# Supplementary clauses concerning Section 1.3 GTC - JUMO Mess- und Regeltechnik AG

Supplementary clauses concerning Section 1.3 GTC for download (pdf 49 kByte) edition 10/2018

## 1. Object of the supplementary clauses

1. The purpose of these supplementary clauses is to supplement and amend the "General Terms and Conditions for Delivery and Service" of JUMO Mess- und Regeltechnik AG, hereinafter referred to as "GTC", in accordance with the provisions below.
2. The object of these supplementary clauses is software which is regularly provided as part of a product.
3. These supplementary clauses do not oblige the Supplier in any way to provide software services. Such services shall only be provided subject to a separate agreement.

## 2. Transfer of risk

1. By way of supplement to Section 5 GTC, the following shall apply:
Upon delivery of software via electronic communications media (e.g. via the internet, email, storage media, etc.) the transfer of risk occurs once the software has left the sphere of influence of the Supplier (e.g. the Supplier's server in the case of downloads).

## 3. Liability for loss of data

1. By way of supplement to Section 8 GTC, the following shall apply:
Should any defect in the software provided cause loss of or damage to data and programs belonging to the Customer, the Supplier shall only be liable to the extent outlined in Section 8 et seqq. GTC.

## 4. Documentation

1. The Customer must purchase the documentation relating to a piece of software separately from the software unless the order confirmation specifies that the documentation will be supplied with the software.

## 5. Single license

1. The Customer shall be granted the rights of use for the software agreed in the order confirmation or on the software product sheet.
2. The Supplier shall grant the Customer the perpetual, non-exclusive right to use the software with any devices specified in the order confirmation or on the product sheet, whereby each piece of software delivered to the Customer may only be used on one device at a time (single license). If there are multiple workstations for one device on which the software may be used independently, the single license shall only cover one workstation.
3. The Customer may make copies of the software, which may only be used for backup purposes (backup copies). In other respects, the Customer may only create copies of the software if they hold a multi-user license.
4. The Customer shall not be entitled to modify, reverse engineer or translate the software or remove parts of it. The Customer must not remove alphanumeric or other identifiers from the data carrier and must transfer these unchanged to any backup copies made.
5. The Supplier shall grant the Customer the irrevocable right to transfer to third parties the rights of use initially transferred to the Customer. If the Customer received the software together with a device, the Customer may only transfer the software to a third party together with the device. The Customer must conclude a written agreement with the third party in which the third party accepts the obligations arising from this Contract. If the Customer transfers the software to a third party, the Customer shall be responsible for ensuring that any relevant export requirements are fulfilled and must exempt the Supplier from any obligations in this respect.

## 6. Multi-user license

1.  In order to use the software on multiple devices or at multiple workstations, the Customer must hold a multi-user license. The prerequisite for a multi-user license is the granting of a single license as well as a written confirmation from the Supplier regarding the number of copies the Customer is permitted to make of the software supplied with the single license. The multi-user license grants the Customer the perpetual, non-exclusive and non-transferable right to create the number of copies specified in the written confirmation and to use the copies created in accordance with the rules for single licenses or transfer them to third parties for such use.

2.  Simultaneous use of the software on multiple devices is equivalent to using the software on multiple workstations on networks without needing to duplicate the software (network license). The rules for multi-user licenses also apply to network licenses accordingly. In this context, the number of permitted workstations corresponds to the number of copies that may be made.

3.  The Customer shall observe the instructions on creating copies of the software provided by the Supplier together with the multi-user license. The Customer must keep records of the locations of all copies made and must provide these to the Supplier on request. The Customer must transfer all alphanumeric and other identifiers of the data carriers to all copies without change.

## 7. Liability for defects

1.  By way of supplement to Section 8 GTC, the following shall apply:

2.  The Supplier and Customer agree that it is not possible to develop software such that it is defect-free for all application conditions. Defects in the software include deviations from the most recent version of the related documentation that have been demonstrated by the Customer, can be reproduced and – where the defect is not caused by the absence of a guaranteed property – cannot be considered insignificant. The Customer shall be obliged to provide the Supplier with verifiable documents concerning the nature and occurrence of deviations from the documentation and to offer assistance with the isolation of defects. Liability for defects shall not extend to defects caused by deviation

from the intended application conditions for the program as specified in the documentation.

3. In the event that data carriers supplied are defective, the Customer may only request that the Supplier replace the defective copies with defect-free copies.

4. In other respects, the Supplier may choose at its discretion to correct the defect by providing either an update or an upgrade by way of replacement. Where possible with reasonable effort and in cases where the Customer is unable to perform urgent tasks because of the defect, the Supplier shall provide the Customer with a workaround to circumvent the defect until the update or upgrade is provided. If the workaround fails, the Customer shall be entitled to demand a reduction in price or withdraw from the Contract. If the Supplier has provided the Customer with a multi-user license, the Customer may make the same number of copies of the upgrade provided by way of replacement as the number of licenses originally granted.

5. The identification and elimination of the defect shall be performed either on the Customer's premises or on the Supplier's premises, at the Supplier's discretion. If the Supplier opts to perform defect correction on the Customer's premises, the Customer must provide hardware and software as well as any other operating requirements, together with suitable operating staff, free of charge where necessary to correct the defect within an appropriate timeframe. The Customer must provide the Supplier with any documents and information it holds that are necessary to correct the defect. The Supplier may demand reimbursement from the Customer for any transport, travel and accommodation costs incurred in the course of correcting a defect on the Customer's premises.

6. If it is not possible to reproduce a defect reported by the Customer, if a defect proves to be due to improper use by the Customer or if a defect is not covered under the liability for defects for any other reason, the Supplier may demand appropriate remuneration from the Customer for performing the investigation and may also demand the reimbursement of the transport, travel and accommodation costs incurred as a result.

7. For software which the Customer or a third party is making available via an interface provided by the Supplier for this purpose, the Supplier's warranty shall only extend as far as the interface.

8. The Supplier shall not be responsible for ensuring that the software provided is compatible with the data processing environment used by the Customer, particularly with respect to the software and hardware products used by the Customer.

9. The Customer must take all necessary and reasonable measures to prevent or limit damage arising from defects in the software, particularly by notifying the Supplier immediately of any defect that may arise and by ensuring that programs and data are secure.