GENERAL TERMS AND CONDITIONS OF THE STACKIT MARKETPLACE

A. General Section

1. General Principles

1.1 These General Terms and Conditions of the STACKIT Marketplace ("**Terms and Conditions**") apply only to the use of the STACKIT Marketplace ("**Marketplace**") as well as the acquisition of products via the Marketplace. The Terms and Conditions govern the legal relationships between the customer ("**Customer**") and STACKIT GmbH & Co. KG, Stiftsbergstraße 1, 74172 Neckarsulm, Germany ("**STACKIT**").

1.2 The services offered by STACKIT are aimed exclusively at traders within the meaning of section 14 of the German Civil Code (*Bürgerliches Gesetzbuch* – BGB), legal entities under public law or special funds under public law.

1.3 Conflicting or additional terms and conditions of the Customer shall not be incorporated into the agreement except to the extent STACKIT expressly consents to their application in writing. These Terms and Conditions shall also apply in those cases where the STACKIT accepts the Customer's performance in full knowledge of the latter's conflicting or differing terms and conditions.

1.4 These Terms and Conditions consist of a section "A. General Provisions", which contains general agreements that always apply to the use of the entire Marketplace, followed by special provisions in sections B. *et seq.*, which – depending on the service and business area – contain supplemental special conditions that apply only to the respective service or business area. In the event of conflicts, the relevant special section shall always take precedence over the general section.

2. STACKIT Cloud Portal and Customer Account; Relationship to the STACKIT Cloud General Terms and Conditions

2.1 The Marketplace is a sub-instance of the STACKIT Cloud portal. The use of the Marketplace requires prior successful registration and the creation of a customer account for the STACKIT Cloud portal ("**STACKIT Cloud Portal**").

2.2 The General Terms and Conditions of STACKIT Cloud, which can be found at https://www.stackit.de/en/general-terms-and-conditions/cloud-services/ ("**STACKIT Cloud Terms and Conditions**"), apply to the customer account, the use of the STACKIT Cloud Portal, and the STACKIT Cloud Services obtained through it ("**STACKIT Cloud Services**").

2.3 The STACKIT Cloud Terms and Conditions apply to the use of the sub-instance of the Marketplace and the purchase of products made available via the Marketplace only if and to the extent that these STACKIT Cloud Terms and Conditions are expressly referred to in the present Terms and Conditions.

3. Structure of the Marketplace; Products

3.1 The Marketplace allows the Customer to view the currently available products (e.g., software as a service, container images, professional services) (collectively, "**Products**"). The illustrations within the Marketplace do not constitute a legally binding offer, but rather a non-binding catalog of services.

3.2 The form in which the Customer can purchase the Products is specified in the respective product overview displayed within the Marketplace.

3.3 Within the Marketplace and in the product overview, the Customer will also find information on whether a product is a product created and offered directly by STACKIT ("**Direct Sales**"), whether STACKIT is reselling a product of a third party ("**Reselling**"), or whether a product can be purchased separately by the Customer through a third party ("**Product Listing**").

3.4 If STACKIT and the Customer conclude an individual agreement for a product offered via the Marketplace ("**Agreement**"), the Agreement shall be concluded – unless otherwise specified – in accordance with these Terms and Conditions and the parameters specified during the ordering process within the Marketplace and, if applicable, selected by the Customer (if selectable).

3.5 STACKIT is entitled to use suitable subcontractors in the context of providing the Products, even without the Customer's consent. Subcontractors are, in particular, software manufacturers of Resale Products.

4. Content of the Products

4.1 The services comprising the Products that the Customer can obtain via the Marketplace is defined in the product description available on the Marketplace and in the applicable terms of use:

- the product description of the selected product and accompanying materials, as accessible and available on the Marketplace, contain a description of the functionality, compatibility and areas of application of the product.

- The terms of use for the selected product and any supplementary contractual documents, including direct agreements between the Customer and the software manufacturer regarding the selected product (e.g., EULA), contain the scope of the license and the rights of use and restrictions for the Customer.

- The service description or service level agreement for the selected product contains the regulations and parameters subject to which the product is available.

- The product documentation, as it can be viewed or accessed via the Marketplace, contains supplementary technical information about the product.

4.2 The information, descriptions, or agreements relating to the product referred to in clause 4.1 may originate from STACKIT or, in the case of Resale Products in accordance with section C, from the software manufacturer of the respective product. The scope of services may therefore also result from agreements between the software manufacturer and the Customer regarding the respective product that are concluded via the Marketplace. The content of these agreements shall be incorporated into the Agreement. Information, descriptions, or agreements relating to the product that are not viewable or accessible via the Marketplace cannot be used to determine the scope of services.

5. Modification and Adaptation of Products

5.1 STACKIT has the right to modify Products, with effect for the future, for a valid reason that was not foreseeable at the time of contracting and only to the extent that any such modification does not alter the balance of the parties' respective material performance obligations and that such modification is deemed acceptable to the Customer, i.e., that the cost/benefit ratio does not disproportionately shift to the detriment of the Customer (in particular through upgrades). STACKIT will notify the Customer of any such modifications at least two (2) weeks in advance. As long as the Customer does not object to any such modification by written notification to STACKIT during the period from receipt of the above notice until said modification enters into effect, the specific modification will be deemed to have been approved and will become a component of the Agreement. In its notice of modification, STACKIT will expressly advise the Customer of the legal consequences, the time limit and the date of entry into effect. In the event that the Customer objects to the modification, STACKIT shall be entitled to a special right of termination with immediate effect with regard to the product.

5.2 STACKIT may effect any updates, patches, bug fixes or any other enhancements, as well as modifications due to legal requirements, of Products at any time without notification of the Customer under clause 5.1. Insofar as this is technically feasible for the implementation of the aforementioned updates, patches, bug fixes or other enhancements, the Customer shall install these patches, bug fixes or other enhancements without undue delay.

5.3 Insofar as the Agreement or the service description contains specific provisions regarding modifications or adaptations to the respective product, these provisions shall take precedence over clause 5.1.

5.4 The Customer should also note that any modifications or adaptations of Products may result in the Customer's own hardware and software, or third-party hardware and software not provided by

STACKIT, being reduced in their functionality, or not being functional at all, when it comes to their interaction with the modified product. Except in the cases specified in clause 9.1, STACKIT will not be liable for the functionality of the Customer's hardware and software or third-party hardware and software or for restoring their functionality.

6. Term and Termination of Agreements

6.1 Products are generally offered on the Marketplace as time-limited subscriptions, unless expressly stated otherwise. Available term options can be viewed on the Marketplace.

6.2 Unless otherwise agreed during the ordering process, the term of an Agreement shall be automatically extended by a further term upon expiration of the initial term or any subsequent terms if the Customer or STACKIT does not terminate the Agreement at the end of the initial term or the respective subsequent term.

6.3 The notice periods are determined by the respective term option:

- in the case of an Agreement with hourly billing, the Agreement can be terminated by the Customer at any time via the Customer's account to the nearest hour. STACKIT has the right to terminate an Agreement with hourly billing by giving fourteen (14) calendar days' notice;

- In the case of an Agreement with a monthly term, the notice period for each party is fourteen (14) calendar days to take effect at the end of the respective contract month.

6.4 A different term of the Agreement, any different automatic contract extensions, and different notice periods for the respective product may be specified in the product description within the Marketplace and in the information provided during the ordering process and shall take precedence in case of doubt.

6.5 An Agreement may be terminated by either party for good cause, without complying with any notice period. Good cause shall be deemed to exist where facts exist in view of which the terminating party cannot be reasonably expected to continue the contractual relationship, taking into consideration all the circumstances of the individual case and weighing up the respective interests of the parties ("Good Cause"). Where Good Cause is based on the breach of a contractual obligation, termination will only be permissible after a deadline set for remediation has expired without the breach having been remedied, or a warning was given to no avail, unless the setting of a deadline is not required under section 323 (2) BGB. Good Cause entitling STACKIT to terminate a purchase Agreement exists, in particular, if:

- the Customer is in default of payment with regard to a significant portion (≥ 20%) of the bill and fails to pay the outstanding amount even after receiving notice of default,

- the Customer has committed numerous or serious breaches of contract,

- the Customer has caused harm to the STACKIT CLOUD Portal or the Marketplace through actions for which the Customer is responsible,

- the Customer has committed a serious breach of these Terms and Conditions, or

- the Customer uses the product in connection with extremist content or content that violates the law or good morals or makes reference to information that serves to incite hatred, or encourages criminal acts or glorifies or downplays violence, or is fit to seriously compromise the morals of children or young people or to jeopardize their welfare, or could damage the reputation of STACKIT or the respective software manufacturer; or

6.6 STACKIT has the right to block the Customer's access to a product, whether temporarily or permanently, if there are specific indications that the Customer is acting or has acted in breach of these Terms and Conditions and/or in violation of applicable law, or if STACKIT has any other legitimate interest in blocking the Customer (e.g., significant default in payment on the part of the Customer, security risks for STACKIT or STACKIT customers). In its decision to block one or more purchased Products, STACKIT will duly consider the Customer's legitimate interests and warn the Customer in text form, if possible, in advance, setting an appropriate grace period.

6.7 The Customer can only validly terminate via the Customer's account.

6.8 Whenever the Customer's temporary rights of use to Products end, the Customer must delete such product (including all programs and software as well as any copies) and confirm deletion in text form upon STACKIT's request. If statutory retention obligations require the Customer to retain such product, the Customer's obligation to delete will arise when the statutory retention obligations end.

7. Deletion of Customer Data

7.1 Unless otherwise agreed in the Agreement, the Customer will no longer have access to the respective product upon termination of the Agreement relation to a product. With regard to any data and digital assets that may be exportable using the product, the Customer is responsible for backing these up outside of the product or STACKIT's systems before termination of the Agreement.

7.2 Notwithstanding the Customer's statutory rights of deletion and unless otherwise agreed, any exportable data and digital assets still stored at STACKIT will be irrevocably deleted no later than 30 calendar days after termination of the Agreement for the product concerned. In this context, the deletion includes, in particular, exportable data and digital assets in the Customer's environment, metadata and backups (if any) on the systems of STACKIT.

7.3 Any deletion pursuant to this clause 7 will not affect any data which STACKIT is required by mandatory law to retain.

7.4 Upon request by the Customer, STACKIT will confirm the deletion of data in accordance with this clause 7.

8. Warranty

8.1 The Customer must report any defects without undue delay after having become aware of them. Any notices of defects communicated by the Customer must contain, in particular, the following: (i) a detailed description of the incident; (ii) particulars regarding time and duration of the disruption; and (iii) number and location(s) of any persons affected. To the extent reasonable, the Customer must take measures that would facilitate the identification of defects and their causes.

8.2 The Customer's right to remedy the defect itself (*Selbstvornahme*) in accordance with section 536a (2) BGB is excluded.

8.3 The Customer's rights due to defects of the Products are excluded if the Customer has made changes to the product, or arranged for any such changes to be made, without STACKIT's consent, unless the Customer demonstrates that these changes have no undue impact on the analysis and elimination of such defects.

8.4 STACKIT does not warrant that the Products are fit for a specific purpose, unless this has been expressly agreed.

9. Liability

9.1 Regardless of the legal grounds, STACKIT shall be liable for damages in accordance with the statutory provisions in cases of:

- willful or grossly negligent conduct,
- ordinary negligence for injury to life, limb or health,
- the assumption of a guarantee,
- fraudulent concealment of a defect and
- for claims of the Customer under the German Product Liability Act (*Produkthaftungsgesetz* – ProdHaftG).

9.2 Without prejudice to the terms of clause 9.1, STACKIT shall be liable for other loss or damage if it was caused by the negligent breach of a material contractual obligation; material contractual obligations are obligations, the satisfaction of which is essential for the due and proper performance of the Agreement, and on the performance of which the Customer would usually, and is entitled to, rely and which protect the Customer's material legal positions under the Agreement.

In such cases, STACKIT's liability shall be limited to compensation for typical and foreseeable loss or damage.

9.3 In the event of liability on the part of STACKIT in accordance with clause 9.2, liability shall be limited to the higher of the following amounts: (a) the total amount paid by the Customer to STACKIT for the respective Agreement underlying the loss or damage within the twelve (12) calendar months preceding the loss event, or (b) EUR 25,000.

9.4 STACKIT shall only be liable for the loss or destruction of data if such loss or destruction was caused willfully or through gross negligence or by a breach of a material contractual obligation by STACKIT. In terms of the amount, STACKIT's liability is limited to the loss or damage that would also have occurred if the Customer had properly backed up the data affected.

9.5 STACKIT shall not be liable for the content and consistency of the Customer's data.

9.6 STACKIT shall not be liable for any impossibility to provide a product or any delays in such provision, provided that such impossibility was caused by force majeure or other events that were unforeseeable at the time of contracting (e.g., operational disruptions of whatever kind, disruptions of the Internet or other publicly accessible telecommunication networks, difficulties in obtaining necessary official permits, actions taken by the authorities) for which STACKIT is not responsible pursuant to clause 9.1 or 9.2. Where any such events render the provision of the product considerably more difficult or even impossible for STACKIT and such hindrance is not just of a temporary nature (e.g., Customer's failure to provide the necessary interface), STACKIT has the right to rescind the Agreement if no exchange of service and consideration has taken place yet, or otherwise to terminate the Agreement for the purchase of the affected product. Where hindrances are of a temporary nature, the delivery or performance deadlines will be extended, or the delivery or performance dates will be postponed by the period of the hindrance plus an appropriate start-up time. If the Customer cannot reasonably be expected to accept the product in view of its delayed provision, the Customer may terminate the Agreement for the purchase of the affected product by giving notice to STACKIT in text form, which must be communicated without undue delay.

9.7 Any strict liability under section 536a (1) alt. 1 BGB on the part of STACKIT for defects that already existed at the time of contracting is excluded, unless the defect relates to a characteristic that STACKIT has warranted.

9.8 The Customer's claims for damages or reimbursement of nugatory expenditure are subject to a limitation period of one (1) year. This does not apply to claims under clause 9.1.

9.9 In all other respects, STACKIT's liability – for whatever legal reason – is excluded.

9.10 To the extent that STACKIT's liability to the Customer is either limited or excluded, this also applies analogously to STACKIT's legal representatives, employees, contractors and other vicarious agents.

9.11 For loss or damage solely related to the free use of the Marketplace (i.e., without Products being also affected at the same time), STACKIT shall only be liable under clause 9.1; any liability beyond this is excluded.

10. Use of Free Products

10.1 If STACKIT provides the Customer with Products free of charge or free of charge for trial purposes, (in particular, preview versions, alpha or beta versions, free trials, trial access, etc.) ("**Free Products**"), the following provisions in this clause 10 shall apply in addition. In the event of any conflict between the provisions of clause 10 and the other provisions of the Terms and Conditions, the provisions of clause 10 shall take precedence.

10.2 Free Products that can be obtained via the Marketplace are identified as such and will not be invoiced to the Customer.

10.3 Special Free Products for trial purposes are identified as such on the portal (e.g., as beta, free trial, trial access).

10.4 Free Products for trial purposes are not fully developed Products and may cause errors, loss of functionality, bugs or other problems in the form of data loss, data corruption, disruptions, delays and damage, for example.

10.5 STACKIT has the right to cease supplying, modify or alter Free Products at any time without notice.

10.6 The Customer has no entitlement to (continue to) receive the Free Products; STACKIT is under no obligation to further develop the Free Products for trial purposes or to offer them as a final product.

10.7 STACKIT shall be liable for any loss or damage caused by the use of Free Products in analogous application of clause 9.1. In all other respects, liability shall be excluded.

10.8 If STACKIT grants the Customer free use of a product for a given period, the above provisions shall apply *mutatis mutandis* to the product used by the Customer during the agreed free period of use.

11. Requirements for Use by the Customer

11.1 The use of the Products is subject to the requirements listed below and any obligations to cooperate or provide certain items as set out in the Agreement or product description. The Customer shall support STACKIT to a reasonable extent in the performance of the Agreement, in particular by creating all technical and organizational conditions on its own responsibility to enable proper performance.

11.2 The Customer is responsible for any and all data which the Customer transmits, the lawfulness and integrity of such data in particular. STACKIT does not monitor or check the content of any such data.

11.3 The Customer must ensure that the Marketplace and the purchased Products will only be used by authorized persons. Authorized persons are any of the Customer's employees empowered for this purpose, unless otherwise agreed. The Customer is responsible for the administration of authorizations and the monitoring of individual user's rights of use. If there are any indications of use by unauthorized third parties, the Customer shall inform STACKIT without undue delay.

11.4 In particular, the Customer must also observe the following:

- access data made available to the Customer must be protected against third-party access and may not be disclosed to unauthorized third parties;

- industrial property and copyrights of third parties must be observed (e.g., when using third-party texts or data);

- services of STACKIT and its vicarious agents may not be misused or made available for misuse; in particular, the transmission of, or reference to, information that violates the law or good morals or serves to incite hatred, or encourages criminal acts or glorifies or downplays violence, or is fit to seriously compromise the morals of children or young people or to jeopardize their welfare, or could damage the reputation of STACKIT or its vicarious agent is prohibited;

- any attempt to access information or data without authority, also via unauthorized third parties, or to interfere, or to permit the interference, with programs operated by STACKIT or its vicarious agents, or to infiltrate the data networks of STACKIT or its vicarious agents or their customers without authority, is prohibited;

- the Products may not be used in connection with games of chance or pornography;

- the Products may only be used for deployment in high-risk environments (this includes, in particular, weapons systems, nuclear power plants, life support systems, aviation communications and navigation systems, and other critical areas of operation where the failure of STACKIT Cloud Services could directly or indirectly result in injury or death of people) subject to prior request and the execution of an addendum to the Agreement with STACKIT;

- the exchange of electronic messages may not be misused for the unsolicited transmission of messages or information to third parties for marketing purposes (spamming); and

- prior to transmitting data or information, these must be checked for viruses by means of state-of-the-art antivirus programs. Systems used by the Customer as well as any other applications and data owned by the Customer must be protected against misuse and kept

free of malware (e.g., by using appropriate firewall settings, installing current security updates and software, or using malware scanners).

11.5 As long as the Customer's cooperative assistance or any items required to be provided by the Customer have not been rendered or provided as contractually agreed, STACKIT will be released from its own respective duty to perform, in whole or in part, to the extent that STACKIT is dependent on such assistance or items in order to perform the services owed under the Agreement. STACKIT will not be liable for any failure of performance brought about by the non-contractual performance of cooperative assistance or provision of requisite items on the part of the Customer.

12. Prices and Billing

12.1 The prices applicable to Products are specified in the overview during the ordering process within the Marketplace. The fee payable by the Customer in the context of an Agreement will be displayed to the Customer prior to placing the order and will be deemed to have been bindingly agreed upon when the Agreement is concluded. The agreed price applies to each period of time or part thereof (depending on the selected term model, e.g., hour or calendar month), i.e., for hourly billing, the customer will be charged the agreed price for each hour commenced.

12.2 Prices are quoted as net prices and are subject to any applicable VAT.

12.3 Unless otherwise agreed, the Customer will be invoiced for Products on a monthly basis in arrears. In this case, the period of performance and the billing period for VAT purposes is the calendar month. If the Customer purchases several Products within a calendar month, STACKIT is entitled to issue a collective invoice for the Products purchased. Invoices are due and payable in full immediately upon receipt by the Customer. Payment is due within 30 calendar days of receipt of the invoice by the Customer.

12.4 Billing and settlement of charges will take place in accordance with the form of payment previously selected by the Customer.

12.5 The Customer consents to the electronic transmission of invoices. Couriers or agents may also be used for billing purposes. Invoices will be sent to the Customer's e-mail address provided for general purposes.

12.6 STACKIT is entitled to adjust the prices for ongoing Agreements for the first time with effect after expiration of the initially agreed term with a notice period of at least four (4) weeks. Unless the Customer objects to such price adjustment by written notification to STACKIT within ten (10) days of receipt of the relevant notice, said adjustment will be deemed to have been accepted. In its notice of modification, STACKIT will expressly advise the Customer of the legal consequences, the time limit and the date of entry into effect.

12.7 The Customer's right to set off may only be exercised with counterclaims that are uncontested, ripe for adjudication or have been declared final and binding by a court of law. Likewise, the Customer's right of retention may only be exercised with claims that are uncontested or have been declared final and binding by a court of law. Claims against STACKIT may not be assigned; this does not apply within the scope of section 354a German Commercial Code (*Handelsgesetzbuch* – HGB).

12.8 STACKIT has the right to only perform outstanding deliveries or services against advance payment or the provision of security if STACKIT becomes aware of circumstances that are fit to materially impair the Customer's creditworthiness and that jeopardize the settlement of outstanding claims by the Customer under the relevant contractual relationship.

12.9 All amounts paid as remuneration shall be net after deduction or withholding of present or future taxes if and to the extent that such taxes are levied for STACKIT in the Customer's country of residence and are to be paid by the Customer (hereinafter referred to as "Tax Deduction"). The Customer must make all payments due to STACKIT without any applicable Tax Deduction, unless required by law. In this case, the Customer shall increase the amount payable so that, after any required Tax Deduction, STACKIT receives the amount that STACKIT would have received if no such Tax Deduction had been made.

The term "taxes" includes any type of payment or charge assessed or collected by the tax authorities or other public collection agency in the Customer's country of domicile. They include, for example, but without this constituting an exhaustive list: income tax, company tax, capital gains tax / tax on investment income, tax deducted at source or withholding tax and all kinds of payments incidental to the collection of taxes such as interest, additional charges and other payments in respect of payable taxes.

13. Confidentiality

13.1 The parties shall treat confidential information disclosed by the other party as confidential during the contractual term plus five (5) years after termination of the contractual relationship; specifically, they shall not disclose such information to third parties, shall protect it against unauthorized access by implementing appropriate technical, organizational and legal non-disclosure measures, and shall use it solely within the scope of the cooperation. The right of termination subject to a notice period with respect to this non-disclosure obligation shall be excluded.

13.2 In this context, confidential information shall include trade and business secrets (as defined in section 2 of the German Act on the Protection of Trade Secrets (*Gesetz zum Schutz von Geschäftsgeheimnissen* – GeschGehG)) as well as any other information that must reasonably be regarded as confidential, and any and all information and documents that is disclosed to one party by the other party, a company affiliated with the Customer in accordance with sections 15 *et seq.* of the German Stock Corporation Act (*Aktiengesetz* – AktG) or a company of Schwarz Group in connection with the cooperation.

13.3 This non-disclosure obligation shall not apply if and to the extent that:

- the confidential information was already known to the other party prior to the execution of the Agreement or is subsequently disclosed to it by a third party lawfully, i.e., without breach of any non-disclosure agreement, statutory provision or official order;

- the confidential information was in the public domain prior to execution of the Agreement or subsequently enters the public domain without any culpable breach of the above obligation;

- the confidential information was independently discovered or created by the other party or acquired using a product that had already been made publicly available;

- disclosure is required in the context of the cooperation or to protect the legal interests of the party and such disclosure is made to agents who are bound in writing to the same non-disclosure obligation stipulated above or to advisors who are subject to a professional duty of confidentiality;

- disclosure is made by the Customer or a company affiliated with the Customer pursuant to section 15 *et seq.* AktG to another company affiliated with the Customer pursuant to section 15 *et seq.* AktG that is bound in writing to the same non-disclosure obligation stipulated above;

- disclosure is made by one company of Schwarz Group to another company of Schwarz Group that is bound in writing to the same non-disclosure obligation stipulated above;

- the disclosing party has released the receiving party from the non-disclosure obligation;

- in cases involving section 5 GeschGehG; or

- disclosure is mandated by or under law or by court or official order. In such case, the party subject to disclosure shall without undue delay notify the other party of the disclosure in writing or in text form and together the parties will determine the extent to which they may limit disclosure within the bounds of the law.

13.4 Companies of Schwarz Group shall include D. Schwarz Beteiligungs-KG as well as any and all domestic and foreign entities in which the aforementioned entity holds a direct or indirect majority capital interest.

14. Non-disclosure Obligation

STACKIT is aware of the statutory non-disclosure obligation of persons subject to professional secrecy under section 203 of the German Criminal Code (*Strafgesetzbuch* – StGB). STACKIT and its staff are subject to a non-disclosure obligation with respect to the data uploaded by the Customer in connection with using the Products ("**Contents of Communication**"). When using subcontractors who could potentially become privy to Contents of Communication in the course of performing their services for STACKIT, STACKIT must ensure that they are bound to secrecy and are only able to gain access to such information to the extent necessary to perform the respective service. If any subcontractor engaged by STACKIT subcontracts its work to another subcontractor, STACKIT shall ensure that the subcontractor engaged by it imposes the same non-disclosure obligations on that subcontractor as those to which the subcontractor engaged by STACKIT is itself subject.

15. Amendments to the Terms and Conditions; Adaptation of the Marketplace

15.1 If there is a valid reason to amend these Terms and Conditions that was not foreseeable at the time of contracting and such amendment does not unreasonably disadvantage the Customer, in particular because the cost/benefit ratio does not disproportionately shift to the detriment of the Customer, STACKIT shall be entitled to amend these Terms and Conditions, in whole or in part, with prospective effect. Such valid reasons shall include regulatory or legal reasons, security reasons, enhancing, optimizing or adding services, making technical adjustments and ensuring the functionality of the Marketplace.

15.2 The Customer will be notified of any amendments to the Terms and Conditions by e-mail at least eight (8) weeks before they enter into effect. Amendments shall be deemed approved if the Customer, after having received the notice of amendment, does not expressly object to them on or before the date on which they enter into effect. The Customer will be specifically advised in the notice of amendment of this legal consequence, the start of the period, the deadline and the date on which the amendment enters into force. In the event that the Customer objects to the amendment of the Terms and Conditions, STACKIT shall be entitled to a special right of termination with effect from the date on which the new Terms and Conditions come into force with regard to those Agreements for Products affected by the amendment.

15.3 STACKIT is entitled at any time to make changes to the Marketplace (including adjustments, additions, and lapse of functions, (temporary) shutdown, etc.). Agreements concluded between STACKIT and the Customer remain unaffected.

16. Feedback

STACKIT has the right to use feedback provided to it by the Customer for purposes of the development, enhancement or other improvements of Products.

17. Compliance

The Customer acknowledges that Products may be subject to restrictions under export laws, foreign trade laws, sanctions regulations, and other provisions ("**Trade Regulations**"). The Customer hereby agrees to comply with the applicable Trade Regulations. By concluding an Agreement about a product, the Customer warrants in particular that it is not based in a country or region that is subject to extensive trade restrictions or embargoes (e.g., Cuba, Iran, North Korea, Syria). Notwithstanding any licensing arrangements to the contrary, the Customer also agrees not to provide any Products to natural or legal persons subject to restrictions under the applicable Trade Regulations. STACKIT is not required to meet any existing performance obligations owed to the Customer if doing so would violate applicable Trade Regulations.

18. Miscellaneous

18.1 The legal relationships between the Customer and STACKIT that arise under these Terms and Conditions and the Agreements concluded are governed by German law to the exclusion of the conflict of law rules and the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).

18.2 Should any provision of these Terms and Conditions or an Agreement be or become void, invalid or unenforceable, either in whole or in part, this shall not affect the validity or enforceability of the remaining provisions of the Terms and Conditions or the Agreement. The void, invalid or unenforceable provision shall be replaced by a provision that most closely reflects the economic intent and the purpose of the void, invalid or unenforceable provision to the extent permitted by law. This shall apply *mutatis mutandis* to any unintended omissions in these Terms and Conditions or the Agreement.

18.3 The exclusive place of jurisdiction for any and all disputes arising out of or in connection with these Terms and Conditions or Agreements regarding Products shall be Stuttgart, Germany.

18.4 In the event of a dispute, the parties are entitled to conduct conciliation proceedings under the applicable conciliation rules of the competent conciliation office (for IT disputes) of the International Chamber of Commerce (ICC) before conducting court proceedings. Where the competent arbitration board does not provide conciliation rules for IT disputes, the conciliation proceedings will be conducted in accordance with the IT Conciliation Rules of the German Association of Law and Informatics (*Deutsche Gesellschaft für Recht und Informatik* – DGRI).

Last updated: 5/21/2025

B. Special Section: Direct Sales

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C. Special Section: Resale Products

1.   Resale Products

1.1   Resale Products are Products that STACKIT has not developed itself, but obtains as a reseller ("**Reseller**") from the respective supplier (usually a software developer or distributor [hereinafter also referred to as "**Software Manufacturer**"]) and offers to the Customer via the Marketplace ("**Resale Products**").

1.2   Resale Products are identifiable as such on the Marketplace, for example by designating a Software Manufacturer other than STACKIT.

1.3   The overviews of Resale Products listed on the Marketplace regularly contain information about the respective service content, the type of service, the available support and the Software Manufacturer of the Resale Product. The information, descriptions, or agreements relating to the Resale Product that can be viewed or accessed via the Marketplace determine the contractual scope of services in accordance with section A, clause 4.

2.   Conclusion of Agreements regarding Resale Products

2.1   The Customer makes a binding offer to conclude an Agreement for the Resale Product selected by the Customer by completing the online order process via the Marketplace ("**Order**").

2.2   Upon acceptance of the Order by STACKIT, an Agreement is concluded between the parties for the provision of the right to use the respective Resale Product for a certain agreed term in return for a fee. Unless expressly communicated otherwise, STACKIT accepts the Order by providing or granting the Customer access to the Resale Product.

2.3   The parties to the Agreement for the purchase of a Resale Product are the Customer and STACKIT.

2.4   If the Customer purchases Resale Products via the Marketplace from an external third party who has concluded a reselling partnership agreement with STACKIT ("**STACKIT Reselling Partner**"), any deviating agreements between the STACKIT Reselling Partner and the Customer shall remain unaffected.

3.   Terms and Conditions of the Software Manufacturer

3.1   Software Manufacturers regularly require that the Customer conclude a separate end user license agreement or comparable direct agreements with the respective Software Manufacturer ("**EULA**") in addition to the Agreement between STACKIT and the Customer in order to be allowed to use the software product.

3.2   The EULA constitutes an extra agreement which is concluded solely and separately between the Customer and the respective Software Manufacturer of the Resale Product. STACKIT has no control over the terms of the EULA.

3.3   In the EULA, the Software Manufacturer lays down specifics regarding the scope of the Customer's rights of use for the Resale Product, the prohibited types of use, rules on data processing, warranties for the product and product support; in accordance with section A clause 4, this Resale Product scope also applies with regard to the contractual relationship between STACKIT and the Customer. If the EULA contains payment terms, these do not apply to the relationship between STACKIT and the Customer; in this regard, these Terms and Conditions apply exclusively.

3.4   STACKIT is entitled to terminate an Agreement with the Customer for a Resale Product for Good Cause if (i) the Customer violates provisions of the Software Manufacturer's EULA and the EULA is therefore terminated by the Software Manufacturer or (ii) the EULA is terminated in any other way (through no fault of STACKIT) before the end of the term of the Agreement with the Customer.

3.5   STACKIT is also entitled to terminate an Agreement with the Customer for a Resale Product for Good Cause if the Software Manufacturer discontinues the Resale Product in such a way that further purchases by the Customer via the Marketplace are no longer possible (e.g., discontinuation of the Software Manufacturer's support for the Resale Product in question; discontinuation of the Software Manufacturer's supply of the Resale Product to STACKIT). In such cases, STACKIT shall

inform the Customer in good time before the termination within the meaning of this clause takes effect. Any excess payment already made by the Customer for services not yet provided by STACKIT shall be refunded on a pro rata basis in the event of termination in accordance with this clause.

3.6   If the EULA of a Resale Product provides for warranty claims by the Customer in the form of credits or comparable credit notes to the Customer, these agreements shall supplement the Agreement between STACKIT and the Customer, with the proviso that STACKIT shall credit the Customer with the credit notes received from the Software Manufacturer and that these credit notes shall be offset against any existing claims of the Customer against STACKIT.

4.   Changes to the Content of Resale Products

4.1   STACKIT has no influence on the development and specifications of the Resale Product. This applies in particular to adjustments made to the Resale Product by the Software Manufacturer during the term of a purchase agreement, such as updates, bug fixes, or new/modified product features ("**Product Adjustments**").

4.2   If the respective product overview, the associated agreements or the EULA of a Resale Product define Product Adjustment options by the Software Manufacturer, these are deemed to have been agreed between STACKIT and the Customer as a matter of priority.

4.3   Clause 5 "Modification and Adaptation of Products" in section A "General Provisions" of these Terms and Conditions does not apply to Resale Products.

5.   Rights of Use

The Customer's rights of use for the respective Resale Product are governed by the details provided in the product overview in the Marketplace and the agreements in the EULA. Insofar as the scope of use stipulated in the Agreement between STACKIT and the Customer (e.g., with respect to the license term, type of license, number of licenses, place of use, where applicable) contradicts the scope of use as stipulated in the respective EULA, the scope of license stated in the Agreement shall be controlling as between STACKIT and the Customer.

6.   Infringement of Third-party Rights and Indemnification Claims

6.1   Where Resale Products infringe third-party rights, STACKIT will, at its option, either request that the Software Manufacturer procure, at its own expense, the required license to use the infringed rights or modify the relevant Resale Product in such a way that it no longer infringes rights but is still in concordance with the contractual agreements with the Customer. If this is not achieved within a reasonable period of time, each party shall be entitled to terminate the Agreement in question for Good Cause with immediate effect. Any excess payment already made by the Customer for services not yet provided by STACKIT shall be refunded on a pro rata basis in the event of termination in accordance with this clause.

6.2   Provided that STACKIT has acted willfully or negligently with regard to the infringement of third-party rights in connection with the provision of Resale Products, and the Customer has informed STACKIT without undue delay about the assertion of claims for an alleged infringement of third-party rights by the Resale Products, and the Customer cedes the entire legal defense to STACKIT upon request and assists STACKIT to a reasonable extent in averting any such claims, STACKIT will indemnify the Customer against any and all third-party claims as well as the associated costs of the legal defense incurred by said third parties.

6.3   Provided that the Customer has acted willfully or negligently with regard to the infringement of third-party rights in connection with the use of the STACKIT Marketplace or the Resale Products, and STACKIT has informed the Customer without undue delay about the assertion of claims for an alleged infringement of third-party rights, and STACKIT cedes the entire legal defense to the Customer upon request and assists the Customer to a reasonable extent in averting any such claims, the Customer will indemnify STACKIT against all third-party claims asserted in this connection.

7. Support; Access of the Software Manufacturer to Customer Data

7.1 As the Customer's contractual partner for the Resale Product, STACKIT provides first-level support. This includes the provision of a hotline and a ticket system to receive inquiries from end customers.

7.2 STACKIT aims to respond to Customer support requests appropriately and resolve them within the scope of 1st-level support.

7.3 For Customer inquiries that STACKIT cannot resolve at the 1st-level support level, STACKIT will involve the Software Manufacturer for further processing.

7.4 Some Resale Products may require the Software Manufacturer to access customer data from the Customer's STACKIT account in order to provide or support the Resale Product as described in the respective product overview. By purchasing or activating such a Resale Product, the Customer instructs STACKIT to pass on the necessary customer data to the respective Software Manufacturer of the Resale Product so that the Resale Product and the agreed support can be provided. The Customer is hereby advised that STACKIT has no further access to or control over customer data once it has been passed on to the Software Manufacturer.

8. Open-source Products

8.1 STACKIT makes selected, freely available open source software ("**OSS Products**") available to the Customer for download via the Marketplace.

8.2 OSS Products are identified as such on the Marketplace, for example by indicating the applicable open source license terms. OSS Products are always provided to the Customer free of charge.

8.3 OSS Products are not subject to any agreement between STACKIT and the Customer. The Customer has no claim against STACKIT for the provision of an OSS Product; in particular, STACKIT does not offer any warranty, support or service level for the OSS Product.

8.4 The sole object of the Agreement between the Customer and STACKIT with regard to an OSS Product are the appropriately (pre-)configured STACKIT Cloud Services provided by STACKIT for the operation of the respective OSS Product. The STACKIT Cloud terms of use, available at https://www.stackit.de/en/general-terms-and-conditions/terms-of-use/ apply *mutatis mutandis* to the STACKIT Cloud Services used by the Customer in this form. Unless otherwise specified in the product overview, the "pay-as-you-go" payment and term option applies to STACKIT Cloud Services acquired in this way.

8.5 The licensing of the OSS Product is governed exclusively by the applicable open source license terms of the OSS Product, which can be viewed in the product overview. By using an OSS Product, the Customer accepts the license terms of the respective Software Manufacturer applicable at the time the OSS Product is made available. This means that a separate agreement is concluded directly between the Customer and the respective Software Manufacturer of the OSS Product. STACKIT is not a party to this license agreement. It is the sole responsibility of the Customer to ensure the correct licensing of the OSS Product and compliance with the applicable open source license terms when using it.

8.6 STACKIT reserves the right to expand or reduce the OSS Products made available for download via the Marketplace at any time without prior notice.

D. Special Section: Product Listing

1. Product Listing

1.1 STACKIT may also display information about products or related product overviews on the Marketplace with regard to services that the Customer can only obtain from a third party ("**STACKIT Partner**"), i.e., not directly from STACKIT via the Marketplace ("**Listed Product**").

1.2 In such cases, the Marketplace serves as a place for information on and presentation of the Listed Product. The respective STACKIT Partner is responsible for the information on Listed Products and its accuracy.

2. Formation of Contract

2.1 For Listed Products, no order process can be initiated and processed by the Customer via the Marketplace. In particular, clause 12 "Prices and Billing" in section A. "General Provisions" does not apply to Listed Products.

2.2 Any contract is concluded exclusively between the STACKIT Partner and the Customer. On no account is STACKIT a party to the contract between the Customer and the STACKIT Partner, and STACKIT has no influence on the contractually agreed terms between the Customer and the STACKIT Partner.

3. Contact and Disclosure of Contact Details

3.1 If the Customer is interested in a Listed Product, it can contact STACKIT via the button provided in the Marketplace by entering the necessary details and sending the contact request.

3.2 When a contact request is received from a Customer, STACKIT is able to establish contact between the respective Customer and the relevant STACKIT Partner.

3.3 For the purpose of putting the Customer in touch with the STACKIT Partner, STACKIT may transmit the data provided by the Customer in the contact request to the STACKIT Partner. By sending the contact request to STACKIT, the Customer expressly consents to the transfer of their contact details to the STACKIT Partner and to being contacted by the STACKIT Partner using the contact details provided for the purpose of establishing contact regarding the Listed Product.