety measures, failure to fulfil Customer Obligations), or
- damages caused by third parties.

5. Contributory Negligence: In case damages are caused by both *Parties*, *Customer's* contributory negligence shall be taken into account.

6. Data loss and data backup: The *Customer* is solely and exclusively responsible for its regular Data backup, the adequacy of which is determined by its individual risks. See also section C.0. Tvarit shall only be liable for data loss, if such data loss has occurred solely and exclusively due to Tvarit's fault or negligence. If *Tvarit* is liable for data loss, the liability is limited to the direct costs incurred by copying the backups, as well as to the direct costs for data recovery, which would have been incurred even with adequate data backup, the total costs being subject to the limited liability clause below.

7. Limited Liability: Notwithstanding anything contained hereinabove, Tvarit's maximum aggregate liability shall not exceed the amount of fees paid to Tvarit for the Order or part of Order giving right to such claim. In jurisdictions where the limitation of liability, as aforesaid, is not allowed, the liability of Tvarit shall be limited to the maximum extent permitted by applicable law.

VIII. Services provided free of cost

Where Services or any part thereof are provided free of cost by Tvarit, no guarantee or obligation or liability, as applicable for paid Services, shall apply.

IX. Use of Subcontractors

Tvarit is entitled to assign subcontractors and external resources in order to perform an *Order, to ensure effective and efficient provision of Services, since the Services being provided by Tvarit are unique and innovative, provided however that, such subcontractors and external resources shall be bound by strict confidentiality terms, similar to those contained herein.*

X. Secrecy/Confidentiality/Data Protection

1. Secrecy/Confidentiality: None of the *Parties* is permitted to disclose *Confidential Information* of the other Party to any third party without written consent of the other Party, except to its employees, officers, Sub-contractors, or Affiliate companies on a need-to-know basis, provided that they are bound by confidentiality terms similar to the ones contained hereunder. Both *Parties* commit themselves to only use *Confidential Information* as described in the *GTC* or in the respective *Order* for the purpose of the Order. Both *Parties* shall undertake at least precautionary measures as they would do for their own *Confidential Information*. However, such precautionary measures have to be at least appropriate to prevent an unauthorized disclosure to third parties. Furthermore, both *Parties* have to prohibit the unauthorised disclosure of *Confidential Information* by their customers, employees, subcontractors, and

legal representatives. The *Parties* shall inform each other in writing in case they become aware of an unauthorised use of *Confidential Information*.

The Receiving Party must, on demand:

- return to the Disclosing Party, or destroy if requested by the Disclosing Party, any documents in its possession, power or control containing Confidential Information of the Disclosing Party. This obligation is excluded with respect to Confidential Information that is required to be retained under law or any order of a court, or which is stored in routine backup copies of the Receiving Party, provided that the Receiving Party continues to maintain such information as confidential in terms of the GTC; and
- certify destruction or return of all Confidential Information received, in writing to the Disclosing Party.

All obligations of confidence set out hereunder shall continue in full force and effect for a period of (3) three years after the termination or expiration of the Order.

2. <u>Non-disclosure Agreement ('NDA'):</u> If required, the Parties may conclude an NDA separately. The terms of such NDA shall control in case of any conflict with the terms hereunder, to the extent harmonious construction of conflicting provisions is not possible.

3. Data Protection:

Application of Data Protection Laws: The *Parties* undertake to comply with the provisions of applicable data protection laws,

in particular the GDPR with respect to any Personal Data they receive from the other party. This obligation shall continue to apply even after termination of an assignment.

Data Processing Agreement: If required according to the subject matter of the respective *Order*, the *Parties* may conclude a data processing agreement according to Art. 28 GDPR.

XI.   Representations and Warranties

Each Party represents and warrants that:

- It is validly and duly constituted under applicable laws and is competent to consent to the GTC.

- The consent to the GTC does not violate any other legal or contractual obligation that such Party is subject to.

- It shall always remain in compliance with all applicable laws, while performing its obligations under the GTC.

XII.   Applicable Law

The *GTC* and all *Orders* of *Tvarit* are subject to German law under exclusion of the UN International Sales of Good Act (CISG).

XIII.   Conciliation and Court of Jurisdiction

1. Conciliation: All disputes arising out of or in connection with the *GTC* and/or the *Orders*, which the *Parties* are unable to settle, shall be brought before the conciliation office of the German Association of Law and Informatics e.V. (Deutsche Gesellschaft für Recht und Informatik e.V., hereinafter DGRI e.V.) to be settled, fully or in part, provisionally or finally,

in accordance with the conciliation rules valid at the time such dispute is brought before the conciliation office.

The limitation period for any claim relating to the facts brought before the conciliation office shall be suspended from the date such conciliation request is docketed until the conciliation proceedings are concluded. Section 203 German Civil Code (BGB) shall apply.

For the sake of clarity, the *Parties* state that the institution of conciliation proceedings does not constitute a prerequisite for proceedings, no matter whether they concern the main proceedings or are for provisional measures.

2. Court of Jurisdiction: Exclusive Legal venue is Frankfurt.

XIV.   Change of GTC

Tvarit is entitled to change the *GTC* while an *Order* is rendered when *Tvarit* has adequate and objective reasons.

As decided by Tvarit in its sole discretion, a change of the *GTC* may especially take place,

- when the change is only beneficial for *Customer*;
- when the change is only based on technical or procedural reasons unless it has major effects on the *Customer*;
- insofar as *Tvarit* is obliged to change the *GTC* in order to comply with applicable laws, especially when the legal situation changes;
- insofar as *Tvarit* is complying with a court order or an administrative decision; or

- insofar as *Tvarit* is introducing totally new *Services*, or pieces of services that need a specification of service and a change of the *GTC* unless that would adversely affect the current contractual relationship.

Tvarit will inform the *Customer* about the planned changes at least six (6) weeks in advance. In case *Customer* does not dissent to the application of the new *GTC* within six (6) weeks after notification, the changed *GTC* shall be considered accepted by *Customer* and shall apply to the ongoing and future Term/s, till a further change is effected in terms hereof.

In case the change adversely affects *Customer*, *Customer* and Tvarit will agree on a mutual solution.

XV. Miscellaneous Provisions

1. Nomination as Reference *Customer:* During the term of an *Order* subject to the GTC *Tvarit* is entitled to name *Customer* as reference customer on *Tvarit* website and in marketing materials with use of *Customer's* logo. Tvarit is also entitled to publish a project case study.

2. Assignment: *Customer* is not entitled to assign *Customer's* rights and obligations subject to an *Order* to any third party unless *Tvarit* agrees in writing. It is at the sole discretion of *Tvarit* to approve such assignment. An assignment without approval is void.

3. Non-Solicitation: Customer agrees that during the Term and for a period of two years post termination or expiration of the Order, it will not, without Tvarit's prior written consent, directly or indirectly, hire, solicit or encourage for employment or any other relation or work, any of Tvarit's or its Affiliate company's employees, or contractors or induce any such person to leave the employment of or relationship with Tvarit or its Affiliate companies. This Clause shall survive the termination/expiry of the Order/ GTC.

4. Non-Compete: Customer agrees that during the Term and for a period of five years post termination or expiration of the Order, the Customer shall not directly or indirectly engage in the same or similar business as carried out by Tvarit and/or develop, commission the development, create, conceptualize the development of a software similar to that of the Tvarit Software. This Clause shall survive the termination/expiry of the Order/ GTC.

5. Severability: The provisions of the GTC shall be deemed severable, and the invalidity or unenforceability of any provision (or part thereof) of the GTC shall in no way affect the validity or enforceability of any other provision (or remaining part thereof). Any provision of the GTC which is determined to be illegal, void or unenforceable by a court of competent jurisdiction, shall be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

6. Waiver: No delay or failure of Tvarit in exercising any right shall be deemed to

constitute a waiver of that right or any other rights under the GTC. A waiver is not effective unless it is in writing, and waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

7. Relationship: Nothing contained or implied in the GTC constitutes a Party as a partner, agent or legal representative of the other party for any purpose, or creates any partnership, employment, agency or trust. Neither Party has the authority to bind the other Party in any way.

8. Notices: Any and all notices that either Party is required or may desire to give to the other Party hereunder, shall be given in writing, by addressing the communication to the address/es set forth in the Order, and shall be served via e-mail, or by hand or by certified or registered post. Any change to the abovementioned address shall be informed to other Party in writing, within thirty (30) days of such change.

9. Entire Agreement: Unless otherwise agreed between the Parties in writing, the GTC along with the accompanying documents and the relevant Order, contain the entire agreement and understanding between the Parties with respect to the Services and the subject matter hereof, and no representations, promises, agreements or understandings, written or oral, not contained in the abovesaid documents shall be of any force or effect.

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D. Special Terms for the Supply of the Software Services

I. Scope of Performance

1. Performance Overview for the Software Services: The subject matter of an *Order* is the provision of the *Software Services* by *Tvarit* to the extent described in the respective Order as well as the provision of accompanying *Services*. The accompanying *Services* may in particular be the following services:

- timely limited right to use the *Software Services*;
- availability of *Updates* of the *Software Services;*
- Error remedy;
- Support.

The provision of maintenance services, in particular provision of *Updates*, Error remedies, as well as support, refers to the latest version of the *Software Services* provided by *Tvarit*.

2. Grant of Rights: The scope of rights to use, under which *Tvarit* grants the use of the *Software Services*, is generally described in section D.VI hereunder and result in detail from the respective *Order*.

II. Functional Description

A functional description of the Tvarit Software is contained in the Documentation made available to the Customer. The functional description contained in the Documentation becomes an integral part of the Order.

III. Special Customer Obligations

1. Compliance with the *System Requirements:* The *Customer* is solely responsible for the suitability of its *System Requirements* for the use of *Software Services*. The respective basic *System Requirements* are listed in the *Documentation* or the respective *Order*.

2. Provision of *Third-Party Products*: The *Customer* is further responsible for acquiring the necessary third-party products, if applicable, and for guaranteeing their adequate use and/ or application. The Customer shall not combine such third-party products with the Tvarit Software, if such combination leads to infringement of a third-party intellectual property right or if such combination adversely impacts the Software Services in any manner.

3. Further Customer Obligations: In addition to the General Obligations and Duties of the Customer (section III) and such further obligations as specified in the respective *Order*, the *Customer* shall undertake the following *Customer Obligations:*

- procurement of all necessary documents and information required for the use of the *Software Services*;
- maintaining and securing login information, for the access and use of the Software Services;
- preventing unauthorised access to the *Software Services*;
- complying with the Acceptable Use Policy;
- setting up a remote maintenance access, if required.

IV. Deployment of Software Services

1. Provision: *Tvarit* shall provide the *Customer* with the *Software Services as agreed in the Order.* The Software Services are deployed as a cloud solution managed and confirmed by Tvarit for each customer.

2. Delivery Point: The delivery point of the *Software Services* to the *Customer* is the exit of the *Service Centre* where the *Tvarit Software* is operated. The data connection between the *Customer's* systems and the delivery point is not owed by *Tvarit.* Tvarit shall not be liable for any data loss or leakage on account of data connection or in the process of delivery.

3. Access: *Tvarit* shall provide the *Customer* with the number of password-protected accesses with two factor authentication as agreed in the *Order*. The *Customer* shall be responsible for managing the accesses for the *Authorised Users* of the *Tvarit Software*. The Customer shall ensure that the accounts are kept protected against unauthorised access. The Customer shall be solely liable for any unauthorised access. The access of any Authorised User who leaves the Customer's organisation, should be immediately revoked by the Customer. The Customer shall ensure that its employees do not share their login credentials and/or passwords with any third party.

4. Data Backup: Data Backup may be undertaken if agreed as part of the Order and shall always be provided subject to applicable laws. Longer-term data backup, in particular to comply with legal storage periods, is the responsibility of the *Customer,* unless Tvarit is commissioned for the said storage, on a chargeable basis, under a separate Order for the purpose. For this purpose, *Tvarit* may also provide the *Customer* with a data export option.

V. Provision of Updates

1. Updates: *Tvarit* is entitled to update and further develop the *Software Services* at its own discretion. In this respect, *Tvarit* is entitled to modify and make changes to the *Software Services* within the bounds of what is reasonable. *Tvarit* is entitled to make changes to the *Software Services* at short notice and without prior notice, provided that such changes serve to maintain and/or improve the *Software Services*.

Tvarit reserves the right to adjust the range of functions of *Updates* as opposed to former *versions of the Software,* if necessary, e.g. due to technical developments or to changing market requirements, and taking into account the interests of the *Customer*. If the adjustment concerns an essential feature for *the Customer* and this feature is no longer available in the *Update*, then the *Customer* may terminate the *Order* extraordinarily.

In respect of *updated version*, Customer's rights in case of Errors shall be limited to the new features of the *updated* version compared to the previous version.

VI. Grant of Rights

1. Purpose of Use: The *Customer* is entitled to use the *Software Services* for *Customer's* own business purposes while the *Order* is effective and payments are being made timely in terms thereof.

2. Scope of Use: The *Customer* is entitled to access the *Software Services* via an internet browser. The *Authorised Users* may run the *Software Services* by calling up the *Tvarit Software* and use it by accessing it via the interfaces provided for this purpose, provided they comply with the Acceptable Use Policy.

Modifications to the *Software Services* and corrections of malfunctions may be made by Tvarit, at its sole discretion, on specific request of the Customer *as per Customer's Change Request,* to be agreed as part of a separate Order. De-compilation of the program code of the *Software Services* is prohibited.

3. Rights to Use Updates: *Tvarit* grants *Customer* the same rights to use all *Updates* of the *Tvarit Software* as they were granted to *Customer* for the initial v*ersion* of the *Tvarit Software. Tvarit* shall provide the *Updates* to *Customer* according to the Section D.V.

4. Rights to Tvarit Software and Software Services: Notwithstanding anything contained herein to the contrary, any and all rights, title and interests to the Tvarit Software and the Software Services, Updates, its contents, and any Documentation provided therewith, including title, ownership rights and Intellectual Property Rights therein shall be and remain the sole and exclusive property of Tvarit. Nothing in the GTC or any Order shall be construed as a transfer in the Intellectual Property Rights of Tvarit to the Customer.

5. Assignment/Transfer: The *Customer* is not entitled to transfer the rights granted under an *Order* or the GTC to third parties, including any of its group companies, or to grant third parties corresponding rights of use. The *Customer* undertakes not to make the *Software Services* available to third parties, to rent it out or to allow them to use it for their own business purposes or to act as a service provider itself vis-à-vis third parties.

6. Work Results: *Tvarit* grants *Customer* a non-exclusive and non-transferrable right to use the *Work Results* originating from the *Services* rendered as part of an *Order* for *Customer's* own internal business purposes, subject to the Customer keeping the Work Results strictly confidential. *Customer* is not entitled to reverse engineer, copy, modify, create derivatives or distribute *Work Results* unless otherwise explicitly stated in the *Order*. Irrespective to the rights of use granted, *Tvarit* retains all rights, title and interest in and to the Work Results, and all such rights title and interest in and to the Work Results shall be deemed assigned to Tvarit upon creation. Pre-existing intellectual property rights of the Parties remain unaffected. Tvarit shall further have the right to disseminate the Work Results subject to Tvarit complying with the confidentiality requirements and applicable data protection regulations. Where Tvarit intends to make use of Customer's name/ logo/ mark while disseminating Work Results, it shall be subject to prior authorisation by the Customer.

7. Violation of Rights of Use: If the *Customer* violates the rights of use granted above, *Tvarit* is entitled, at its sole and exclusive discretion to temporarily block access to the *Software Services* and, after unsuccessful warning, to terminate the *Order* for cause.

8. Disclaimer: The *Customer* hereby expressly agrees and acknowledges that, except as provided hereunder, the Software Service is provided on an "as is" and "as available" basis, without any representations, conditions, warranties or covenants, including without limitation, any express, statutory or implied representations, warranties or conditions of merchantability, merchantable quality, satisfactory quality or fitness for a particular purpose, non-infringement or arising otherwise in law or from a course of dealing or usage of trade, all of which are expressly disclaimed and excluded.

9. Indemnity: The *Customer* shall, defend, indemnify and hold harmless *Tvarit*, its employees, officers, Affiliate companies, and directors from and against any loss, damages, costs and expenses or third-party claims arising out of misuse of the *Software Services*; breach by the *Customer* or its *Authorised Users* of any of its obligations hereunder; any infringement of *Tvarit's* intellectual property rights; breach of any applicable law and any unlawful, negligent, or wrongful act or omission in connection with the *Services*.

VII. Availability

Tvarit owes the availability of the *Tvarit Software* at the delivery point.

Tvarit shall make commercially reasonable efforts to keep the *Tvarit Software* available and operational for access and use by the *Customer*. Excluded from the availability are predefined maintenance windows, emergency downtimes for the short-term and without prior notice required import of security updates as well as special times agreed

between the *Parties* for the performance of non-regular and urgent work on the *Tvarit Software* (together "Downtimes"), and impairments, for which Tvarit is not responsible, such as:

- *Customer*'s use of the *Software Services* not as agreed;
- Failure of the internet connection;
- Non-fulfilment of the conditions of use and *System Requirements* by the *Customer*;
- Force majeure;
- Data corruption through the fault of the *Customer*;
- Any acts, inactions or omissions of third parties beyond the control of *Tvarit*, including but not limited to technical failures;
- Changes made by the *Customer* to the configuration of the *Software Services* not authorized by *Tvarit*.

VIII. Support

1. Email Support: Tvarit provides Support via e-mail in English on the email ID specified in the Order or otherwise.

2. Trainings: Tvarit may conduct trainings for Customers. Any trainings conducted during the course of the Services are provided free of cost, unless otherwise agreed. Any workshops and change management trainings for understanding the „AI Basics & Principles" shall be charged separately.

IX. Errors of the Software Services

1. Liability for Errors: During the term of an *Order*, *Tvarit* shall, subject to Force Majeure, provide the *Customer* with the Software Services that are substantially free of material Errors, viruses and malware that do not

significantly nullify or reduce its suitability for the contractual use. *Tvarit* will remedy material Errors in accordance with the terms of the *GTC,* the Documentation or as agreed in the respective *Order*.

2. Notice of *Error*: The *Customer* shall report *Errors* or malfunctions as fully and accurately as possible, stating the circumstances and the affected functionalities of the *Software Services* and, if necessary, provide screenshots and test data. The *Customer* shall report *Errors* or malfunctions within 3 days of the same coming to the notice of the Customer

3. Service Levels: *Errors* or malfunctions reported in accordance with the requirements of Section D.IX.2. will be processed by *Tvarit* in accordance with the terms of the Documentation, or as agreed in the respective *Order*.

3.1 Resolution: *Tvarit* shall generally remedy *Errors* that *Tvarit* was notified about within its operative possibilities while taking into consideration the classification of the *Error* as well as the resulting consequences for *Customer*. In the event the remediation of Errors fails, the Customer shall grant Tvarit a reasonable grace period.

4. Customer's Rights: In the event the remediation of Errors fails after the expiration of the grace period, and *Tvarit* has culpably violated its contractual obligations under this Section, the statutory provisions apply. The limitations of liability stipulated in Section VII apply. Notwithstanding any of the foregoing provisions, *Tvarit* is not liable without fault with respect to § 536a para. 1, 1st alternative

BGB for *Errors* that were present at the conclusion of the respective *Order*.

X.   Term and Termination

1. Term: The contractual start results from the respective *Order*. The Services relating to the provision of the *Tvarit Software* shall have a minimum initial term of 12 months. The term is automatically extended by one year at a time, unless it is terminated by *Tvarit* or the *Customer* with a 3 months' notice to the end of the relevant term. The *Parties* may agree to different provisions in the respective *Order* that shall prevail over this provision.

2. Termination for cause: The right to terminate for cause remains unaffected. An important reason for *Tvarit* is, if (i) the *Customer* is in default with the payment of any fees or any part thereof for more than two months or (ii) the *Customer* exceeds the usage rights as defined in Section D.I.2. or (iii) if the Customer breaches any terms of the GTC or the Order or the Applicable law.

Notwithstanding anything stated herein, Tvarit reserves the right to cease its business or cease the particular Tvarit Software at any point of time, without incurring any liability whatsoever. In the event, such a cessation of business or product occurs, the GTC and the respective Order shall be deemed to be terminated.

3. Written form: All termination notices must be in writing.

4. Consequences of the termination: Upon termination of the respective *Order*, the *Customer*'s rights to use the *Tvarit Software* shall expire. On termination, each party retains

its accrued rights in respect of any breach by the other party before the termination. Section D.VI.6 - Work Results apply upon termination. The Customer shall make payment to Tvarit for any and all Services provided by Tvarit (including all related accrued and unbilled revenue for work in progress) up to the date of termination. *Tvarit* shall be entitled to delete the *Application Data* stored in the system by the *Customer* at the end of the contract. The *Customer* is requested to export the *Application Data* before the end of the respective *Order*. On specific request of the Customer, Tvarit may provide migration and export services for the Application Data to Customer up to 90 days after the termination, on a chargeable basis.

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E. Special Terms for Services of Tvarit

I.   Service Portfolio

The following *Services* may be part of an *Order* to support *Customer's Project*:

- Configuration *Services* (including customer-specific adaptation of the *Software Services*, etc.);
- Consultancy *Services;*
- Other *Services*

The *Services* to be provided by *Tvarit* shall be described in detail in the respective *Order*.

II.   Special Cooperation Obligations and Duties of the Customer

1. Specific *Customer Obligations*: In addition to the General Obligations and Duties of the Customer (section III) and unless otherwise stated, the *Customer* is obliged to perform the following *Customer Obligations*:

- appoint contact person (s) who is available as necessary for the performance of the respective *Order*;
- delivery of the mandatory data and information for installation or configuration or development of the *Software Services*;
- provision of the *System Requirements* needed to use the *Software Services*;
- notification of *Deviations*.

2. Customer's Responsibility: *Customer* is solely responsible for the concept and the execution of the installation. The same applies with respect to the functionality and the concept of the *System Requirements* used to run the *Software Services* by *Customer*.

3. Grant of Rights: *Tvarit* grants *Customer* a non-exclusive, revocable and non-transferrable right to use the *Work Results* originating from the *Services* rendered as part of an *Order* for *Customer's* own internal business purposes, subject to the Customer keeping the Work Results strictly confidential. *Customer* is not entitled to reverse engineer, copy, modify, create derivatives or distribute *Work Results* unless otherwise explicitly stated in the *Order*. In the event protectable proposals and/or feedback are integrated in the *Work Results* the grant of rights set forth in section C.4 shall apply. Notwithstanding anything contained herein to the contrary, any and all rights, title and interests to the Services, and its contents and any Documentation provided therewith, including title, ownership rights and Intellectual Property Rights therein shall be and remain the sole and exclusive property of Tvarit. Nothing in the GTC or any Order shall be construed as a transfer in the Intellectual Property Rights of Tvarit to the Client. Irrespective to the rights of use granted, *Tvarit* retains all rights, title and interest in and to the Work Results, and all such rights title and interest in and to the Work Results shall be deemed assigned to Tvarit upon creation. Pre-existing intellectual property rights of the Parties remain unaffected. Tvarit shall further have the right to disseminate the Work Results, subject to Tvarit complying with the confidentiality requirements and applicable data protection regulations. Where Tvarit intends to make use of Customer's name/ logo/ mark, while disseminating Work Results,

it shall be subject to prior authorisation by the Customer.

III. Personnel

Where Tvarit provides its personnel to the Customer to perform the Services as agreed in the respective Order, the following applies:

- The personnel will reasonably comply with Customer's policies, procedures and rules. Tvarit shall procure that the personnel maintains and enforces confidentiality provisions of the GTC and/ or the Order.

- The Customer shall provide a reasonable and safe location, access, resources and privileges, and infrastructural access to the personnel to enable him/ her to provide the Services efficiently and effectively;

- The personnel shall be allowed leaves as per the policy of Tvarit, provided that the leaves do not hamper the performance of the Services.

- Replacement. Upon written notice from the Customer for any reason (other than a reason prohibited by applicable law), Tvarit will endeavour to replace the personnel, subject to availability, as soon as practical. Tvarit may at its sole discretion, remove/ replace any personnel by giving 30 days' written notice to the Customer, provided that Tvarit ensures that any such removal/ replacement does not impact the provision of the Services.

Nothing in the foregoing shall denounce or dilute the authority of Tvarit from determining and appointing the appropriate personnel for any Order.

IV. Acceptance of Performance

In case *Tvarit* is rendering performance-based *Services* as part of an *Order*, the following terms apply:

1. Partial Performance/Partial Acceptance of Performance: Where *Tvarit* has to render partial performances, these performances shall be accepted individually (partial acceptance of performance). The dates for the partial acceptances of performances are part of the agreed time schedule.

2. Delivery of Acceptance of Performance: After rendering the owed (partial) performance, *Tvarit* will deliver the respective *Work Results* to *Customer* in order to conduct the acceptance of performance. *Customer* shall verify the *Work Result* within the dates defined in the time schedule. Where there are no details about the date of acceptance in the time schedule, a time period of ten (10) *Working Days* is applicable. In the event the Customer fails to communicate its acceptance/refusal within the stipulated timeline, the Work Results shall be deemed to be accepted.

3. Protocol of Acceptance: *Customer* shall deliver the results of the acceptance of performance as a protocol at least in text form (i.e. e-mail). An acceptance protocol has to include a statement whether the acceptance has been declared or refused. If *Customer* refuses the acceptance, the protocol has to state for each refusal, the reason impeding the acceptance.

The acceptance of performance may not be refused if a *Deviation* does only insignificantly impair the use of the *Work Result*. *Tvarit* will remedy these insignificant Deviations as per Section E.VI.

When *Customer* delivers to *Tvarit* a protocol with a written list of Deviations within the time limit, *Tvarit* will remediate the Deviations within reasonable period and according to the time schedule. *Tvarit* will deliver the affected *Services* again for the (partial) acceptance of performance.

V. Deviation

1. Statute of Limitations: The following rights with respect to *Deviations* of the *Services* lapse within twelve (12) months after the complete render of performance. In the event of wilful intent or malice or in case of claims for damages, the statutory provisions shall apply.

2. Notice of *Deviation:* *Customer* is obliged to describe occurring *Deviations* in a comprehensible manner and report these Deviations to *Tvarit* in text form without undue delay after the *Deviations* emerged. In case *Tvarit* has rendered the *Service* substantially free of *Deviations*, *Customer* has to declare the acceptance. The acceptance shall be deemed declared when *Customer* commences operations of the *Work Results* and does not report any substantial *Deviations* within four (4) weeks.

3. Supplementary Performance by Rectification of *Deviations* or Subsequent Delivery: If *Customer* reports a *Deviation* of the *Services* to *Tvarit* according Section E.V.2, *Tvarit* shall provide supplementary

performance free of charge. *Tvarit* will take into account the severity of the *Deviations* and the impact on *Customer*. *Tvarit* will choose the type of supplementary performance.

4. Grace Period: In the event the supplementary performance as stated above fails within reasonable period, *Customer* shall grant *Tvarit* a reasonable grace period. There is no obligation to grant a grace period if *Tvarit* refuses the supplementary performance.

5. Additional *Customer* Rights: In the event supplementary performance fails after the expiration of the grace period stipulated in Section E.V.4, *Customer* may

- extraordinary terminate the respective *Order*, unless the *Deviation* is insignificant, or
- reduce the fees agreed in the *Order*, *subject to a maximum of 5% of the Order value*.

Besides the rights to extraordinary termination or to reduce the fees, *Customer* is also, subject to applicable law, entitled to claim damages if *Tvarit* has culpably violated the contractual obligations. The limitations of liability stipulated in Section VII of the *GTC* apply.

VI. Term and Termination

The contractual start results from the respective *Order*. Unless otherwise agreed in the Order, Section D.X. applies equally.

VII. Fees and Terms of Payment

1. Level of Fees: *Customer* will remunerate *Tvarit* for its *Services*. The details of the fees shall be stipulated in the respective *Order*.

2. Fees according to Order: *Tvarit* will charge the hourly or daily rate agreed in the *Order*. *Tvarit* will invoice the rendered *Services* on a monthly basis. One *Man Day* has eight (8) hours; over and minor time will be invoiced pro rata.

Accommodation and travel expenses shall be paid directly by the *Customer*. If accommodation expenses are not paid directly by the *Customer*, *Tvarit* will charge a flat per diem rate of 150 € per person. In case not paid directly by the *Customer*, travelling expenses will be charged to the *Customer*. The choice of means of transportation is at the discretion of *Tvarit* and includes the following:

- Flight: Business Class with a flight time over four (4) hours, otherwise Economy Class;
- Train: First Class with Bahncard 50, otherwise Second Class;
- Car: 0,60 Euro per kilometer.
- Rented Car: Category CLMR or higher

The *Parties* may agree on lump-sum compensation for travel costs in the *Order*.

Disputed invoice: The Customer shall provide Tvarit with detailed written notification within fourteen (14) days from the date of receipt of invoice in case the Customer disputes the Fees detailed in any such invoice. The Customer's failure to provide Tvarit with written notice of any disputed invoice as described herein shall be deemed as the Customer's acceptance of such invoice. If the disputed amount is less than 25% of the total invoice amount, the Customer shall be liable to pay the entire invoice amount as per the terms contained herein, till a resolution is reached in terms of Section C.XIII. Where the disputed amount equals or is more than 25% of the total invoice amount, the Customer shall pay the invoice amount less the disputed amount as per the terms contained herein, till a resolution is reached in terms of Section C.XIII.

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Service Description

A. Definitions

1. **Accuracy**: Accuracy of the model is calculated cumulatively for datapoints equal to the training evaluation datapoints size and is not based on any single instance.
2. **Achievable Evaluation Score**: It is the maximum deliverable evaluation score based on the fruitfulness of the data provided by Customer/ Plant and the use case to solve.
3. **Artificial Intelligence (AI) model:** AI model is a software program that has been trained on a set of data to perform specific tasks like recognizing certain patterns.
4. **Available parameters**: These are all the parameters which are present in the database for a given use case.
5. **Balanced accuracy**: Balanced accuracy is a metric that one can use when evaluating how good a binary classifier is. It is especially useful when the classes are imbalanced, i.e. one of the two classes appear a lot more often than the other.
6. **Binary classification**: It is the task of classifying the state of a parameter into two groups based on a classification rule. When the label selected for machine learning model, has only 2 classes, binary classification method is used.
7. **Boundary cases**: Occurs when one of the inputs is at or just beyond maximum or minimum limits.
8. **Evaluation**: It is a process of testing the performance of the machine learning model on the unseen data. This helps in benchmarking multiple models and getting the best model for the deployment.
9. **False Negatives**: A false negative is an outcome where the model incorrectly predicts the negative class.
10. **False Positives**: A false positive is an outcome where the model incorrectly predicts the positive class
11. **F-score**: F-score measures the accuracy of a test using precision and recall.
12. **Fixed Set process parameters**: These are parameters which are set/entered by the machine operator as per the industry requirement and is only changed during a change in product or process.
13. **Key Performance Indicator:** Key Performance Indicator (KPI) is the label defined for the use case. The KPI can be either of continuous, binary or multiclass data type.
14. **Log loss**: It measures the UNCERTAINTY of the probabilities of your model by comparing them to the true labels.
15. **Local Root Cause Analysis**: A method of problem solving, used for identifying the root causes of faults or problems occurring in the manufacturing process at a given point of time, available in the data.
16. **Mean Absolute Error**: Mean Absolute Error (MAE) is the average absolute difference between actual value and predicted value.
17. **Matthews correlation coefficient**: MCC is a correlation coefficient between target and predictions. It generally varies between -1 and +1. -1 when there is perfect disagreement

between actuals and prediction, 1 when there is a perfect agreement between actuals and predictions. 0 when the prediction may as well be random with respect to the actuals. As it involves values of all the four quadrants of a confusion matrix, it is considered as a balanced measure.

18. **Mean Squared Error**: Mean Squared Error (MSE) tells how close a regression line is to a set of points. It does this by taking the distances from the points to the regression line (these distances are the "errors") and squaring them.

19. **Multiclass classification**: It is the task of classifying the state of a parameter into more than 2 groups based on a classification rule. When the label selected for machine learning model, has more than 2 classes, binary classification method is used.

20. **Permissible limits**: These are maximum and minimum value of a parameter that is required for desired output or is provided by machine manufacturer for better results.

21. **Plant:** Plant means a manufacturing or other unit/s belonging to the Customer.

22. **Precision**: Precision is defined as the fraction of relevant instances among all retrieved instances. It calculated as TP/(TP+FP).

23. **Quality parameters**: These are the parameters which are collected from the lab tests/quality check process. These parameters define the quality of the product.

24. **R-squared Error**: R2 score is a statistical measure of how close the data are to the fitted regression line. It is also known as the coefficient of determination, or the coefficient of multiple determination for multiple regression. 0% indicates that the model explains none of the variability of the response data around its mean.

25. **Recall**: Recall is the fraction of the total amount of relevant instances that were retrieved. It is calculated as TP/(TP+TN).

26. **Regression**: Regression models are used to predict a continuous value.

27. **Re-train Model:** Retraining a model means to fit the deployed model with newly available data points within the same parameter space as the deployed model. This does not include addition of new parameters or change in KPI or change in velocity.

28. **Root Mean Squared Error**: Residuals are a measure of how far from the regression line data points are; RMSE is a measure of how spread out these residuals are. In other words, it tells you how concentrated the data is around the line of best fit.

29. **Root Mean Square Logarithmic Error**: RMSLE is the ratio (the log) between the actual values in your data and predicted values in the model. Use RMSLE instead of RMSE if an under-prediction is worse than an over-prediction – where underestimating is more problematic than overestimating.

30. **Sanity limits**: These are maximum and minimum values of a parameter beyond which the values are considered as garbage values.

31. **Selected parameters**: These are the parameters which will be used to build the machine learning model based on the importance as per domain and statistical insights.

32. **Sensed process parameters**: These are the parameters which are collected using sensors or any other measuring device.

33. **True Negatives**: A true negative is an outcome where the model correctly predicts the negative class.

34. **True Positives**: A true positive is an outcome where the model correctly predicts the positive class.

35. **Tunable Set process parameters**: These are the parameters which are set/entered by the machine operator as per the product requirement and can be changed anytime during the process to control the variation in quality or process.

36. **Unique Module:** A unique module is an AI model developed for a unique machine which can be further transferred to similar machines with same design, function and equipment.

B. Details of the Tvarit Software

The Tvarit Software covers the following prescriptive analytics module:

a. **Prescriptive Quality**

    I.   Quality Prediction

    II.   Root Cause Analysis

    III.   Scrap Alert

    IV.   Scrap Rate Index

    V.   Recommended Actions

b. **Prescriptive Maintenance**

    I.   Machine Downtime Alerts

    II.   Machine Health Prediction

    III.   Root Cause Analysis

    IV.   Operator Inputs for Actions to be taken or already taken

c. **Prescriptive Energy**

    I.   Energy Monitoring

    II.   Energy Forecast

    III.   Root Cause Analysis

    IV.   Energy vs Machine Analysis

d. **AI Assisted Production Planning**

    I.   Supply Chain

    II.   Availability Analysis

    III.   Downtime Analysis

    IV.   MTTR

    V.   MTBF

    VI.   Takt Time

    VII.   Scrap Rate Analysis

    VIII.   Schedule Analysis

    IX.   Production Cost Analysis

    X.   Inventory Analysis

    XI.   Real-time Production View

C. Tvarit Software

Tvarit will provide the following Software Services under both licenses and sub-licenses required to support and sustain the Artificial Intelligence Use Case:

a.   Feasibility Service

    I.   Check the sufficives of data provided by the Customer/ Plant.

    II.   Provide project plan as per the Feasibility Analysis Report, which will define specifications of the label selected for use case, the metric selected for evaluation, visualizations of Prescriptive model, boundary cases and its constraints, timeline, Customer/ Plant availability schedules.

b.   Model Service

    I.   Develop a model for a given problem statement (Prescriptive quality/maintenance/consumption etc.)

    II.   Develop local root cause analysis model for a given use case.

c.   Visualization Service

    I.   Designing of Dashboard for visualization for the KPI's provided. The dashboard will have different styles of widgets.

d.   Post Deployment Services

    I.   Provide evaluation reports to users with comparison of actual values and predicted values.

II. A hand-over meeting to explain the project results to all stakeholders, being the Customer and the Plant.

III. Telephone support

IV. Email support

V. Technical Support.

VI. Development and deployment of changes requested after deployment. (extra costs apply)

e. Subscription Services

I. Fixing bugs, if any, in the deployed service.

II. Retraining of model at regular intervals to maintain the accuracy of the model.

III. Maintaining the servers required to keep the service up and running.

f. Subscription Infrastructure Inclusions:

Description	Limit
Data Ingestion	
Number of parameters	7500
GB / month	2000
Number of messages / months	64800000
Data Storage	
Cold Storage (GB)	24000
Warm Storage (GB)	6000
Hot Storage (GB)	2000
Data Preprocessing	
Number of calculated parameters	22500
Data Modelling	
Number of use cases	1000
Number of unique use cases	117
Number of training/month/use case	1
Number of analysis/month/use case	0

Minimum Inference Frequency (minutes)	5
Data Visualisation	
Minimum visualisation frequency (minutes)	5
Number of calculated parameter visualisation	1000
Application	
Number of users	23
Number of admin users	2
Number of AI modules	12
Number of dashboards	2000
Support	
Email Support - Priority	-
Telephone Support (hrs)	4
Technical Expert Support (hrs)	1
Monthly Maintenance	-

*Any service/ support, not included in the table above, or over and above, the ones included in the table above shall be charged separately.

D. Plant Responsibilities

The Plant responsibilities and/or requirements to avail the aforesaid services shall include:

I.   Providing all necessary information and assistance related to service performance that allows Tvarit to meet the performance standards as outlined in this document.

II.   Informing Tvarit regarding changing business requirements that may necessitate a review, modification, or amendment of this document/ end user agreement.

III. Payment for all support costs at the agreed interval/ time.

IV.   Reasonable availability of Plant representative(s) when resolving a service-related incident or request.

V.   Providing two weeks of dedicated time for evaluating the model performance.

VI. Providing configuration details for data connectivity

VII. Providing a workstation with internet connectivity (for On-site)

VIII. Providing sign off at all required stages mentioned in the project plan.

IX. Providing requirements of visualization

X. Providing details and conditions for Alerting.

XI. Providing documentation and brief walk-through of the processes and machines involved to the data science team.

XII. Providing a list of available parameters with segregation of measured process parameter, set process parameters and measured quality parameters with the permissible limits and sanity limits of all parameters.

XIII. Providing documentation of process parameter's effect on quality parameters.

E. Customer Responsibilities

The Customer shall have the following responsibilities/duties, to support Tvarit to provide the Software Services:

I. Collection of data from a Plant from identified data sources.

II. Cleaning of data and consolidating it into a single data source for Tvarit to consume.

III. Customer shall provide Tvarit access to a single point of truth for data integration.

IV. Customer shall validate the quality and correctness of data.

V. Customer shall provide details of data types for all the parameters available at the single point of truth.

VI. Customer shall provide Tvarit the data for training per unique module, keeping in mind the below constraints:

a. Volume: 50 GB

VII. Customer shall coordinate with Plant and make arrangements for on-site visits.

VIII. Customer shall be responsible for overall project plan for a Plant, to achieve this Tvarit will provide timelines for the Software Services.

F. Tvarit Responsibilities

Tvarit shall have the following responsibilities/ duties, while performance of the Software Services, while the Customer will act as the primary support:

    I.   Meeting response times associated with service-related incidents.

    II.   Appropriately notifying the Plant about all scheduled maintenance.

    III.   Providing the project plan with defined timelines and deliverables.

    IV.   Providing timely deliverables as defined in the project plan.

    V.   Explaining the process of data modelling.

    VI.   Providing training to the users in using the software.

    VII.   Providing documentation/guide for reference.

    VIII.   Informing the Plant regarding scheduled and unscheduled service outages due to maintenance, troubleshooting, disruptions or as otherwise necessary.

    IX.   Providing Support in the manner provided in the GTC and this document.

G. Reporting Incidents, Errors and Deviations, and Support

For reporting incidents, the Customer or the Plant can use the option provided in the Tvarit Software, 'Help --> report issue'. Depending on the severity of the incident, below response times will be guaranteed from Tvarit support team. The first contact from support team will be established within a defined period of time and the next steps will be discussed.

Priority and Response Matrix

Priority of Incident	Impact	Response Time
P1: Critical	A system failure where a **major feature** of TiA is non-operational and there is no existing workaround.	1 Business Day
P2: High	A failure that results in a) a major function of TiA to no longer operate as described and a workaround exists, b) a substantially degraded performance, c) in several minor functions to no longer operate and there is no existing workaround.	3 Business Days

P3: Moderate	A failure that results in a) **minor functions** to no longer operate, b) a slightly degraded performance.	7 Business Days

The classification of the severity of the issue might be changed after aligning with the customer and evaluating the business impact. In the event the Parties cannot reach an agreement about the classification of an Incident, Tvarit shall be entitled to decide the classification in its reasonable discretion.

The entire support process will be supported and operated in English only. This means that all communication - whether written or verbal - from both the CUSTOMER and TVARIT will be in English only. Furthermore, only employees who have been instructed and trained by TVARIT (key users) are allowed to open a support ticket.

H. Phases and Constraints

I. Planning

    a. The Unique module shall be developed in 2 Phases. Phase 1 includes providing base results based upon statistical research required for the model. Refinement of the model based on the feedback from the domain in multiple iterations shall be commenced in Phase 2.

    b. Changes to Software Services, if any shall be communicated and documented to the Plant.

    c. It is understood and agreed by the Plant that the final achievable accuracy will be as per the sign-off of the feasibility analysis report.

    d. Any new addition not discussed during the preparation of the project will be considered as a new feature and charged accordingly.

    e. Feature request shall be considered only if the same are conveyed via email, or such other method as may be specified.

    f. Use of GPU server if required shall incur additional charges.

    g. Change in integration/implementation due to change in data ingestion methodology shall incur additional charges.

II. Model Constraints

    a. Any improvement of model beyond the agreed terms, post deployment shall be charged extra as per the pricing policy.

b. The root cause analysis shall be indicative as per statistics and any actions based on such results shall be strictly and solely at the risk of the Plant.

c. Prediction method will not be changed once selected.

d. Model will be built to solve the defined use case with KPI as continuous or binary or multiclass.

e. Any change in the selection of model will be charged at an additional cost.

f. Change in KPI means change in the definition of KPI, which cannot be limited to change in thresholds, metadata corresponding to KPI, change in classes within the defined KPI.

　　i. If Prescriptive KPI has changed and there is also a change in process parameter space, then the model shall be considered as a 100% separate unique ai module.

　　ii. If Prescriptive KPI has changed but the process parameter space remains same, then the model shall be considered as a 60% separate model and hence will be covered under transfer learning model.. .

g. Addition of up to 5 process parameters is allowed at zero additional cost if the underlying model is kept same, with no additional analysis. The model will be updated with new features if and only if there is significant amount of data available in the same format as other process parameters being used. Performance of the model after addition of parameters may change and is therefore not guaranteed.

h. In addition to point f, if Prescriptive KPI does not change and process parameter changes, and additional analysis and change in model is required, then the model shall be considered as a 60% separate model and hence will be covered under transfer learning model.

i. Change in data frequency will have direct impact on the performance of the model. Model performance is guaranteed only when the input data is of same velocity as the training data. Training on new set of data with updated frequency will be considered an unique ai module.

III. Evaluation Constraints

a. While evaluating, Boundary cases, if any, will be evaluated separately. For Boundary cases, where the measured label is at or just beyond the permissible limits, predictions might not be 100% accurate.

b. There will be no change in evaluation metrics after model building.

c. Evaluation of the model will be conducted for two weeks along with the Plant.

d. The Realtime predictions will be evaluated with the actual values.

e. The metrics will be selected as per the requirements of the business/ Plant.

f. For binary classification the metrics, either of *Accuracy, Precision and Recall, FP, FN, TP, TN* will be used.

g. For multiclass classification the metrics, either of *F-score, Balanced accuracy, Matthew's correlation coefficient* and *Log loss*, will be used.

h. For regression the metrics, either of *R2 score, RMSE, MAE, MSE, RMSLE*, will be used.

i. The real-time evaluation result of the model will be based on the method of prediction and the metric selected.

j. Accuracy of the model is based on several factors as aforesaid, and as such achieving 100% success is not always possible.

k. Range of accuracy shall be determined by Tvarit based on the problem statement complexity during the project planning phase along with the Plant.

IV. Visualization Constraints

a. Visualization on dashboard will only have KPI's defined in the project proposal.

b. Additions in Visualization after deployment will be charged separately.

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Acceptable Use Policy

A. Restrictions

Customer agrees (and shall ensure that its employees/ Authorised Users agree) to use the Tvarit Software and Software Services in accordance with all applicable local, state and federal laws, and the GTC, and shall not:

I. conduct any business or activity or solicit the performance of any activity that is prohibited by law, tortuous, or interferes upon the use of the Tvarit Software and Software Services by other customers;

II. Use the Tvarit Software and Software Services for any purpose other than its internal business purposes;

III. interfere, disrupt or attempt to gain unauthorized access to any computer system, server, network or account for which Customer does not have authorization to access or at a level exceeding Customer's authorization;

IV. disseminate or transmit any virus, worms, trojan horse or other malicious, harmful or disabling data, work, code or program;

V. make available, reveal, disclose, offer, or allow the use of Tvarit Software by third parties, without the prior written consent of the Tvarit;

VI. provide or offer access to any third parties to any login details, restricted online access keys or authentication passwords provided by Tvarit, including to such employees who were previously Authorised Users;

VII. allow third parties or develop methods for third parties to use the Tvarit Software and Software Services;

VIII. sell, rent, lease, use collectively, record, license, sublicense, share, distribute, publicly communicate, transfer or exploit in any other manner the Tvarit Software and Software Services;

IX. make copies, execute, publish, or reproduce the Tvarit Software or its components, unless expressly authorized by the Tvarit;

X. decompile, disassemble, or reverse engineer the Tvarit Software, in whole or in part, and shall not attempt to obtain in any other manner any source code, and shall not carry out any action to the detriment of Tvarit's intellectual Property Rights;

XI. develop any derivative works or any type of software program based on the Tvarit Software, or any other Confidential Information of Tvarit;

XII. delete, remove, hide, move, or alter any trademark, logo, icon, image, or text that represents Tvarit's name, any derivation thereof, or any icon, image, or text that is connected to it in any manner;

XIII.   alter or modify the Tvarit Software without the prior written consent of the Tvarit;

XIV.   reject, avoid, elude, remove, deactivate, or evade, in any way, any protection mechanism of the Tvarit Software, including without limitation any mechanism used to restrict or control its functions;

XV.   disseminate, display, send, transmit or receive any material, through or on the Tvarit Software that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening, malicious, or violent, regardless of whether the material or its dissemination is unlawful;

XVI.   access, send, receive, display, disclose, or store any content on Tvarit Software and Software Services in violation of any copyright, right of publicity, patent, trademark, service mark, trade name, trade secret or other intellectual property right or in violation of any applicable agreement, or without authorization;

XVII.   export, or permit downloading of any content in violation of any export or import law, regulation or restriction of Germany, or without required approvals, licenses and/or exemptions;

XVIII.   engage in any other activity deemed by Tvarit to be in conflict with the spirit or intent of the GTC or any of Tvarit's policies.

B. Failure to Comply

Failure to comply with this Policy in Tvarit's reasonable judgment may result in the immediate termination of Software Services, responding to law enforcement requests, or any other action deemed necessary by Tvarit in order to protect its network, customer relationships, and commitment to the highest possible quality of service. Tvarit will cooperate with law enforcement in cases where Tvarit Software and Software Services are being used by the Customer for any suspected illegal activity.

C. Reporting Violations

Violations of this Policy are unethical and may be deemed as an offence. Customer shall report to Tvarit any information Customer may have concerning instances in which this Policy has been or is being violated including by any of Customer's employees or Authorised Users. Tvarit may at any time initiate an investigation of any use of the Tvarit Software for compliance with this Policy and Customer agrees to cooperate.

D. Malicious Activity

I. Intended: Violations of system or network security may result in criminal and civil liability. Tvarit will cooperate with law enforcement if a criminal violation is suspected. Tvarit will limit any traffic from the offending device or network immediately.

II. Unintended: Tvarit will notify the Customer of an exploited software being used for potential malicious activity. If the activity is causing severe damage or strain to other software or networks, Tvarit will limit traffic to and from that software immediately. Tvarit may also notify the Customer and give a reasonable amount of time to secure the software before limiting traffic to and from that software.

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Tvarit GmbH,

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