



END USER LICENSE AGREEMENT (EULA)

Please read carefully the following legally binding Agreement between RSCS and Licensee (as defined below) for the Products defined below. By selecting the accept option, installing, copying or otherwise using the Products, Licensee acknowledges that Licensee has read, understands, and agrees to be bound by the terms of this Agreement. If Licensee does not agree with the terms of this Agreement, do not install or otherwise use the Products.

If Licensee does not agree with any of the terms or conditions of this Agreement, Licensee is not authorized to use the Products for any purpose whatsoever. Maintenance (updates and/or upgrades) and Support are subject to a separate "Maintenance & Support Services Agreement".

Where a VAR provides the Products for Licensee and/or installs or activates the Products on Licensee's behalf prior to Licensee's use of the Products, such VAR will be deemed to be Licensee's agent acting on Licensee's behalf and Licensee will be deemed to have accepted all of the terms and conditions of this Agreement as if Licensee had directly downloaded, installed or used the Licensed Products.

1. Definitions

For purposes of this Agreement, capitalized terms shall have the following meanings:

- 1.1 **"Agreement"**: means this document, the End User License Agreement (EULA).
- 1.2 **"Appliance"**: means the product supplied by RSCS and/or the VAR encompassing Appliance Software and Appliance Hardware.
- 1.3 **"Appliance Hardware"**: means the Third Party Hardware component of the Appliance. Appliance Hardware corresponds to the Designated Server of the Appliance Software.
- 1.4 **"Appliance Software"**: means the Software integrated in the Appliance. The Appliance Software is supplied solely in combination with the Appliance Hardware.
- 1.5 **"RSCS"**: means Rohde & Schwarz Cybersecurity SAS, having its registered office at Parc Tertiaire de Meudon, 9-11 Rue Jeanne Braconnier, 92366 Meudon, and which is registered with the Nanterre register of trade and commerce under the number 529 108 615.
- 1.6 **"Designated Server"**: means the hardware and/or virtual configuration with its operating system, on which the Software is to be stored and used. Each Designated Server shall be designated by a unique "HostID" parameter, which will be its single reference within RSCS's information system. The Designated Server shall be the property of Licensee and/or of a third party as declared to RSCS and mentioned in the Order.
- 1.7 **"Documentation"**: means, whatever the media, any description, manual, listing, log, datasheet, protocol, or report necessary for the use of the Product and supplied with the Product, as available.
- 1.8 **"Effective Date"**: means the date from which RSCS shall begin the performance of the Agreement. The Effective Date is the date of signature of the Agreement by the Parties or, if any, the date specified in the Order.
- 1.9 **"Fee" or "Fees"**: means, collectively, the Hardware Fee (if applicable) and the Products Fee. The Maintenance and the Support fees are subject to a separate "Maintenance & Support Services Agreement".
- 1.10 **"Hardware Fee"**: means the sums payable by Licensee in consideration of the transfer to Licensee of title to the Appliance Hardware in accordance with the terms and conditions set forth herein.
- 1.11 **"Instance Number"**: means the highest number of processes between caching and filtering processes of the Software and/or Appliance Software which shall be executed on the Designated Server. The Instance Number shall be set forth in the Proposal but will in no event exceed five (5) virtual hosts per filtering process.
- 1.12 **"Intellectual Property Rights" or "IPR"**: means copyrights, database rights, patents, trademarks, design rights, trade secrets and all other similar proprietary rights, whether registered or unregistered.
- 1.13 **"License"**: means the right to use the Software and/or Appliance Software and Documentation, as described in Article 6.1.
- 1.14 **"License Key"**: means the unique, alphanumeric code provided by RSCS and necessary for the use of the Software. A temporary License Key is provided by RSCS upon acceptance of the Order. Upon the complete payment of the corresponding Price, RSCS provides a License Key valid for the duration of the protection of the Software by the IPR.
- 1.15 **"Licensee"**: means the purchaser of the license rights granted by this Agreement. **"Licensee's"**: means belonging to Licensee or engaged by Licensee or otherwise pertaining to Licensee as the context so allows, whether on a temporary basis or otherwise.
- 1.16 **"Maintenance"**: means collectively Upgrades and/or Updates (where applicable to the Products). Maintenance is subject to a separate "Maintenance & Support Services Agreement" and separate fees.
- 1.17 **"Order"**: means an order for Products and/or Services sent to RSCS and/or the VAR in writing by Licensee in application of this Agreement and signed by an authorised representative of Licensee.
- 1.18 **"Parties"**: means RSCS and Licensee. **"Party"**: means either RSCS or Licensee.
- 1.19 **"Personnel"**: means RSCS's employees, agents and/or subcontractors assigned by RSCS for the performance of the Agreement.
- 1.20 **"Price"**: means the price for the Products and/or Services.
- 1.21 **"Price List"**: means the then current standard prices for each of the products and services available from RSCS.
- 1.22 **"Products"**: means the Software and/or Appliance to be supplied by RSCS and/or the VAR together with its related Documentation. The Products are described in the Proposal.



- 1.23 **"Products Fee"**: means the sums payable by Licensee in respect of a License to use the Products for the License Term.
- 1.24 **"Proposal"**: means an offer from RSCS and/or the VAR describing the Products and/or Services supplied, the Price, the estimated delivery schedule and any additional terms and conditions.
- 1.25 **"Services"**: means the services performed by RSCS which may include installation services. The Services are described in the Proposal.
- 1.26 **"Site"**: means the installation site(s) and/or Licensee premises to which any Product and/or Services are to be used. The Site is indicated in the Order.
- 1.27 **"Software"**: means software owned or distributed by RSCS, listed in the Proposal, in machine-readable object code form including copies on magnetic, optical or other media, and related Documentation, in its release as set forth in the Proposal. The Software includes a filter and a cache component and may include Third Party Software.
- 1.28 **"Support"**: means support services provided by RSCS and/or the VAR. Support is subject to a separate "Maintenance & Support Services Agreement" and separate fees.
- 1.29 **"Third Party Hardware"**: means the hardware manufactured by third parties providers.
- 1.30 **"Third Party Software"** means the software manufactured by third parties providers, as listed in the Documentation and in the Proposal.
- 1.31 **"Value-Added Reseller"** or **"VAR"**: means any entity which, according to an agreement entered into with RSCS, is entitled to distribute the Products and/or the Services to Licensee.

2. Purpose

The purpose of this Agreement is to set forth the technical, legal and financial terms on which RSCS will supply the Products and/or the Services.

3. Order

The provisions of this Agreement shall apply to all Orders placed by Licensee to RSCS and/or the VAR in relation to the Products and/or the Services. Licensee's standard terms and conditions of purchase are expressly excluded.

The Order shall contain, *inter alia*, the following information and references:

- a) the description and Price of the Product and/or Service;
- b) the reference to this Agreement;
- c) the Effective Date if different from the date of signature of the Agreement;
- d) the Site's address and the date of delivery;
- e) the Designated Server;
- f) the name of Licensee's duly authorized signatory

Each Order shall be sent in two (2) original copies to RSCS and/or the VAR by fax, by electronic format or any other means agreed between RSCS and/or the VAR and Licensee.

RSCS will have five (5) days to accept the Order by returning a signed copy of the Order to Licensee. Over this period the Order will be considered as refused.

4. Precedence

In the event of discrepancies between the contractual documents below, the following order of precedence shall apply as regards the interpretation of the relevant obligation (beginning with the document with the highest priority):

- a) the Proposal with its Exhibits;
- b) the Agreement;
- c) the Order ;
- d) the Rohde & Schwarz Cybersecurity SAS General General Conditions for Deliveries and Services for Use in Transactions with Business Customers from March 2012.

5. Duration

The Agreement shall be effective as from the Effective Date. Unless earlier terminated the duration of the Agreement is the following:

- 5.1 Concerning the License granted on the Software and Appliance Software described in Section 6.1, the duration of the protection of the Software and Appliance Software by IPR, and
- 5.2 Concerning the Services, the duration necessary for the performance of the Services as set forth in the Proposal.

6. Intellectual Property Rights and License granted

- 6.1 Upon delivery of the License Key and/or relevant Appliance as applicable, and provided Licensee has paid the applicable Fees, RSCS grants Licensee, a personal, non-transferable and non-exclusive license to use the Software and/or Appliance Software and the Documentation, solely in connection with the Designated Server, on the Site, for the Instance Number and solely for Licensee's internal business purposes which shall not include the internal business purposes of Licensee's subsidiaries or affiliates, unless specified in writing by RSCS (the "License"). During the term of this Agreement, Licensee authorizes RSCS to check that the use of the Product by Licensee complies with the terms and conditions of the Agreement. Licensee undertakes to grant to RSCS's personnel in charge of such audit access to the premises and hardware at which and with which the Software or Appliance Software is used and to cooperate in good faith with RSCS in the performance of such audit. Audits shall be conducted during Licensee's normal working days and hours and shall not unreasonably interfere with Licensee's activities. RSCS will not conduct audits more than once a year. In case such audit reveals any non-compliance with the Agreement, RSCS shall have the right to (i) charge Licensee the price for the actual use by Licensee of the Software and/or Appliance Software and Documentation and (ii) the cost for the audit; and/or (iii) to terminate the Agreement.
- 6.2 The Software and/or Appliance Software may contain parts that are subject to separate terms of use of third parties (for example, any third-party standard software or open source software) that take precedence over the provisions set out in this Section 6. RSCS offers further information about such parts and their separate terms of use at <https://documentation.appsec.rohde-schwarz.com/display/ALLDOC/Legal+Notices>. RSCS reserves the right to introduce deviating or additional terms of use of third parties in the course of modifications of the Software and/or Appliance Software and in case of updates to the extent necessary due to additional third-party components or due to changed third-party license terms. The Licensee may modify the Software for the Licensee's own use and at the Licensee's own risk and reverse engineering for debugging such modifications is permitted.



- 6.3 In the event that, and only for so long as, Licensee's Designated Server is not operative, Licensee may temporarily use the Software on backup equipment provided that Licensee informs RSCS of this in advance and in writing. As soon as the Designated Server operates again, Licensee shall immediately inform RSCS and the Software shall be destroyed from the backup equipment. In the event that Licensee decides to transfer the Software definitively from the Designated Server to another equipment, Licensee shall inform RSCS in writing and destroy the Software from the initial Designated Server. In any case whatsoever, the Software shall not be transferred to any third party equipment and/or Site. Licensee is not authorized to use the Appliance Software in connection with another hardware.
- 6.4 The following provisions are not applicable to Appliance:
- 6.4.1 Licensee will not disassemble or decompile the Software. If Licensee intends to do so in reliance on statutory rights, it will first give RSCS a minimum 3 calendar month notice of its intention, in order for RSCS to provide relevant information.
- 6.4.2 Licensee may reproduce the Software, only as necessary for reasonable backup or archival purposes, provided, however, that all such Software copies are considered Software subject to this Agreement and include the same proprietary and copyright notices and legends originally supplied by RSCS. Otherwise the Software may not be copied, reproduced or used in whole or in part without the prior written consent of RSCS.
- 6.5 All IPR relating to the Products shall remain at all times and for all purposes with RSCS or with third parties from whom RSCS has acquired licensed rights. All operating instructions, manuals and other Documentation referencing the Products and supplied by RSCS and/or the VAR are the property of RSCS or third parties and cannot be copied or disclosed to any third party without the prior express written consent of RSCS. Licensee is not granted any IPR on the Products, or in any trademarks, service marks, words, symbols or other trademarks used, adopted or owned by RSCS or by any third party owners either alone or in association with other words or names. All rights not expressly granted by RSCS under the Agreement, and in particular, the right to correct errors and bugs, are reserved.

7. Licensee's obligations

Licensee undertakes to carry out the tasks and to perform its own obligations pursuant to the Agreement and, in particular:

- 7.1 To proceed to the applicable validations and acceptance reactively
- 7.2 To provide adequate office accommodation and other facilities reasonably required by RSCS and/or the VAR on Licensee's Site for RSCS's performance of the Services, if so required by RSCS and/or the VAR, including access to Licensee's information system(s) and related areas as necessary during normal office hours, and outside such hours by prior arrangement.
- 7.3 To take out, at his expenses, adequate insurance coverage for the Personnel working on Licensee's Site, for the duration of the Agreement.
- 7.4 To designate a co-ordinator to liaise with RSCS and to inform RSCS in writing, if relevant, to act as Licensee's project manager, this individual to have full authority to consult with and to communicate decisions to RSCS for and to act for and on behalf of Licensee.
- 7.5 To ensure that Licensee employees employed to operate its computer system(s) or use the Product are trained to RSCS's reasonable satisfaction and to take reasonable account of any RSCS's and/or the VAR's recommendations concerning staff suitability or training needs.
- 7.6 To notify RSCS at least one (1) month in advance of any changes to its information system(s). RSCS reserves the right to amend its Price if such changes increase the scope or nature of the Services and/or Product.
- 7.7 To implement promptly any fixes and/or new releases of Product deemed necessary and made available by RSCS or third parties, at their own option, for the successful operation of the Product.
- 7.8 To institute and operate all necessary backup procedures to enable lost data to be recovered within time-scales adequate for its business, regardless of the cause of the lost data, and to take out any insurance it considers necessary to afford it complete protection from the consequences of lost data.

8. RSCS's obligations

RSCS undertakes to supply the Products and perform the Services, if any, diligently, applying reasonable skill and expertise in accordance with the Agreement, and in particular with the Proposal.

9. Personnel

RSCS is solely responsible for the skills and availability of its Personnel. The Personnel shall comply with the relevant health and safety rules in effect at Licensee's Site, where applicable.

10. Delivery, title and risks

- 10.1 Risks to Products will pass to Licensee upon delivery.
- 10.2 **Appliance:** Delivery of the Appliance will be made to the Site that is set forth in the Order and will give rise to the signature by Licensee of a delivery order. Title in Appliance Hardware shall be transferred to Licensee upon the entire payment of the Price. Should the Site be outside the European Union, Licensee shall bear costs, expenses, taxes and risks related to the transportation of the Appliance to the Site. In such case, the delivery is considered as occurred when RSCS transfers the Appliance to the carrier appointed by Licensee.
- 10.3 **Software:** Delivery of the Software will be made upon (i) supply by RSCS of the relevant License Key; and (ii) download by Licensee of such Software on its Designated Server which cannot take place more than two (2) calendar days after the delivery of the License Key.

11. Installation and Acceptance

- 11.1 Licensee will be solely responsible for the installation of the Products unless otherwise stated in the Proposal. In such case, RSCS disclaims any liability arising from acts or omissions of Licensee in connection with installation.
- 11.2 **Products Acceptance:** acceptance of the Products takes place upon delivery. Licensee will have two (2) calendar days upon delivery of the Products to perform the acceptance of such Products and check compliance of such Products against the Proposal and/or relevant Documentation. In case Licensee does not notify to RSCS any non-conformity during these two (2) days, the relevant Product will be deemed accepted by Licensee. In case Licensee notifies to RSCS non-conformity during these two (2) days, RSCS will correct the non-conformity and the related Product will be deemed accepted by Licensee upon the correction of the non-conformity.
- 11.3 **Services Acceptance:** upon completion of the Services, RSCS will consider acceptance of the Services as taking place eight (8) working days after relevant supply to Licensee. In case Licensee does not notify to RSCS any non-conformity during these eight (8) days, the relevant Services will be deemed accepted by Licensee. In case Licensee notifies to RSCS non-conformity during these eight (8) days, RSCS will correct the non-conformity and the related Services will be deemed accepted by Licensee upon the correction of the non-conformity.



12. Price and payment

- 12.1 Licensee shall pay RSCS and/or the VAR the Price defined in the Proposal. The Price is expressed in Euros, net of taxes and any expenses. VAT will be applied at the rate in force on the invoicing day.
- 12.2 RSCS expenses, such as accommodations or travel expenses are refunded by Licensee on the basis of copies of documents in proof of the actual expenses unless otherwise provided in the Proposal. Facilities costs (office, equipment, telephone connections) on the Site shall be borne by Licensee.
- 12.3 RSCS and/or the VAR will invoice Licensee upon delivery unless otherwise set forth in the Proposal.
- 12.4 Invoices are due and payable within thirty (30) days after invoice date. Past due amounts will bear interests equal to three times the French legal interest rate until the total payment, it being understood that beyond thirty (30) days of non-payment, RSCS can suspend the performance of the Agreement.

13. Confidential information

- 13.1 "Confidential Information" means the Agreement, software code and benchmark tests for the Products, Documentation, pricing, RSCS methods and tools, Products roadmap, financial information, data and all other information reasonably believed to be confidential, except if (i) the receiving Party was already aware of it before receiving it or already had it freely available; or (ii) the Information is in the public domain; or (iii) the information must be disclosed pursuant to court order. The Parties will keep each other's Confidential Information secret and will use that information only to fulfill the rights and obligations under the Agreement.
- 13.2 Upon termination or expiration of the Agreement all Confidential Information will be returned promptly to the disclosing Party and all copies destroyed.

14. Personal Data Protection

- 14.1 The Parties shall comply with all applicable personal data protection laws. Each Party confirms that it will obtain from its employees, contractors or third parties all the necessary consents to the processing of personal data by the other Party within the framework of any personal data processing carried out under this Agreement.
- 14.2 Case in which RSCS is controller. Within the framework of this Agreement, RSCS processes the Licensee's personal data for the purpose of managing the customer relationship, for the term of the Agreement. The recipients of these collected data are the internal departments of RSCS and its service providers, all based in the European Union. The Licensee has a right of access, rectification, objection, restriction and erasure of personal data and a right to the portability of data. To exercise these rights or for more information about this processing, a request may be sent to: gdp.r.acs@rohde-schwarz.com
- 14.3 Case in which RSCS is processor. The Customer shall be considered the sole controller within the meaning of the GDPR of data processed within the framework of use of the Products and Services, thereby requiring it alone to comply, with regard to such data, with the aforementioned regulation, and particularly to complete all mandatory prior formalities with the CNIL incumbent upon it. If personal data are processed on behalf of the Licensee by RSCS, and in accordance with Article 28 of the GDPR, an appendix shall be signed by the Licensee and RSCS, at the Licensee's request, specifying in particular the duration, nature and purpose of the processing, the type of personal data and the categories of data subjects, as well as the controller's rights and obligations

15. Appliance Hardware warranty

RSCS warrants that it has good title to or right to sell and/or to entitle the VAR to sell the Appliance Hardware to Licensee. The Appliance Hardware warranties granted to Licensee are the one granted by the manufacturer of the Appliance Hardware, to the exclusion of any other warranties. These warranties are described in the Documentation.

16. Software and Appliance Software Warranty

- 16.1 RSCS warrants solely for the benefit of Licensee that for a period of ninety (90) days from the date of delivery, the Software or Appliance Software will perform substantially in accordance with the Documentation.
- 16.2 RSCS shall have no obligation under the foregoing warranties if Licensee (i) fails to use the Software or Appliance Software in accordance with the Documentation; (ii) uses the Software or Appliance Software on a computer systems for which the Software or Appliance Software was not designed; (iii) modifies or alters the Software or Appliance Software in any way; (iv) uses the Software or Appliance Software with any Third Party Software non provided by RSCS; (v) fails to install and use any fixes, patches, maintenance releases or updates required by RSCS; or (vi) is in arrears with respect to its payment obligations. In addition, RSCS shall have no obligation hereunder with respect to any failures suffered by the Software or Appliance Software to the extent caused by computer programs or code that are not provided by RSCS. RSCS shall be entitled to payment at its then current rates for any time and materials spent attempting to correct any failures for which RSCS has no obligation under this Section.
- 16.3 RSCS's sole liability and Licensee's sole remedy with respect to the foregoing warranties shall be for RSCS, in its sole option, to either (i) correct any instance in which the Software or Appliance Software fails to perform in accordance with the Documentation; (ii) replace the Software or the Appliance Software; or (iii) refund to Licensee the Products Fee paid for the license granted hereunder. Additional remedies may be provided under the Parties' maintenance agreement, if any.
- 16.4 EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, RSCS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SOFTWARE, APPLIANCE SOFTWARE OR SERVICES PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND RSCS HEREBY DISCLAIMS THE SAME. WITHOUT LIMITING THE FOREGOING, RSCS DISCLAIMS ANY WARRANTY THAT THE SOFTWARE, APPLIANCE SOFTWARE OR SERVICES PROVIDED HEREUNDER WILL MEET END USER'S REQUIREMENTS OR THAT THE SOFTWARE OR APPLIANCE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR FREE.
- 16.5 UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL RSCS OR ITS VARS BE LIABLE TO LICENSEE OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR DAMAGES RESULTING FROM LICENSEE'S USE OF THE PRODUCT. RSCS'S LIABILITY FOR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID BY LICENSEE. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF RSCS SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.
- 16.6 **Third Party Hardware and/or Third Party Software:** the terms and conditions applicable to any Third Party Hardware and/or Third Party Software, including conditions of warranty, will follow the relevant supplier's terms and conditions as set forth in the Documentation.



17. Warranty against third party claims

- 17.1 RSCS, at its expenses, will defend or at its option, settle, any claim or action brought against Licensee for infringement by the Software and/or Appliance Software of a French Copyright ("droit d'auteur") protected within European Union. RSCS will pay any finally awarded damages pronounced by a competent court against Licensee with respect to any such action, provided that Licensee promptly notifies RSCS in writing of any such action on becoming aware of it, that Licensee does not make any admission of liability or make any attempt to settle and that RSCS is given sole conduct of the defense of such action and of all negotiations. Licensee undertakes to provide full support and assistance to RSCS in the event of such action.
- 17.2 If an injunction is ordered affecting RSCS's right to supply or Licensee's right to use the Software or Appliance Software or any part of them by reason of infringement of French Copyright ("droit d'auteur"), or in RSCS's reasonable opinion, the Software or Appliance Software is likely to become the subject of a claim for such infringement or do become subject to such a claim, RSCS at its option and expense may:
- (a) obtain for Licensee the right to continue to use the Software or Appliance Software; or
 - (b) replace or procure the modification of the Software or Appliance Software so that they are no longer in infringement; or
 - (c) accept the return of the Products and refund an amount equal to the sum paid by Licensee for the Software or Appliance Software, after deduction, however, of the amount corresponding to the duration of use of those Products by Licensee until their refund by RSCS.
- 17.3 RSCS shall under no circumstance hold Licensee harmless if the claims brought by the third parties are caused by:
- (a) any infringement arising from the use of the Software or Appliance Software not in compliance with the Documentation; or
 - (b) any infringement arising from the combination of the Software or Appliance Software or any part of them with any other products not supplied by RSCS; or
 - (c) modification of the Software or Appliance Software unless the modification was made by or with the prior written approval of RSCS; or
 - (d) any infringement arising from use of other than the then latest release of the Software or Appliance Software by RSCS, if such infringement could have been avoided by the use of the latest release of the Software.
- 17.4 This provision states the exclusive remedy of Licensee in respect of any patent, copyright, design right or other Intellectual Property Right infringement by the Products and the exclusive liability of RSCS in connection therewith.

18. Limitation of liability - Insurance

- 18.1 Licensee declares that it is entering into the Agreement in the knowledge that RSCS's liability is limited and that the Price has been calculated accordingly.
- 18.2 RSCS can only be held liable for real damage suffered by Licensee, insofar as Licensee has provided proof that RSCS's contractual breach is the direct cause of this damage. Whatever the circumstances, RSCS will not be liable for: (i) damage caused by any breach of the Agreement by the Customer or by a third party; (ii) damage caused by defects of hardware and/or software and/or networks and/or any other item supplied by the Customer to RSCS or used by it and not supplied by RSCS; and (iii) any other service provided by the Customer or by a third party.
- 18.3 RSCS's total liability for any breach of the Agreement is limited, all damages and indemnities of any kind included, to fifteen percent (15%) of the Price (excluding VAT) paid by Licensee in the scope of the Proposal.
- 18.4 Any claim by Licensee, arising under or in connection with the Agreement, shall be brought within one (1) year after the cause of action arose or when the claiming Party becomes aware of the relevant breach.
- 18.5 The Parties acknowledge and expressly accept that the prices agreed in the Agreement reflect the distribution of risk between the Parties and the ensuing limitation of liability. They also acknowledge and accept that the amount of the ceiling negotiated and accepted between them according to the terms of this clause is not derisory and does not contradict the scope of the material obligation accepted by RSCS under the Agreement. The stipulations of this clause shall survive the expiration and termination of the Agreement for any reason whatsoever for events generating liability and occurring during the term of the Agreement.

19. Export and re-export limitation

Licensee will not export or re-export directly or indirectly any Products or technical data without first obtaining all such written consents or authorizations as may be required by any applicable government regulations in force from time to time, including without limitation those of the French Government and the United States Department of Commerce.

20. Force majeure events

Neither Party will be liable to the other for any delay in or failure to perform its obligations under the Agreement (other than a payment of money) where such delay or failure results from force majeure events such as accepted by the French Courts and/or such as (i) explosions, fires, flood, earthquakes, epidemics or catastrophic weather conditions; (ii) acts of war, acts of terrorism, insurrection, riots, rebellion or sabotage; (iii) acts of governmental authorities or courts, national state of emergency or changes in laws; (iv) labor disputes, lockouts or strikes; (v) failures or fluctuations in electrical power or telecommunications service or equipment; or (vi) any event beyond the control of RSCS.

21. Termination for cause and Modification of the Terms

- 21.1 Should either of the Parties fail to meet one of its material obligations pursuant to the Agreement without repairing this within thirty (30) days as of receiving the registered letter upon receipt notifying the relevant failure, the other Party may terminate the Agreement as of right ("*de plein droit*") by registered letter upon receipt, without prejudice that it may be entitled to claim and, regarding RSCS, without prejudice to the payments for Products and/or Services carried out on a proportional basis.
- 21.2 Upon termination of the Agreement, Licensee will within thirty (30) days, upon RSCS's request and choice either destroy or return the Products to RSCS. Use of the Products by Licensee will then be discontinued and Licensee will have no further rights in relation to the Products.
- 21.3 Termination is without prejudice to any accrued rights and outstanding obligations of the Parties to each other at the date of termination.
- 21.4 RSCS is constantly innovating, changing and improving. RSCS will inform the Licensee a reasonable amount of time in advance of any modifications to this Agreement. The Licensee's continued use of the Services after the effective date of any such modification means that the Licensee agrees to the Agreement as modified.

22. Miscellaneous

- 22.1 The Agreement constitutes the entire agreement between the Parties for the supply of the Products and/or Services ordered and supersedes all and any prior Agreements, discussions, understandings, representations or promises. Each Party warrants to the other that it has not relied



- upon any representation not recorded here to enter into the Agreement. No amendment of the Agreement will be valid unless confirmed in writing by authorised signatories of both Parties on or after the date of the Agreement.
- 22.2 No waiver of any provision or of any breach of the Agreement will be deemed to be a waiver of any other right or any later breach unless it is in writing and signed by both Parties.
- 22.3 RSCS is free to appoint Licensee as a reference.
- 22.4 Neither Party will assign or transfer all or any part of the Agreement without the prior written consent of the other Party except that assignments to associated companies of RSCS are permitted and, where applicable, RSCS may subcontractor the supply of any or all part of Products and/or Services. In such case, RSCS remains responsible for its subcontractors' compliance with all provisions of the Agreement.
- 22.5 In consideration of the specific means and undertakings stipulated herein, the Agreement is concluded *intuitu personae*. RSCS shall then have the right to terminate as of right ("*de plein droit*") the Agreement at any time, in whole or in part, in case of a change of control in Licensee. For the needs of this article, control has the meaning set forth in Art. L 233-3 French Commercial Code.
- 22.6 In the event that any of the provisions of the Agreement is judged illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.
- 22.7 The Agreement shall be governed by the laws of France, without regard to its rules regarding conflicts of law. The Parties hereby disclaim the application of the United Nations Convention on the International Sale of Goods. In the event of any dispute arising out of or in connection with the interpretation and/or performance of the Agreement, and save the case of an unpaid amount authorising a direct referral to the competent Court, the Parties shall attempt to find an amicable settlement to the dispute within one (1) month, the first Party to take action inviting the other Party, by registered letter with acknowledgement of receipt detailing the grievance or grievances and the contractual provisions is considers to be breached, to a meeting to be held at the registered office of RSCS, within no less than fifteen business days. If the attempt to reach an amicable settlement fails, the dispute shall be submitted exclusively to the competent court in Nanterre, notwithstanding multiple defendants or introduction of third parties, including for urgent or conservatory measures.
- 22.8 **The Parties submit to the exclusive jurisdiction of the Commercial Court of Nanterre (92), France, in respect of all matters in connection with or arising under this Agreement.**