ASPROVA AG General Terms and Conditions (GTC)

A. General Terms

In relation of ASPROVA AG (hereinafter referred to as „Asprova") to its customers (hereinafter referred to as „Customers") – hereinafter collectively referred to as „Parties" – the following general terms and conditions (hereinafter referred to as „GTC ") shall apply.

I. General Definitions

Term	Description
Affiliate	means, with respect to a corporation or other entity or person that directly or indirectly controls, is controlled by, or that is under common control with that corporation or entity. For the purpose of this definition "control" shall mean ownership of greater than 50 % of the voting securities of the corporation or entity.
Asprova-Software	Asprova's standard software products (Modules: APS, MS, BOM, SED, SCP, MES, DS, NLS) as well as relevant extension options and functionalities and the respective documentation including any updates and upgrades to these standard software products which Asprova markets and distributes.
Confidential Information	All oral or visual information (i) that is "proprietary" or "confidential" due to its nature, or (ii) which the receiving Party should have considered to be confidential under the circumstances surrounding the disclosure. Confidential Information comprises material such as but not limited to product descriptions, specifications, prizes, reports.
Personal Data	Any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

II. Orders, Offers and Acceptance of an Offer, Services, Order of Precedence

1. Orders
    The Parties shall agree on the concrete performance of services in individual orders. Each individual order usually consists of an offer of Asprova and the corresponding acceptance of the Customer. Individual orders shall stipulate the details of performance and shall contain a detailed service description.

    Orders shall be at least in electronic format to be effective and shall refer to these GTC. An order by the Customer that contains enhancements, modifications or amendments to Asprova's offer shall require Asprova's written confirmation to be effective.

2. Potential Services for an Order
    Subject of individual orders between Asprova and the Customer could be the following services:
    -   Provision and granting of licenses of Asprova-Software (modules, options, upgrades) including Documentation;
    -   Provision of bug fixes and patches to remove Defects;
    -   Provision of updates and upgrades of Asprova-Software;
    -   Provision of new adaptions or additions of existing Documentation;
    -   Provision of support services relating to the implementation of Asprova-Software;
    -   Provision of support services relating to the use of Asprova-Software.

3. Order of Precedence
    The provisions of an individual order shall prevail over the provisions of these GTC.

III.   Customer's Cooperation Obligations and Duties

Individual cooperation obligations and duties shall be stipulated in individual orders or in the further provisions of these GTC. The Customer's cooperation shall constitute a material obligation of the Customer.

IV.   General Provisions relating to Compensation and Payment Terms

1.   Compensation, Taxes.
Asprova shall receive the compensation, which is stated in the respective individual order. The compensation agreed upon in an individual order is exclusive of any transaction taxes (such as sales, value added and similar transaction-based taxes) which may be imposed in accordance with applicable laws.

2.   Currency
All payments stated in individual agreements are exclusively stated and payable in Euro.

3.   Payment Terms
The payment terms shall also be contained in individual orders. If not stipulated otherwise in an individual order invoices issued by Asprova shall be due and payable within 14 calendar days after the invoice is issued.

4.   Legal Reservation
The granting of a license subject to an individual order shall only become effective once the Customer has paid to Asprova the complete compensation as set forth in an individual order. If ownership relating to a specific copy shall be transferred due to an individual order, Asprova additionally reserves the ownership in all copies such as but not limited to data carriers provided to the Customer until full payment of the compensation. The foregoing legal reservation shall expire if all claims from a current business relationship between Asprova and the Customer have been settled.

5.   Default
In case of default the legal provisions shall apply.

V.   Third Party Right Infringement

1.   Defect Notification
The Customer shall give Asprova immediate notice of any alleged defects of title or infringement claims and shall provide reasonable cooperation in connection with the defense of each defect of title or infringement claim.

2.   Indemnification
Asprova shall indemnify and hold the Customer harmless from any claim or action in case the provided services as used within the scope of an individual order infringe any patent, copyright, trademark or other intellectual property right. The indemnification comprises all justified claims which arise from the use of a service and which are asserted against the Customer. The Customer agrees that Asprova shall be released from the foregoing obligations unless the Customer provides Asprova with
- prompt notification of the claim or action,
- sole control and authority over defense or settlement thereof, and
- all available information, assistance or authority to settle and/or defend any such claim or action. Asprova shall reimburse the cost arising out of this reasonable assistance.
For such indemnification the limitation of liability as set forth in **section A.VI.** shall apply.

3. Customer's Rights

If a deliverable becomes the subject of an infringement claim or action, Asprova may at its choice (while taking the Customer's interests into consideration)

- procure at no cost to the Customer, the right to continue using the deliverable, or
- replace or modify the deliverable to render it non-infringing.

If the options above are not commercially feasible, Asprova may cancel the respective individual order and refund a pro-rated amount of the compensation for the deliverable. In addition, the Customer may claim its statutory rights if their prerequisites are fulfilled.

VI.   General Limitation of Liability

Provided any contrary provisions within these GTC Asprova shall be liable for any legal cause whatsoever (default, defects, defects of title / third party right infringement, mal-performance) only as follows:

1. Unlimited Liability

Asprova's liability shall be unlimited in the event of:

- intent and gross negligence;
- death or personal injury resulting from Asprova's negligence or intentional misconduct;
- any undertaken guarantee;
- fraud or statements made fraudulently by Asprova.

2. Limited Liability

In the event Asprova is not liable according to **section A VI.1** but Asprova breaches material contractual obligations slightly negligent Asprova's liability shall be limited to the contractual foreseeable damage. Material contractual obligations are those whose fulfilment is a prerequisite for the proper fulfilment of the respective contract and upon which the Customer normally relies.

3. Exclusion of further Liability

Asprova's liability shall be excluded where there is a slightly negligent infringement of inconsequential contractual obligations.

4. Product Liability Act

Asprova's liability according to the German Product Liability Act remains unaffected by the foregoing limitations.

5. Contributory Fault

In the event damage is caused based on Asprova's as well as on the Customer's fault, the Customer's fault has to be taken into consideration.

6. Data Loss und Data Back-up

The Customer is especially responsible for its regular data back-up according to the individual risks of the Customer. In the event Asprova is liable for the loss of data Asprova's liability is limited to the expenses for the copying of the back-up copies and the reconstruction of data which would also be lost in case of regular data back-ups.

7. Data Quality

The Customer is responsible to provide the data required for the provided services in the appropriate quality. Asprovas's liability shall be excluded to the extent problems result from insufficient data quality.

VII.   Communication, Escalation and Dispute Resolution

1.   Communication (Contact persons, Meetings, Protocols)

1.1.   Communication Data
The Parties will agree on detailed communication data and communication channels, which are binding for any declaration relating to orders concluded under these GTC. Such communication data and channels may be amended with an announcement of five (5) working days.

1.2.   Fiduciary duties
Each Party shall
-       cooperate with the other Party in all issues, which may arise from or in connection with these GTC and individual orders issued hereunder;
-       to act fair relating to all issues arising from or in connection with these GTC individual orders issued hereunder;
-       not mislead knowingly the other Party relating to all issues arising from or in connection with these GTC or individual orders issued hereunder.

1.3   Contact Persons
Each contractual partner shall appoint a contact person and a deputy for such contact person. The contact person and its deputy shall be entitled to make statements and to accept them. They will also make decisions if necessary.

2.   Escalation and Dispute Resolution
With regard to all and any disputes, the Parties shall first try to solve any disagreement cooperatively prior to any court proceedings. In the event of a dispute, the Parties will endeavor to find an amicable solution through their contact persons (see **section A.VII.1.3**). If no solution is found at the level of the contact persons, the matter has to be escalated to the management level. If disputes cannot be solved at this level, each Party is entitled to declare the dispute resolution procedure unsuccessful.

VIII.   Subcontractors

While providing services according to an individual order Asprova shall be entitled to use subcontractors only based on the prior explicit written consent of the Customer. The Costumer may refuse its consent only based on reasonable grounds. Asprova's Affiliates are – to the extent permitted by law – not considered as subcontractors according to this **section A.VIII**.

IX.   Confidentiality and Data Protection

1.   Confidentiality
Each Party shall not disclose to any third Party any Confidential Information belonging to the other Party without the other Party's written consent. Each Party agrees that it will not use the Confidential Information of the other Party except as authorized in this Order and that each Party shall take precautions, at least corresponding to the precautions it takes to protect its own Confidential Information of a similar nature, which shall be at least reasonable, to prevent disclosure to any third Party. Each Party further agrees that it will prevent the unauthorized disclosure or use of any Confidential Information by its customers, employees, subcontractors or representatives and notify the other Party in writing or any misuse or misappropriation of the other Party's Confidential Information which may come to its attention.

Confidential Information shall not include any information that:

- was previously known to the receiving Party without existing restriction of confidentiality;
- is received from a third party without similar restriction of confidentiality;
- is or becomes publicly available;
- is independently developed by the receiving Party without the use of the other Party's Confidential Information;
- is approved for release by written authorization of the disclosing Party; or
- is required to be disclosed pursuant to any court order provided that the receiving Party shall advise the disclosing Party of such request in time for the disclosing Party to apply for legal protection.

2. <u>Data Protection</u>

2.1 For detailed information on data protection, please read the data protection declaration of Asprova at www.asprova.eu.

Asprova processes the Partner's data required for the conclusion and performance of the Agreement for this purpose. In the event of documents or data of which both Parties have obtained knowledge or which both have received relating to a person, the Parties shall undertake to comply with the applicable data protection laws, particularly the General Data Protection Regulation and the Federal Data Protection Act (Budesdatenschutzgesetz – BDSG), new version.

2.2 The data may also be transferred to third parties if required to comply with a legal obligation or for the performance of the Agreement. In the event of the contractual relationship with the third party constituting an order processing agreement, Asprova or the Partner shall conclude an order processing agreement with the third party within the meaning of Art. 28 GDPR.
Asprova may, in particular, transfer the Customer's data to third parties if and insofar as this is required for implementing pre-contractual measures and fulfilling this Agreement in accordance with Art. 6 (1) lit. b) GDPR or other fulfilment of a legal obligation within the meaning of Art. 6 (1) lit. c) GDPR. Asprova may also transfer this data to third parties, within the legally permissible scope, for the purpose of enforcing receivables in accordance with Art. 6 (1) lit. b) and/or f) GDPR.

2.3 Asprova may, within the legally permitted scope, check the Partner's risk of payment default for the purpose of deciding on the conclusion, performance and termination of the Agreement. Probability values relating to the Partner's future behavior may be collected and processed in this respect. The Partner's address may also be used for calculating these probability values.

2.4 The contractually agreed service is provided exclusively in a member state of the European Union or a contractual member state of the Agreement on the European Economic Area. The contractually agreed services or partial work relating thereto may only be transferred to third countries if the special conditions of Art. 44 et seqq. GDPR have been met (e.g. adequacy decision of the European Commission, standard data protection provisions, approved codes of conduct).

2.5 The Parties shall ensure that all persons engaged by them with the processing or fulfilment of the Agreement comply with data protection laws. Proof of compliance with the obligation to maintain data secrecy required under data protection law shall be provided to the opposite party upon request.

2.6 The personal data transferred between the Parties is deleted as soon as it is no longer required for achieving the purpose of its collection and written proof of its deletion is provided to the other Party. This means, in particular, that the personal data collected is deleted or destroyed and/or the data carriers are returned once the agreement has been concluded, unless it/they must be stored for longer periods in accordance with the mandatory and contractual retention periods.

2.7 The Parties shall back up the data regularly and within the required scope. They shall further fulfil the technical and organizational requirements in accordance with Art. 32 GDPR. In particular, they shall protect the

systems to which they have access against unauthorised reading, storage, modifications and other unauthorised access or attacks of any kind by employees of the respective other Contracting Party or other third parties. They shall employ suitable state-of-the-art measures within the required scope, particularly to protect the systems against viruses and other malicious programs or program routines, and also implement measures to protect their facilities, particularly against burglary. When using systems to which they do not have access, they shall oblige their contractual partners to do the same and regularly monitor their compliance with this obligation.

2.8   Asprova has appointed a data protection officer who is responsible for all queries relating to data protection and exercising the rights described.
This DPO can be emailed at the following address: cc@asprova.eu.

2.9   The supervisory authority primarily responsible for Asprova is:

Der Hessische Beauftragte für Datenschutz und Informationssicherheit
(Commissioner for Data Protection and Freedom of Information of the Federal State of Hesse)
Gustav-Stresemann-Ring 1
65189 Wiesbaden
Germany
Phone: +49 (0)611 1408 0
Fax: +49 (611)611 1408 0

3.   Order processing
In the event of Asprova or the Partner, directly or indirectly by its order or instruction, processing personal data and/or access to personal data being provided, the Parties shall conclude the order processing agreement included in Appendix 1 at the same time as concluding this General Agreement.

4.   Email communication
The Parties usually communicate via email. The Customer shall explicitly agree to this type of communication. The Customer shall ensure to transfer as little personal data as possible to Asprova and to only transfer such data to Asprova that it is permitted to transfer. This rule shall also apply to email attachments. This rule shall not affect the agreement of different types of communication on a case-by-case basis.

X.   Applicable Law

These GTC and any individual order issued hereunder shall be governed and interpreted by the laws of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

XI.   Place of Jurisdiction

The place of jurisdiction is Frankfurt / Main.

XII.   Miscellaneous

1.   Notices and Declarations
Notices and declarations to the other Party shall be in writing and shall be deemed to have been given if they are sent by post to the address on the cover sheet of the contract when they are received by e-mail or fax or when they are delivered by a messenger. Each Party is entitled to change the delivery address by written notification.

2. <u>Designation as Reference Customer</u>
    During the term of an order relating to these GTC and possibly other GTC of Asprova, Asprova shall be entitled to name the Customer as reference customer on its website and within its marketing material. Asprova may use the name of Customer's company, imbed the trademark (logo) as referred to in the individual order, show a screenshot of Customer's website and link Asprova's website to Customer's website. The permission of the Customer is revocable.

3. <u>Assignment</u>
    The Customer may not assign rights and/or obligations arising out of an individual order or these GTC or an additional GTC of Asprova to a third party (except its Affiliates), except Asprova expressly and explicitly approves such assignment in writing. Such approval shall be in Asprova's sole and exclusive discretion. Any assignment without approval shall be not effective.

****
Version: 02/2019
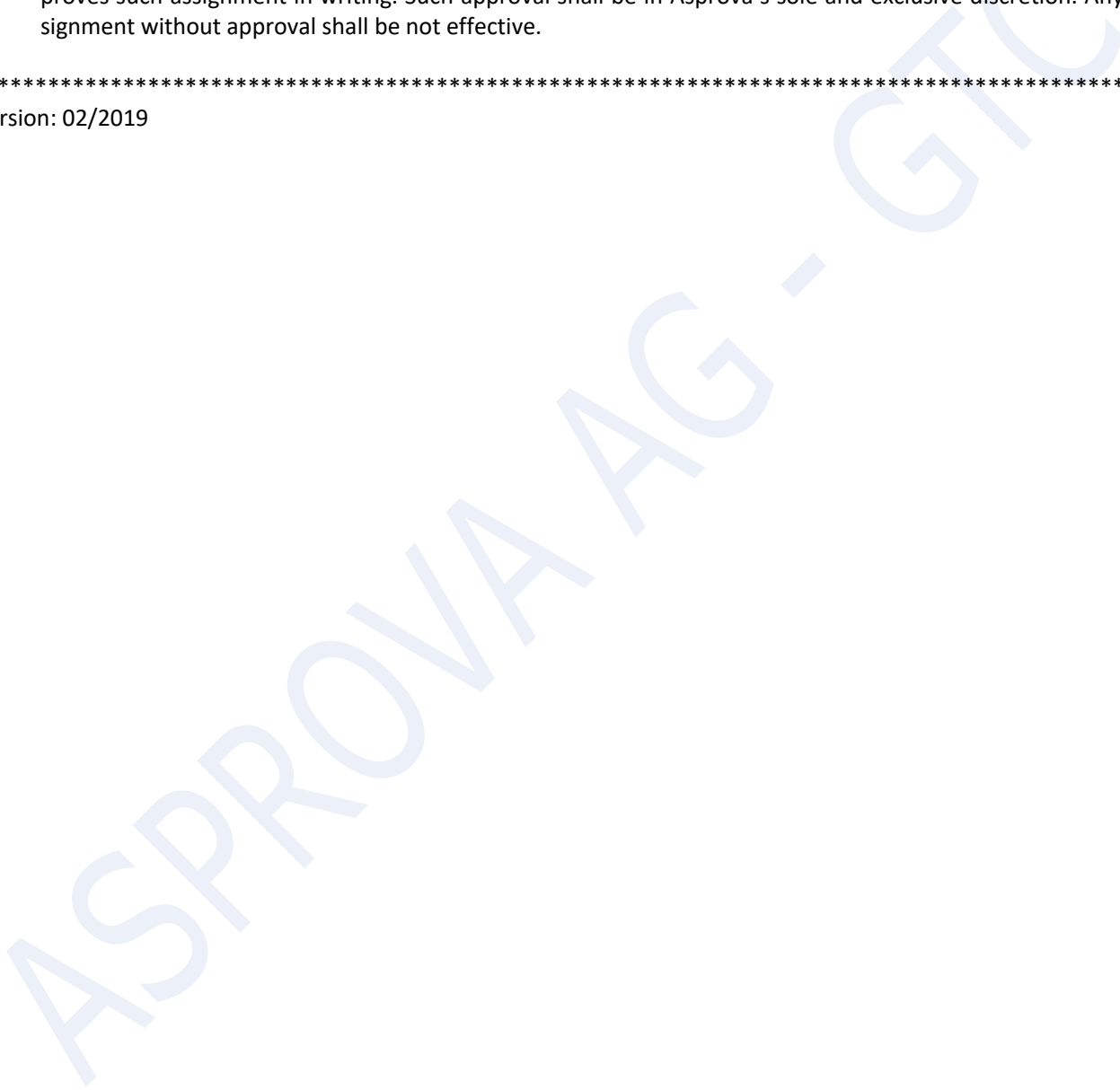
B. Provisions for Software Licensing

In relation of ASPROVA AG (hereinafter referred to as „Asprova") to its customers (hereinafter referred to as „Customers") – hereinafter collectively referred to as „Parties" – the following special terms and conditions (hereinafter referred to as „Software Licensing *GTC* ") shall apply additionally to the GTC.

I.   Specific Definitions of this Section B

Term	Description
Asprova Project File	A project file is a binary file, in which customer-specific configurations, master data and transaction data are processed and saved.
Defect	A program error or a mal-function, which causes Asprova-Software not to perform in the way contractually agreed upon.
Documentation	User manuals and installation guides relating to Asprova-Software provided by Asprova to Customer. Unless specified otherwise in an individual order documentation shall be provided in electronic printable format and mainly in German language (alternatively in English language).
eProtector	If an authentication with a USB-Dongle is not possible or not desired, a server with NLS may be authenticated with an eProtector. Then, the server shall be identified explicitly based on several parameters (summarized in a digital „fingerprint"), however, the single-user version cannot be authenticated with an eProtector.
License Key with Copy Protection	Licenses shall be provided with an USB-Dongle or as virtual eProtector, which prevent unauthorized copying.
Magic Number	Multi-digit code, which either is provided by Asprova to prolong the license if a virtual eProtector is used or is provided by Asprova in the event the Software is updated as set forth in a maintenance agreement.
Object Code	Asprova-Software in binary form which is a form of computer programs not convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.
Source Code	Asprova-Software in a form, which is eligible to human understanding of the program logic.
Transactions	Number of orders to be calculated multiplied by the number of job steps in the order (note: Splitting increases the number of operations, but operations on sub resources are not counted); Mapping of current existing stocks (ERP) per item; the required number of operations depends on the number of orders, production processes, inventory items and the planning horizon.
Upgrade	Extending the scope of use of the licensed Asprova-Software with additional modules and options or by increasing the number of transactions ordered with an individual order.
USB-Dongle	Copying protection plug to protect from unauthorized use and reproduction.

II. Asprova-Software Licensing Model

Asprova has established a concurrent user licensing model. The Customer can access the Asprova-Software at the same time as the maximum number of users specified in the respective individual order. If the maximum number of simultaneous users is reached, the next user has to wait until a user releases his license. In principle, the Customer needs a License Key with Copy Protection (USB dongle or virtual eProtector) to use Asprova-Software.

Asprova-Software is available in different configurations and in a different scope (with respect to functionality, modules and options as well as number of ordered Transactions). The Parties shall agree on the concrete configuration for the Customer in each individual order (see **section A.II.1**).

III. Asprova-Software Functional Description

Asprova-Software functionalities are contained in the Documentation provided to the Customer before signing an individual order. The functional description contained in the Documentation shall be integral part of the respective individual order. Representations in product descriptions or test programs shall not – unless expressly indicated as such – constitute quality guarantees.

IV. Extent and Form of Delivery

1. Extent of Delivery
Asprova shall deliver Asprova-Software in Object Code as well as in Documentation. The Customer has no claim to the surrender of the Source Code.

2. Form of Delivery
Asprova-Software may be delivered via download. The License Key with Copy Protection shall be provided either as a USB-Protector (USB-Dongle) or as a virtual eProtector.

Asprova will provide the Customer with any information necessary to download and use Asprova-Software, such as a password or a license key.

V. Customer's Cooperation Obligations

1. Confirmation of Receipt
The Customer shall promptly acknowledge receipt of the information required for the download to Asprova. If the Customer fails to notify that, the download could not be carried out within twenty (20) working days after the download information has been provided, Asprova-Software shall be deemed delivered.

2. Safety Precautions
Before using Asprova-Software, the Customer will take appropriate safety precautions. The Customer shall thoroughly test Asprova-Software for its usability before using it for the intended purpose. In addition, the Customer will back up his data according to the current state-of-the-art and ensure that the current data are reproducible from data that is kept in machine-readable form with acceptable costs that are reasonable to him. In addition, the customer applies measures to protect the Asprova-Software from unauthorized access.

3. Technical Protection Measures,
If the Customer uses the virtual eProtector within the scope of use, he will apply for a renewal of the virtual eProtector once a year, which the customer must notify in writing at least four weeks before the Asprova license expires, so that the Asprova-Software can continue to be used without interruption. Asprova provides the Customer with the license file required to extend the runtime of the virtual eProtector.

VI.   License Grant

1.   Extent of License Grant
Upon complete payment of the agreed remuneration Asprova grants the Customer the non-exclusive and perpetual right to use Asprova-Software based on the license model (see **section B.II.**) agreed upon in the respective individual agreement. The use of Asprova-Software is restricted to the Customer's internal business purposes. The use of the Asprova-Software is generally limited to the location indicated in the individual order, the modules DS and NLS can be used independently of the location. With an upgrade, the user rights granted in the order can be extended.

2.   Decompilation and Modification
The Customer is only entitled to change Asprova-Software to create interfaces to other programs and to correct errors if neither Asprova nor a company authorized by Asprova is prepared to perform the required services on reasonable terms. The right to decompile does not exist if the information required to establish the desired interoperability with other programs is published or otherwise made available to the Customer. The information obtained may not be used for any other purpose. The Customer is not authorized to modify Asprova-Software but is allowed to make customer-specific adjustments to Asprova-Software by setting the provided parameters.

3.   Back-up Copies
The Customer may make back-up copies of the Asprova Project File to a reasonable extent.

4.   Assignment/Transfer
Sublicensing and leasing Asprova-Software shall be not permitted. The Customer may only once transfer Asprova-Software to a third party if he thereby completely surrenders its own use. In the case of transfer Customer is obligated to forward all original data carriers to the new licensee and to delete all copies of the Licensed Software.

VII.   Defects of Asprova-Software

1.   Statute of Limitations
Claims based on Defects of Asprova-Software shall become statute-barred twelve (12) months after Asprova-Software's delivery (see **section B.IV.2**). In case of intent, fraud or fraudulent statements or claim for damages the statutory provisions shall apply.

2.   Examination Obligation
The Customer shall be obligated to examine Asprova-Software immediately after delivery for occurring Defects. Should the Customer fail to notify Asprova within reasonable time, Asprova-Software shall be considered accepted in accordance with section 377 subsection 2 HGB (German Commercial Code).

3.   Notification Obligation
The Customer shall describe occurring Defects in a comprehensible manner and shall give Asprova written notice (in electronic format at least) immediately after the discovery of a Defect.

4.   Defect Remedy
In the event the Customer gives notice of a Defect according to **section B.VI.3**, Asprova shall remedy such Defect free of charge. Asprova shall take Defect's gravity as well as its consequences for Customer into consideration when remedying the Defect. Asprova may repair or replace the Licensed Software based on its own discretion; it may also remedy a Defect through repairs within a new version.

5. <u>Instructions and Workarounds</u>

    In so far as it can be reasonably expected by the Customer repairs may also take place in form of instructing the Customer in measures which the Customer can undertake himself to remedy the respective Defect. Said instructions to remedy a Defect are possible in particular in the event the Customer can remedy a Defect with a minimum of effort or if considerable effects of the Defect can be avoided by the Customer taking immediate action as instructed. A temporary workaround shall be considered as repairs to the extent that Asprova-Software is not substantially impaired thereby, and the workaround is reasonable for the Customer.

6. <u>Grace Period</u>

    In the event the remedies set forth in **sections B.VII.4** and **B.VII.5** fail within a reasonable period of time the Customer shall set Asprova a reasonable grace period. This shall not apply if
    -    such grace period cannot be considered reasonable for the Customer or
    -    Asprova has refused repairs or replacement.

7. <u>Customer's further rights</u>

    In the event Asprova's remedies fail within the grace period (see **section B.VII.6**) the Customer may
    -    unless the Defect is immaterial rescind from the respective individual order or
    -    reduce the compensation for the Asprova-Software.

    Besides a recession or reduction of the compensation the Customer may claim damages in the event Asprova has culpably infringed its contractual obligations, whereas the limitations and restrictions in **section A.VI** shall apply.

****

Version: 02/2019

C. Provisions for Software Maintenance

In relation of ASPROVA AG (hereinafter referred to as „Asprova") to its customers (hereinafter referred to as „Customers") – hereinafter collectively referred to as „Parties" – the following special terms and conditions (hereinafter referred to as „Software Maintenance GTC ") shall apply additionally to the GTC.

I.   Specific Definitions of this Section C

Term	Description
Defect	A program error or a mal-function, which causes Asprova-Software not to perform in the way contractually agreed upon.
License Key with Copy Protection	Licenses shall be provided with an USB-Dongle or as virtual eProtector, which prevent unauthorized copying.
Magic Number	Multi-digit code, which either is provided by Asprova to prolong the license if a virtual eProtector is used or is provided by Asprova in the event the Software is updated as set forth in a maintenance agreement.
Release	Version of Asprova-Software includes Updates.
Update	Includes feature enhancements and eliminates Defects within Asprova-Software.

II.   Scope of Performance

1. Maintained Versions of Asprova-Software
    Asprova provides maintenance services for the current Asprova-Software release as far as it is subject of an individual order between Asprova and the Customer.

2. Further Development and Availability of Releases
    Asprova is further developing Asprova-Software based on market requirements and on economic aspects. Asprova will eliminate existing deficiencies in the Asprova-Software and improve existing functionalities. Asprova informs the Customer about a new release and provides the Customer with a new release in the object code. For the scope and form of the delivery **section B.IV.1** of the GTC shall apply. Asprova will provide the Customer with the necessary license file and, if necessary, a Magic Number for the implementation of the update.

    Individual Orders with respect to software maintenance do not include any claims for the installation of releases or troubleshooting on site. Furthermore, telephone support is not the subject of an individual order with respect to software maintenance.

3. Service Changes
    Asprova reserves the right to modify the offered services or to offer different services if necessary, e.g. due to technical developments, if Asprova has a special technical interest and the modification is not unacceptable, taking into account the interests of the Customer.

III.   Granting on Rights for New Releases

Asprova grants Customer user rights for all releases of Asprova-Software, which are covered by the respective individual order, to the extent required by the order for the transfer of the Asprova-Software. The configuration agreed upon for the release of the Asprova-Software applies accordingly for each new release.

IV.   Customer's Cooperation Obligations and Duties

The Customer complies with the Cooperation Obligations and Duties provided in these GTC (see **section A.III.** and **section B.V.** of these GTC). In particular, the Customer is obliged to safe its data on a regular basis and shall carry out a backup before implementing any new release. For implementation the Customer uses exclusively trained personnel.

V.   Compensation and Payment Terms

1.   Amount of Maintenance Remuneration
The amount of maintenance remuneration for one contractual year (see **section C.VI.1**) is set forth in the respective individual order.

2.   Due Date of Maintenance Remuneration
Unless stipulated otherwise in the individual order, the maintenance fee for Asprova-Software shall be paid in advance for one contractual year.

3.   Amendment of Maintenance Remuneration
Asprova shall be entitled to modify the prices with a reasonable notice period of at least six (6) weeks before the change takes effect, provided that such modification is reasonable for the Customer, taking into account the interests of both Parties. The customer shall be notified in writing of the changes. In the case of a modification to the Customer's disadvantage, the Customer is entitled to a special termination right. Asprova shall point out to the Customer in the notice of change both this right of termination and the effect that the change becomes effective if the Customer does not make use of the right to terminate the respective individual order.

VI.   Term and Termination of Software Maintenance Services

1.   Term
Individual orders relating to software maintenance begin with conclusion of the order and shall be effective for an unlimited period of time.

2.   Termination for Convenience
The Parties may terminate individual orders governing software maintenance in writing with a notice period of three months to the end of a contractual year.

3.   Termination for Good Cause
The right of both Parties to terminate for good cause pursuant to section 314 German Civil Law Code remains unaffected.

Good cause for such termination can be in particular:
- A Party repeatedly violates essential contractual provisions and does not remedy such infringement within a reasonable period of time.
- A Party is in default with payments under an order with more than three (3) months.

Termination for good cause may normally only take place if the Party has been provided an appropriate grace period and this grace period has passed without success. The grace period must be set immediately after knowledge of the good cause.

A deadline for remedial action is not required if
- the Party seriously and definitively refuses the service rendered;
- there are special circumstances which justify the immediate termination, taking into account the interests of the two Parties.

If the period for remedying is unsuccessful and a Party has the right to terminate the agreement for good cause, the termination can only be pronounced within a period of one month after expiry of the remedy period. If a remedy period is not required, the termination must be made at the latest three months after the knowledge of the circumstances giving rise to the termination. Any claims for compensation for damages shall remain unaffected by the right to terminate the contract for good cause. The limitations in **section A.VI.** of these GTC shall apply.

VII.   Defects of new Releases

1.   Notification Obligation
The Customer shall describe occurring Defects in a comprehensible manner and shall give Asprova written notice (in electronic format at least) immediately after the discovery of a Defect.

2.   Defect Remedy
In the event the Customer gives notice of a Defect according to **section C.VII.1**, Asprova shall remedy such Defect free of charge. Asprova shall take Defect's gravity as well as its consequences for Customer into consideration when remedying the Defect. Asprova may repair or replace the Asprova-Software based on its own discretion.

3.   Customer's further rights
In the event the remedies fail within a reasonable period of time the Customer shall set Asprova a reasonable grace period. In the event Asprova's remedies fail within the grace period the Customer may reduce the maintenance remuneration agreed under the order or terminate the order extraordinarily. A withdrawal from an order is excluded.

4.   Statute of Limitations
Claims based on Defects of Asprova-Software shall become statute-barred twelve (12) months after delivery of a new release, no later than one year after termination of the software maintenance contract.

****

Version: 02/2019

D. Provisions for Support Services

In relation of ASPROVA AG (hereinafter referred to as „Asprova") to its customers (hereinafter referred to as „Customers") – hereinafter collectively referred to as „Parties" – the following special terms and conditions (hereinafter referred to as „Support Services GTC ") shall apply additionally to the GTC.

I.   Specific Definitions for this Section D

Term	Description
Defect	A program error or a mal-function, which causes Asprova-Software not to perform in the way contractually agreed upon.
Specifications	Documents prepared by the Parties (possibly jointly) and which contain a) the requirements of the Customer for the services to be provided by Asprova and / or the Asprova-Software b) the planned implementation according to the project plan.
Support Services	Services provided by Asprova for installation, implementation and other support, described in detail in the terms of each individual order.
Test Cases	Test Cases are related (integrated) examples of Use Cases, which describe the work processes of the Customer. A Test Case enables systematic and integrated testing. Test Cases include standardized Use Cases as well as non-everyday Use Cases.

II.   Scope of Performance

1.   Support Services
      The object of an order for support services are the services agreed upon in the order and to be provided by Asprova in cooperation with the Customer, in particular:
      - Customer support in the implementation of the Asprova-Software, e.g. by taking over project management tasks under the responsibility of the Customer;
      - carrying out training with appropriate training material;
      - support of the Customer in the parameterization of the Asprova-Software;
      - answering queries about the ticket system;
      - Advising the Customer on interface development;
      - advising the Customer when planning and carrying out tests;
      - Customer support for Go-Live.

2.   Modification of Services
      Asprova reserves the right to change the offered services or to offer different services if necessary, e.g. due to technical developments, if Asprova has a special technical interest and the changeover is not unacceptable, taking into account the interests of the Customer.

III.   Customer's Cooperation Obligations and Duties

1.   Cooperation Obligations and Duties
      The Parties are aware that the Customer's commitment is essential to the service of Asprova. Subject to further definition in the order, the Customer shall provide the following cooperation obligations:

- Definition of the objectives that the Customer would like to achieve with Asprova-Software;
- Detailed definition of the specifications and requirements for Asprova-Software before the performance by Asprova;
- Provide a sufficient number of work places and necessary resources for Asprova employees;
- Performance of the installation of the Asprova-Software;
- Determination of trained key users with sufficient knowledge for the purpose of implementation. Required skills are:
  - APS-specific experience in the handling of hardware and software;
  - Ability to write and experience writing Excel-like formulas;
  - Ability and experience in root cause analysis and problem management;
  - Understanding (vision) of an ideal planning;
  - the communication capability of the departments concerned, as well as the contact persons and their deputies;
  - Understanding of the Asprova design structure so that the user can configure Asprova himself.
- Name of contact persons and deputies with the abovementioned abilities before the start of the contract period. Only those designated for this purpose are entitled to submit defect warnings;
- Immediate notification of changes in the persons of the contact persons and deputies;
- Completion of the basic function training by the key users as well as providing with necessary equipment (especially laptop);
- Setting the standard parameters for the purpose of adapting the Asprova-Software, if necessary, with appropriate support from Asprova;
- Provision of planning-relevant data of the required quality in a period determined by the Parties;
- The recording of production returns shall be executed in sufficient quality and match the detail level of the planning in Asprova. Otherwise the planning in Asprova can be adversely affected;
- Responsibility for the quality of the data (no liability of Asprova in the case of problems caused by a lack of data quality, see **section A.VI.7** of the GTC;
- Definition of the planning logic for the Asprova-Software, possibly with appropriate support from Asprova;
- Connection of Asprova-Software to the customer-oriented IT system;
- Performance of necessary backups;
- Notification of Defects, detailed description of problems and questions, and transmission via the ticket system provided by Asprova (if necessary, with the help of screen shots and accompanying files of the required quality;
- Procurement of all rights necessary for the use of third-party systems;
- Provision of test data and test cases;
- Implementation of test procedures, possibly with appropriate support from Asprova.

The Parties endeavor to cooperate closely and efficiently, for which the Customer's personal, organizational, technical and technical responsibility is also essential.

2. <u>Consequences of insufficient Cooperation</u>

If the Customer does not provide his agreed cooperation obligations or does not provide the dates and milestones defined between the Parties in the individual order, the dates and milestones determined for the performance of Asprova are extended accordingly. Asprova shall inform the Customer about adjustments and extensions in accordance with **section D IV.1** and shall refer to the concrete, non-provided cooperation.

If the customer does not fulfill his agreed cooperation
- within a reasonable period of time;
- within the dates and milestones, as defined between the Parties

Asprova shall be entitled to set a reasonable grace period for the Customer. If the Customer does not provide his cooperation obligations within this grace period, Asprova is entitled to terminate the respective individual order for good cause. In addition, Asprova may require reimbursement of the extra costs and additional costs incurred as a result of the non-performance of the services and which exceeds the agreed remuneration. The reimbursement of the extra costs is calculated on the basis of the current price list of Asprova.

IV.   Project Schedule and Deadlines

1.   Project Schedule
      The milestones and deadlines to be adhered shall be included in the performance description of the respective individual order or in an additional project plan. Project plans and performance descriptions are integral components of the individual orders. The project teams of both Parties shall regularly check (at least every four weeks, if not agreed otherwise) and in a joint agreement the degree of completion.

2.   Adjustment of Appointments and Milestones

2.1   Delay
       If Asprova is aware of circumstances, which could lead to a delay in the provision of services, Asprova will inform the Customer thereof. The Parties shall immediately negotiate in a partnership manner how this problem can be resolved by mutual agreement in the interests of both Parties. Asprova will endeavor to prevent delays, minimize the impact of any delays, and/or avoid events that may lead to delays. Asprova will, as far as possible, minimize costs and damage to the Customer as a result of the delay.

2.2   No delay in Cases of Force Majeure
       None of the Parties is responsible for delays caused by factors on which the Parties do not have any control such as natural disasters, fire, accidents, strike, war, uprising, riots, and instructions by government and other unpredictable events. The Parties take all reasonable steps to minimize delays caused by such events. The contract may be amended as required by amicable agreement.

2.3   No delay in Case of Delayed or Insufficient Cooperation
       Asprova is not responsible for any delays in the performance of the Customer which result from the Customer's delayed or insufficient cooperation obligations. Asprova is also not responsible for the Customer's (new) requirements.

3.   Extension of Time
      If Asprova is in default with the services due, the Customer will, as opposed to Asprova, set a reasonable grace period for the service, unless an extension of time is unreasonable for the Customer. Such a grace period is considered to be exhausted in the event the Customer accepts benefits within the additional period and/or the Parties agree on further activities and services. If the Customer is unable to set an additional deadline exceptionally, or if a reasonable grace period has expired without success, the Customer has the legal right to withdraw and to claim damages.

V.   Change Requests

1.   Change Requests

Both Parties may issue and submit Change Requests to this GNP. The Parties will proceed according to the procedure laid down in **section D.5.** Asprova shall perform the agreed services until a change request was passed and agreed according to the procedure laid down in **section D.5**.

2.   Procedure

2.1   Change Requests

If a Party wishes to amend an order or a service to be provided under this order, this Party will submit a change proposal, at least in text form, to the other Party in due time. Each proposed amendment shall include a preliminary assessment of the impact of the proposed amendment.

2.2   Evaluation of a Proposed Amendment

Asprova will carefully analyze each proposed amendment to its impact on functionality, effort, deadlines and costs, and submit the results to the other Party. The Parties will jointly discuss any proposed amendment based on this information, and then have the option to reject a proposed amendment, accept it, or to provide additional information or a more detailed analysis, or to request the other Party, or else if necessary, forward the proposed amendment to the authorized contact persons of the other Party for acceptance. Any amendments which have a contractual effect (in particular changes to the terms of these GTC) or which require a change of the contract object must be accepted by the other Party. If further information on a proposed amendment or a supplement is required, the Party who proposed the amendment will provide further information as soon as possible or, if it so agrees, make the necessary changes.

2.3   Acceptance of a Proposed Amendment

Where a proposed amendment has been discussed and adopted, the proposed amendment shall be deemed "approved". Each approved amendment shall be dated and signed by the responsible representatives of the Parties. This Agreement shall be deemed to be amended if an approved amendment is signed. Approved proposals for amendments are implemented by the Parties (if necessary by means of offer and acceptance) within the meaning of the order.

VI.   Tests and Testing Procedures

In the course of the implementation of Asprova-Software, the Customer is responsible for performing the necessary tests and testing procedures. Asprova supports the Customer to an appropriate extent. If necessary, the Parties agree on specific regulations for tests and testing procedures in the individual order.

VII.   License Grant

The provisions of **Section B.VI** shall apply correspondingly. Unless an individual order contains a different regulation, the Customer shall be granted non-exclusive, non-transferable rights to all work results arising under an order (in particular specifications, contract software, project documentation, training materials, presentations) for exclusive business use. The Customer is not entitled to disseminate work results, unless this is explicitly stipulated in the respective individual order.

VIII. Defects

The provisions of **Section B.VII** shall apply correspondingly.

IX. Compensation and Payment Terms

1. Compensation
The provisions of **Section A.IV** shall apply. The Customer compensates the services of Asprova either at the expense or on the basis of a lump sum. The amount and type of remuneration is determined by the individual order.

2. Travel Expenses
Unless otherwise agreed in an order, the Customer shall reimburse travel expenses on presentation of the deposit as follows:
-    Flights: Economy;
-    Train: 2nd class;
-    Overnight stay according to receipt;
-    Rental car and taxi according to receipt;
-    Parking fees and tolls according to receipt.
Further expenses are reimbursed only after express agreement between the Parties.

3. Price Modifications
Asprova is entitled to modify the prices of the services with a reasonable notice period of at least six (6) weeks before the change takes effect, provided that the change is reasonable for the Customer, taking into account the interests of both Parties. The Customer will be notified in writing of the changes. In the case of changes to the Customer's disadvantage, the customer has a special right of termination. Asprova notifies the customer in the notice of amendment both to this right of termination and to the fact that the change becomes effective if the Customer does not exercise the special right of termination.

X. Term and Termination of Support Services

1. Term
In the event the provision of support services is subject to an individual order such individual order shall contain the term within the support services shall be provided. If the individual order does not state a specific term, the individual order is deemed to have been concluded for an indefinite period.

2. Termination for Convenience
The Parties may terminate individual orders about Support Services with a notice period of three months to the end of a contract year. The right to terminate individual orders for good cause with immediate effect in accordance with section 314 BGB (German Civil Law Code) remains unaffected. The events listed in **section D.X.3** are considered to be a good cause.

3. Termination for Good Cause
A Party may not issue a termination for good cause before said Party has set a reasonable grace period and remedies have failed within such grace period. The respective Party may set such reasonable grace period without undue delay after taking notice of the good cause.

A grace period is not necessary if
-    one Party seriously and definitively refuses the service rendered;
-    there are special circumstances which justify the immediate termination, taking into account the interests of the two Parties.

If the period for remedying is unsuccessful and one Party has the right to terminate the agreement for good cause, the termination can only be pronounced within a period of one month after expiry of the remedy period. If a remedy period is not required, the termination must be made at the latest three months after the knowledge of the circumstances giving rise to the termination. Any claims for compensation for damages shall remain unaffected by the right to terminate the order for important reasons. The limitations in **section A.VI.** of the GTC shall apply.

****

Version: 02/2019