

nexx.tv GmbH General Terms and Conditions

Part I – General Terms

1. Scope, Products, Orders

1.1 The following nexx.tv GmbH General Terms and Conditions (hereinafter “**nexx.tv T&C’s**”) shall form an integral part of all agreements between nexx.tv GmbH (hereinafter “**nexx.tv**”) and the person who or the legal entity that places an order with nexx.tv (such person or legal entity hereinafter “**Customer**”) to provide products and services, such as, but not limited to, temporary licensing of software tools, licensing of individually designed and developed software tools, training courses or individually customized trainings, and/or analysis and consulting services as well as further services in particular pertaining to the software tools licensed by nexx.tv (hereinafter “**nexx.tv Products**”).

1.2 The Customer may ask nexx.tv to offer any of the nexx.tv Products. Any proposal by nexx.tv shall be binding for fourteen (14) days from the date of its issuance to the Customer unless otherwise stated in the proposal itself. In order to be binding nexx.tv’s proposal shall include the draft of an order letter that lines out the particular scope and description of nexx.tv Products, fees and conditions. Upon nexx.tv’s receiving of such countersigned order letter from the Customer (hereinafter the “**Service Order**”) within due time, the Parties agree on the scope of the nexx.tv Products that nexx.tv shall actually provide to the Customer (hereinafter the “**Products**”).

1.3 The Service Order and the nexx.tv T&C’s together with its Annexes establish the binding contractual framework for the Products (hereinafter the “**Agreement**”). Any terms and conditions of the Customer varying of the Agreement shall not apply, unless they have been expressly acknowledged in writing by nexx.tv. In case of conflicts between the Service Order and the nexx.tv T&C’s, the provisions of the Service Order shall prevail.

1.4 The nexx.tv T&C’s comprise of Part I, containing general provisions that apply to all Products (hereinafter “**General Terms**”), and Part II, containing specific provisions that apply to the Products subject to their respective legal nature (hereinafter “**Specific**

Terms”). In case of conflicts between the General Terms and the Specific Terms applicable (sec. 1.6), the Specific Terms applicable shall prevail.

1.5 The Products are described in the respective statement of work that is attached to the Agreement as **Annex 1**. In case Annex 1 conflicts any provision contained elsewhere in the Agreement, the respective part of Annex 1 shall be null and void.

1.6 Subject to the particular nature of the Products or parts thereof, the respective subsections of the Specific Terms shall apply: Subpart 1 of the Specific Terms shall govern (parts of) Products that, by their legal nature, are provided for limited time period, i.e. rental-based (e.g. temporary licensing of software tools and/or storage by nexx.tv against payment) (such Products hereinafter “**Rental-Based Products**”). Subpart 2 of the Specific Terms shall govern (parts of) Products that include nexx.tv to take action without being obliged to deliver a particular result (e.g. consulting or training) (such Products hereinafter “**Services**”). Subpart 3 of the Specific Terms shall govern (parts of) Products that oblige nexx.tv to deliver a particular result (e.g. development of software) (such Products hereinafter “**Works**”).

2. General Obligations of the Parties

2.1 nexx.tv shall provide the Products in accordance with the provisions of the Agreement.

2.1 In order for Products to be provided in accordance with the Agreement, in particular the provision and operation of software and consultancy support by nexx.tv, the Customer shall upon nexx.tv’s reasonable request provide the requisite data and information from its own sphere to nexx.tv in a timely manner and at its own cost.

2.2 The Customer shall upon nexx.tv’s reasonable request provide at its own cost any requested support by way of personnel, means, information and/or infrastructure.

2.3 If the requested support, e.g. personnel, data or information are not provided in a timely manner, this may result in delays pertaining to the provision of Products by nexx.tv. If additional costs are incurred as a result of such delays, nexx.tv has the right to demand

reimbursement from the Customer.

2.4 The Customer agrees to electronic monitoring of the Products by nexx.tv for support and maintenance purposes, and to checks being performed on the configuration of, and compliance with the restrictions on use and the scope of use of the Products by the Customer.

2.5 The Customer is aware and agrees that the Products may contain technical precautions for ensuring compliance with the provisions of the Agreement. This may result in the Customer not being able to use the Products beyond the rights of use granted by nexx.tv.

3. Obligations of the Customer

3.1 The Customer shall be responsible for providing the requested facilities including hardware, software and internet connection necessary to properly use the Products. nexx.tv shall not be responsible for the acquisition or satisfactory working of the hardware, software or internet connection of the Customer or the third parties engaged by it.

3.2 Customer shall be solely responsible for the security of its systems and protecting it against malicious software and attacks on its systems.

3.3 The Customer shall ensure that the usage or publication of any media content (such as e.g. texts, graphics, audio or video documents) according to the Agreement which has been uploaded or integrated into the Products by or on behalf of the Customer – even by third parties or nexx.tv – (hereinafter jointly “**Customer Content**”) may not infringe any third party’s rights and does not breach any applicable laws. nexx.tv is under no obligation to check the legality of the Customer Content provided to it by the Customer or on behalf of the Customer or used by the Customer in connection with the Products. The Customer shall indemnify nexx.tv from any third-party claims or authority actions arising from the use or publication of Customer Content. This also includes the reasonable and actual costs for legal defence in this regard. nexx.tv’s right to assert additional claims for damages is reserved.

3.4 nexx.tv may offer as part of the Products the service of integrating payment, age checks, validations (e.g. pertaining to age limitations or ratings (FSK etc.)) and geo blocking services. Such services may only be offered and rendered in the way, quality and scope as

described in Annex 1. nexx.tv does in particular not provide any representation or warranty that users will not be able to circumvent such gateways by technical or other means. nexx.tv provides such services merely at current state of the art. Customer undertakes to provide – or have provided – the correct base information for the payment service, age validation or geo blocking via the agreed API to nexx.tv.

3.5 Personal data are processed by nexx.tv, in the course of providing the Products, in accordance with the data processing agreement, attached to the Agreement as **Annex 2**. The Customer bears sole responsibility for the permissibility of personal data processing, in particular for the permissibility of the provision and communication of such data.

3.6 nexx.tv reserves the right to refuse providing Products, in whole or in part, if and insofar as Customer Content is in breach of statutory regulations or is infringing third-party rights. In particular, the Customer must not use any email service that may be provided by nexx.tv in order to send or have send directly or indirectly spam mails. nexx.tv is under no obligation to store or to forward such emails. The same principle applies also to emails containing viruses, malware, or other harmful software. nexx.tv is entitled to filter out and delete such spam mails or virus/malware-infected mails. nexx.tv also has the right to temporarily block access to the respective Products, in particular to the software or to the email service, if there is reasonable suspicion of unlawful content or activities, or if a warning which is not obviously unsubstantiated has been issued by the party whose rights are allegedly infringed, or if investigations are conducted by the authorities. Such blocking shall be limited, as far as technically feasible and acceptable, to the Customer Content which allegedly infringes the rights of others. The block must be removed if suspicions are allayed. The Customer shall bear sole responsibility for the sending of emails otherwise complying with the applicable law, in particular the provisions of the German Unfair Competition Act (UWG) and the German Federal Data Protection Act (BDSG).

3.7 The Products may be subject to the protection of intellectual property rights, such as copyrights, patent rights, brand rights, utility and design patents, related rights as well as rights of use and exploitation, whether registered or not, including the right to register such rights, and know-how (hereinafter

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“**Intellectual Property**”). Intellectual Property may also include rights of third parties, in which nexx.tv is entitled to a right of use, in particular rights to an object and source code of computer software including related user, operation and development documentation. The Customer shall only make use of such Products to the extent that he has been granted a right of use by nexx.tv. The Customer’s rights guaranteed by mandatory law, however, remain unaffected.

3.8 The Customer is entitled to access and use software, the documentation and/or other information, data and material (referred to hereinafter as the “**Other Information**”) that nexx.tv provides under the Agreement, for the Customer’s own use only.

4. Term & Termination

4.1 Unless otherwise agreed, the Agreement shall become effective at the date the Service Order has been received by nexx.tv (hereinafter “**Effective Date**”). The Agreement shall remain in full force until it is effectively terminated in accordance with the following provisions (this period hereinafter “**Term**”).

4.2 Each Party may terminate the Agreement with a three (3) month notice period with effect to the second anniversary of the Effective Date and after this with effect to any further anniversary of the Effective Date.

4.3 The right of the Parties to terminate the Agreement for good cause remains unaffected. nexx.tv in particular may terminate the Agreement, in whole or in part, for good cause if:

- a) the Customer does not effect full payment in due time two (2) months in a row, or three (3) months within six (6) months;
- b) the Customer is unable to pay its debts when due or is deemed under applicable law to be insolvent;
- c) the Customer uses the Products in a way not compliant with any applicable laws.

4.4 Any termination shall require written form.

4.5 Except where otherwise expressly stated in the Agreement, the Customer shall cease to be entitled to use or make available the Products, the results of the use of the Products or the software, data or materials made available by nexx.tv for the purposes of the

Products once the Agreement has been terminated or expired.

5. Payment Terms

5.1 Customer shall pay to nexx.tv for the Products the prices and fees as outlined in the pertaining Service Order (hereinafter the “**Fees**”).

5.2 Every time Customer orders a Product which has not been in place by the time of his order, nexx.tv shall be entitled to a setup fee, the amount to be set in the Service Order. 50% of the setup fee shall become due upon issuance of the invoice at or after the Effective Date, 50% upon issuance of the invoice after acceptance of the Product setup by the Customer. Where no acceptance is required or agreed, the setup fee shall become due in full upon issuance of the invoice at or after the Effective Date.

Fees to be paid by the Customer for Rental-based Products shall become due on the fifth day of each month in advance for every upcoming month the respective Rental-based Products have been ordered for.

Where the Fees are triggered by the actual volume of usage of a Product by the Customer (e.g. number of sessions, volume of storage or volume of traffic) nexx.tv shall be entitled to claim additional fees in arrear with respect to actual usage that exceeds any prepaid usage based Fees. Such additional amount shall become due upon issuance of the invoice by nexx.tv.

In all other cases than above outlined, Fees shall become due at the date the invoice was issued to the Customer.

5.3 Fees are to be paid in full and without deduction fourteen (14) days after the respective due date at the latest.

5.4 The Customer may offset own claims only if and to the extent its respective claims have been acknowledged by a finally binding decision of the arbitration court or have been acknowledged by nexx.tv. The Customer can only assert a right of retention if its counterclaim relates to the same contractual relationship.

5.5 All invoiced amounts are in each case payable in EURO (€) and are exclusive of the applicable taxes such as VAT which shall be paid in addition at the relevant statutory rate.

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6. Liability

6.1 nexx.tv shall be liable without limitation in case of wilful action or gross negligence, for personal injury to life, body or health, under the terms of the Product Liability Act and to the extent of any written guarantee given by nexx.tv.

6.2 Without prejudice to the provision in clause 6.1 above, nexx.tv's liability in cases of negligence shall be limited to material breach of duties, i.e. for breach of duties that must be fulfilled for implementation of the contract to be possible, and which the Customer can generally rely upon as being complied with. In the event of a material breach of the Agreement due to minor negligence, the liability of nexx.tv shall be limited to the typical damages and/or to the typical damages that were reasonably foreseeable at the time the Agreement was concluded.

6.3 Without prejudice to the provision in clause 6.1 above, where applicable, strict liability of nexx.tv pursuant to Section 536a BGB is explicitly excluded for defects that already existed at the time the Agreement was concluded.

6.4 The above limitations of liability shall also apply to damage caused by a subcontractor and/or vicarious agent of nexx.tv, and to the personal liability of the employees, representatives and executive bodies of nexx.tv.

6.5 Claims to damages by the Customer on the basis of the liability borne under clause 6.1 above shall be barred by limitation in accordance with the statutory regulations. The statutory period of limitation for other claims to damages by the Customer is one (1) year. It begins at the end of the year in which the claims arose and the Customer obtained knowledge of the circumstances justifying the claim and the person who owes the damages, or in which the Customer failed to acquire knowledge due to gross negligence on its own part, but no later than five (5) years after the claim arose and no later than ten (10) years after commitment of the action, the breach of duty or whatever other event gave rise to the damages.

6.6 Without prejudice to the aforesaid provisions, contributory negligence caused by the Customer, for example, the inadequate provision of cooperation, shall lessen the amount of any claims for damages according to the respective amount of the contributory negligence. The Customer is particularly obliged to

backup any of its data and protect against malicious software using the latest technology and according to the reasonable risk involved.

7. Confidentiality

7.1 The Parties shall observe secrecy in respect of all confidential information that they obtain knowledge of in connection with the Agreement or Products, and shall not disclose that information to third parties – for whatever purpose – unless the respective other Party has given its prior written consent. Confidential information means any information which is explicitly designated as such by the Party providing the information, and any information that is confidential on account of the circumstances in which it is provided. Confidential information also includes software, its structure, design and code, documentation and source materials, as well as the know-how, techniques and concepts of the software that is part of the Products.

7.2 The obligations pursuant to clause 7.1 above shall not apply to information or parts thereof if the receiving Party can prove that the information

- a) was already known or freely available before it was received,
- b) was in the public domain or freely available before the date of receipt, or
- c) was in the public domain or freely available after the date of receipt, without the Party receiving the information being responsible for that fact.

7.3 The obligations in clause 7.1 above shall remain in force for an indefinite period beyond the expiry or termination of the Agreement, namely for as long as no exception pursuant to clause 7.2 has been proven.

7.4 In each case of a breach of the provisions of this clause 7 by the Customer, its employees or officers, the Customer shall pay to nexx.tv a penalty in the amount of EUR 250.000,00. Any further claims for damages by nexx.tv remain unaffected.

8. Subcontractors

8.1 nexx.tv is entitled to arrange for all and/or parts of the Products to be provided by subcontractors, including affiliated companies according to Section 15 ff. AktG. All subcontractors conform to the BDSG. If and insofar as order data are processed, an agreement has

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been concluded with the subcontractor in accordance with Section 11 BDSG.

8.2 To the extent any damages of Customer has been caused by a subcontractor or vicarious agent of nexx.tv Customer shall raise his claims against this subcontractor or vicarious agent directly. nexx.tv shall only be responsible for the reasonable choice of its subcontractors.

8.3 To the extent Customer nominates particular third parties to be integrated into the provision and rendering of the Products (such as e.g. live cam providers or payment providers) nexx.tv shall not be responsible for the service performance of such third parties or the availability of the third parties content or services by way of the Products.

9. Non Solicitation

During the term of the Agreement and for one (1) year after termination, neither Party shall without the prior written approval of the other Party, solicit nor entice the employment or employ the personnel of the other Party who have been directly and significantly involved in this Agreement. The foregoing shall not prevent either Party from employing individuals who initiated employment related contacts and discussions with such Party without any solicitation or enticement or similar initiative by that Party.

10. Escalation / Resolving of Disputes

10.1 The Parties agree to make reasonable efforts to mutually settle all disputes arising in connection with the Agreement. In case such dispute arises, both Parties are obliged to declare their position in writing.

10.2 In case the Parties have not settled their dispute within thirty (30) days after the first Party has provided the other Party with their position in writing, the Parties will, without undue delay, set up a steering committee. The steering committee is composed by a member of the executive boards of nexx.tv and a member of the executive board of the Customer. If the steering committee does not resolve the dispute within sixty (60) days after the first Party has provided the other Party with their position in writing, the Parties may have recourse at the competent court of arbitration.

10.3 All disputes of the Parties arising in connection with this Agreement shall exclusively and

finally be settled by arbitration according to the arbitration rules of the Deutsche Institut für Schiedsgerichtsbarkeit e.V. (DIS). The Place of arbitration shall be Munich, Germany. The number of arbitrators shall be three (3), unless the Parties agree otherwise. The right of each Party to seek injunctive relief at the competent courts of jurisdiction remains unaffected.

11. Miscellaneous

11.1 The Agreement shall be governed by the laws of Germany without regards to its conflicts of law provisions. The UN Convention on the International Sale of Goods (CISG) shall be excluded.

11.2 The Agreement constitutes the entire understanding of the Parties. No other oral or written understanding has been made pertaining to the scope and subject of this Agreement.

11.3 In case a provision of the Agreement should be invalid or unenforceable or in case that this Agreement has a gap, the other provisions of this Agreement remain unaffected. The Parties are obliged to agree to the replacement of the invalid or unenforceable provision with a valid and enforceable provision or to an amendment of this Agreement for the missing provision. If and insofar there is a gap in the provisions of this Agreement, the Parties shall agree to a valid and enforceable provision which comes closest to what the Parties would have agreed to, if they had known about the gap from the beginning.

11.4 Changes and amendments to this Agreement shall only be effective if made in writing. This shall also apply to any amendment of this provision itself.

11.5 The Customer shall not assign or transfer any of the rights and obligations under this Agreement, unless mutually agreed otherwise by the Parties in writing.

11.6 Compliance with the written form requirement of the Agreement shall require the transmission of a signed original declaration by post or by fax to the other party. The written form requirement is not complied with by electronic transmission or text form.

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12. Modification of the nexx.tv T&C's

12.1 nexx.tv may decide to modify and/or amend (parts of) the nexx.tv T&C's at any time. nexx.tv is obliged to inform the Customer of the intended modifications and/or amendments by providing the Customer with the revised version of the nexx.tv T&C's (hereinafter "**Revised nexx.tv T&C's**"). However, the Revised nexx.tv T&C's will become an integral part of the Agreement and replace the version of the nexx.tv T&C's agreed between the Customer and nexx.tv, only if the Customer agrees to the Revised nexx.tv T&C's.

12.2 The Revised nexx.tv T&C's shall be considered as accepted by the Customer, if the Customer does not object to them within one (1) month after he has been provided with the Revised nexx.tv T&C's in text form. nexx.tv will inform the Customer about this period and the legal consequences connected therewith when providing the Customer with the Revised nexx.tv T&C's.

12.3 In case the Customer objects to the Revised nexx.tv T&C's as described above, both Parties shall be entitled to terminate the Agreement giving fourteen (14) days prior written notice.

Part II – Specific Provisions

Subpart 1 – Rental-Based Products

II. 1. Rights of Use for Rental-Based Products

II.1.1 nexx.tv grants the Customer a simple, non-exclusive, non-transferrable right of use, pertaining to the Intellectual Property that is part of the Rental-Based Products, for the Term.

II.1.2 In case nexx.tv shall – as part of Products – provide the Customer with software (hereinafter "**Product Software**"), nexx.tv shall – unless otherwise agreed – provide the Product Software by way of software-as-a-service which involves a hosted solution installed on a server controlled by or on behalf of nexx.tv, and accessible via the internet. In any case, the Customer does not have any right to grant access to the Product Software of its own accord, or to operate a data processing centre for the Product Software.

II.1.3 If nexx.tv issues new releases, updates or upgrades of the Product Software (e.g. as a result of its warranty obligation) during the Term the above rights of

use shall apply accordingly thereto.

II.1.4 The Customer has no right:

- a) to use Intellectual Property beyond the agreed scope of use, or to allow third parties to do so;
- b) to modify the Products provided by nexx.tv and/or delete copyright notices;
- c) to provide third parties with access to the Products, or
- d) to copy the Products or to provide the Products for an unlimited time period, and in particular to sell, lease out or lend the Products.

II. 2. Warranty for Rental-Based Products

II.2.1 Any defects in the Rental-Based Products shall be handled by nexx.tv after due notification of the defect by the Customer. Warranty claims regarding the Rental-Based Products are governed by the warranty laws pertaining to rental agreements.

II.2.2 The Customer has no right to terminate the Agreement due to non-provision of use, within the meaning of Section 543 (2), Sentence 1, No. 1 BGB, unless the re-establishment of contractual use is deemed to have failed.

II. 3. Service Levels

II.3.1 To the extent the Products or parts thereof are to be hosted on a server owned, leased or rented by, or otherwise (contractually) controlled by nexx.tv, and the Products include nexx.tv's obligation to make the Products available over the internet, nexx.tv owes the availability stipulated in sec. II.3.2 below at the Internet node of the data centre in which the respective server is located (hereinafter "**Service Levels**").

II.3.2 The Products shall be provided to the Customer continuously for twenty-four (24) hours a day, seven (7) days a week, and with an availability of at least 99.1% on average over a month. Down times due to maintenance, in accordance with sec. II.3.3 below, and down times in which the server is out of service due to technical or other problems that are beyond the immediate control of nexx.tv are excluded from the calculation of system availability. 100% availability is calculated as the number of minutes per calendar month (= 30 x 24 x 60). The measurement interval for

determining the contractual availability is five minutes; in the event of system failure, new measurements are conducted every minute until the Products are available again. The Products are deemed to be unavailable when no response to a query submitted by the monitoring tool used by nexx.tv is received from the server within 60 seconds.

II.3.3 Regular, routine maintenance work is generally carried out on Mondays to Thursdays between 2 am and 8 am German Time, except on statutory holidays at the seat of nexx.tv.

II.3.4 In the event of more extensive maintenance work or adjustments to the system as a whole that have an impact on the usability of the Products, nexx.tv shall inform the Customer, as far as possible, if reasonably feasible five (5) working days in advance.

II.3.5 The Customer shall inform nexx.tv immediately of any failure or disruption that occurs when using the Products.

II.3.6 The provisions of this sec. II.3 shall not apply to the extent that (parts of) the Products are subject to the availability of data material, services provided by third parties other than subcontractors of nexx.tv (e.g. streaming content that is hosted by a third party).

Subpart 2 – Services

II. 4. Quality of Services

II.4.1 nexx.tv shall make commercially reasonable efforts to perform the Services to the best of its ability in accordance with the Agreement.

II.4.2 nexx.tv shall however not be liable for a particular result of the Services.

II. 5. Additional services

II.5.1 In case the Parties have agreed on a certain period of time nexx.tv has to render the Services for (e.g. in man-days), any services provided by nexx.tv that exceed this period have to be paid by the Customer according to the price list.

Subpart 3 – Works

II. 6. Works

II.6.1 Customer may order the development, delivery and licensing of a Work as described in the Service Order and the respective Statement of Work.

II.6.2 nexx.tv shall prepare as part of the Service Order a statement of work to be done for the provision of the Works, satisfying the functional requirements agreed upon (hereinafter “**Statement of Work**”). The Statement of Work shall include:

- detailed specifications for the Works
- a listing of all items to be delivered to Customer under this Subpart 3 (hereinafter “**Deliverables**”)
- a delivery schedule for the Deliverables
- the prerequisites and the system requirements for the full functionality of the Works
- a description of functionalities and items out of scope.

II.6.3 nexx.tv is not obliged to conduct any installation and/or deployment services with regard to the Works if not set out otherwise in the Service Order.

II. 7. Changes to the Statement of Work

II.7.1 If any time after acceptance of the Statement of Work by Customer, Customer should desire a change in nexx.tv’s performance under the Service Order that will alter or amend the specifications or other elements of the Statement of Work, Customer shall submit to nexx.tv a written request specifying the desired changes. nexx.tv will evaluate such request at its standard rates and charges. nexx.tv shall submit to Customer a written response to each such request within ten (10) working days following receipt thereof. nexx.tv’s written response shall include a statement with regard to the impact the proposed changes will have on the Fees and the delivery dates under the Service Order.

II.7.2 Changes to the Statement of Work shall be evidenced by a “**Statement of Work Modification Agreement**”, which shall be agreed by both Parties in writing. Prior to its signature of the Statement of Work Modification Agreement, nexx.tv shall not be obligated to perform any services beyond those included in the Statement of Work.

II. 8. Acceptance

II.8.1 Customer shall accept the Work unless it shows material defects pertaining to the functionalities as agreed in the Statement of Work. Thus, the Parties

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agree that:

- a) Acceptance shall take place after delivery of the Work to the Customer.
- b) Upon delivery of the Work, nexx.tv will proof by way of reasonable acceptance tests the existence of all substantial functions and features as agreed in the Statement of Work. Upon Customer's request and cost, nexx.tv will deploy test data as provided by the Customer and particular additional tests as the Customer might deem necessary for a test close to its use in the usual course of work.
- c) In case the Work passes the acceptance test the Customer shall be obliged to sign upon nexx.tv's request a written confirmation of acceptance. Any detected insubstantial defects of the Work will be included in the confirmation of acceptance.
- d) The Parties may agree to perform partial acceptances accordingly upon achievement of any agreed milestone.
- e) Acceptance may only be refused due to substantial defects. The delivery of the Work shall be deemed completed and finally accepted by the Customer on the date when the Work has been in the production use continuously for a period of thirty (30) days without any substantial defects being notified to nexx.tv.
- f) Insubstantial are defects that interfere business processes only of minor functionality (the user is able to perform the functionality at least by way of an available work around with minor difficulties, e.g. unexpected results or missing plausibility checks); or defects that have impact on test execution processes, business acceptance tests or operational systems, but only minor impact on business functionality. The user is able to perform the functionality but the functionality is not user friendly or literal errors are remaining.

II.8.2 By the moment the Works have been finally accepted or are actually ready for final acceptance and presented to the Customer any payment milestones

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pertaining to the acceptance of the Works shall become due.

II. 9. Warranty for Works

II.9.1 Subject to sec. II.9.2, nexx.tv warrants for the period of twelve (12) months from the acceptance date on (hereinafter the "**Warranty Period**") that the Works will substantially conform to the requirements set out in the Statement of Work. However, in the event of willful misconduct or gross negligence of nexx.tv, death or bodily injury as well as fraudulent concealment of defects and explicit guarantees, the statutory warranty period shall apply.

II.9.2 nexx.tv does not warrant:

- a) The performance of the Works outside the scope of the Statement of Work and the provided documentation, unless it has been expressly agreed in writing between Customer and nexx.tv;
- b) the use of the Works with any third party software not delivered by nexx.tv nor third party services if such third party software or third party services cause the problem(s) reported by Customer;
- c) Work related problems caused by misuse, improper testing, unauthorized attempts to repair, modifications or customizations to the Work by Customer.

II.9.3 Should a warranty breach occur during the Warranty Period, nexx.tv will, at its sole discretion and expense either:

- a) repair the Works or parts therein;
- b) replace the Works or parts therein; and
- c) if nexx.tv cannot reasonably repair or replace the Works or parts therein within a reasonable time period which shall be in any event not less than one (1) month, the Customer shall have the right either to demand a reduction in the Fees or to rescind from the respective Service Order, in which case nexx.tv shall refund the Fees paid for the Works or parts therein.

Bankverbindung:
SSK München
Kontonummer: 1002 132 049
BLZ: 701 500 00
IBAN: DE62 7015 0000 1002 1320
BIC: SSKMDEMXXX
Swift (BIC) HYVEDEMXXX

II.9.4 The Customer shall notify nexx.tv and provide all the information that may be necessary to assist nexx.tv in resolving the defect or fault (including a documented example of any defect or fault, or sufficient information to enable nexx.tv to re-create the defect or fault).

II.9.5 Where a Customer notifies nexx.tv of a suspected warranty breach where there is no such breach, nexx.tv reserves the right to charge Customer for associated costs of the required review, which shall be calculated in accordance with the then current price list.

II. 10. Rights of Use for Works

II.10.1 Unless expressly otherwise agreed, nexx.tv grants the Customer a simple, non-exclusive, non-

transferrable right of use, unlimited in time, pertaining to the Intellectual Property rights of nexx.tv that is part of the Works.

II.10.2 The Customer has no right:

- a) to use the Intellectual Property beyond the agreed scope of use, or to allow third parties to do so;
- b) to provide and/or sell the Works to any third party without fully deleting any copies of the Works within his area of responsibility.

II.10.3 nexx.tv is not obliged to provide the Customer with (parts of) the source code of the Products, unless the Parties expressly agree otherwise in writing.

Munich, February 2014