1 Components of the Agreement and Definitions

1) Definitions

    a) Software: The term software refers to the current version of the software provided at the time the agreement is concluded as well as each version of the software after updates, upgrades, etc. are installed.

    b) System environment: The term system environment refers to the software and hardware required to operate the software. The system requirements apply that are mentioned in the product data sheet.

    c) Delivery: Delivering the software is carried out by downloading or other electronic means. A link is sent to the customer for the download by which the software download can be accomplished.

    d) Documentation: User manual for customers.

2) The components of the License Agreement are:

    The text of this Agreement as well as

    - The specifications of the software, especially in the product data sheet.
    - The list of the respective number and the content of the licenses according to the quotation/order confirmation/invoice.

    If discrepancies arise, the provisions agreed upon in the enclosures take precedence over the provisions in this Agreement.

3) This Agreement regulates all arrangements between the parties. Previous agreements are replaced by this Agreement. No other terms and conditions of the parties apply.

2 Object of the Agreement

The License Agreement contains the following services:

1) Aploris licenses the software that was mentioned in the respective quotation/order confirmation/invoice to the customer for the duration stated in the respective quotation/order confirmation/invoice. The object of the licensing is the current version of the software. It is recommended that the customer installs the most recently provided version or have it installed. The functionality of the software may be affected if the customer does not use the newest version. The rights of use assigned to the customer only pertain to this version. An exception is only made if the new version that is delivered to the customer has defects that make working with the new version unreasonable.

2) The software is provided to the customer with the required rights of use for the respective duration to be used in accordance with the license. Transferring of rights of use is determined by Sec. 7 of this Agreement.

3) The software's range of functions as well as the hardware and software operating conditions are derived from the product data sheet and the documentation that is enclosed with the software. Moreover, the documentation describes the client system environment in which the software may be used.

4) The software is provided solely for the customer's own use: the customer is not authorized to sublease or sublicense to third parties or to grant third parties the right to sublease or sublicense the software. In addition, the provisions of Sec. 7 of this Agreement apply.

5) The software is regularly updated and continuously developed for the duration of the contractual relationship. The following terms apply:

    - Aploris will adjust the maintained software to reflect changing legal provisions in a reasonable period of time within its operational and economic capabilities. Such obligations shall not apply if the adjustment would entail unreasonable efforts on the part of Aploris. In such a case the adjustment will only be undertaken for an additional appropriate fee.
    - Aploris makes updates/upgrades/major releases available for the licensed software provided that they are available and required. Updating the documentation is likewise included.

6) More detailed adjustments to the customer's special usage requirements are not part of the service that is owed.

3 Force Majeure

1) Force majeure

    The deadline for delivering updates/upgrades/major releases will be extended to a reasonable extent, but no more than a maximum of eight weeks if Aploris is hindered from fulfilling its obligations due to unforeseeable, extraordinary circumstances that it cannot avoid despite reasonable diligence to prevent them whether these circumstances occur in Aploris' sphere or in its suppliers' sphere and if the delivery or service is still possible. Some examples are:

- breakdowns
- government interventions
- energy supply difficulties
- strikes or lock outs

2) Impossibility

If the delivery of updates/upgrades/major releases becomes impossible due to the above-mentioned circumstances, Aploris is freed from its obligations.

4 Providing, Installation, Consultation

1) Aploris makes the software including the documentation available to download at a URL that is made known to the customer or by other electronic means. The delivery is accomplished when Aploris has given the customer access to the software, and the software is available for download.

2) The customer installs the software and all updates/upgrades/major releases that follow by himself.

5 Customer Obligations

1) The customer will assist Aploris to fulfill the contractual obligations to perform. In particular:

- The customer will observe the symptoms in detail when error messages occur, as well as the system and hardware environment and report defects to Aploris, e.g. by using the provided e-mail report, indicating information relevant to the debugging of the defect, such as the number of users affected, description of the system and the hardware environment, and if applicable simultaneously loaded third party software and documents.
- Detected defects must be made available to Aploris.
- The customer will support Aploris within the limits of its resources to the best of the customer's ability in detecting the root cause of the defect and if necessary instruct his employees to cooperate with Aploris' representatives.
- The customer will load the software and/or parts of the software (patches or bug fixes) received from Aploris upon detailed instruction and always comply with Aploris' suggestions for defect detection and debugging provided the software contains defects.
- The customer will keep all data used in connection with or created with the software available in machine-readable form as a data backup, which enable a reconstruction of lost data at a reasonable expense.
- If agreed upon, the customer will maintain a test system that reproduces the system environment that it uses as a productive system as well as possible, to immediately report any and all changes to the productive system and to adjust the test system accordingly to the productive system. The customer will first install any and all new software onto the test system and examine whether defects occur in the test environment.
- At Aploris' request, the customer will make available a list of all employees who use Aploris' software. This only applies if Aploris and the customer agree not to use Aploris' online license mechanism. With the online license mechanism individual users are registered on Aploris' license server and therefore do not need to be listed separately.

2) The customer obligations set out above constitute substantial contractual obligations. If the customer violates his obligations of cooperation, Aploris is not obligated to perform. In the case of repeated or major breaches of obligation, Aploris is entitled to terminate this Agreement and to demand payment from the customer for the costs already incurred. The contractual relationship ends at the end of the following month.

3) The customer is solely responsible for setting up a sufficiently dimensioned operative hardware and software environment for the objects of the Agreement, taking into account the additional workload from the objects of the Agreement, unless other terms are explicitly agreed upon. The requirements are documented in the current valid version of the software performance specifications.

6 Prices, Payment Terms, Price Reduction, Right of Revocation, License Details

1) The sales price for the software is charged by means of the current valid price list at the time the Agreement is concluded. It contains the services mentioned under Sec. 2.

2) All prices are net prices and are payable plus the current applicable value added tax. In addition, possible taxes, customs duties, levies, and other fees are to be borne by the customer.

3) For the initial license the license fee is due in advance when the order is received by Aploris.

4) The license fee for the licensed time period must be paid in advance.

5) If the customer acquires additional licenses for the software during the duration of the Agreement, the license fee depends on the current valid price list and is charged proportionately to the remaining term.

6) The payment has been made when the license fee is available to Aploris without restriction.

7) After conclusion of the Agreement and receipt of the license fee, Aploris will make the license details available to the customer to activate the software. If the Agreement is extended beyond the initial duration of the Agreement, Aploris is authorized in the event of late payment to not deliver license details to the customer that are necessary to operate the software provided that Aploris has given a last deadline of 30 days after the due date to pay the license fee. License details are required so that the software can be loaded into the computer's random access memory. Validating the license details may require accessing Aploris servers via the Internet. The software cannot be used without this procedure. Aploris is freed from its obligation to send the required license details in a timely manner 30 days after granting this grace period until the outstanding license fee is paid.

8) Aploris will deliver the license details if the customer furnishes proof of existing defects in the software and notifies Aploris that he is not paying or completely paying the license fee that is due because of complaints about the software. Aploris is not obligated to send the license details if it is not immediately notified of the software defects in the described manner. Furthermore, Aploris is not responsible for any defects that arise from the software being adapted by the customer or a third party or defects that arise from the customer not using the software in the system environment as defined in the specifications of the software.

9) The license details are personalized for exclusive use by the customer. For consumers the right of revocation is therefore barred pursuant to Sec. 312 g Par. 2 No. 1 German Civil Code (BGB). No right of revocation exists for entrepreneur pursuant to German Civil Code.

10) Exercising a right of retention that is not based on this contractual relationship is barred.

11) Setoffs with others as legally binding claims or claims that are uncontested by Aploris are barred.

12) Payments by SEPA Direct Debit may be charged within two working days. Pre-notification may be sent two working days prior to the due date.

7 Rights of Use

1) Object of the license terms

   a) Object of the license terms is the current version of the software at the time the Agreement is concluded.

   b) These license conditions apply to all versions of the software covered by the Agreement including full versions, upgrades, and updates that are delivered by Aploris as part of the business relationship after conclusion of the Agreement.

2) Limitations to the rights of use

   a) Unless otherwise provided for in these license terms, the customer is not allowed to alter, adapt, translate, port, reverse engineer, disassemble, decompile the software products, or determine their source code by other actions unless it is expressly permitted by mandatory legal provisions (Sec. 69 d ff. German Copyright Act).

   b) The customer is not authorized to correct software bugs by himself as long as Aploris or its authorized third parties offer debugging at normal market conditions.

   c) If the customer requires more information in addition to the information included in the documentation to achieve interoperability of the software products with independently created other computer programs, he should first send a request to that effect to Aploris. Aploris reserves the right to make the required information available.

   d) The customer is not authorized to alter, remove, or circumvent the software products' references to proprietary rights, including the documentation, that have been installed, especially copyright notes or trademarks as well as serial numbers, license codes, or security mechanisms.

3) Content and limitation of the user rights to be transferred

   a) The customer obtains as part of each individual Agreement a simple, non-exclusive, world-wide right to utilize the software products that have been provided to him for the designated use of the application and solely for the customer's own use as part of his business. The rights of use are transferred for the duration of this Agreement and can be terminated according to Sec. 11.

   b) For the customer's own use within the context of his own business, means that the software products may be copied by the customer's employees or freelance personnel as provided for by this Agreement.

   c) The following applies to user licenses: The customer may permanently copy the licensed software onto any number of computers of the same company, i.e., save to the hard drive or to other suitable media. The term "company" is not to be equated with "affiliated companies" (Sec. 15 I of the German Stock

Corporation Act), i.e., the software may not be shared within corporate groups to other corporate affiliates/parent companies. The rights of use to the licensed software may be granted to an employee or to freelance personnel provided that a user license exists for that person.

4) Extent of the rights of use

   a) Transferring the rights of use occurs for a limited period and for the duration of the License Agreement. The right of use, which authorizes the customer to create a temporary copy in the random access memory, is limited to the version of the software that is being used. In the absence of arrangements to the contrary, this version of the software is the current version of the software that was delivered. Rights to other versions of the software that were delivered to the customer terminate at the moment when the new software is installed. Backup copies definitely should and may be made. If a new release contains defects, the customer obtains the right to reinstall the old release.

   b) The customer is not authorized to issue sublicenses to the software or to enable third parties to use the software. The customer is also not authorized to allow them to load the software into the random access memory of a computer that is not owned by or is in the possession of the customer if it is not used by an employee or by freelance personnel for the customer's business. Every legally independent entity that is not identical with the customer is considered to be a third party. Appropriate consent can be declared separately by Aploris.

8 Customer Rights in Case of Defects

1) Aploris is obligated to remedy defects in the software and documentation that have been provided.

2) Remedying defects is initially performed at Aploris' discretion by repair or replacement free of charge.

3) Termination by the customer pursuant to Sec. 543 Par. 2 Sen. 1 No. 1 of the German Civil Code (BGB) because of failure to grant use in accordance with the Agreement is only permissible if Aploris was given ample opportunity to remedy the defects and such attempt has failed. A failure to remedy the defects can only be assumed if a remedy is impossible, if it is refused by Aploris, or is delayed to an unreasonable extent if reasonable doubts exist with regard to the prospects of success or if it is unacceptable to the customer for other reasons. Termination or raising claims for damages is barred if merely minor, insignificant defects are present. The customer's right to reduce the price in these cases remains untouched.

4) The customer's rights regarding defects are barred if the customer makes changes or has changes made to the software without Aploris' consent unless the customer proves that the changes have no unreasonable effect on Aploris' efforts to analyze and remedy the defects. The customer's rights remain untouched provided the customer is authorized to make changes especially in conjunction with exercising the right to remedy the defects himself pursuant to Sec. 536 a Par. 2 (BGB) and the changes were made in a professional manner as well as documented clearly.

5) Aploris can determine according to its reasonable discretion whether the software-related services are provided by delivering new releases (including updates or upgrades of the software), by commissioning third parties, or by instructing the customer's staff as to software modifications or changes to the software parameters. The customer can reject the performance in the form of updates or upgrades if they do not have the same compatibility and functionality as the software that was replaced. This also applies if the transition to the quoted version that is free of defects would involve unacceptable costs for the customer.

9 Limitations of liability

1) No fault liability on the part of Aploris is barred pursuant to Sec. 536 a Par. 1 case 1 (BGB) regarding defects that are present at the time the Agreement is concluded provided that Aploris merely acted negligently.

2) In case of data loss caused by negligence, Aploris is only liable for damage that would have occurred even if the customer had backed up the data properly and on a regular basis, depending on the importance of the data; this limitation does not apply if the data backup was impossible or impeded due to reasons attributable to Aploris. The above-mentioned provisions apply analogously concerning reimbursement of futile expenditures.

3) Aploris is not liable for damages that are attributed to the fact that the customer cannot work productively with the software provided that the damages arose because the customer failed to secure the software and processed data at appropriate intervals using current, well-proven means corresponding to the current state of technology.

4) The amount of liability is determined by an individually agreed upon sum by the parties based on damages or raising of claims for reimbursement of expenses that arise from a defect in a product delivered by Aploris or a defect in a service provided by Aploris. Claims become time-barred 12 months after acceptance or delivery of the software by download or the provision of service. The legal provisions remain untouched in

regard to damages that result from injury to body, life, and/or health and/or from a breach of a promise of guarantee and/or are caused intentionally or by gross negligence.

5) Compatibility of the software to the customer's existing hardware and software configurations is only guaranteed for systems explicitly mentioned in the respective current specifications of the software. Aploris assumes no liability whatsoever for the compatibility of the software to the customer's other hardware or software configurations that are changed by the customer after the Agreement is concluded. Nor is liability guaranteed for the compatibility of systems that are possibly put into operation by other suppliers at the same time as Aploris' service. Deviations must be agreed upon separately. If the customer changes the required system environment for the proper functioning of the software and/or hardware without Aploris' consent after the installation or acceptance, the customer bears the burden of proof that the damage was not caused by the change in the system environment. The same applies if the customer has changed the delivered product itself.

6) Liability according to the German Product Liability Act remains untouched by the provisions of this Agreement.

10 Privacy Policy

Aploris collects personal data (individual details regarding personal or material relationships of a particular or identifiable natural person) only to the extent that is made available by the customer. Processing and using personal data is done to fulfil and perform the contractually agreed upon services as well as to process customer inquiries. After the Agreement has been completely carried out, data is initially stored taking tax and commercial law retention periods into account and then deleted after expiration of the deadline provided the customer has not agreed to further use and processing of the data. The customer has the right to information about his stored personal data at any time as well as the right to correct, block, or delete these data.

11 Duration and Ending the Contractual Relationship

1) The License Agreement is concluded for the time period mentioned in the quotation/order confirmation/invoice, which is normally one year.

2) The customer's rights of termination according to Sec. 8 Par. 3 of this Agreement remain untouched. Providing the customer justifiably terminates the Agreement early, Aploris will proportionately refund the already paid license fee to the customer.

3) Each party's right to extraordinary termination for cause remains untouched. The right to extraordinarily terminate the Agreement on the part of Aploris especially exists if the customer violates the conditions of Sec. 7 of this Agreement. This also applies if the conditions of Sec. 7 of this Agreement are violated by the customer's employee or freelance staff provided that the customer gained knowledge of the rights violation or did not gain it due to gross negligence.

12 Return

1) At the end of the contractual relationship, the customer must completely and irretrievably delete the created copies of the software licensed by Aploris. Moreover, the customer must delete the license details that were made available.

2) Every usage of this software in the form of a copy is inadmissible after the contractual relationship has been ended.

13 General

1) If a provision of these contractual conditions or of the respective supplementary agreements of the Agreement is or becomes ineffective, it does not affect the effectiveness of the other provisions.

2) All agreements must be put into writing that contain a change, supplement, or explanation of these terms and conditions as well as special promises of guarantee and arrangements. If they are declared by Aploris' representatives or supporting staff, they are only binding if Aploris' management board gives written approval.

3) If agreed upon, the customer grants Aploris the right to publish the customer's name in the reference list on the website and/or other publications during the duration of the License Agreement. Case studies and/or success stories may be presented on Aploris' website and in its presentations only after previous written permission.

4) The parties agree to the application of the law of the Federal Republic of Germany concerning all legal relationships from this contractual relationship.

5) If the customer is a merchant within the meaning of the German Commercial Code, legal entity under public law, or a special fund under public law, it is agreed that the courts in the city where Aploris has its headquarters shall have jurisdiction and venue for all disputes that arise while carrying out this contractual

relationship. Nevertheless, Aploris has the right to bring an action against the customer in the city where the customer's headquarters is as it sees fit.