

A. GENERAL PROVISIONS

1. Scope

- 1.1. To the extent not otherwise provided in writing, the following general contract terms are a component of any contract concluded with AVL DiTEST. They are similarly binding for supply contracts for spare parts and accessories.
- 1.2. For installation and commissioning, the supplying factory's Terms of Assembly and/or the terms applicable to this work apply on a supplemental basis.
- 1.3. All customer instructions and terms not in line with the AVL DiTEST Terms and Conditions for Contract are non-binding until expressly confirmed in writing and apply solely for the contract they were agreed for.
- 1.4. The following order of priority applies for all contractual agreements:
 - a. The terms of specific contracts have priority
 - b. The special Terms and Conditions are applicable on a secondary basis
 - c. these General Terms and Conditions for Contracts with Commercial Customers of AVL DiTEST are applicable at the next level of priority
 - d. Provisions of law apply in all other respects.

2. OFFER AND ORDER CONFIRMATION

- 2.1. The documents connected with the offers made by AVL DiTEST, such as illustrations, drawings, tracings, declarations of weight, measurement, consumption and other cost factors are only approximate and therefore non-binding. AVL DiTEST reserves the right of ownership and copyright in all cost information, drawings, maps, sketches and other technical documentation. They must not be provided to any third party. Cost information, drawings, maps, sketches and other technical documentation must be returned at any time upon request.
- 2.2. All offers are subject to confirmation; used equipment is additionally subject to prior sale.
- 2.3. No verbal side agreements have been made unless expressly confirmed in writing by AVL DiTEST.
- 2.4 The customer may effectively assign claims from a contract with AVL DiTEST only after written consent of AVL DiTEST.

3. PRICES

- 3.1 The indicated prices apply ex works Cadolzburg, plus statutory VAT, exclusive of packaging and loading.
- 3.2 The agreed remuneration must be paid for all contracts. If the price has increased at the time of performance due to a change in the market price or an increase in the prices of involved third parties, the higher price shall apply. However, the customer shall be entitled to withdraw from the contract if the price increase is higher than 15%. He must assert this right immediately after notification of the higher price. For service agreements, the respective special arrangements apply in this respect.
- 3.3 Prices for repairs indicated before the repair are non-binding. Furthermore, clause 12 applies.

4. PAYMENT TERMS

- 4.1. To the extent not otherwise provided in writing, payments must be made to AVL DiTEST without deduction within a week of invoice date. The same applies to invoice amounts in addition to the original contractual amount, resulting from subsequent deliveries or other agreements: irrespective of the payment terms agreed for the main delivery and unless other payment terms have been agreed in writing for the subsequent delivery, they are payable within a week.
- 4.2. The payment term indicated on the invoice applies to the invoice date indicated on the invoice.
- 4.3. If delivery and/or assembly or commissioning are delayed due to reasons for which AVL DiTEST is not responsible, payments must still be made in such way as if the above deliveries and services had been performed at the agreed time.
- 4.4 If the customer does not adhere to an earlier payment obligation or his financial situation deteriorates, AVL DiTEST shall be entitled to demand advance payment or securities from the

- customer, irrespective of divergent agreements originally reached.
- 4.5. An agreed acceptance of cheques is made only on account of payment. In case of payment with cheque, the day of receipt at AVL DiTEST is qualifying for the decision on discount deduction.
- 4.6. In case of a breach of the payment terms, AVL DiTEST shall be entitled to charge default interest in accordance with the German Civil Code (BGB) and the other legal provisions.
- 4.7. A discount deduction upon payment of the invoice shall be accepted only with special arrangement.
- 4.8. Direct debiting is made exclusively by means of the SEPA direct debiting system. The customer may demand reimbursement of the amount debited within eight weeks after the debiting date. In cases of unfounded chargebacks, AVL DiTEST reserves the right to claim the incurred costs.

5. RETENTION OF TITLE

Until payment in full of the purchase price, including all related costs and charges, the goods remain the property of AVL DiTEST. The customer shall be entitled to resell the goods as part of his normal business activities. Receivables from such resales shall be assigned to AVL DiTEST. The customer shall not be entitled to make pledges or transfers by way of security during the period in which title is retained.

6. TRANSFER OF OWNERSHIP IN CASE OF REPLACEMENT

In the event that AVL DiTEST replaces goods within the scope of warranty or service, the customer bindingly offers ownership to AVL DiTEST by sending the goods to be replaced to AVL DiTEST. The customer is bound by the offer for a period of 4 weeks after receipt of the goods. Ownership is transferred from the customer to AVL as soon as AVL DiTEST confirms the replacement in writing. The replacement shall be considered to be confirmed after expiration of a period of 4 weeks after receipt of the goods by AVL DiTEST unless prior rejection of such replacement by AVL DiTEST. Sending a repair cost estimate shall be considered as a rejection of the replacement; the abovementioned period of 4 weeks being renewed as soon as the customer accepts the repair cost estimate. Ownership of goods sent by AVL DiTEST for replacement will be transferred to the customer only after he has paid the flat rate replacement charge or the repair invoice for the goods he sent (retention of title). Where the original goods were still subject to retention of title pursuant to clause 5 of this contract, such retention of title shall apply to the replaced goods as well.

7. ASSUMPTION, TRANSFER OF RISK AND SHIPPING

- 7.1. Delivery takes place ex warehouse or Cadolzburg as applicable. INCOTERMS 2010 shall be fulfilled if the possession of the goods is taken or they are made available at the relevant location.
- 7.2. Risk is transferred to the customer as soon as the consignment has been made ready for shipping by AVL DiTEST, even if carriage paid delivery has been agreed. Packaging and shipping are made with the highest diligence at the supplier's discretion.
- 7.3. AVL DiTEST will arrange transport insurance only on the customer's explicit request. The customer will be charged the costs of such insurance.

8. DELIVERY PERIOD AND DELAYED DELIVERY

- 8.1. The delivery period established by AVL DiTEST, or as agreed, begins at the time when not only the contract is concluded by its affirmation (order confirmation), but also all technical, commercial and other issues have been definitely resolved. Furthermore, compliance with the delivery period by AVL DiTEST requires the fulfilment of all contractual obligations by the customer.
- 8.2. Agreed delivery periods shall be extended until required authorisations or permits in the customer's country necessary for delivery have been issued. The customer must obtain these authorisations in his country.
- 8.3. The delivery period shall be extended accordingly in case of any circumstances occurring at AVL DiTEST, the supplying factory or a subcontractor which disrupt, hinder or stop the production process. In case the delivery period has already begun, an appropriate new delivery period will begin. The customer may not base any claims hereon. This applies in particular to any form of

labour unrest.

- 8.4. AVL DiTEST shall have a right to withdraw in cases of force majeure.
- 8.5. In case of a delayed delivery for which AVL DiTEST or the supplying factory are responsible, the customer shall solely be entitled to demand performance or, in case of goods ready for sale, to withdraw from the contract after setting a reasonable period of time for rectification. Withdrawal shall be effective only if such grace period is not complied with and the non-complying party is at fault. Withdrawal on the part of the customer shall be excluded for special orders. Customer shall have no other rights or further entitlements.
- 8.6. The delivery date is considered to be met if the item to be delivered is made ready for delivery by pick-up or for shipment at the supplier prior to the end of the delivery period.

9. LIMITATION OF WARRANTY AND LIABILITY

- 9.1. To the extent not otherwise agreed and provided that the customer fulfills the agreed payment terms, the subject matter of the contract is exclusively the sold product with the properties, characteristics and purpose as stated in the documents provided by AVL DiTEST. Other or additional properties and/or characteristics or any other purpose shall be considered to be agreed only if they have been confirmed in writing by AVL DiTEST.
- 9.2. In the event of a confirmed defect, AVL DiTEST shall be entitled to choose between repair and replacement. AVL DiTEST shall be entitled to refuse such supplementary performance if one or both of these types are impossible or unreasonable; in such a case, the customer shall be entitled to accordingly reduce the purchase price or to withdraw from the contract in accordance with the law.
 AVL DiTEST shall also be entitled to refuse supplementary performance as long as the customer fails to fulfil his payment obligations towards AVL DiTEST to an extent that corresponds to the defect-free part of the goods.
- 9.3. The warranty period for new equipment is one year. The warranty period for replacement parts, accessories, replacement equipment subject to a charge and repairs carried out is six months. Accessories are deemed to include all components which are not permanently affixed to a device and are not subject to normal wear and tear.
 No warranty of any kind is provided for consumables.
 The warranty period commences upon receipt of the goods.
 No warranty is provided for used goods sold (including demonstration models).
- 9.4. Supplementary performance does not trigger a new warranty period. This applies likewise if replacement parts are installed as part of supplementary performance.
- 9.5. In the event that the review of a claimed defect determines that there is no legitimate warranty claim, the customer is obligated to bear all costs incurred as a result of such review.
- 9.6. In order for the warranty to apply, the defect cannot be caused by improper or excessive use.
- 9.7. The customer is required to immediately inspect whether delivered goods conform to the contract. Written notice must be given of missing parts and visible defects immediately, however, at the latest within two business days. Written notice of hidden defects must be given within two weeks of discovery. A breach of the foregoing provisions terminates any warranty claims against AVL DiTEST.
- 9.8. Notice of defects must be given in writing.
- 9.9. In general, in the course of performance, AVL DiTEST is not liable for claims for damages on the part of the customer, regardless of legal grounds, to the extent the damages are not the result of wilfulness or gross negligence on the part of AVL DiTEST or the absence of guaranteed characteristics. In particular, AVL DiTEST is not liable for damages and consequential damages which, in particular, result from the use or failure to use software and the associated hardware, due to damages resulting from business interruption, lost profits, loss of information and loss and/or damage to data, to the extent AVL DiTEST cannot be

alleged to have acted wilfully or with gross negligence. Liability for the recreation of data is likewise excluded. These limitations of liability do not apply to customer claims under the German Product Liability Act. In addition, the limitations on liability do not apply with regard to injury to life, limb or health of the customer attributable to AVL DiTEST which result from an intentional or negligent breach of a duty on the part of AVL DiTEST or an intentional or negligent breach of a duty on the part of a legal representative or agent of AVL DiTEST. The foregoing limitation of liability applies equally to assistants and agents acting on behalf of AVL DiTEST.

- 9.10. In all other cases, the warranty period amounts to one year from delivery or performance of the service, as applicable, to the extent these General Terms and Conditions do not provide a shorter period for commercial customers or a shorter warranty period is not provided for circumstances described in additional AVL DiTEST contracts or agreements.

10. DISPOSAL OF OLD DEVICES

- 10.1. Electric and electronic devices delivered after 13 August 2005 may be returned to AVL DiTEST upon cessation of use and will be properly disposed of in accordance with applicable laws and regulations at the customer's cost and expense.
- 10.2. The customer shall contractually obligate commercial third parties to whom it transferred the delivered goods to properly dispose of such goods in accordance with applicable laws and regulations following cessation of use and to impose a similar obligation in the event the goods are subject to further transfer.
- 10.3. In the event the customer does not contractually obligate third parties to whom it transfers the delivered goods to assume the duty to dispose of such goods, the customer is obligated to accept the return of the delivered goods following the cessation of use at its own cost and expense and to properly dispose of them in accordance with applicable laws and regulations.
- 10.4. The customer undertakes not to transfer personal computers (PC) and PC accessories purchased from the supplier to private households.
- 10.5. The customer bears the burden of proving compliance with the foregoing obligations.
- 10.6. Rights on the part of AVL DiTEST to indemnification / assumption by the customer do not lapse prior to the expiry of two years following the final cessation of use of the device. The two-year limitation period commences at the earliest upon receipt of written notice by AVL DiTEST from the customer indicating a cessation of use.

11. SPECIAL PROVISIONS FOR DESIGN WORK / QUOTATIONS

- 11.1. In the event an order is not placed or cannot be fulfilled, costs related to preparing quotations and larger-scale design work shall be charged. The costs/fixed fees are based on the then-current price list.
- 11.2. AVL DiTEST is bound by a price quotation for one week.

12. ADDITIONAL PROVISIONS FOR REPAIR WORK

- 12.1. Repair work is subject to the additional agreement that binding prices and delivery times cannot be indicated prior to performance of the work. Upon submitting a repair order, the customer is additionally deemed to have agreed to recognise charges for work and additional work discovered to be necessary during the course of the repair work unless a fixed price was expressly agreed to in writing.
- 12.2. In the event a request is made for a binding offer for repair work and, for purposes of determining the costs of the repair, it is necessary to disassemble the device, or specific parts need to be inspected, costs related to disassembly and reassembly of the device must be reimbursed even if an order is ultimately not made.

13. ADDITIONAL PROVISIONS FOR MAINTENANCE, SERVICE AND OTHER CONTRACTS, IN PARTICULAR INVOLVING TEMPORARY REPLACEMENT DEVICES

13.1. The provisions of these General Terms and Conditions also apply to maintenance, service and other contracts, in particular where the provision of temporary replacement devices are involved; however they are subordinate to the terms of such contracts.

13.2. The relevant costs of maintenance or fixed maintenance fees shall be charged in the case of maintenance work which is not based on another contract. The warranty period for such work is six months. However, no warranty or guarantee applies to items other than the pure maintenance work.

13.4. If a customer sends a defective device to AVL DiTEST for repair, AVL DiTEST will repair the device and return it to the customer. Usual repair costs or a fixed repair fee, as applicable, will be charged. The agreed warranty period for the most recent repair work or components replaced, as applicable, subject to a charge is six months. All repairs performed by AVL DiTEST without the acknowledgement of a legal obligation to do so do not trigger a new warranty obligation.

13.5. The following applies to repair service in the form of a replacement device or long-term service or another contract:

When a customer provides notice of a defective device, data on the customer and the device are recorded and the customer is sent a fax order form. The customer must sign and return the fax order form to AVL DiTEST. AVL DiTEST will send the customer a replacement device and will arrange to have the defective device picked up from the customer. The customer is responsible for installing the replacement device on-site. The customer is responsible for giving the device to the freight forwarder for shipment to AVL DiTEST. AVL DiTEST will review warranty and guarantee claims and will assess the degree to which the defective device may be exchanged. The ability to exchange a device is precluded from the outset, in particular, in the event of mechanical damage, damage resulting from the application of force, a lack of due care, improper, wilful or malicious handling, infiltration of liquids, use of non-approved replacement, consumable or accessory parts and in cases of work performed by third parties and incorrect operation. The customer will be informed in the event a device is not subject to exchange; in particular this is accomplished by sending the customer a quotation for repair costs indicating the fixed exchange fee and additional repair costs. The repair costs quotation is deemed to have been accepted by the customer and the repair order is deemed to have been made if the customer does not object within six business days of receipt; the customer will be informed of the preceding deadline and its effects in the repair cost quotation. If the repair cost quotation is rejected, the customer's device will be returned and must in exchange immediately return the device provided to the customer; clauses 13.8 and 13.9 apply in all other respects.

In the event the qualification for exchange is confirmed, AVL DiTEST will charge the fixed exchange fee established by AVL DiTEST to the extent the relevant contract does not provide otherwise.

In the event of such an exchange, AVL DiTEST provides a six-month warranty for the entire exchanged device provided that the originally-agreed warranty period for the device was not longer. In all other respects, the provisions of clause 6 relating to ownership of the exchange device apply.

13.6. If a loan device service has been agreed with a customer, AVL DiTEST will send the customer an originally-packed temporary replacement device with an exhaust line and sensor. The customer is responsible for installing the temporary replacement device at its premises itself and is responsible for ensuring connection to existing equipment. The Customer is required to have available the complete goods to be returned, in their original packaging, ready to be sent on the pick-up date indicated in the shipping slip for the loan device. The process is the same in the case of rescission. Any additional delivery or pick-

up costs for the temporary replacement device which become necessary through no fault of AVL DiTEST will be invoiced at cost.

13.7. AVL DiTEST will charge for standard fixed fees for the loan device service. The loan device service is free of charge with respect to maintenance performed during the term of a maintenance contract which includes loan device service. However, the customer is liable for all damage to the temporary replacement device. We provide no warranty for such temporary replacement devices.

13.8. In all other respects, a fixed fee for a temporary replacement device in accordance with our then-current price list will be charged for the duration of the review and preparation of a cost estimate, the acceptance period for the cost estimate (at most one week) and the duration of the repairs. The fee is due even if the device is not repaired; in such cases it covers a period of two weeks on a fixed fee basis. For each additional week, or part thereof, a fixed fee will be charged based on the then-current price list; this fixed fee will likewise be charge if the customer delays acceptance and/or exchange of the repaired device or is otherwise prevented from doing so.

13.9. The provisions of clauses 13.6 and 13.8 apply accordingly for the untimely return of exchange devices in cases covered by clause 13.5.

14. DATA BACKUP

The customer is obligated to back up data in the event AVL DiTEST supplies of goods and services access stored data, programmes or the like on customer systems, modify them or may influence them in any other way.

15. COUNTERCLAIMS

The customer hereby waives the assertion of a right of retention or set-off of claims for compensation to the extent such claims have not been recognised by AVL DiTEST or have not been subject to final legal determination.

16. PRIVACY PROTECTION STATEMENT

AVL DiTEST provides notice that it collects customer-related data to the degree technically required, e.g. for purposes of fulfilling an order. The customer consents to having his customer-specific data stored, processed and transferred to the extent required for purposes of fulfilling an order. In particular, the customer consents to having the number of times he accesses certain systems registered and stored in order to prevent abuse by users who do not have a contract and that his enquiries are statistically analysed in order to be able to continue development of current information systems.

17. PLACE OF PERFORMANCE, PLACE OF JURISDICTION AND EFFECTIVENESS

17.1. The place of performance for both parties is Cadolzburg.

17.2. The place of jurisdiction for all disputes arising directly or indirectly related to this contract is the location of AVL DiTEST's registered office.

17.3. To the extent not otherwise provided in the foregoing provisions or otherwise foreseen in written agreements containing different provisions, the laws of the Federal Republic of Germany are applicable to all matters between the parties subject to the exclusion of laws governing the international sale of movable goods (in particular the United Nations Convention on Contracts for the International Sale of Goods); the foregoing applies even in the event the customer's corporate domicile is located outside of Germany.

17.4. If specific provisions in this agreement are or become invalid in whole or in part, the validity of the remaining provisions shall be unaffected thereby. The parties agree to replace the fully or partially invalid provision with a provision that achieves the economic purpose of such invalid provision to the largest extent possible. This applies accordingly in the event a gap is discovered in the agreement.

17.5. Any amendments or additions to this agreement must be made in writing and signed to be legally effective. This applies similarly in the case of a modification of this clause.

18. AUTHORITATIVE TEXT

In the event agreements or these General Terms and Conditions are provided in both German and English, the German version is authoritative in the event of conflicts between the German and English versions.

B. GENERAL TERMS FOR THE SUPPLY OF SOFTWARE

1. Scope

The General Terms and Conditions are special terms for the supply of software to commercial customers. To the extent special terms have not been agreed, the AVL DiTEST General Terms and Conditions for Contracts with Commercial Customers apply in the order of priority set out therein.

2. Subject matter of the agreement

2.1. Software:

Software within the meaning of these terms and conditions includes programmes provided to the customer for use in, operation or control of electrical, mechanical and/or electronic devices and systems including associated documentation supplied with the software. The customer may only use software on the basis of a software license issued by AVL DITEST. In the event a data storage device provided to the customer contains software for technical reasons which is not covered by the license issued to the customer, the customer is only entitled to use such software based on a separate license. The software may contain technical measures in order to prevent access to non-licensed software.

2.2. Software in conjunction with supplied hardware:

In the event software is transferred for purposes of operating systems or devices supplied by AVL DITEST (hardware), the customer is granted a non-transferrable, non-exclusive right to use the software subject to compliance with the contractual terms and conditions at the place of installation and exclusively for purposes of operating the respective hardware covered by the contract. AVL DITEST retains all other rights to the software; accordingly, without prior written consent of AVL DITEST, the customer may not in particular duplicate or modify the software, make it available to third parties or use it on hardware not covered by contract.

2.3. Software not associated with supplied hardware:

In the case of software provided independent of a supply of hardware, the customer may only use such software on systems and devices listed in the license agreement by model, number and installation site. Clause 2.2 applies accordingly in all other respects.

2.4. Additional services:

Additional services will be billed separately.

These include, for example:

- Work related to the duplication, translation or generation of software
- Data storage media supplied by AVL DITEST to the extent this is not a component of hardware supplied by AVL DITEST;
- Analysis and elimination of malfunctions resulting from improper use, user errors or other circumstances for which AVL DITEST is not at fault;
- Roll-out and training to the extent the contract contains no provisions in this regard;
- Improvements, i.e. advancements offered which simplify operations, shorten hardware occupancy times or enhance specifications or application options of the software.

3. Changes, New versions, Copies

3.1 The customer may only modify the software for operation on the licensed system in machine readable form and/or link it to

other software as applicable. The software remains subject to these terms and conditions even if included in such an adaptation.

3.2. A software license issued by AVL DITEST exclusively authorises the use of the version indicated in the license. New versions may only be used based on a separately issued license from AVL DITEST or pursuant to the terms of a software maintenance agreement concluded with the customer.

3.3 If the customer is granted a software license without a data storage device, he is consequently granted the right to copy a previously-supplied version of the software licensed to him to a device which had not previously been licensed for operational purposes. An additional software certification must be prepared in such cases in which the additionally-licensed hardware is listed.

4. Industrial property rights, Confidentiality

4.1. The customer is obligated to safeguard all rights AVL DITEST has in the software, in particular industrial property rights and copyright including the right to a copyright notice. The customer is required to affix the AVL DITEST copyright notice and any reference to AVL DITEST industrial property rights to any complete or partial copies, adaptations or transfers of the software in the same manner as affixed to the original version of the licensed software.

4.2. The customer is obliged to maintain strict confidentiality as to all information regarding the software as well as methods and processes in use. The customer is required to impose this obligation on its employees and agents. The confidentiality obligation continues to apply even if software is modified or associated with other programs. The customer may not use any form of process to re-create source code or parts thereof from the binary software or in order to gain knowledge of the design or production of the software or hardware or firmware implementations of the software as applicable.

4.3. The customer is required to maintain an index containing a list of licensed software including the respective version, serial numbers of licensed devices, the location at which the licensed software is located and the number of copies made. On request, this information must be provided to AVL DITEST. AVL DITEST will only exercise this right if there is a legitimate suspicion that the customer has used/ is using the software contrary to the terms of this agreement.

4.4. Upon the termination of the software license agreement, the customer must return all software certificates to AVL DITEST, and destroy all copies of software versions provided to him, even if part of an adaptation, and provide written confirmation of destruction to AVL DITEST. The confidentiality obligations set out in clause 4.2 remain valid following the termination of the software license agreement.

5. Delivery, Transfer of risk and Acceptance

5.1. AVL DITEST will supply the customer with the version of the software valid at the time of delivery.

5.2. To the extent not otherwise agreed, software and data storage media are sent at the cost and risk of the customer.

5.3. If the software is damaged in whole or in part, or accidentally deleted, in the possession of the customer, AVL DITEST will provide a replacement subject to availability and reasonableness and subject to reasonable charge for processing, data storage media and shipping.

5.4. Software is deemed to have been accepted if

- The customer confirms conformance to the contractually-agreed specifications, or
- The customer does not provide notice of major defects within a two-week testing period, or
- The customer uses the software following expiry of the test period, or
- The software cannot be made operationally ready within a reasonable period of time to be established by AVL DITEST for reasons for which AVL DITEST is not at fault.

5.5 Acceptance is deemed to have occurred upon delivery if no formal acceptance process has been provided for.

6. Warranty, Service, Modifications

6.1. The customer acknowledges that the state of the art does not allow software to be developed in such a way that it works error-free for all forms of application and in all combinations. Accordingly, a warranty for software free of defects is only provided based on conformance with the specifications valid at the time the software is delivered and only with regard to guaranteed characteristics to the extent the software is used in conformance with the applicable installation requirements and the respectively applicable operating conditions; no other form of warranty is provided.

Software delivered or provided by AVL DiTEST may only be used by trained and authorised personnel. Information provided in association with the use of the software must be heeded.

6.2. The warranty includes

- Diagnosing problems
- Rectification

during the period for which the warranty obligation is valid. To the extent not otherwise agreed, the warranty period is deemed to be six months from acceptance in accordance with clauses 5.4 and 5.5.

Errors, i.e. deviations from the valid specifications which impair functionality, are rectified as set out below

- Support and instruction of the customer by AVL DiTEST personnel as to how to correct the error, preferably by means of a data link with the customer (modem, postal services); if this is not possible
- Delivery of new, improved software; if this is not possible
- Defect rectification (programming fix) on site.

The prerequisite for any defect rectification is that it represents a defect which impairs functionality, it may be reproduced, the customer has installed newer versions offered free of charge during the warranty period, the customer has provided all documents and information required to correct the defect and that AVL DiTEST is provided access to the hardware and software during normal business hours.

The customer is obligated to assist in defect rectification to the extent that he must provide qualified, trained personnel whose training conforms to the complexity of the system and who assist in correcting the error.

6.3. In the event the customer has concluded a software maintenance agreement, AVL DiTEST will provide all services set out therein for its term.

6.4. There no warranty protection provided for software modified by the customer or a third party without prior, written consent from AVL DiTEST

even in the event the error occurs in a part which has not been modified. The customer is required to bear all costs incurred in the event it is discovered during the course of diagnosing the problem that a warranty claim is not involved or that the supplied software was not the cause of the error.

6.5. AVL DiTEST assumes no liability for ensuring that the software functions satisfy of the customer's requirements, that the programs are compatible with other programs selected by the customer, that it will run continuously or without error and that all software defects may be eliminated.

6.6 If, during the warranty period, the software does not comply with the specifications in a manner that impairs functionality and AVL DiTEST is not able to bring the software into conformance with the specifications within a reasonable period despite its best efforts and the customer is not able to use the software as a result, each party has the right to revoke the contract for the respective software with immediate effect subject to a return of amounts paid.

6.7. Defects within individual programs do not given the customer the right to revoke the contract with respect to the remaining programs.

6.8. Any additional warranty rights as well as liability for consequential damages are excluded.

7. Limitation of liability

7.1. The customer has sole control over the use and application of the licensed software; accordingly he is solely responsible for the appropriateness and security of the use of the software it chooses. AVL DiTEST is not liable for defects in existence upon conclusion of the contract or positive breach of an obligation.

7.2. AVL DiTEST provides no guarantee that the software is generally free of defects or has a certain capacity unless expressly agreed to in relation to a specific area of use.

7.3. In all other cases, limitations of liability provided for in clause A.9 of the AVL DiTEST General Terms and Conditions for Contracts with Commercial Customers apply.

The customer will indemnify and hold AVL DiTEST harmless from all claims asserted by third parties which impose greater liability than provided for under these terms.

8. Third-party Industrial Property Rights

AVL DiTEST will assist the customer in defending against all claims based on the assertion that software used in accordance with the contract infringes third-party industrial property rights or copyright. The customer must provide AVL DiTEST with an immediate written notice of an allegation of infringement and request AVL DiTEST to appear as a party in the event of litigation.

If a third party asserts infringement claims, AVL DiTEST may modify or exchange the software or procure a license at his own cost. If this is not possible for a reasonable amount, the customer is required to immediately return to AVL DiTEST on request the original and all copies of the software, including documentation provided, in exchange for a refund of amounts it has paid less amortisation to date or a reasonable usage fee.

Any additional claims on the part of the customer against AVL DiTEST based on the infringement of third-party industrial property rights or copyright are excluded.

C. GENERAL TERMS AND ONDITIONS FOR SERVICE CONTRACTS

1. General rules

1.1. Scope

AVL DiTEST offers various service contracts. The provisions set out below apply to all service contracts concluded with AVL DiTEST to the extent not otherwise agreed in writing.

The AVL DiTEST General Terms and Conditions for Contracts with Commercial Customers apply in the order of priority set out therein on a supplemental basis. In the event of a conflict, the provisions related to service contracts take priority.

The scope of services is governed by the AVL DiTEST services specifications then in effect upon conclusion of the relevant contract.

When the term contract year(s) is used below, this refers to an annual period commencing upon the conclusion of the relevant contract.

1.2. Term

The contract is effective upon signing by AVL DiTEST. AVL DiTEST will provide the customer a signed copy of the contract for its records.

Contracts are concluded for an initial term of twenty-four months. The term commences on the date indicated in the relevant contract. Contracts renew automatically for an additional one year term if not terminated in writing three months prior to expiry by means of registered letter. Clause 1.3, below, also applies in the event of a contract renewal.

AVL DiTEST is released from its obligation to perform in the event the customer is in default of payment.

In the event of a default of payment, AVL DiTEST is entitled to demand payment for the remainder of the initial term in one lump sum.

Rights of use governed by services contracts terminate concurrently with the respective agreement.

1.3. Fees and payment terms

Fees determined by AVL DiTEST are based on the price list valid for the respective calendar year. All prices are indicated per device plus applicable value added tax.

AVL DiTEST re-computes fees applicable to, and due and payable in, subsequent contract years based on changes in prices in the metal and electrical industries. They may be determined based on the respectively applicable price list. Written notification is not provided.

In the event the fixed fee increases by more than 5%, the customer may terminate the agreement during the agreed initial term without adhering to the notice period as of the end of the current contract year.

AVL DiTEST prepares invoices at the start of each respective period based on amounts applicable to the respective contract year and is independent of the time of performance. Invoices are issued in advance.

In the case of renewal by tacit agreement, the flat fee is due in a single payment at the start of each subsequent period regardless of the time of performance.

The fee is payable within the period indicated in the invoice.

Direct debits will be executed exclusively by means of the SEPA direct debit mandate. In the case of monthly direct debits, the fee for the current contract year will be computed as a single sum and debited in monthly instalments.

1.4. Limitation of liability / Warranty

The customer acknowledges that the state of the art does not allow software to be developed in such a way that it works error-free for all forms of application and in all combinations. Accordingly, a warranty for software free of defects is only provided based on conformance with the specifications valid at the time the software is delivered and only with regard to guaranteed characteristics to the extent the software is used in conformance with the applicable installation requirements and the respectively applicable operating conditions; no other form of warranty is provided.

Software delivered or provided by AVL DiTEST may only be used by trained and authorised personnel. Information provided in association with the use of the software must be heeded. AVL DiTEST notes that content and attachments provided by AVL DiTEST have been carefully researched and compiled. It is not possible for AVL DiTEST to review all information, documents and data supplied. Accordingly, AVL DiTEST does not guarantee the accuracy, completeness and up-to-dateness of the content of information, documents and data.

The results of error diagnosis performed by AVL DiTEST for software supplied or delivered by AVL DiTEST indicate the cause of the error with a high degree of probability; however there may be other causes for the error. The system does not replace an independent inspection by the user. There is expressly no guarantee provided that the error detected by the system is the actual cause of the error.

In the event a data storage medium associated with a service contract covered by these terms and conditions is faulty, the customer may demand a replacement free of charge. The foregoing does not apply to electrical or mechanical damage caused through improper use. In such cases, the customer must return the data storage medium to AVL DiTEST along with the delivery slip.

AVL DiTEST will make a repair in the event a faulty data storage medium damages a product/system delivered by AVL DiTEST.

The customer acknowledges that AVL DiTEST may only offer recommendations via a hotline or software. The customer is solely responsible for reviewing the implementation of these recommendations. The customer is solely responsible for implementation. AVL DiTEST expressly assumes no liability for damages incurred directly or indirectly as a result of recommendations provided unless such damages are caused by wilfulness or gross negligence. In particular, AVL DiTEST is not liable for damages and consequential damages which, in particular, result from the use or failure to use software and the associated hardware, due to damages resulting from business

interruption, lost profits, loss of information and loss and/or damage to data, to the extent AVL DiTEST cannot be alleged to have acted wilfully or with gross negligence. Liability for the recreation of data is likewise excluded. This applies in particular to any optional connection of additional systems. The limitations and exclusions of liability set out herein apply accordingly in the event the associated systems have also been provided by AVL DiTEST.

Additional claims for damages on the part of the customer beyond those referred to explicitly in this agreement, regardless of legal basis, are excluded to the extent they were not caused by wilfulness or gross negligence on the part of AVL DiTEST or a lack of guaranteed characteristics.

The foregoing limitations of liability do not apply to claims of a customer based on the German Product Liability Act. In addition, the limitations of liability do not apply to physical harm or damage to health, or to the loss of life on the part of the customer attributable to AVL DiTEST.

The warranty period is one year from the provision of the relevant service, however terminates at the latest upon termination of the respective contract for services.

1.5. Termination for good cause

This provision is without prejudice to termination for good cause.

2 AVL DiTEST Diagnose- Update XDS 1000

2.1. Subject Matter of the Agreement

This agreement governs the use of software and software updates supplied by AVL DiTEST for the AVL DiTEST STEUERGERÄTE-DIAGNOSE-SOFTWARE which the customer purchased from AVL DiTEST or via a reseller.

This agreement does not apply to vehicle/manufacture specific adapters and connecting cables. These may be purchased as accessories from a reseller.

2.2 Software Update

The customer is provided the following services in accordance with this agreement:

- Regular delivery of software updates for the AVL Steuergeräte-Diagnose-Software – generally twice a year
- Extensions to the Steuergeräte-Diagnose Software to add additional brands, vehicle models, control devices and diagnosis functions.
- Continuous improvement and refinement of the diagnosis functions
- Expansion and improvement of operation as well as continuous expansion of the available functions

Software updates for the AVL STEUERGERÄTE-DIAGNOSE-SOFTWARE which include a version update of greater than 1 are not covered by this agreement, i.e. upon conclusion of this agreement software must be based on the current release n or n-1. The update will be charged to the customer separately if the version is older.

2.3. Delivery

AVL DiTEST will automatically deliver software and software updates as part of this agreement. Delivery will be in the form of a CD-ROM, posted free of charge, or via the Internet. The software is protected by a DONGLE and/or ACTIVATION CODE. Parts indicated as replacement parts in the update delivery must be returned to AVL DiTEST. Return will be managed by a return order from AVL DiTEST. The list price will be charged in the event replacement parts are not returned. If incomplete or damaged replacement parts are returned, the customer will be charged accordingly.

Partial deliveries with corresponding charges are permissible to a reasonable degree.

The customer is required to make devices available to AVL DiTEST ready to be shipped or to provide persons engaged by AVL DiTEST access to the devices on-site as applicable. AVL DiTEST must be informed in writing or by fax at least three days in advance in the event the delivery of a device or performance of work on-site is not possible on the agreed-upon date on grounds related to the customer. Shipping or travel costs will be invoiced

in the event of untimely notice.

2.4. Rights granted in the software

AVL DiTEST grants the customer a simple, non-exclusive right to use the software on a single testing system and only in the customer's own business.

The agreement does not grant additional rights in the software itself. In particular, AVL DiTEST reserves all publication, duplication, processing and exploitation rights in the software.

The software and associated written materials are protected by copyright. Duplication of the software in its original or modified form, in whole or in part, is expressly prohibited.

The right to use the software may only be transferred to a third party with the prior written consent of AVL DiTEST. Giving away, leasing or lending the software are expressly prohibited.

Without the prior written consent of AVL DiTEST, the customer is prohibited from

- Transferring the license and/or software and the associated written material to a third party or otherwise making the foregoing available to a third party.
- Modifying, translating, reverse engineering or otherwise accessing the source code.
- Preparing works derived from the software or duplicating the associated written materials.
- Translating or modifying the written materials or from creating derivative works from the written materials.

2.5. Inventory movement

The customer is required to update the device data listed in the agreement on an ongoing basis in consultation with AVL DiTEST. The customer is required to provide AVL DiTEST with prompt written notice of the use of devices at another location, the sale of a device as well as the scrapping of a device.

A refund of agreed fixed fees, or parts thereof, is excluded following performance by AVL DiTEST.

2.6. Secondary License

A maximum of one secondary license may be acquired for each primary license. This license will be granted in association with the primary license and may only be used at the location at which the primary license is used.

The secondary license terminates automatically upon expiry of the primary license. The provisions of the AVL DiTEST General Terms of Conditions for Contract with Commercial Customers apply in the event of a premature termination of the secondary license.

3 AVL DiTEST Hotline Support

3.1. Scope of AVL DiTEST Hotline Support (150 minutes)

The AVL DiTEST vehicle hotline may be used for 150 minutes per contract year.

The time allotment referred to above includes not only time solely attributable to use of the telephone hotline but also time for any review and research incurred in association with the foregoing.

The customer will be notified accordingly in the event the allotment is exceeded. Time in excess of the allotment will be charged at rates based on the then-current price list. Access to remote maintenance will be deducted from the time allotment.

The customer has the option switching the AVL DiTEST contract to a vehicle hotline flat rate, effective immediately; if the customer elects to do so, the vehicle hotline flat rate starts at such time with a new initial term of two contract years (24 months).

Unused time allotments during a contract year lapse.

- The hotline is available using a freephone number Mondays through Thursdays from 8:00 a.m. to 6:00 p.m. and Fridays from 8:00 a.m. through 5:00 p.m. with the exception of public holidays observed throughout Germany.
- The freephone hotline number applies only for use within the German landline network and will be provided following the conclusion of an agreement.
- Customer care will be provided exclusively by highly-qualified vehicle technicians
- Remote maintenance may of course be used as part of

hotline use

- Guided troubleshooting from our vehicle specialists
- Provision of current information on problem issues
- Support related to testing and repair manuals and wiring diagrams
- Information on mechanics, adjustment values and torque levels
- Analysis and evaluation of signals using measurement technology
- Manufacturer know-how in issues of exhaust diagnosis
- Targeted programming in vehicles such as coding, updates and default settings

3.2. Scope of AVL DiTEST Flat Rate Hotline Support

The vehicle hotline flat rate includes, in addition to 150 minutes of vehicle hotline use, unlimited use of the AVL DiTEST vehicle hotline.

4. AVL DiTEST-led Troubleshooting SCOUT

4.1. Scope of Services

- Intelligent trouble shooting via the Internet
- Troubleshooting by means of error codes or error symptoms
- Online availability
 - AVL DiTEST provides online access to current data-updates
- Tec Doc compatibility
- Intelligent system
 - User feedback channel
 - Ranking of solutions

AVL DiTEST notes that information content and scope in AVL DiTEST SCOUT may vary by manufacturer and model. Accordingly, AVL DiTEST provides no guarantee that all manufacturers, models and functions are included in the system.

4.2. System Requirements

AVL DiTEST SCOUT requires MS Windows XP Professional or Windows 7 as well as Internet access by means of DSL with a speed of at least 1,000 kBit/s.

Internet access to AVL DiTEST SCOUT is optimised for Mozilla Firefox and MS Internet Explorer.

Malfunctions may occur when using other operating systems, browsers and security systems such as virus scanners, firewalls, etc. All liability on the part of AVL DiTEST in this regard is expressly excluded unless damage is caused wilfully or as a result of gross negligence.

4.3. Rights granted in AVL DiTEST SCOUT

AVL DiTEST grants the customer a simple, non-exclusive right to use AVL DiTEST SCOUT via a single testing system.

The agreement does not grant additional rights in AVL DiTEST SCOUT itself. In particular, AVL DiTEST reserves all publication, duplication, processing and exploitation rights. AVL DiTEST SCOUT is protected by copyright. Duplication of the software in its original or modified form, in whole or in part, is expressly prohibited.

The right to use AVL DiTEST SCOUT may only be transferred to a third party with the prior written consent of AVL DiTEST. Giving away, leasing or lending AVL DiTEST SCOUT is expressly prohibited. Furthermore, the customer is prohibited from transferring the license to use AVL DiTEST SCOUT to a third party, or otherwise making it available to a third party, without the prior written consent of AVL DiTEST.

The license to use AVL DiTEST Scout terminates concurrently with the termination of this agreement.

5. AVL DiTEST Technical Information XIS

5.1. Scope of Services

Comprehensive technical information system via the Internet comprising the following modules:

- Wiring diagrams
- Testing manuals
- Installation locations
- Error codes
- Measurement values

- Tips and tricks
- Repair manuals
- Service functions
- Default values
- Removal/Installation manuals
- Technical data

AVL DiTEST notes that information content and scope in AVL DiTEST XIS may vary by manufacturer and model. Accordingly, AVL DiTEST provides no guarantee that all manufacturers, models and functions are included in the system.

5.2. System Requirements

AVL DiTEST XIS requires MS Windows XP Professional or Windows 7 as well as Internet access by means of DSL with at least a speed of 1,000 kBit/s.

Internet access to AVL DiTEST XIS is optimised for Mozilla Firefox and MS Internet Explorer.

Malfunctions may occur when using other operating systems, browsers and security systems such as virus scanners, firewalls, etc. All liability on the part of AVL DiTEST in this regard is expressly excluded unless damage is caused wilfully or as a result of gross negligence.

5.3. Rights granted in AVL DiTEST XIS

AVL DiTEST grants the customer a simple, non-exclusive right to use AVL DiTEST XIS via single testing system exclusively for use in the customer's own business.

The agreement does not grant additional rights in AVL DiTEST XIS itself. In particular, AVL DiTEST reserves all publication, duplication, processing and exploitation rights.

AVL DiTEST XIS is protected by copyright. Duplication of the software in its original or modified form, in whole or in part, is expressly prohibited.

The right to use AVL DiTEST XIS may only be transferred to a third party with the prior written consent of AVL DiTEST. Giving away, leasing or lending AVL DiTEST XIS is expressly prohibited. Furthermore, the customer is prohibited from transferring the license to use AVL DiTEST XIS to a third party, or otherwise making it available to a third party, without the prior written consent of AVL DiTEST.

The license to use AVL DiTEST XIS terminates concurrently with the termination of this agreement.

6. GUARANTEE EXTENSION (VCI 1000)

6.1 Scope of Services

The guarantee extension applies only to the AVL DiTEST VCI 1000 itself and may be concluded for a maximum period of 36 months from the initial delivery date and only concurrently with the underlying agreement.

Products and accessories supplied with the AVL DiTEST VCI1000 are explicitly excluded from the warranty extension.

The following services are included in the agreed fixed fee:

- Transport costs
- Replacement device service in the case of repairs

Additional consumable parts and materials as well as other services/supplies not covered by temporary replacement device service will be invoiced at the then-applicable prices to the extent not related to warranty claims.

6.2 Replacement device service

The customer will be sent an equivalent temporary replacement device in original packing via freight forwarder / parcel service. The customer is responsible for installing the temporary replacement device at its premises itself and is responsible for ensuring connection to existing equipment.

The customer is required to have available the complete goods to be returned, in their original packaging, ready to be sent on the pick-up date indicated in the shipping slip for the exchange device. The customer will provide on-site access to the devices to persons commissioned by AVL DiTEST.

Any additional delivery or pick-up costs for the temporary replacement device which become necessary through no fault of DiTEST will be invoiced at cost.

Orders received before 14:00 are sent to the freight forwarder /

parcel service on the same day. Specific delivery dates or Saturday deliveries are possible in exchange for an additional fee. All orders within the scope of this agreement will be performed by parties commissioned by AVL DiTEST.

In all other respects, clauses A.13.5., 13.8 and 13.9 apply accordingly.

6.3 Customer obligations

Regular maintenance work required on a device, e.g. regular filter replacement, must be performed to the extent indicated. AVL DiTEST is released from its duty to perform if this obligation is not complied with.

6.4. Contents and scope

Within the scope of this guarantee agreement, AVL DiTEST guarantees to the customer that devices covered by the agreement will be free from manufacturing and material defects for the term of the agreement if maintained and used properly.

This guarantee commitment relates solely to the device itself. All additional cables, power supply lines, other accessories not permanently affixed to the device as well as all consumables are hereby excluded.

A supply/service provided during the guarantee period does not extend it and does not commence a new guarantee period.

6.5. Exclusions

The following are excluded from the guarantee:

- Damage resulting from the application of force, a lack of due care, improper, wilful or malicious handling.
- Damage resulting from the use of replacement parts, consumables or accessories which have not been explicitly approved as well as third-party parts.
- Damage resulting from accident, fire or explosion, theft, unauthorised use, storm, hail, lightning and excessive voltage or for which a third party supplier or contractor is responsible or resulting from commissioned repairs.

6.6. Customer obligations in the event of a guarantee claim

The customer is required to:

- immediately provide notice in writing or by telephone of damages covered by the guarantee including a reference to the existing guarantee service agreement.
- mitigate the damage to the degree possible and follow instructions from AVL DiTEST in this regard.
- upon request by AVL DiTEST, provide information necessary for assessing the damage and provide assistance in carrying out remote error diagnosis to the best of its ability.

AVL DiTEST is released from its duty to perform in the event one of the duties described above is violated.

6.7. Non-refundable costs

The following costs are not covered by the terms and conditions of the additional guarantee:

- Compensation for indirect or direct consequential damages, e.g. compensation for loss of use;
- Costs for all cables, power supply lines and other accessories not permanently affixed to the device to the extent another guarantee condition provides better coverage for the customer;
- Costs for all consumables on or in the device.

6.8. Transfer of ownership in the case of replacement devices

The provisions of clause A.6 of the AVL DiTEST General Terms and Conditions for Contracts with Commercial Customers apply to the transfer of ownership in relation to replacement devices.