

# T&C for DATA MANAGEMENT SERVICES of Bosch Rexroth AG

Version: 04.09.2020

The Terms and Conditions set out below (hereinafter: "T&C") apply to the provision of DATA MANAGEMENT SERVICES by Bosch Rexroth AG, Zum Eisengießer 1, 97816 Lohr am Main, Germany (hereinafter: "BOSCH REXROTH") to the customer (hereinafter: "CUSTOMER"). Standard business terms of the CUSTOMER shall not apply; they are hereby explicitly rejected. This applies even if, in connection with a purchase order or in other documents of the CUSTOMER, reference is made to its standard business terms and if BOSCH REXROTH does not explicitly reject them in this case.

## 1. General Provisions

- 1.1. The subject matter of these Standard Terms and Conditions (AGB) is the provision of the information respectively agreed upon relating to a UNIT operated by the CUSTOMER, by processing data of the respective system/component collected at the CUSTOMER (or its end customer) ("DATA MANAGEMENT SERVICES").
- 1.2. The meaning set out in the Preamble and in section 31 Definitions applies to the capitalized terms used in these T&C.
- 1.3. Amendments and supplements to these T&C must be made in written form.

## 2. Subject matter

- 2.1. The DATA MANAGEMENT SERVICE is fulfilled upon provision of the evaluations (of the SERVICE) each set out in the product description or agreed. The CUSTOMER is responsible for interpreting the disclosed findings with respect to the circumstances actually applying. No guarantee or liability for the accuracy or completeness of the DATA OUTPUT is connected with this.
- 2.2. If explicitly agreed, BOSCH REXROTH shall make those telecommunications services of a third-party provider available to the CUSTOMER that are necessary for connecting the UNIT. The area of the telecommunications connection is restricted to the transmission and reception areas of the mobile communications stations operated by the third-party provider and is subject to the respective applicable national provisions. If the mobile telecommunications connection is not adequate to ensure a stable data connection to the server in the area of use, the CUSTOMER shall provide a wired Internet connection (LAN). When the contract is entered into, BOSCH REXROTH is not obliged to ensure that an adequate data connection is possible. The CUSTOMER has no claims against BOSCH REXROTH based on the non-existence of an adequate mobile telecommunications connection in the area of use. The CUSTOMER is responsible for the telecommunication service being operated in accordance with the applicable national regulations. The CUSTOMER shall indemnify BOSCH REXROTH from any third party claims arising from any infringement of the applicable national regulations (e.g. use of a national sim-card).

## 3. Conclusion of the Contract

The Contract is concluded upon an agreement being entered into or, when orders are placed online, upon receipt of an order confirmation from BOSCH REXROTH. Unless otherwise agreed, the term of the Contract shall start to run at the beginning of the following calendar month.

## 4. Change to the scope of the Contract (additional Apps)

- 4.1. Insofar as is agreed, the CUSTOMER has the right to sign on additional UNITS by giving advance notice of one week to the first day of the next month and to sign off UNITS that have already been signed on in the DATA MANAGEMENT SERVICE by giving the same period of notice to the last day of the month. Notice of signing on and signing off shall be in written form unless browser-based user subscription management is agreed between the CUSTOMER and BOSCH REXROTH via the PORTAL SOFTWARE.
- 4.2. Other extensions to the scope of the Contract (e.g. the use of additional Apps) shall be coordinated individually.

## 5. IT-Security

- 5.1. IT-security properties and resultant measures arise out of an agreed description included in a separate document or out of the data sheet. Unless agreed otherwise, it is the CUSTOMER's responsibility to, by choosing adequate technical and/or organizational measures, ensure the IT-security of its systems when integrating or using the PRODUCT taking into consideration the technical nature of the PRODUCT. This applies in particular when the CUSTOMER is an operator of a critical infrastructure in the sense of section 2 sub section 10 German BSI-Act.
- 5.2. In the event of hacker attacks or if security vulnerabilities are exploited by third parties, no claims can be asserted under this Contract provided that BOSCH REXROTH has complied with the respectively applicable security concept.

## 6. CUSTOMER's obligations

- 6.1. The CUSTOMER shall ensure for its part that the measures for the installation, collection and trans-

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mission of the INPUT DATA which have been individually agreed and/or provided for in the product description, are conducted and maintained during the Contract term. The CUSTOMER shall take all the measures that are necessary and can be reasonably expected to enable the software to work properly. Necessary hardware stipulated for this by BOSCH REXROTH, provided for use or supplied by BOSCH REXROTH, shall be installed as provided for and otherwise be kept in a serviceable condition during the operation of the UNIT in the business operation.

- 6.2. The CUSTOMER shall install the software provided by BOSCH REXROTH and carry out the updates provided (Updates, Upgrades, Patches, Workarounds) without undue delay or have them performed automatically, insofar as this is reasonable. The CUSTOMER shall keep itself regularly informed regarding corresponding updates.
- 6.3. Unless otherwise agreed, the CUSTOMER is further responsible itself for creating the technical conditions necessary in its area of responsibility for collecting INPUT DATA and using the DATA MANAGEMENT SERVICES incl. any costs which may be incurred. In case of doubt, CUSTOMER shall obtain advice from BOSCH REXROTH or an expert third party before entering into the contract.
- 6.4. CUSTOMER shall ensure that he is fully entitled to use INPUT DATA and CUSTOMER DATA, if applicable, within the DATA MANGEMENT SERVICES, to make it available to BOSCH REXROTH and to grant the usage and exploitation rights as described under section 19. The CUSTOMER shall seek any authorizations/permissions as necessary.
- 6.5. The CUSTOMER shall ensure that the collection of INPUT DATA is possible at the UNIT without change as provided for by BOSCH REXROTH. Changes to the nature, condition, configuration, operating mode, repairs etc. of the UNIT and/or of systems connected to it either directly or indirectly and changes to ambient factors shall be notified by the CUSTOMER without undue delay. Business interruptions in the provision of INPUT DATA shall be for the account of the CUSTOMER.
- 6.6. Taking account of the scope of services according to the product data sheet, the CUSTOMER is responsible for examining and complying with all laws, standards and regulations and the state of the art which have to be taken into consideration with regard to the use of the services by the CUSTOMER and/or by its end customer ("CUSTOMER-Related Rules"). The CUSTOMER-Related Rules include, inter alia, industry-specific and company-specific regulations in the fields of labour law and the German Works Constitution Act, data protection, energy management law, export control and the protection of confidential information. The CUSTOMER shall, in particular and at

its own expense, obtain all the consents/approvals that may be necessary and apply for and maintain registrations and comply with all other legal requirements (such as reporting obligations) that are required for legally-compliant transmission and processing of DATA in connection with the performance and use of the services. The CUSTOMER shall not transfer any DATA if this can lead to a situation whereby, as a result of rendering performance, BOSCH REXROTH violates applicable law (including export control law and regulations for the protection of confidential information) or infringes third-party rights. If the CUSTOMER accesses DATA from outside Germany, the CUSTOMER is solely responsible for compliance with the legal requirements for such access. On request by BOSCH REXROTH, the CUSTOMER shall demonstrate that the requirements of this sub-section 6.6 have been met.

- 6.7. The CUSTOMER shall ensure that its end customer similarly complies with any stipulations that may be necessary and required.
- 6.8. Insofar as the CUSTOMER violates or fails to comply with obligations under this section 6, BOSCH REXROTH is not liable for the resultant consequences. CUSTOMER shall release BOSCH REXROTH from all claims made against BOSCH REXROTH by third parties (including state bodies) owing to an infringement of section 6.4, 6.6 by the CUSTOMER.
- 6.9. More far-reaching, individual collaboration obligations of the CUSTOMER are reserved. This also applies, in particular, to CUSTOMER requirements under sub-section 21.3.

### **7. Hardware provided for use**

- 7.1. If, during the course of conducting the DATA MANAGEMENT SERVICE, the CUSTOMER is provided with necessary hardware without a separate fee being charged, delivery and passing of risk are effected FCA place of dispatch of the plant supplying the hardware (Incoterms® 2020), unless explicitly agreed otherwise. The CUSTOMER is obliged – unless otherwise agreed – to return this on demand at the end of the Contract to the nearest BOSCH REXROTH customer service unit free of charge. Without prior consent of BOSCH REXROTH the CUSTOMER does not have the right to provide the hardware to a third party for use.
- 7.2. Hardware that has been provided for use shall remain the property of BOSCH REXROTH throughout the duration of the DATA MANAGEMENT SERVICE. If the hardware provided for use has to be incorporated into a system in order to conduct the DATA MANAGEMENT SERVICE in accordance with the purpose of such provision for use, the consent of BOSCH REXROTH required for this only relates to the insertion in the respective UNIT for a temporary purpose within the meaning of section 95 German

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Civil Code (BGB) with the intention of disconnecting it upon termination of the DATA MANAGEMENT SERVICE.

- 7.3. If the hardware is damaged at the CUSTOMER in a manner exceeding normal wear and tear and deterioration of the good, BOSCH REXROTH is not obliged to replace the good free of charge. The right to claim damages is reserved in this case.

### 8. Prices

- 8.1. Subject to a regulation individually deviating from this, monthly fees are charged for the DATA MANAGEMENT SERVICES. BOSCH REXROTH levies one-off charges for the initial set-up of the DATA MANAGEMENT SERVICE as individually agreed.
- 8.2. In the case of Contracts for an indefinite term or with automatic renewal BOSCH REXROTH has the right to increase the remuneration for the Data Management Service for the first time after expiry of one Year of Contract by giving three (3) months' advance notice in writing to expire at the end of a Year of Contract, however by up to an amount not exceeding the amount of the BOSCH REXROTH's list prices generally valid at the time of the notification. The fees respectively adjusted may not be further increased until, at the earliest, upon expiry of a further Year of Contract since the last price adjustment. When the fees are adjusted, the CUSTOMER has the right to give six (6) weeks' notice of termination to become effective on the effective date of the price adjustment, insofar as the increase exceeds ten percent (10 %) of the last remuneration applicable for the license.

### 9. Payment terms

- 9.1. Unless otherwise agreed in writing, all the invoices of BOSCH REXROTH shall be paid within 30 days of receipt at the latest, without any deductions being made, by means of cashless remittance to a bank account indicated by BOSCH REXROTH.
- 9.2. The statutory amount of value-added tax will be charged on all fees. Value-added tax may not be charged only in those cases where the prerequisites of a tax exemption are met.

### 10. Dates

- 10.1. The deadlines for performance that apply to rendering the DATA MANAGEMENT SERVICE are set out in the product description.
- 10.2. The commencement of and compliance with deadlines for performance are subject to the precondition that the collaboration obligations and the CUSTOMER's obligations set out in section 6 have been fulfilled. If these preconditions are not duly met in good time, the deadlines for performance shall be reasonably extended, provided that the performance can still be rendered. This does not apply if the delay is solely the responsibility of BOSCH REXROTH; in this case section 13 shall apply.

- 10.3. Part deliveries and corresponding invoices are admissible unless the CUSTOMER cannot be reasonably expected to accept them.

### 11. Force majeure

- 11.1. If non-compliance with the delivery periods is due to force majeure or to other disruptions for which BOSCH REXROTH is not accountable, e.g. war, terrorist attacks and acts, riots, epidemics, pandemics, natural disasters, extreme natural phenomena, import and export restrictions, limitations in energy supply, governmental measures or official directives, including those affecting sub-suppliers, the agreed delivery periods shall be extended. This also applies to industrial action affecting BOSCH REXROTH or its sub-suppliers. This includes also difficulties to procure raw material as well as inadequate or delayed deliveries by suppliers due to force majeure.

### 12. Readiness to receive INPUT DATA

- 12.1. In order to receive INPUT DATA via data connections, BOSCH REXROTH owes the defined readiness to receive described in the performance specifications. Readiness to receive means the receipt of the INPUT DATA delivered by the CUSTOMER with the agreed frequency to the agreed transfer point within a certain period of time. The obligation to receive the INPUT DATA is suspended during the maintenance windows. Unless otherwise agreed, the provisions of the technical availability of the PORTAL SOFTWARE (section 28) shall apply accordingly to the readiness to receive INPUT DATA.
- 12.2. There is no readiness to receive during the following periods ("Maintenance Window"):
- During maintenance work and business interruptions that can be scheduled, provided that the CUSTOMER is advised thereof at least 14 calendar days in advance, and
  - Whilst conducting other measures to remedy malfunctions and perform maintenance work and also emergency measures which were not foreseeable or able to be scheduled and where BOSCH REXROTH is not accountable for the reasons therefor.

### 13. Liability for delay and poor performance

- 13.1. Complaints shall be notified by the CUSTOMER without undue delay.
- 13.2. BOSCH REXROTH is not liable for malfunctions of the DATA MANAGEMENT SERVICE,
- ensuing from non-compliance with the requirements placed on the CUSTOMER that are agreed or are provided for in section 6, 21.3 and 25 or
  - which do not ensue from the sphere of BOSCH REXROTH, e.g. which arise at the CUSTOMER or through telecommunications services or which are due to a falsification or impairment of DATA or the transmission thereof through the use of other data

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processing and transmission devices (e.g. bus systems and electronic control devices) at the CUSTOMER. This also includes virus contamination and other external impacts for which BOSCH REXROTH is not accountable such as fire, accidents, power failure etc.

- 13.3. Malfunctions in the DATA MANAGEMENT SERVICE shall be processed by BOSCH REXROTH promptly after receipt of a corresponding notification from the CUSTOMER, if so agreed, within the response times specified.
- 13.4. In the event of faulty performance of the DATA OUTPUT, this shall be remedied by providing or sending a new DATA OUTPUT, unless the fault is based on a data gap which BOSCH REXROTH is not responsible for.
- 13.5. In the event of culpable non-performance of the readiness to receive INPUT DATA (cf. section 12), the CUSTOMER has the right to demand renewed performance based on records. If the renewed performance should be impossible because the INPUT-DATA to be received no longer exists, the CUSTOMER has the right to demand a reduction of the purchase price (*Minderung*). The purchase price reduction is calculated pro-rata in accordance with the time lost in proportion to the accounting period in relation to the corresponding invoice amount. The purchase price reduction must be claimed by the end of the second following accounting period at the latest.
- 13.6. The provisions of this section 13 shall apply accordingly to legal defects which are not based on the infringement of third-party property rights.
- 13.7. The claims by the CUSTOMER under this section 13 shall each become time-barred twelve (12) months after the respective due date of the DATA MANAGEMENT SERVICE pursuant to section 10.
- 13.8. Section 15 shall apply for further claims for damages by the CUSTOMER in the event of delayed delivery.

### 14. Property rights and copyrights

- 14.1. BOSCH REXROTH shall be liable for claims resulting from an infringement of PROPERTY RIGHTS, if at least one PROPERTY RIGHT from the property rights family has been published either by the European Patent Office or in one of the following countries: Federal Republic of Germany, France, Great Britain, Austria or the USA.
- 14.2. The preconditions of a liability according to section 14.1 are that
  - i. the PROPERTY RIGHT is not or was not owned by the CUSTOMER or by an affiliated company (as defined in section 15 German Stock Corporation Act (AktG)) and
  - ii. the CUSTOMER is not accountable for the infringement of PROPERTY RIGHTS.

- 14.3. Claims by the CUSTOMER are excluded if the DATA MANAGEMENT SERVICE was produced in accordance with the specifications or instructions of the CUSTOMER or if the (alleged) infringement of the PROPERTY RIGHT derives from use in interaction with another product not originating from BOSCH REXROTH or if the DATA MANAGEMENT SERVICE is used in a way which was not foreseeable for BOSCH REXROTH.
- 14.4. The claims against BOSCH REXROTH under this section 14 are subject to the condition that the CUSTOMER
  - i. informs BOSCH REXROTH without undue delay of the third-party claims raised,
  - ii. provides BOSCH REXROTH with a copy of all respective correspondence with the claimant and courts without undue delay after receipt thereof,
  - iii. provides BOSCH REXROTH with the information required to defend against the claim,
  - iv. on request of BOSCH REXROTH, confer to BOSCH REXROTH the exclusive right to steer the conduct of the legal action by the CUSTOMER and the right to make the final decision on reaching any judicial or out-of-court settlements and
  - v. supports BOSCH REXROTH to an appropriate degree in averting third-party claims.
- 14.5. If the CUSTOMER is ordered to cease the use of the DATA MANAGEMENT SERVICES or of a part thereof either by a final and absolute court judgment or if an preliminary injunction is served on the CUSTOMER, then in order to remedy the rights' infringement BOSCH REXROTH shall, at its discretion, either obtain for the CUSTOMER the right to continue to use the DATA MANAGEMENT SERVICES, or replace or modify the DATA MANAGEMENT SERVICES whilst upholding the agreed functionalities. If the aforementioned alternatives cannot be realized by BOSCH REXROTH subject to reasonable conditions, both parties have the right to revoke the contract. Insofar as can be reasonably expected of the CUSTOMER, the revocation shall only be to the extent required to rectify the infringement of rights. BOSCH REXROTH reserves the right to take any of the measures provided by this section 14.5, sentence 1, if the infringement of PROPERTY RIGHTS is not finally asserted or acknowledged by BOSCH REXROTH.
- 14.6. The obligation of BOSCH REXROTH to pay DAMAGES in the event of an infringement of PROPERTY RIGHTS is otherwise governed by section 15.
- 14.7. Section 13.7 shall apply accordingly to the statute of limitation of claims based on an infringement of PROPERTY RIGHTS.
- 14.8. Further and other claims than those regulated in this section 14 by the CUSTOMER based on infringements of third party PROPERTY RIGHTS are excluded.

### 15. Claims for DAMAGES

15.1. BOSCH REXROTH shall be liable for DAMAGES based on a violation of contractual or non-contractual obligations only

- i. in the event of intent (Vorsatz) or gross negligence (grobe Fahrlässigkeit),
- ii. in the event of a negligent or intentional injury to life or limb or health,
- iii. on account of provision of a guarantee of quality or durability,
- iv. in the event of a culpable violation of material contractual obligations; such contractual obligations shall be deemed material which, when performed, enable the proper execution of the contract altogether and which the CUSTOMER may regularly rely on compliance with,
- v. on account of mandatory liability pursuant to the German Product Liability Act (Produkthaftungsgesetz);
- vi. for reasons related to data protection law, or
- vii. on account of other mandatory liability.

15.2. The liability for DAMAGES of section 15.1 iv by a violation through simple negligence (einfach fahrlässige Verletzung wesentlicher Vertragspflichten) shall be limited to the amount of damage typical of the contract and foreseeable at the time when the contract was concluded. This applies accordingly for DAMAGES caused by persons engaged in the performance of an obligation of BOSCH REXROTH (Erfüllungsgehilfen) by simple negligence (einfache fahrlässige Verletzung). The amount of DAMAGES typical of the contract and foreseeable, based on violations of obligations by BOSCH REXROTH, corresponds to the amount of the remuneration paid by the CUSTOMER, but not, however, exceeding EUR 100,000.

15.3. In case of software, BOSCH REXROTH shall not be liable in particular for DAMAGES incurred by the CUSTOMER due to a failure to back-up data in accordance with section 25.5 or due to incorrect operation or to usage not in compliance with the designated purpose.

15.4. Any liability for DAMAGES beyond that provided for in section 15 is excluded – regardless of the legal nature of the claim established.

15.5. Insofar as the liability for DAMAGES by BOSCH REXROTH is excluded or reduced, this also applies to the personal liability for DAMAGES of the employees, representatives and of persons engaged in performance of an obligation (Erfüllungsgehilfen).

### 16. Termination

16.1. Subject to an individual agreement, the product-specific provisions shall apply to the termination of the DATA MANAGEMENT SERVICE. In the absence of such provisions, the DATA MANAGEMENT SERVICE can be terminated at any time by giving three months's notice to the end of the calendar

month. Notice of termination must be given in written form.

16.2. In the event of conduct by the CUSTOMER in breach of Contract, in particular in the event of default of payment or use in breach of Contract, BOSCH REXROTH has the right, without prejudice to other contractual and statutory rights, to terminate the Contract after expiry of a reasonable period of grace.

16.3. If the CUSTOMER violates the provisions of these Terms and Conditions (AGB), in particular the provisions of section 27, BOSCH REXROTH may, after giving prior notification to the CUSTOMER in writing, block the CUSTOMER's access to the PORTAL SOFTWARE if the violation can be remedied as a result. The block shall be lifted as soon as the reason for the block no longer exists.

16.4. BOSCH REXROTH has the right to revoke the contract without setting an additional grace period if

- i. the CUSTOMER has ceased its payments;
- ii. there is or threatens to be a significant deterioration in the financial circumstances of the CUSTOMER and, as a result, performance of a payment obligation to BOSCH REXROTH is jeopardized;
- iii. the CUSTOMER has applied for insolvency proceedings or comparable debt settlement proceedings to be opened with respect to its assets; or
- iv. the CUSTOMER meets the criteria of insolvency or over-indebtedness.

16.5. The provisions of section 314 BGB shall remain unaffected.

### 17. Consequences of the termination of the DATA MANAGEMENT SERVICES

17.1. Upon termination of the DATA MANAGEMENT SERVICE, BOSCH REXROTH shall delete the DATA at its discretion. The rights of BOSCH REXROTH pursuant to sub-sections 19.6 and 19.7 remain explicitly reserved.

17.2. Subject to feasibility and expense, BOSCH REXROTH shall support the CUSTOMER upon termination of the contract in the exporting and securing of the CUSTOMER DATA, including in the changeover to a different service provider, if the CUSTOMER so requests, in return for remuneration to be agreed separately.

17.3. Termination of the contractual relationship simultaneously includes the termination/discontinuation as per the next possible date of the authorizations, registrations and of the USER ACCOUNT and, if applicable, of all user IDs provided for customers of the CUSTOMER. Termination of this contractual relationship does not affect the use of the CENTRAL BOSCH ID. That requires notice of termi-

nation in accordance with the contract terms underlying the usage relationship of the CENTRAL BOSCH ID.

### 18. Location of DATA storage and DATA access

Except insofar as otherwise provided in the Contract or if opposed by local laws, and provided that BOSCH REXROTH was notified of this by the CUSTOMER prior to conclusion of the Contract, BOSCH REXROTH uses computer centers in Germany to perform the services. These are operated by a company in the Bosch Group. BOSCH REXROTH has the right to change the location of the DATA storage and of the DATA access at any time provided that

- i. a reasonable level of data protection is guaranteed,
- ii. the CUSTOMER is informed thereof in good time, and
- iii. the change is not unreasonable for the CUSTOMER.

### 19. DATA use and DATA protection

19.1. In order to render the DATA MANAGEMENT SERVICES, BOSCH REXROTH, the CUSTOMER or a third party processes DATA.

19.2. It might be possible to derive personal data from the DATA. According to the provision set out in section 6, the CUSTOMER shall ensure that DATA derived directly or indirectly from personal data is anonymized before being transferred to BOSCH REXROTH. If personal data is to be transmitted in individual cases as an exception (this also includes pseudonymized data), the CUSTOMER shall ensure that the applicable provisions of data protection law are complied with. The CUSTOMER is obliged to obtain any consent that is required from the data subject affected insofar as personal data is collected, processed or used during the use of the DATA MANAGEMENT SERVICES and if no statutory or other basis for permission applies. In the event of a violation, the CUSTOMER shall indemnify BOSCH REXROTH from and against claims by third parties.

19.3. Insofar as personal data is processed, BOSCH REXROTH complies with the statutory data protection regulations. In this case, the details relating to the data collected and the respective processing thereof are set out in the data privacy statements of BOSCH REXROTH (<https://www.boschrexroth.com/en/xc/home/privacy>) or its AFFILIATED ENTERPRISE of which the CUSTOMER will be advised in an appropriate manner.

19.4. Insofar as personal data is processed jointly by BOSCH REXROTH and the CUSTOMER within the meaning of Art. 26 GDPR, the rights and obligations and details of the data collected and the respective processing thereof shall be determined under an agreement to be entered into separately in compliance with Art. 26 (1) sentence 1 GDPR.

19.5. BOSCH REXROTH shall have the right to use, store, copy, modify, analyze, provide or otherwise process DATA contributed, created and transmitted by the CUSTOMER or its end customer in connection with the DATA MANAGEMENT SERVICE for contractual purposes during the contractual term.

19.6. BOSCH REXROTH shall have the right, to use DATA contributed, created and transmitted by the CUSTOMER or its end customer in connection with the DATA MANAGEMENT SERVICE in anonymized form for machine learning and product improvement or product expansion. This right shall be unlimited, irrevocable free of charge and worldwide. The CUSTOMER warrants that it has not entered into any agreements opposing such use.

19.7. BOSCH REXROTH shall have the right, insofar as is permitted by law, to store, use, transfer and/or exploit all the information contributed and created by the CUSTOMER or its end customer in connection with the DATA MANAGEMENT SERVICE, except for personal data, beyond the purpose of the contract for any purposes such as, for example, statistical, analytical and internal purposes. These purposes include, inter alia, the production, commercialization and distribution of the products and services of BOSCH REXROTH and, for example, statistical, analytical and internal purposes. This right shall be unlimited, irrevocable, free of charge and world-wide. The CUSTOMER warrants that it has not entered into any agreements opposing such use.

19.8. The rights of BOSCH REXROTH under this section 19 also apply accordingly in favour of companies in the Bosch Group of companies.

19.9. BOSCH REXROTH takes security precautions in order to protect the DATA managed by BOSCH REXROTH against attack by unauthorized persons. The security measures shall be subject to ongoing improvement in accordance with developments in technology.

### 20. Rights of use of the CUSTOMER to the DATA OUTPUT

The rights to the DATA OUTPUT rest with BOSCH REXROTH. The CUSTOMER has the right to use the DATA OUTPUT provided to the CUSTOMER during performance of the service for its own business purposes and to make it available to its own customers directly or in processed form.

### 21. Export control

21.1. If it should transpire that contractual performance by BOSCH REXROTH has become impossible or been rendered difficult due to national or international export control regulations, in particular embargos or other sanctions, BOSCH REXROTH has the right to revoke or terminate the contract without setting a grace period.

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- 21.2. The delivery period is suspended in the event of delays due to export examinations or approval processes unless BOSCH REXROTH is accountable for this.
- 21.3. The CUSTOMER undertakes to furnish all the information and documents required and provide any necessary approvals for the contractually performance of the DATA MANAGEMENT SERVICE, for the export or movement of SERVICES and DATA or the integration of service provider in accordance with the contract, unless this lies in the sphere of influence of BOSCH REXROTH. The CUSTOMER shall comply with the respectively applicable provisions of customs and (re-) export control law.
- 21.4. In the event of revocation of termination pursuant to section 12.1, the CUSTOMER's right to claim compensation or to claim further their rights on account of the revocation is excluded.
- 21.5. When the DATA MANAGEMENT SERVICES supplied by BOSCH REXROTH (including technical support of all kinds) and such goods rendered therefor by BOSCH REXROTH (hardware and/or software and/or technology and the corresponding documents, irrespective of the manner in which they are made available) are handed over, transferred or provided for use in any other way to third parties nationally or internationally, the CUSTOMER shall comply with the respectively applicable provisions of national and international (re) export control law.

### 22. Confidentiality

- 22.1. All the CONFIDENTIAL INFORMATION originating from BOSCH REXROTH shall be kept secret from third parties and may be made available only to those persons in the CUSTOMER's own operations who have a need to know the respective information for performance of the purpose of the contract and who are similarly committed to confidentiality. The respective CONFIDENTIAL INFORMATION shall remain the exclusive property of BOSCH REXROTH. CONFIDENTIAL INFORMATION may not be duplicated or used commercially without the prior consent of BOSCH REXROTH in writing. Upon request of BOSCH REXROTH, all CONFIDENTIAL INFORMATION originating from BOSCH REXROTH (if applicable, inclusive of any copies or records made) and loaned items which contain CONFIDENTIAL INFORMATION shall be returned to BOSCH REXROTH or fully destroyed without undue delay.
- 22.2. The obligation to uphold secrecy pursuant to section 22.1 does not apply to CONFIDENTIAL INFORMATION which
- i. were already in the lawful possession of the CUSTOMER before being handed over by BOSCH REXROTH;
  - ii. the CUSTOMER lawfully received from third parties without any secrecy obligations;

- iii. are disclosed to third parties by BOSCH REXROTH without any conditions regarding secrecy;
  - iv. are developed by the CUSTOMER itself independently of the information received;
  - v. have to be disclosed by law; or
  - vi. are disclosed by the CUSTOMER with the prior written consent of BOSCH REXROTH.
- 22.3. BOSCH REXROTH reserves all rights to the CONFIDENTIAL INFORMATION named in section 22.1.

### 23. Miscellaneous provisions

- 23.1. If a provision should be or become ineffective, the effectiveness of the remainder of the provisions shall remain unaffected hereby. In this case, the ineffective provision shall be replaced by an admissible ruling approximating most closely the economic purpose of the original, ineffective provision. This shall apply accordingly to any gaps of the T&Cs.
- 23.2. The courts of Stuttgart, Germany, shall have jurisdiction and venue (for proceedings before the local court, this is the Amtsgericht (local court) in 70190 Stuttgart) or, at the election of BOSCH REXROTH, the court at the registered office of the business premises carrying out the order if the CUSTOMER.
- 23.3. BOSCH REXROTH shall also have the right to bring legal action at a court with jurisdiction at the registered office or establishment of the CUSTOMER.
- 23.4. Solely German law shall apply to all legal relations between BOSCH REXROTH and the CUSTOMER, excluding the conflict of laws provisions. The applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) shall be explicitly excluded.
- 23.5. These T&Cs are available and binding in both, German and English language. In case of discrepancies the German version shall prevail.

## Part 2: Supplementary Regulations for the use of PORTALSOFTWARE by the CUSTOMER („SUPPLEMENTARY REGULATIONS“)

### 24. Subject Matter

- 24.1. The provision of the PORTALSOFTWARE is based on Software as a Service (SaaS). During the term of the contract, the CUSTOMER will be provided with the current version of a DOCUMENTATION in electronic form.
- 24.2. The PORTALSOFTWARE may contain FOSS. The CUSTOMER will be provided with an up-to-date list of the FOSS contained and the corresponding applicable FOSS license terms upon request before entering into the contract, however at the latest, when the PORTALSOFTWARE is made available. BOSCH REXROTH reserves the right to,

over the course of introduce new or updated FOSS into the PORTALSOFTWARE. The corresponding FOSS license(s) will be provided online. If the PORTALSOFTWARE contains a FOSS component, CUSTOMER's dealing with such FOSS component shall be primarily governed by the corresponding FOSS license, with which CUSTOMER obliges to comply. FOSS included in the PORTALSOFTWARE has no impact on the sales price of the PORTALSOFTWARE and thus will be provided without license fee or any other monetary compensation. Beyond the fulfillment of its own license obligations stemming from included FOSS, BOSCH REXROTH does not render any support services that serve the fulfillment of the CUSTOMER's license obligations stemming from included FOSS.

- 24.3. If, as part of the PORTALSOFTWARE, software products are also made available from third party providers and these are not to be regarded as FOSS, BOSCH REXROTH reserves the right to transfer them subject to the corresponding exclusive terms and conditions of the third-party provider.
- 24.4. BOSCH REXROTH provide interfaces, if needed, which implementation requires a separate agreement.
- 24.5. BOSCH REXROTH has the right to render the services described in section 24 through third parties (including AFFILIATED ENTERPRISES) as subcontractors.

### **25. Duties of CUSTOMER to collaborate and provide information**

- 25.1. CUSTOMER is not authorized to deliberately use devices, software or routines which have a disruptive effect on the applications, functions or usability of the PORTALSOFTWARE or, with respect to other data, systems or communications, to deliberately destroy them, generate excessive load, harmfully intervene in them, fraudulently intercept or import them.
- 25.2. CUSTOMER is obliged to obtain consent for customer-specific penetration tests by BOSCH REXROTH.
- 25.3. CUSTOMER is obliged to keep all the copies of the DOCUMENTATION in a protected place.
- 25.4. CUSTOMER is obliged to check data and information for viruses and other malware prior to sending CUSTOMER DATA and INPUT DATA to BOSCH REXROTH and to implement anti-virus programs in accordance with the state of the art.
- 25.5. Without prejudice to BOSCH REXROTH's DATA backup pursuant to section 26.6, CUSTOMER is obliged to back up its CUSTOMER DATA and DATA OUTPUT on a regular basis. Every backup conducted by CUSTOMER shall be conducted so as to enable a recovery at any time.

### **26. Provision of PORTALSOFTWARE and storage space, USER ACCOUNT**

- 26.1. For the duration of the contractual relationship, BOSCH REXROTH shall hold in readiness the then current version of the Software on server infrastructure provided by BOSCH REXROTH or its subcontractors, for use in accordance with the provisions of these T&C. For the duration of the contractual relationship, BOSCH REXROTH shall keep storage space available to the extent that has been agreed, insofar as this is necessary for the intended use of the PORTALSOFTWARE.
- 26.2. BOSCH REXROTH shall transmit the required ACCESS DATA, unless access is via independent registration (possibly by using the CENTRAL BOSCH ID).
- 26.3. Some services enable registration using the CENTRAL BOSCH ID. In this case the CUSTOMER can use his CENTRAL BOSCH USER ID, if he has already successfully registered for a CENTRAL BOSCH USER ID. Otherwise, the CUSTOMER can set up a new CENTRAL BOSCH USER ID which enables him to use various independent services of the Bosch Group. In this case, the "General Terms and Conditions for the Registration and Use of a Central Bosch ID" shall apply additionally which the CUSTOMER will have to accept during registration for the CENTRAL BOSCH ID.
- 26.4. The USER ACCOUNT as well as ACCESS DATA (with the exception of the provision of sub.- section 27.4) are non-transferable (including rental, lease, loan or sub-licensing). CUSTOMER shall change, without undue delay, all passwords allocated by BOSCH REXROTH into passwords known only to Customer. ACCESS DATA shall be kept in confidence and shall be protected by suitable and effective measures against access by third parties. The CUSTOMER will notify BOSCH REXROTH without undue delay if there is any reason to fear that unauthorized third parties have obtained or will obtain knowledge of the ACCESS DATA. BOSCH REXROTH is not responsible for the consequences of abuse of ACCESS DATA. CUSTOMER is liable for all acts performed using its USER ACCOUNT.
- 26.5. The CUSTOMER is fully responsible for the USER CONTENT, in particular, the CUSTOMER shall comply with applicable law and before uploading the CUSTOMER shall ensure that the USER CONTENT does not contain any viruses, Trojans or other malware. The operation of the PORTALSOFTWARE may not be impaired by USER CONTENT.
- 26.6. The DATA shall, insofar as is possible, be stored and regularly backed up by BOSCH REXROTH throughout the duration of the contractual relationship. CUSTOMER shall be solely responsible for his compliance with retention periods required under commercial and tax law.

### 27. Rights of use

27.1. Upon commencement of the contract (see section 3), CUSTOMER shall receive a simple, non-transferable and non-exclusive right, limited in time, subject to a charge, to use the PORTALSOFTWARE for its own business purposes in accordance with the provisions below and in compliance with the stipulations of the DOCUMENTATION and in the context of the functionalities. The use is only permissible in the agreed countries of designation. In the absence of a specific agreement, this is the country in which CUSTOMER has its registered place of business

CUSTOMER may use the PORTALSOFTWARE only for the purpose set forth in in section 24.1. In particular, the following is only permitted if BOSCH REXROTH has given its prior consent in writing (i.) permanent storage or duplication or (ii.) use of the DATA MANAGEMENT SERVICE for training persons who are not employees of CUSTOMER.

27.2. In the context of use in compliance with the contract, CUSTOMER has the right to store and print out the (online) DOCUMENTATION provided whilst retaining any property rights notices that may exist, and to reproduce that number of copies thereof which is reasonable for purposes of this contract.

27.3. If so agreed in the individual contract, the CUSTOMER may, as an exception to section 27.1, also permit its customers to access the PORTALSOFTWARE, provided that this is solely in connection with the designated use of the PORTALSOFTWARE for business purposes of the CUSTOMER (e.g. in connection with a product offered by the CUSTOMER to its customers which contains access to functionalities of the PORTALSOFTWARE). The CUSTOMER shall obligate every person using the PORTALSOFTWARE and thus using ACCESS DATA provided to the CUSTOMER or to such person in connection with this Contract, to comply with the respectively applicable Terms and Conditions (AGB). The CUSTOMER is represented by each user and the user's acts and knowledge are attributable to the CUSTOMER. Further, after BOSCH REXROTH has given its prior approval in writing, the CUSTOMER has the right to transmit its DATA to service providers for the sole purposes of processing and visualization in management systems.

27.4. BOSCH REXROTH provides the PORTALSOFTWARE as SaaS (Software as a Service) via remote access. CUSTOMER is not authorized to use robots, spiders, scrapers or other comparable tools for data collection or extraction, programs, algorithms or methods to search for, access, acquire, copy or control the DATA MANAGEMENT SERVICE. Further, CUSTOMER is not authorized to obtain access to non-public areas of the PORTALSOFTWARE or to the underlying

technical systems, to test, scan or examine the PORTALSOFTWARE's vulnerability or to knowingly transmit USER DATA or CUSTOMER DATA with viruses or worms, Trojans or other contaminated or harmful components or to otherwise interfere in the proper functioning of the PORTALSOFTWARE.

27.5. In addition to section 27.4 and subject to section 24.2, CUSTOMER is not authorized to process, change, reverse engineer, decompile, or disassemble the program code of the PORTALSOFTWARE or parts thereof or to otherwise establish the source code or to produce derivative works of the PORTALSOFTWARE. The mandatory and compulsory provisions of sections 69d and 69e of the German Copyright Act (UrhG) shall, however, remain unaffected by this. The CUSTOMER may only engage third parties to conduct the measures in compliance with section 27.6 which are not competitors of BOSCH REXROTH, unless the CUSTOMER demonstrates that the risk of divulging important CONFIDENTIAL INFORMATION (especially function and design of the PORTALSOFTWARE) of BOSCH REXROTH is excluded.

27.6. If BOSCH REXROTH provides CUSTOMER with actualizations during the term of the contract, these shall also be subject to these T&C except insofar as they are the subject matter of a separate agreement.

### 28. Technical availability

28.1. BOSCH REXROTH owes the availability agreed in an SLA of the PORTALSOFTWARE and the availability of DATA at the Internet hubs of the respective Host-Provider of BOSCH REXROTH. The PORTALSOFTWARE is available when CUSTOMER can execute and use the main functions of the PORTALSOFTWARE. The availability of the PORTALSOFTWARE is defined as the percentage share of the time in which the PORTALSOFTWARE is available for use by CUSTOMER at the Internet hub of data center of BOSCH REXROTH or the respective Host-Provider of BOSCH REXROTH during the course of an observation period (unless otherwise agreed in the SLA, this is one year of contract) during the service availability period agreed in the SLA (unless otherwise agreed in the SLA, the support availability applies, see sub.- section 29.5). This definition applies accordingly to the calculation of non-availability. The availability shall be calculated according to the following formula:  $\text{Availability} = (\text{Time of provision of the service (h)} - \text{non-availability (h)}) \div \text{Time of provision of the service (h)} \times 100$ . Unless otherwise agreed in the SLA, an availability of 97.5% per year of contract shall be deemed agreed.

28.2. If the PORTALSOFTWARE is not available due to (i.) planned maintenance work (e.g. for Updates and Upgrades, (ii.) other planned interruptions in operations, (iii.) for other reasons for which

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BOSCH REXROTH is not responsible, such as malfunctions in the field of the provision, operation and support of CUSTOMER's communications connection (communications sections outside BOSCH REXROTH's data center), in particular due to a failure of CUSTOMER's Internet connection, then for the purposes of calculating availability, the PORTALSOFTWARE shall be deemed to have been available during these times. BOSCH REXROTH shall plan maintenance work so as to ensure that the use of the DATA MANAGEMENT SERVICE by the CUSTOMER is impaired as little as possible. The CUSTOMER must be given at least fourteen (14) calendar days advance notice of scheduled.

28.3. BOSCH REXROTH shall owe the availability of the functionalities of the PORTALSOFTWARE described in the Performance Specification only if the system requirements also regulated therein have been complied with by CUSTOMER. CUSTOMER shall be solely responsible for compliance with the system requirements. The provisions of section 30 shall apply accordingly to changes to the system requirements and to changes to the technical system of BOSCH REXROTH.

### 29. Support

29.1. BOSCH REXROTH shall provide first level support for CUSTOMER as first point of contact for INCIDENTS.

29.2. CUSTOMER is obliged to report INCIDENTS without undue delay, no later than on the next working day. An INCIDENT report must contain at least the following information:

- i. Functionality affected;
- ii. Environment affected;
- iii. Gateways affected;
- iv. Date and time when the INCIDENT occurred;
- v. User name affected, if available;
- vi. Categorization of the INCIDENT by CUSTOMER; and
- vii. Description of the INCIDENT:
  - The measures which CUSTOMER has already taken to rectify the malfunction;
  - The behavior demonstrated due to CUSTOMER's measures to rectify the malfunction.

29.3. In connection with the FLS, an error ticket shall be created by BOSCH REXROTH at its reasonable discretion for each INCIDENT and each INCIDENT shall be allocated to the corresponding error category, unless otherwise agreed in the SLA.

29.4. If no other error categories are defined in the SLA, the following error categories shall apply:

- i. Error category 1: There is a category 1 error if the use of the PORTALSOFTWARE or of large parts thereof is not possible or is severely restricted, for example due to malfunctions, incorrect work results or excessively long response times (for exam-

ple: if there are considerable discrepancies as compared with the Performance Specification, if DATA is wrongly or erroneously stored, if there are program aborts in functions).

- ii. Error category 2: There is a category 2 error if, although the use of the PORTALSOFTWARE is not impossible or severely restricted, the restriction(s) of use, for example due to malfunctions, incorrect work results or excessively long response times, is/are nonetheless not merely insignificant.
- iii. Error category 3: There is a category 3 error if the use of the PORTALSOFTWARE is not directly and/or significantly/considerably impaired, for example if the basic settings are unfavorably defined or if "nice-to-have functions" are missing.
- iv. Other errors: In the event of errors which cannot be ascribed to the above categories, e.g. if merely minor errors arise which have no effect on the usability of the PORTALSOFTWARE, or in the event of queries or requests for improvements being made by the CUSTOMER, it is at the discretion of BOSCH REXROTH whether it becomes active.

29.5. The Support availabilities are agreed in the SLA. Unless otherwise agreed herein, Support shall be available Monday-Friday during BOSCH REXROTH's business hours from 08:00 a.m. to 4:30 p.m. CET/CEST, excluding public holiday in Baden-Württemberg.

29.6. The response time shall run during the Support availability according to section 29.5 and commences with provision of the required information as per section 29.2. Messages not received during the availability of support are deemed received at 8 a.m. Unless otherwise agreed in the SLA, the response time for error category 1-3 shall be max. 12 hours.

29.7. The response time shall be deemed complied with if BOSCH REXROTH has sent CUSTOMER qualified feedback within the response time and rectification of the error has been commenced. On request, BOSCH REXROTH shall send CUSTOMER a non-binding estimate of the time expected to be required to rectify the error.

29.8. INCIDENTS which cannot be rectified by the FLS shall be transferred to the Second Level Support aiming to set up a temporary workaround.

29.9. CUSTOMER shall be informed of the processing status and of the solution at regular intervals until this has been implemented and the malfunction rectified. If, however, the qualification of the error ticket by BOSCH REXROTH should lead to the result that the malfunction is due to a service or performance by CUSTOMER pursuant to section 25 or to other reasons which are not attributable to BOSCH REXROTH, then the CUSTOMER shall have no right of support by BOSCH REXROTH.

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29.10. Actualizations (upgrades, updates, patches or bugfixes) of the PORTALSOFTWARE shall be provided by BOSCH REXROTH as required and in accordance with the maintenance regulations in the SLA.

### 30. Changes to the Software and amendments to these T & C

30.1. BOSCH REXROTH reserves the right to adapt these SUPPLEMENTARY REGULATIONS, the SLA and the PORTALSOFTWARE at any time in line e.g. with changes in technical or legal conditions, API compatibility or with regard to further developments of the PORTALSOFTWARE or technical progress, such adaptation also being effective in respect of existing contractual relationships, whereby the basic functionalities of the PORTALSOFTWARE shall be maintained.

30.2. CUSTOMER shall be notified of such changes in a suitable manner no later than thirty (30) calendar days before the planned effective date of the changes insofar as the adaptation involves a restriction in the usability or other not only insignificant disadvantages (e.g. adaptation expenses). If CUSTOMER does not object within thirty (30) days of receipt of the notification and continues to use the PORTALSOFTWARE after expiry of the period for objection, then the changes shall be deemed to have been effectively agreed as from the expiry date of the time limit. In the event of an objection, the contractual relationship shall be continued subject to the conditions applying hitherto. If an objection is raised, BOSCH REXROTH is entitled to terminate the contractual relationship subject to a one (1) month notice period. CUSTOMER shall be advised in the change notification of its right to object and of the consequences.

### 31. Definitions

31.1. „ACCESS DATA“: The data required for the USER ACCOUNT, especially the user name and password.

31.2. „AFFILIATED ENTERPRISE“: Every legal entity which is controlled by BOSCH REXROTH, which controls BOSCH REXROTH or which is jointly-controlled together with BOSCH REXROTH. Control is deemed to exist where more than fifty percent (50 %) of the capital shares or voting rights is held or where the corporate management and policy are controlled either directly or indirectly on the basis of capital shares, by virtue of agreements or in any other way.

31.3. „CENTRAL BOSCH-ID“: User ID of the Single Sign-On Authentication Service of Bosch.IO GmbH, Ullsteinstrasse 128, 12109 Berlin, Germany, enabling the use of various independent services of the Bosch Group and which requires the CUSTOMER's e-mail address with any e-mail provider.

31.4. CONFIDENTIAL INFORMATION: Information in accordance with section 2 no. 1 of the German Trade Secrets Act (GeschGehG).

31.5. „CUSTOMER DATA“: All the CUSTOMER content except for USER CONTENT which the CUSTOMER generates or transmits to BOSCH REXROTH in connection with the use of the DATA MANAGEMENT SERVICE. CUSTOMER DATA also includes the ACCESS DATA for the DATA MANAGEMENT SERVICE.

31.6. „DOCUMENTATION“: All the information required to be able to work with the PORTALSOFTWARE in accordance with the intended use.

31.7. „DATA“: Collective term for all the data exchanged and processed under this DATA MANAGEMENT SERVICE.

31.8. „DATA OUTPUT“: Display (aggregated, if applicable) and/or provision and/or evaluation and/or storage of the INPUT DATA in accordance with the product description.

31.9. „FOSS“: Free and Open Source SOFTWARE, in particular software under an approved license of the Free Software Foundation (FSF) or the Open Source Initiative (OSI).

31.10. „INCIDENTS“: malfunctions occurring in the context of the PORTALSOFTWARE.

31.11. „INPUT DATA“: Information collected at the respective UNIT which is transmitted to BOSCH REXROTH – if applicable in a pre-processed form – for rendering the DATA MANAGEMENT SERVICE. INPUT DATA can also contain CUSTOMER DATA.

31.12. „PORTAL SOFTWARE“: Portal used for the SERVICE which the CUSTOMER can access via the Internet, either browser-based or by using an application interface installed by BOSCH REXROTH.

31.13. „PROPERTY RIGHT“: Industrial PROPERTY RIGHT or third-party copyright.

31.14. „SERVICE“: Agreed provision of the DATA OUTPUT.

31.15. „SERVICE LEVEL AGREEMENT“ („SLA“): Defines availability and support of BOSCH REXROTH.

31.16. „UNIT“: Relevant system or component of a machine which is subject to an individual processing of data and a provision of information.

31.17. „USER ACCOUNT“: Enables access to and use of the relevant PORTALSOFTWARE.

31.18. „USER CONTENT“: The CUSTOMER's own data and/or software which the CUSTOMER can (via CUSTOMER REPOSITORY, if applicable) upload for its own use and/or which can be flashed onto the UNITS – insofar as this is available as a function of the PORTALSOFTWARE.