

General Terms and Conditions for End Customers for the Provision of STACKIT and Google Products in connection with Google Workspace

1. Contractual Structure

- 1.1. These General Terms and Conditions for End Customers ("Terms and Conditions") exclusively govern the legal relationships between the respective Customer named in the Order Form (as defined below) ("Customer") and Schwarz Digits Cloud GmbH & Co. KG ("STACKIT"; the Customer and STACKIT hereinafter collectively referred to as the "Parties" and individually as a "Party")
- 1.2. These Terms and Conditions apply exclusively to the provision and use of the products listed in the underlying Order Form (each a "Product"). A distinction is made as to whether the respective Product listed is a Product developed or provided by STACKIT ("STACKIT Product") or a Product developed or provided by Google Cloud EMEA Ltd. ("Google") ("Google Product"), which STACKIT sells to the Customer. The provisions of these Terms and Conditions which do not distinguish between a STACKIT Product and a Google Product – hence referring merely to a "Product" – shall apply both to STACKIT Products as well as to Google Products.
- 1.3. STACKIT has not developed the respective Google Product itself, but acts as a reseller of the Google Product to the Customer on the basis of an agreement between STACKIT and Google.
- 1.4. The services offered by STACKIT are aimed exclusively at traders within the meaning of section 14 of the German Civil Code (Bürgerliches Gesetzbuch – BGB), legal entities under public law or special funds under public law.
- 1.5. The Parties may agree further details in the Annexes to these Terms and Conditions. Unless agreed otherwise in the respective Annex, the provisions of the Terms and Conditions also apply to the respective Annex.
- 1.6. These Terms and Conditions, including any Annexes, shall be an integral component of any Order Form. In the event of conflicts between provisions applicable to an Order Form, the following shall be controlling in descending order of priority:
 - the provisions of the Order Form;
 - the Annexes to the Order Form (if applicable); such Annexes shall rank pari passu;
 - the Annexes to these Terms and Conditions (if applicable); such Annexes shall rank pari passu;
 - the terms of these Terms and Conditions;

2. Offer and Formation of Contract

- 2.1. A contract between the Parties is formed on the basis of the STACKIT order form in accordance with these Terms and Conditions, stipulating the Products ordered by the Customer ("Order Form").
- 2.2. The Order Form was created by STACKIT on the basis of the product requirements described by the Customer and constitutes an offer from STACKIT to the Customer.
- 2.3. The Customer may accept STACKIT's offer within a period of 30 calendar days starting from the offer date specified in the Order Form, unless otherwise agreed when the offer is submitted, after which the offer shall expire.
- 2.4. Upon acceptance of the offer by the Customer, STACKIT and the Customer enter into the Agreement for the Products listed in the Order Form.
- 2.5. STACKIT, Google and the Customer are independent companies with regard to the provision of the Product and the associated services.
- 2.6. If STACKIT and the Customer enter into an Order Form for the Customer to purchase the Product, (a) STACKIT shall provide the services in accordance with the provisions of the Order Form, these Terms and Conditions, and the supplemental contractual terms and conditions

set out in clauses 3 and 4; and (b) the Customer shall be entitled to use the services as stipulated the Order Form, these Terms and Conditions, and the supplemental terms and conditions set out in clauses 3 and 4.

3. Supplemental Terms and Conditions for Google Products

- 3.1. By agreeing to these Terms and Conditions, the Customer also undertakes to agree to separate Terms of Service ("ToS") provided by Google, without any changes or additions, with Google. Only after agreeing to the ToS shall STACKIT grant the Customer access to Google Products in accordance with clause 6.
- 3.2. The ToS constitute a contract entered into solely between the Customer and the Manufacturer. STACKIT has no control over the terms of the ToS. STACKIT is not responsible for the content or lawfulness of the ToS.
- 3.3. In the ToS, Google defines in particular the scope of the Customer's license to use the respective Google Product, the prohibited types of use, provisions on data processing and the warranty for Google Products.
- 3.4. STACKIT advises that Google reserves the right to amend the ToS from time to time. Amendments can be viewed at the following link: <https://workspace.google.com/terms/premier/terms/>.

4. Supplemental Terms and Conditions for STACKIT Products

- 4.1. If the Customer purchases Google Products via STACKIT under the terms stipulated in an Order Form, this shall entitle the Customer to purchase STACKIT Products in addition to Google Products. For the avoidance of doubt, the Parties agree that STACKIT shall only offer the ordering and use of STACKIT Products to the extent that and for as long as a current Order Form for Google Products exists between the Parties.
- 4.2. For the respective STACKIT Product, the respective product description shall apply in addition to the Order Form, these Terms and Conditions and any Annexes. The current version of the respective product description is available at [[STACKIT Workspace - STACKIT solutions](#)]. STACKIT may amend the product description from time to time.

5. Product Licenses

- 5.1. STACKIT shall grant the Customer a non-transferable, non-sublicensable right to use the respective Product in accordance with these Terms and Conditions and the underlying Order Form. The Customer's license is limited to the territories specified in the Order Form.
- 5.2. The term of the license, the number of licenses granted for the respective Product and their scope of use by the Customer's end users shall also be stipulated in the respective Order Form.
- 5.3. If the Product is a Google Product, the Customer's licenses shall also be governed by the applicable ToS. Under no circumstances shall STACKIT grant the Customer any further licenses to Google Products than those granted to Customers by Google in accordance with the ToS as amended from time to time.
- 5.4. The Customer shall be prohibited from the following:
 - (a) adapting, copying or modifying the respective Product;
 - (b) reverse engineering, decompiling, translating, disassembling or otherwise extracting part or all of the source code of the Product (except to the extent that such restriction is expressly prohibited by applicable law, including sections 69d and 69e of the German Copyright Act (Urheberrechtsgesetz – UrhG);
 - (c) selling, reselling, sublicensing, transferring or distributing the relevant Product or allowing a third party to use it; or

(d) accessing or using the respective Product

- for high-risk activities;
- in order to evade fees (including creating multiple accounts to simulate or function as a single account or to evade service-specific usage restrictions or quotas);
- to perform cryptocurrency mining without the prior written consent of Google;
- to make or receive emergency calls, unless otherwise specified in the Terms and Conditions or in the service-specific supplemental terms and conditions pursuant to clauses 3 and 4
- in a manner that violates or results in violations of export control laws; or
- to transfer, store or process health information subject to the U.S. Health Insurance Portability and Accountability Act (HIPAA), unless a signed HIPAA Business Associate Agreement (BAA) is in place.

(e) using the Product or the documentation provided for the Product for purposes other than those provided for in these Terms and Conditions and the respective Order Form.

5.5. The Customer is also prohibited from using the Product in question in the following ways:

- creating or sending unsolicited commercial mass e-mails;
- infringement of third party rights or supporting such infringement;
- participation in, dissemination of, or incitement to illegal activities, including the sexual exploitation of children, child abuse, or terrorism or violence that may result in death, serious harm, or injury to individuals or groups of individuals;
- unlawful, invasive, infringing, defamatory or fraudulent activities. This also includes images and videos with non-consensual sexual acts, infringement of the intellectual property rights of others, phishing or the creation of a pyramid scheme;
- spreading viruses, worms, Trojans, corrupted files, hoaxes and other destructive or fraudulent elements;
- obtaining unauthorized access to the Product or the equipment used to provide the Product by Customers, authorized resellers or other authorized users, or interfering with or impairing the Product or such equipment;
- modifying, disabling, impairing or circumventing any part of the Product, software or equipment used to provide the Product;
- testing or reverse engineering the Product to find vulnerabilities or security gaps or to bypass filter functions;
- granting access to a single end user account by more than one person, except as part of the delegation functions provided within the Product;
- creating end user accounts that are assigned to functional areas instead of natural persons for the purpose of sharing files within or outside the domain;
- reselling end user accounts or components of these accounts as part of a commercial product offered to third parties;
- recording voice and video chats without obtaining consent required by applicable laws or regulations. The Customer is solely responsible for compliance with all applicable laws and regulations of the relevant jurisdiction;
- using the Product or the interfaces provided along with the Product to access another STACKIT Product in a way that violates the respective Terms and Conditions.

6. Provision of the Product

6.1. STACKIT is responsible for providing the Product to the Customer.

6.2. STACKIT is entitled to use suitable subcontractors in the context of providing the Product without the Customer's consent.

- 6.3. The Product shall be provided in accordance with the service levels stipulated in clause 7 and the support terms and conditions pursuant to clause 11. In addition, the provision of Google Products is subject to the supplemental terms and conditions set out in clause 3 and the provision of STACKIT Products is subject to the supplemental terms and conditions set out in clause 4.
- 6.4. STACKIT shall provide the Customer with access to the Product via the Google Workspace Admin Console.
- 6.5. The Customer is aware that an account with Google is required to use the Product in accordance with the provisions of the ToS.
- 6.6. For the use and administration of STACKIT Products, it may also be necessary to create and use a free customer account with STACKIT.

7. Provision of the Product

- 7.1. During the contractual term stipulated in the Order Form, the monthly availability of the respective Product shall be 99.9% ("Availability").
- 7.2. Availability shall be calculated as follows:

$$\frac{\text{Total minutes in the calendar month} - \text{downtime}}{\text{Total minutes in the calendar month}} \text{ in percent (\%)}$$

- 7.3. **Downtime** shall mean the period during which the user web interface for the respective Product used by the Customer displays a user error rate in excess of five percent. Downtime shall be measured based on the server-side error rate.
- 7.4. The **total minutes in the calendar month** shall be counted over 24 hours, 7 days a week during a given calendar month.
- 7.5. If STACKIT fails to ensure the required Availability for a Product and the Customer complies with the requirements of these Terms and Conditions, the Customer shall be entitled to receive credits ("Service Credits") in accordance with the provisions of this clause 7. The Customer shall receive Service Credits as a cash credit in the amount of the corresponding remuneration owed by the Customer for each full day (further details provided in clause 14). Service Credits shall be applied to a future invoice from STACKIT to the Customer for the relevant Product for which the required Availability was not ensured.
- 7.6. Service Credits shall be the Customer's sole and exclusive remedy in the event that STACKIT fails to comply with the Availability requirement.
- 7.7. The Customer can receive Service Credits to the following extent:

Monthly Availability	Service Credits (Share of Service Credit for the listed number of days)
< 99.9% - >= 99.0%	3
< 99.0% - >= 95.0%	7
< 95.0%	15

- 7.8. If several Availability issues occur due to the same cause, STACKIT shall grant Service Credits to the Customer only for the issue that first entitles the Customer to apply for Service Credits. The Customer shall not be entitled to additional Service Credits for further Availability issues stemming from the same cause. The Customer may not claim Service Credits cumulatively for repeated Availability issues which are attributable to one and the same cause.

- 7.9. To receive Service Credits, the Customer must notify STACKIT by creating a support case within twenty-one (21) days from the date the Customer becomes eligible for Service Credits. Failure to adhere to this deadline shall render the Customer's claim to Service Credits null and void.
- 7.10. The Customer shall be obligated to report alleged Downtimes to STACKIT in a comprehensible and detailed form, stating all information useful for detection and analysis. In particular, the time, duration and effects of the alleged Downtime must be indicated.
- 7.11. The total number of Service Credits that STACKIT issues to the Customer for all Downtime that occurs in a single calendar month for the Products under an Order Form shall not exceed fifteen Service Credits in the form of a cash credit. Service Credits cannot be exchanged or converted into cash. This clause 7 shall not apply in the following cases:
- Services that are expressly excluded in an Order Form or the supplemental terms and conditions in accordance with clauses 3 and 4;
 - Services included in the Google Workspace Essentials Starter Edition;
 - Downtime (i) caused by factors described in clause 8; (ii) attributable to the Customer's and/or third parties' infrastructure (which are not under the primary control of STACKIT); or (iii) attributable to the misuse or other conduct of the Customer or its end users in breach of contract;
- 7.12. STACKIT carries out regular maintenance work (e.g., in the form of updates, patches, bug fixes or hardware replacements and hardware extensions) to ensure the function, quality and security of the STACKIT Product.
- 7.13. STACKIT generally announces maintenance work that is likely to impair the usability of the STACKIT Product for the Customer on the STACKIT Cloud Status website two weeks before it is carried out. For urgent maintenance work, the announcement can also be made at much shorter notice or, depending on the individual case, not at all. STACKIT recommends that Customers regularly check the status of maintenance work on the STACKIT Cloud Status website.
- 7.14. While maintenance work is being carried out, access to STACKIT Products may be temporarily suspended or restricted, especially if this is absolutely necessary due to the nature of the maintenance work to be carried out.

8. Force Majeure

- 8.1. STACKIT's contractual obligations shall lapse in the event and for the duration of an event of force majeure. Force majeure shall include, in particular, the following events not culpably caused by STACKIT: labor disputes, fire, explosion, flooding, lightning, war, blockades, embargoes, decisions by government agencies or other government regulations, technical faults in the Internet provider's network, delayed provision of services by third parties, insofar as this was caused by an event described above, general transport, goods or energy bottlenecks or other similar circumstances.

9. Product Modifications and Adjustments

- 9.1. STACKIT has no influence on the development and specifications of the Google Product. This applies in particular to adjustments made to the Google Product by Google during the term of an Order Form, such as updates, bug fixes, or new/modified product features ("Google Product Adjustments").
- 9.2. If options for Google Product Adjustments are defined within the ToS, these shall apply additionally and exclusively as between Google and the Customer.

- 9.3. The Parties are aware and accept that Google is entitled to change the Google Product without prior notice, unless otherwise stipulated in the supplemental terms and conditions in accordance with clause 3.
- 9.4. STACKIT has the right to modify STACKIT Products, with effect for the future, for a valid reason to the extent that any such modification does not alter the balance of the Parties' respective material performance obligations and that such modification is deemed acceptable to the Customer, i.e., that the cost/benefit ratio does not disproportionately shift to the detriment of the Customer (in particular through upgrades).

10. Suspension or Discontinuation of the Product

- 10.1. STACKIT may suspend provision of the Product to the Customer if the Customer:
 - (a) breaches its payment obligations under clause 14 and the terms stipulated in the Order Form; or
 - (b) in the case of a Google Product, if Google requests that STACKIT discontinue the services following Deceptive Practices or other violations of the ToS by the Customer. In such cases, STACKIT shall inform the Customer in advance and set a deadline of fourteen (14) days to remedy the violation. "**Deceptive Practices**" within the meaning of these Terms and Conditions means prohibited or fraudulent trading practices or other conduct that is prohibited under the Terms and Conditions or the ToS.
- 10.2. STACKIT shall limit the suspension of the provision of the Product to the extent and period necessary to remedy the reason for the suspension.
- 10.3. The Parties are aware and accept that Google is entitled to suspend the Google Products or to discontinue the distribution of the respective Google Product without prior notice, unless otherwise stipulated in the supplemental terms and conditions in accordance with clause 3. In such cases, STACKIT shall without undue delay notify the Customer of the discontinuation of the Google Product or its distribution and refund any payments already made by the Customer for the period after such discontinuation without undue delay.
- 10.4. If Google discontinues the Google Product or the distribution of the respective Google Product, the Order Form shall be automatically terminated for all STACKIT Products purchased thereunder.

11. Support

- 11.1. STACKIT shall provide technical support services to the Customer in accordance with **Annex [1]** (Support).
- 11.2. All support services covered by these Terms and Conditions are services within the meaning of sections 611 et seq. of the German Civil Code (Bürgerliches Gesetzbuch – BGB).
- 11.3. STACKIT shall make reasonable efforts to resolve Customer support requests for the respective Google Product without escalation to Google. If STACKIT is unable to resolve support requests, STACKIT shall forward the support request in full (insofar as it relates to Google Products) to Google on behalf of the Customer.

12. Cooperation by the Customer

- 12.1. The Customer shall provide all cooperation and assistance necessary to ensure the due provision of services by STACKIT. The Customer acknowledges that the contractual provision of the services essentially depends on the provision of such cooperation and assistance and may also require the Customer to exert a corresponding influence on its vicarious agents, representatives, service recipients, other service providers or other third parties (with the exception of vicarious agents of STACKIT).

- 12.2. The Customer shall (i) in particular provide the cooperative assistance agreed in the Order Form; (ii) provide STACKIT with the data and information necessary to ensure the provision of the respective Product, in particular also for support services; and (iii) in the event of a claim for a defect in the Product, provide all information available to it about the alleged defect.

13. Term and Termination

- 13.1. The term of an Order Form or the subscription period of a Product depends on the agreements stipulated in the Order Form.
- 13.2. Either Party may terminate the Order Form if the other Party: (a) breaches any material contractual obligation and fails to remedy such breach within thirty (30) days after written notice; or (b) enters into an arrangement with or to the benefit of its creditors, is dissolved or otherwise discontinues its business operations, or becomes the subject of insolvency or bankruptcy proceedings and such proceedings are not discontinued within ninety (90) days.
- 13.3. STACKIT may terminate an Order Form with the Customer in whole or in part for good cause without notice if:
- (a) the Customer violates provisions of the ToS and these are terminated by Google as a result; or
 - (b) the ToS are otherwise terminated through no fault of STACKIT before expiration of the term of the relevant Order Form with the Customer; or
 - (c) a material change in the Customer's direct or indirect ownership or shareholder structure occurs. A material change for purposes of this provision is in particular (a) the acquisition of more than 50 % of the shares in the Customer or the direct or indirect acquisition of the Customer's parent company by a third party; and (b) a merger pursuant to which the Customer or its parent company is merged with or absorbed into a third party; as well as (c) a sale or transfer of a substantial portion of the assets of the Customer or its parent company to a third party. The Customer shall notify STACKIT in writing of any material change in this regard; or
 - (d) the financial condition of the Customer materially deteriorates such that it may be expected to be permanently unable to meet its payment obligations; or
 - (e) in relation to a Google Product, if Google discontinues the respective Google Product.
- 13.4. If the term ends for all Google Products purchased under the Order Form or if a Party terminates all Google Products purchased under the Order Form, the Order Form shall also be automatically terminated for all STACKIT Products purchased thereunder. The foregoing shall apply mutatis mutandis if Google discontinues all Google Products or the distribution of all Google Products under the Order Form in accordance with clause 10.3.
- 13.5. If the Order Form is terminated or expires, then as of the date the Order Form is terminated or expires: (a) all rights and access to the services under the Order Form shall terminate (including access to Customer data), unless otherwise described in the applicable Order Form; and (b) STACKIT shall issue a final invoice to the Customer for the payment obligations under the Order Form. The termination or expiration of the Order Form shall have no effect on any other existing Order Forms.
- 13.6. Any notice of termination must be directed in writing to the other respective Party.
- 13.7. The following provisions of these Terms and Conditions shall continue to apply after termination of the Order Form: clause 16 (Liability), clause 18 (Confidentiality), clause 19 (Intellectual Property), clause 20 (Indemnification).

14. Remuneration

- 14.1. The prices applicable to the respective Product shall be stipulated in the Order Form. The remuneration owed by the Customer shall be bindingly agreed upon entry into the Order Form in accordance with clause 2.4.
- 14.2. For the avoidance of doubt, the Parties agree that any provisions on remuneration contained in the ToS shall not apply as between STACKIT and the Customer.
- 14.3. Unless otherwise stipulated, prices are net prices and do not include any applicable VAT.
- 14.4. Unless otherwise stipulated, the Customer shall be invoiced for Products on a monthly basis. Invoices are due and payable in full immediately upon receipt by the Customer. Payment is due within 30 calendar days of receipt of the invoice by the Customer.
- 14.5. The Customer consents to the electronic transmission of invoices. Couriers or agents may also be used for billing purposes. Invoices will be sent to the Customer's e-mail address provided for general purposes.
- 14.6. STACKIT is entitled to adjust the prices for ongoing Order Forms for the first time with effect after expiration of the initially agreed term with a notice period of at least four (4) weeks. In such cases, the Customer may terminate the Order Form during the notice period with a notice period of four (4) weeks. In its notice of modification, STACKIT will expressly advise the Customer of the legal consequences, the time limit and the date of entry into effect.
- 14.7. The Customer's right to set off may only be exercised with counterclaims that are uncontested, ripe for adjudication or have been declared final and binding by a court of law. Likewise, the Customer's right of retention may only be exercised with claims that are uncontested or have been declared final and binding by a court of law. Claims against STACKIT may not be assigned; this does not apply within the scope of section 354a German Commercial Code (Handelsgesetzbuch – HGB).
- 14.8. STACKIT has the right to only perform outstanding services against advance payment or the provision of security if STACKIT becomes aware of circumstances that are fit to materially impair the Customer's creditworthiness and that jeopardize the settlement of outstanding claims by the Customer under the relevant contractual relationship.
- 14.9. All amounts paid as remuneration shall be net after deduction or withholding of present or future taxes if and to the extent that such taxes are levied for STACKIT in the Customer's country of residence and are to be paid by the Customer (hereinafter referred to as "Tax Deduction"). The Customer must make all payments due to STACKIT without any applicable Tax Deduction, unless required by law. In this case, the Customer shall increase the amount payable so that, after any required Tax Deduction, STACKIT receives the amount that STACKIT would have received if no such Tax Deduction had been made.
- 14.10. The term "taxes" includes any type of payment or charge assessed or collected by the tax authorities or other public collection agency in the Customer's country of domicile. They include, for example, but without this constituting an exhaustive list: income tax, company tax, capital gains tax / tax on investment income, tax deducted at source or withholding tax and all kinds of payments incidental to the collection of taxes such as interest, additional charges and other payments in respect of payable taxes.

15. Warranty

- 15.1. The owed quality of the respective Product shall be expressly stipulated in the Order Form and the supplemental terms and conditions pursuant to clauses 3 and 4. Unless expressly designated and named as such, STACKIT assumes no guarantee.
- 15.2. If the quality of the respective Product falls short of the owed quality, STACKIT may, at its option, remedy the defect or deliver a replacement product free of defects. In particular, STACKIT may remedy the defect by providing a fix, minor release or major release.

- 15.3. The limitation period for warranty claims shall commence upon provision of the Product pursuant to clause 6. Claims based on a defect in the Product shall lapse within one year from the date of such provision.
- 15.4. When used as contractually stipulated, the respective Product complies with the specifications in the Order Form and the supplemental terms and conditions under sections 3 and 4. STACKIT does not warrant that the respective Product will satisfy the requirements and purposes of the Customer or that it will work together with other programs or system environments or operating systems selected by the Customer, unless this is expressly stated in the Order Form.
- 15.5. Warranty claims of the Customer shall lapse if the Customer modifies the respective Product or has it modified by third parties, uses it excessively and improperly or disregards restrictions set out in clauses 5.4 or 5.5.
- 15.6. Only the Customer shall be entitled to assert warranty claims against STACKIT and these cannot be assigned.
- 15.7. The Customer shall not be entitled to remedy defects itself or have them remedied by third parties.
- 15.8. The Customer shall be obligated to report defects to STACKIT in a comprehensible and detailed form, stating all information useful for detection and analysis. In particular, the procedural steps that led to the occurrence of the defect, the manner in which the defect manifested itself and the effects of the defect must be specified.
- 15.9. The Customer must report any defects discovered or deviations from any contractually agreed quality in writing without undue delay upon discovery. If notification is not made in timely fashion, the claim for effecting cure shall lapse. The notification of defects shall in any case be deemed to be without undue delay and timely if it is sent within three (3) working days of discovery in the case of obvious defects.
- 15.10. The Customer shall be obligated to make reasonable efforts to support STACKIT in connection with work performed under the warranty, in particular to provide the necessary information, documents and work equipment in good time.
- 15.11. After expiration of the warranty period for the respective Product in accordance with clause 15.3, defects shall only be remedied within the scope of general Product Adjustments.

16. Liability

- 16.1. Regardless of the legal grounds, STACKIT shall be liable for damages in accordance with the statutory provisions in cases of:
 - willful or grossly negligent conduct,
 - injury to life, limb or health caused by ordinary negligence;
 - the assumption of a guarantee;
 - fraudulent concealment of a defect; and
 - for claims of the Customer under the German Product Liability Act (Produkthaftungsgesetz – ProdHaftG).
- 16.2. STACKIT shall furthermore only be liable for loss or damage caused by the negligent breach of a material contractual obligation; material contractual obligations are obligations that are essential for the due and proper performance of the services agreed in the Order Form, and on the performance of which the Customer is entitled to rely, and which protect the Customer's material legal positions under the Agreement. In such cases, liability shall be limited to compensation for typically foreseeable loss or damage.
- 16.3. Subject to clause 16.1, STACKIT's total liability for all claims, regardless of the cause of action (such as in contract, tort or otherwise), arising in a contract year under the Order Form shall

- be limited to the amount paid and/or payable by the Customer to STACKIT in the relevant contract year under the Order Form ("**Liability Cap**").
- 16.4. Subject to clause 16.1, neither Party shall be liable under or in connection with these Terms and Conditions, regardless of the cause of action (such as in contract, tort or otherwise), for any of the following loss or damage incurred by the other Party:
- (a) lost profits and lost savings;
 - (b) indirect damage;
 - (c) consequential damage;
 - (d) third party-claims.
- 16.5. STACKIT shall only be liable for the loss or destruction of data if such loss or destruction was caused willfully or through gross negligence or by a breach of a material contractual obligation. In terms of the amount, liability is limited to the loss or damage that would also have occurred if the Customer had properly backed up the data affected.
- 16.6. STACKIT shall not be liable for the content and consistency of the Customer's data.
- 16.7. Any strict liability under section 536a (1) alt. 1 of the German Civil Code (Bürgerliches Gesetzbuch – "BGB") for defects that already existed at the time the Order Form was entered into is excluded, unless the defect relates to a characteristic that STACKIT has warranted.
- 16.8. In all other respects, STACKIT's liability – for whatever legal reason – is excluded.
- 16.9. The liability provisions of this clause 16 shall apply mutatis mutandis to legal representatives, employees, independent contractors and other vicarious agents of STACKIT.

17. Requirements for Use by the Customer

- 17.1. The Customer shall obtain and maintain all authorizations and consent required for the entire term of the Order Form so that (a) the Customer can use the services; and (b) STACKIT can fulfill its contractual obligations to the Customer; and (c) STACKIT can store and process the data provided by the Customer in the context of contractual performance.
- 17.2. The Customer shall (a) ensure that the Customer's and its end users' use of the services complies with the contractual agreements; (b) undertake all commercially reasonable efforts to prevent and terminate any unauthorized access or use of the services; and (c) promptly notify STACKIT of any unauthorized use of or access to the services of which the Customer becomes aware.
- 17.3. The Customer is responsible for any and all data which the Customer transmits, the lawfulness and integrity of such data in particular. STACKIT does not monitor or check the content of any such data.

18. Confidentiality

- 18.1. The Parties shall treat Confidential Information disclosed by the other Party as confidential for the duration of the term of the Order Form plus 5 years after its termination; specifically, they shall not disclose such information to third parties, shall protect it against unauthorized access by implementing appropriate technical, organizational and legal non-disclosure measures, and shall use it solely within the scope of the cooperation. The Parties shall disclose Confidential Information to their own employees only as necessary to the cooperation and then only insofar as those employees are themselves bound to the same non-disclosure obligation stipulated herein. Confidential Information may not be recorded or stored except to the extent necessary in the context of the cooperation or to comply with legal obligations.
- 18.2. In this context, "Confidential Information" shall include trade and business secrets (as defined in section 2 of the German Act on the Protection of Trade Secrets (Gesetz zum Schutz von Geschäftsgeheimnissen – GeschGehG)) as well as any other information that must reasonably be regarded as confidential, and any and all information and documents that is disclosed to

one party by the other party or a company of Schwarz Group, or a company affiliated with the Customer, in connection with the cooperation. Confidential Information shall include in particular:

- the existence and terms of the Agreement;
- information developed or emerging in the context of contract performance;
- information about internal or organizational processes in place at the Parties, any company affiliated with the Customer or any company of Schwarz Group acquired in the context of the cooperation.

18.3. This non-disclosure obligation pursuant to clause 18.1 shall not apply if and to the extent that

- the Confidential Information was already known to the other Party prior to the execution of the Agreement or is subsequently disclosed to it by a third party lawfully, i.e., without breach of any non-disclosure agreement, statutory provision or official order;
- the Confidential Information was in the public domain prior to execution of the Agreement or subsequently enters the public domain without any culpable breach of the above obligation;
- the Confidential Information was independently discovered or created by the other Party or acquired using a product that had already been made publicly available;
- disclosure is required in the context of the cooperation or to protect the legal interests of the Party and such disclosure is made to agents who are bound in writing to the same non-disclosure obligation stipulated above or to advisors who are subject to a professional duty of confidentiality;
- disclosure is made by the Customer or by a company affiliated with the Customer to another company affiliated with the Customer that is bound to a written non-disclosure obligation stipulated in this clause 18;
- disclosure is made by one company of Schwarz Group to another company of Schwarz Group that is bound to a written non-disclosure obligation stipulated in this clause 18;
- the disclosing Party has released the receiving Party from the non-disclosure obligation;
- in cases involving section 5 of the German Act on the Protection of Trade Secrets (Gesetz zum Schutz von Geschäftsgeheimnissen – GeschGehG); or
- disclosure is mandated by or under law or by court or official order. In such case, the Party subject to disclosure shall without undue delay notify the other Party of the disclosure in writing or in text form and together the Parties will determine the extent to which they may limit disclosure within the bounds of the law.

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

18.5. Companies affiliated with the Customer are those within the meaning of sections 15 et seq of the German Stock Corporation Act (Aktengesetz – AktG).

18.6. STACKIT shall furthermore be obligated and entitled to disclose Confidential Information of the Customer to Google in accordance with clause 11.3 so that Google can process support requests from the Customer that the Customer or STACKIT escalates to Google. Moreover, STACKIT may disclose to Google these Terms and Conditions and the associated Order Form entered into with the Customer insofar as this is necessary to enable STACKIT to demonstrate compliance with its contractual obligations to Google.

18.7. For the term of the Order Form, the Customer shall grant STACKIT, free of charge, a non-exclusive, non-sublicensable license to name the Customer as a reference and to include the

Customer's brand features in presentations and marketing and advertising materials for marketing purposes.

- 18.8. The Customer agrees that STACKIT may forward the Customer's contact data to Google for the following purposes:
- to the extent necessary, for the purpose of entering into non-standardized Order Forms with the Customer;
 - for purposes related to the provision of the Google Product to the Customer, including for Product Adjustments;
 - to the extent necessary to inform Customers of available options to maintain continuity in the provision of the Google Product in the event of termination of the Order Form or insolvency of STACKIT;
 - for the purpose of conducting customer service and customer satisfaction surveys for non-marketing purposes.

19. Intellectual Property

- 19.1. For purposes of this clause 19, "Intellectual Property" shall encompass all currently existing or yet to be acquired intellectual property rights and related rights of all kinds such as rights under patents, trademarks, utility patents and designs, copyrights and related IP rights, regardless of whether or not such rights are registered, including the right to apply for the registration of such rights, as well as know-how and trade secrets.
- 19.2. Unless expressly agreed between the Parties, the Terms and Conditions and/or Order Form do not grant either Party any rights, implied or otherwise, in the content or Intellectual Property of the other Party or any third party.
- 19.3. All of STACKIT's Intellectual Property existing at the time the Order Form is entered into, as well as any adaptations, modifications and developments/upgrades thereof shall remain the property of and be held by STACKIT.
- 19.4. Any third-party Intellectual Property existing at the time the Order Form is entered into, as well as any adaptations, modifications and developments/upgrades thereof shall remain the property of and be held by the relevant third party.
- 19.5. To the extent not otherwise agreed in the Order Form, all of the Customer's Intellectual Property existing at the time the Order Form is entered into, as well as any adaptations, modifications and developments/upgrades thereof shall remain the property of and be held by the Customer.
- 19.6. The Customer may provide STACKIT with feedback and suggestions regarding the services ("Feedback"). The Customer shall grant STACKIT a worldwide, perpetual, irrevocable and royalty-free license to use and incorporate said Feedback into the services. The Customer waives the right to be named as the author.

20. Infringement of Third-party Rights and Indemnification Claims

- 20.1. STACKIT shall indemnify the Customer against liability for third party claims insofar as this is based on the justified assertion that the Customer's contractual use of the Product provided by STACKIT infringes the intellectual property rights of the third party.
- 20.2. The Customer shall indemnify STACKIT and other Schwarz companies against liability for third party claims arising from the use of a Product by the Customer or an end user in breach of the Terms and Conditions or Order Form.
- 20.3. Clauses 20.1 and 20.2 shall not apply to the extent that the asserted liability is based on (a) a breach of contract by the indemnified Party; or (b) a combination of the Products provided by the indemnifying Party with materials not provided by the indemnifying Party, unless such

combination is contractually required; or (c) problems not culpably caused by the indemnifying party or its end users.

- 20.4. The indemnification pursuant to clauses 20.1 and 20.2 shall be subject to the following conditions:
- The indemnified Party shall promptly notify the indemnifying Party in writing of any allegations that preceded the assertion of third party claims and shall reasonably cooperate with the indemnifying Party to resolve the allegations and third party claims. If a breach of this duty impairs the defense against a third party, the indemnifying Party's obligations under clauses 20.1 and 20.2 shall be reduced in proportion to such impairment.
 - The indemnified Party must give the indemnifying Party sole control over the litigation with third parties, insofar as this is possible under applicable procedural law. This applies provided that: (i) the indemnified Party may appoint its own counsel at its own expense; and (ii) any settlement requiring the indemnified Party to assume liability, pay money or take (or refrain from taking) any action requires the prior written consent of the indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed.
 - Clause 16 (Liability) shall apply.
- 20.5. Notwithstanding the termination rights of the Parties, this clause 20 shall constitute the sole and exclusive right of the Parties in connection with all third-party claims of infringement of Intellectual Property Rights.

21. Data Protection and Data Security

- 21.1. For the processing of personal data of the Customer by STACKIT in connection with the provision of the STACKIT Products and the provision of support services by STACKIT in accordance with clause 11, including any transmission of personal data to Google on behalf of the Customer or the possible receipt of personal data from Google on behalf of the Customer, the Parties hereby enter into the Data Processing Agreement contained in Annex [2] (Data Processing Agreement).
- 21.2. The processing of the Customer's personal data by Google is governed by the separate Data Processing Agreement that the Customer enters into with Google. STACKIT has no influence on the content of the Data Processing Agreement between the Customer and Google and is not responsible for the content and lawfulness of the Data Processing Agreement between the Customer and Google.
- 21.3. STACKIT is not responsible for the lawfulness of data processing by Google. Google is a direct processor of the Customer, i.e., for the purpose of providing Google Products under the underlying Order Form, and therefore not a (sub-)processor of STACKIT.
- 21.4. STACKIT shall take appropriate technical and organizational measures as part of the provision of STACKIT Products and the provision of support services by STACKIT in accordance with clause 11 to avoid disruptions to Availability, integrity, authenticity and confidentiality, in particular to protect the Customer's data (including non-personal data) from accidental or unlawful destruction, loss, alteration, unauthorized disclosure or unauthorized access.

22. Amendments to Terms and Conditions

- 22.1. If there is a valid reason to amend these Terms and Conditions and such amendment does not unreasonably disadvantage the Customer, in particular because the cost/benefit ratio does not disproportionately shift to the detriment of the Customer, STACKIT shall be entitled to amend the Order Form, these Terms and Conditions and the relevant Annexes, in whole or in

- part, with prospective effect. Such valid reasons shall include regulatory or legal reasons, security reasons, enhancing, optimizing or adding services and making Product Adjustments.
- 22.2. The Customer will be notified of any amendments to the Order Form, these Terms and Conditions or the relevant Annexes by e-mail at least eight (8) weeks before they enter into effect. Amendments shall be deemed approved if the Customer, after having received the notice of amendment, does not expressly object to them on or before the date on which they enter into effect. The Customer will be specifically advised in the notice of amendment of this legal consequence, the start of the period, the deadline and the date on which the amendment enters into force. In the event that the Customer objects to the modification, STACKIT shall be entitled to a special right of termination with immediate effect with regard to the Order Form.

23. Miscellaneous

- 23.1. Any amendments to the Order Form and these Terms and Conditions must be made in writing. This also applies to any amendment to or waiver of this written form requirement.
- 23.2. The written form may be replaced by a simple electronic signature (e.g. AdobeSign, DocuSign). Transmission by telecommunication (section 127 (2) BGB), for example the exchange of e-mails, shall not suffice to comply with the written form requirement.
- 23.3. The legal relationships between the Customer and STACKIT that arise under the respective Order Form are governed by German law to the exclusion of the conflict of law rules and the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 23.4. Should any provision of these Terms and Conditions or an Order Form be or become void, invalid or unenforceable, either in whole or in part, this shall not affect the validity or enforceability of the remaining provisions of the Terms and Conditions or the Order Form. The void, invalid or unenforceable provision shall be replaced by a provision that most closely reflects the economic intent and the purpose of the void, invalid or unenforceable provision to the extent permitted by law. This shall apply mutatis mutandis to any unintended omissions.
- 23.5. The exclusive place of jurisdiction for any and all disputes arising out of or in connection with these Terms and Conditions or Order Forms shall be Stuttgart, Germany.

Annexes

The following Annexes are included in the respective offer:

Annex [1] (Support)

Annex [2] (Data Processing Agreement)

STACKIT Support Services

1. General

- 1.1. STACKIT has concluded with the Customer an Agreement on the procurement of Google Workspace (GWS) and optional STACKIT Cloud features ("**General Terms and Conditions for End Customers**")
- 1.2. The STACKIT support services determine the technical support services that are to be provided to the Customer. The services are fully included in the license fee. The Customer incurs no additional costs.

2. Support Requests

- 2.1. STACKIT provides its Customers with qualified personnel and supporting resources for troubleshooting in accordance with the parameters below. Incoming support cases are evaluated by STACKIT according to their criticality, which results in different response times.
- 2.2. STACKIT reserves the right to downgrade the criticality if GWS and the associated STACKIT features are available and the reason for the disruption is the responsibility of the Customer.
- 2.3. STACKIT points out that in the course of processing a support case, it may be necessary – depending on the Customer's request – for STACKIT to access the Customer's data in order to be able to adequately process the support case.

Support level	Standard
Channels	Status Website (status.stackit.cloud) Knowledge Database (docs.stackit.cloud) Help Center (support.stackit.cloud)
Service hours	24/7
Response times	Business-critical incidents: 24/7: 15 minutes All other incidents: Monday – Friday 8:00 a.m. - 6:00 p.m.: 4 hours Service requests for STACKIT products (excl. GWS): Monday – Friday 8:00 a.m. - 6:00 p.m.: 8 hours
Price	As agreed in the Order Form

- 2.4. Classification of service requests
- 2.5. Customer requests are classified according to their content based on the contractually agreed terms and follow different processes.
- 2.6. Requests concerning GWS ("**GWS Support Requests**") are further processed by Google under certain circumstances. Requests concerning STACKIT features ("**STACKIT Support Requests**") – Key Management Service ("**KMS**"), Client-Side Encryption ("**CSE**") and Local Data Storage ("**LDS**") are processed by STACKIT exclusively.
- 2.7. An incident is when a service used by the Customer is disrupted, i.e., it deviates from the agreed service and this deviation has an adverse effect on the use of the service by the Customer ("Incident"). Disruption can encompass the following: the partial or total failure of significant functions of the

Customer's business operations; if the Customer is at risk of significant loss or damage (e.g., financial or reputational); or the Customer can no longer meet its statutory obligations.

- 2.8. A service request is when the Customer submits a general service or support query not based on any disruption to a service it is using ("Service Request").
- 2.9. When submitting the Service Request, the Customer can classify the request accordingly and describe the issue.
- 2.10. If the Customer does not classify the request, STACKIT will do so itself on the basis of the information provided by the Customer.

3. Support Service Hours

- 3.1. The response time is the period of time from the receipt of the Support Request from the Customer by STACKIT until qualified personnel begin to process the Support Request (initial assessment) ("**Response Time**"). For business-critical Incidents, the Response Time is a maximum of 15 minutes, for all other requests the Response Time is a maximum of 4 hours.
- 3.2. Incidents
- 3.3. Business-critical Incidents can be submitted to STACKIT 24/7 via the support channels provided. In the event of business-critical Incidents, the Customer is required to also report them by telephone using the designated number to allow them to be classified and processed as quickly as possible.
- 3.4. Incidents are processed during office hours.
- 3.5. Dedicated telephone number: + 49 07132 30474747
- 3.6. The telephone number is available to Customers during office hours, i.e., from Monday to Friday between 8:00 a.m. and 6:00 p.m. CET/CEST, except on public holidays in the federal state of Baden-Württemberg ("**Office Hours**")
- 3.7. The Customer shall treat the telephone number in confidence and not disclose it to unauthorized third parties.

4. Customer's General Duties of Cooperation

- 4.1. The proper performance of the agreed services by STACKIT is only possible if the Customer complies with the necessary duties of cooperation with regard to Support Requests.
Within the scope of its duties of cooperation, the Customer shall in particular:
 - Check extensively before submitting a Support Request whether it is capable, based on the resources and information available to it, of resolving the issue itself.
 - Check before reporting Incidents whether the cause of the disruption lies within its sphere of responsibility.
 - Assign the task of communicating with STACKIT regarding Support Requests to personnel familiar with STACKIT Services and GWS applications as well as the relevant Customer environment. In this context, the Customer will ensure that it nominates to STACKIT one or more qualified contact persons with the necessary decision-making authority for each Support Request. The Customer shall ensure that at least one of these contact persons can be reached in writing and by telephone for the period it takes to process a Support Request and shall perform the duties of cooperation of the Customer at the request of STACKIT.
 - When Support Requests are submitted, all the information relevant to their processing must be provided. This includes the unique identifiers used to identify projects or services to which the Support Requests pertain, detailed descriptions of the observed status of the services in question, a clear formulation of the expected target status, a comprehensive description of all steps necessary to reproduce errors, a description of activities undertaken up until that point by the Customer and all relevant logs.
 - In the event of an Incident being caused by major disruption to the STACKIT platform or Google Workspace (Major Incident), STACKIT shall inform the Customer of said Incident.

Further communication on the progress in resolving the Major Incident will be provided on the STACKIT status page until the process is completed. In such a case, the Customer will be kept up to date on the status via the status website.

- 4.2. The foregoing list of duties of cooperation is not exhaustive. Depending on the needs determined by STACKIT, further cooperation by the Customer may be necessary on a case-by-case basis to allow the adequate processing of a Support Request. STACKIT shall inform the Customer in a timely manner of any cooperation that is required. Should the Customer fail to meet its duties of cooperation to the necessary extent in the quality or scope as required by STACKIT, STACKIT reserves the right to suspend the processing of a Support Request until the necessary cooperation is provided by the Customer and, should the Customer fail to provide the necessary cooperation even after being requested to do so by STACKIT, cease processing the Support Request.
- 4.3. In order to process Support Requests of the Customer adequately, it may be necessary for STACKIT or Google to access the STACKIT Cloud Services utilized by the Customer. By submitting a Support Request to STACKIT, the Customer consents to such access by STACKIT or Google solely to the extent necessary to process the respective Support Request. This does not affect contractual and statutory obligations on the part of STACKIT, which it must continue to meet in this context.

Data Processing Agreement

Agreement between the "Customer" and the "Contractor" on the processing of data on behalf of a controller. The Customer is the party procuring Google products and, if applicable, also STACKIT products (as defined in the Main Agreement) as a "Customer" by means of an order form on the basis of the General Terms and Conditions for End Customers for the Provision of STACKIT and Google Products in connection with Google Workspace ("Order Form"; together with the foregoing general terms and conditions the "Main Agreement") from STACKIT GmbH & Co. KG, Stiftsbergstraße 1, 74172 Neckarsulm, Germany.

1. Subject Matter

- 1.1. For the purposes of the Main Agreement, it is necessary that the Contractor handles personal data in respect of which the Customer either acts as the controller within the meaning of the data protection law provisions or, on its part, as the processor for other controllers (e.g., affiliated group companies) (hereinafter referred to as "Customer Data"). Customer Data is handled by the Contractor solely for the purposes of providing support services and STACKIT products (collectively "STACKIT Services") by the Contractor under the Main Agreement. Clarification: The provision of Google products under the Main Agreement does not give rise to Customer Data within the meaning of this Agreement at the Contractor; for the provision of Google products, Google (as defined in the Main Agreement) is the direct processor of the Customer and the Contractor is not involved in the processing of personal data in this regard.
- 1.2. This Agreement stipulates the rights and obligations of the parties under data protection law in connection with the Contractor's handling of Customer Data in the performance of the Main Agreement.

2. Scope and Subject Matter of the Data Processing

- 2.1. The Contractor shall process the Customer Data on behalf and in accordance with the instructions of the Customer within the meaning of Article 28 GDPR (processing on behalf of a controller); to the extent that the Customer itself is the processor, the Contractor shall act accordingly as a sub-contractor.
- 2.2. The Contractor shall process the Customer Data in the manner and scope and for the purpose specified in Annex 1 to this Agreement; the types of personal data and the categories of data subjects referred to therein will be subject to processing.
- 2.3. The duration of processing shall correspond with the term of the Main Agreement.
- 2.4. The Contractor shall process the Customer Data within the European Union or the territory of another signatory to the Agreement on the European Economic Area (EEA). The Contractor may, subject to compliance with the terms of this Agreement, also process the Customer Data outside the EEA, provided the Contractor has informed the Customer in advance of the location of data processing and the requirements of Articles 44 to 48 GDPR are met, or a derogation under Article 49 GDPR applies. In the event that data is processed in a third country by another processor, the provisions in clause 7.3 shall apply. Insofar as the Customer instructs the Contractor to transfer personal data to a recipient in a third country, who is not another processor within the meaning of clause 7 of this Agreement, the Customer is responsible for complying with the requirements defined in Chapter V of the GDPR (or, as the case may be, the Customer shall ensure that a controller other than the Customer meets these requirements).

3. Customer's Authority to Issue Instructions

- 3.1. The Contractor processes the Customer Data in accordance with the documented instructions of the Customer – including with regard to the transfer of personal data to a third country or an international organization – provided the Contractor is not obligated by the law of the European Union or its member states to which the processor is subject to process said data in a different manner. In the latter case, the Contractor shall notify the Customer of these legal requirements prior to commencing processing, unless the relevant law forbids such notification on the grounds of important public interest.
- 3.2. As a rule, the Customer's instructions are exhaustively specified and documented in this Agreement and its annexes as well as the service configuration selected by the Customer. Individual instructions

that deviate from the stipulations of this Agreement or the service configurations, or give rise to additional requirements and that are not required to prevent or remedy legal violations within the area of responsibility of the processor shall only be followed by the Contractor to the extent that the Customer (after issuing its approval) covers all additional costs and expenses incurred as a result of following such individual instructions.

- 3.3. The Contractor warrants that it will process the Customer Data in accordance with the Customer's instructions. Where the Contractor believes that an instruction of the Customer is in contravention of this Agreement or the applicable data protection laws, the Contractor – after notifying the Customer accordingly – is entitled, but not obligated, to suspend the execution of said instruction until such time as the Customer confirms said instruction. The parties agree that the Customer itself is solely responsible for the legal conformity of the processing of Customer Data.

4. Customer's Responsibility

- 4.1. With regard to the internal relationship between the parties, the Customer bears sole responsibility for the lawfulness of the processing of Customer Data as well as the protection of the rights of data subjects.
- 4.2. The Customer shall provide the Contractor with the Customer Data in good time for the purposes of performing its services under the Main Agreement; the Customer is responsible for the quality of the Customer Data. The Customer shall inform the Contractor, comprehensively and without undue delay, should the Customer detect any errors or irregularities in respect of data protection law provisions or the Customer's instructions when checking the Contractor's processing results.
- 4.3. Upon request, the Customer shall provide the Contractor with the information specified in Article 30(2) GDPR, to the extent that this information is not yet available to the Contractor.
- 4.4. If the Contractor is under a disclosure duty vis-à-vis any government agency or person with regard to the processing of Customer Data, or obligated to cooperate with any such entities in any other regard, the Customer shall assist the Contractor in the performance of such disclosure duty or other obligations to cooperate.

5. Duty of Confidentiality

- 5.1. The Contractor shall require all staff who process the Customer Data to give a confidentiality undertaking with respect to the processing of Customer Data.

6. Security of Processing

- 6.1. Pursuant to Article 32 GDPR, the Contractor shall implement any and all appropriate technical and organizational measures with regard to the STACKIT Services subscribed by the Customer to ensure a level of security for the Customer Data that is in line with the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing Customer Data as well as the varying degrees of likelihood that the risk will materialize and the severity of the risk in respect of the rights and freedoms of data subjects.
- 6.2. The Contractor is permitted to modify or adjust technical or organizational measures during the term of the Agreement, provided that said measures are still compliant with statutory requirements. An overview of all current technical measures is available at <https://stackit.com/en/gtc/cloud-services>.

7. Use of Other Processors

- 7.1. The Customer hereby grants the Contractor general authorization to engage other processors for the processing of Customer Data. Annex 2 contains an overview of the other processors engaged at the time of conclusion of this Agreement; in this respect, the Customer hereby grants its express approval to engage these other processors with regard to the processing of Customer Data. As a general rule, the engagement of service providers who inspect or maintain data processing facilities or processes or other ancillary services that do not entail the processing of Customer Data does not require any

authorization, even if access to Customer Data cannot be excluded, provided that the Contractor takes appropriate measures to protect the confidentiality of Customer Data.

- 7.2. The Contractor shall notify the Customer by e-mail about any intended changes with regard to the engagement or replacement of other processors. The Customer has the right to object, on a case-by-case basis, to the engagement of any potential other processor. However, the Customer may only object if it has good reason to do so and demonstrates such reason to the Contractor. The Customer's right to object to a specific engagement will lapse if the Customer fails to object within 14 days of receiving such notification. Where the Customer raises an objection, the Contractor will be entitled to terminate the Main Agreement and this Agreement by giving four weeks' notice from the receipt of the objection, subject to the provisions of the Main Agreement.
- 7.3. Any Customer objections must be raised in text form via e-mail to contracts@stackit.cloud. The agreement between the Contractor and the other processor must impose the same obligations on the other processor that are imposed on the Contractor under this Agreement. The parties agree that this requirement will be deemed to have been met if said agreement provides for a level of protection that corresponds to the level of protection under this Agreement, or the obligations stipulated in Article 28(3) GDPR are imposed on the other processor.
- 7.4. Subject to compliance with the requirements of clause 2.3 of this Agreement, the provisions of this clause 7 shall also apply if another processor in a third country is engaged. In such a case, the Contractor shall be entitled and – insofar as the requirements of clause 2.3 are not otherwise met – obligated to enter into an agreement with the other processor incorporating the standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council in accordance with Commission Implementing Decision (EU) 2021/914 of 4 June 2021, including Module 3 (Transfer processor to processor). The parties agree that such an agreement also meets the requirements under clause 7.4. The Customer agrees to cooperate in meeting the requirements under Article 49 GDPR to the necessary extent.

8. Rights of Data Subjects

- 8.1. To the extent that this is reasonable, the Contractor shall assist the Customer by means of technical and organizational measures to comply with its obligation (or the obligation of a controller other than the Customer) to respond to requests from data subjects to exercise their rights.
- 8.2. Where a data subject makes a request to exercise their rights directly vis-à-vis the Contractor, the Contractor shall forward such request in a timely manner to the Customer, provided that the Contractor is able to reliably verify said data subject's identity and the verification of said data subject's association with the Customer is feasible and can reasonably be expected of the Contractor.
- 8.3. To the extent reasonable and necessary, the Contractor shall enable the Customer to rectify or erase Customer Data, or restrict their further processing, and compensate the Customer for any documented expenses and costs resulting therefrom, or, at the Customer's request, rectify or block Customer Data or restrict their further processing if and to the extent that the Customer is unable to do so.
- 8.4. Where the data subject, in relation to the Customer (or a controller other than the Customer), has a right to data portability with regard to the Customer Data pursuant to Article 20 GDPR, the Contractor shall assist the Customer, to the extent reasonable and necessary and for compensation of any documented expenses and costs resulting therefrom, in providing the Customer Data in a commonly used and machine-readable format.

9. Contractor's Notification Obligations and Obligations to Provide Assistance

- 9.1. To the extent that the Customer (or a controller other than the Customer) is subject to a statutory reporting and notification obligation whenever the protection of Customer Data has been violated (particularly under Articles 33 and 34 GDPR), the Contractor shall notify the Customer without undue delay of any reportable events in its area of responsibility. At the Customer's request, the Contractor

shall assist the Customer, to the extent reasonable and necessary, in the performance of the obligations of the Customer (or a controller other than the Customer) in accordance with Articles 33, 34 GDPR; the Contractor shall compensate the Customer for any documented expenses and costs resulting therefrom.

- 9.2. The Contractor shall assist the Customer, to the extent reasonable and necessary and for compensation of any documented expenses and costs resulting therefrom, in connection with any data protection impact assessments to be carried out by the Customer (or a controller other than the Customer) and, if applicable, assist with subsequent consultations with the supervisory authorities in accordance with Articles 35 and 36 GDPR.
- 9.3. The Contractor shall assist the Customer, to the extent reasonable and necessary and for compensation of any documented expenses and costs resulting therefrom, in the performance of the obligations of the Customer (or a controller other than the Customer) pursuant to Article 32 GDPR.

10. Erasure of Data

- 10.1. Upon termination of this Agreement, the Contractor shall erase the Customer Data, unless the Contractor is obligated by the law of the European Union or its member states to continue to store the Customer Data. The Contractor shall prepare an erasure report regarding the erasure of Customer Data and, upon request, provide the Customer with said report.
- 10.2. Records serving to document proper processing of Customer Data may be retained by the Contractor even after the contractual term expires.

11. Documentation and Inspections/Audits

- 11.1. At the Customer's request, the Contractor shall provide the Customer with all the necessary information to demonstrate that it has met its obligations hereunder and in accordance with Article 28 GDPR.
- 11.2. The Customer is entitled to audit the Contractor, including by way of inspections, with regard to compliance with the provisions of this Agreement and Article 28 GDPR, in particular the implementation of technical and organizational measures. The Contractor shall cooperate with such audits.
- 11.3. To carry out inspections under clause 11.2, the Customer is entitled to enter the Contractor's business premises, where Customer Data are processed, during normal business hours (Monday to Friday from 10:00 a.m. to 6:00 p.m.) after prior notification in good time pursuant to clause 11.5, at its own cost, without disrupting operations and in strict observance of the Contractor's business and trade secrets.
- 11.4. The Contractor is entitled, at its discretion, but allowing for the Customer's statutory obligations, to refrain from disclosing information that is sensitive with regard to the Contractor's business or if the Contractor would violate statutory or other contractual provisions by disclosing any such information. The Customer is not entitled to gain access to data or information concerning other customers of the Contractor or to information concerning costs, quality inspection and contract management reports or any other confidential data of the Contractor that are not directly relevant to the agreed audit purposes.
- 11.5. The Customer shall inform the Contractor in good time (usually at least two weeks in advance) about any and all circumstances related to the performance of said audit. The Customer is entitled to perform one audit per calendar year. Any additional audits may be performed if so agreed with the Contractor and are subject to the reimbursement of expenses.
- 11.6. If the Customer engages a third party to perform the audit, the Customer shall obligate said third party, in writing, to the same extent that the Customer is obligated vis-à-vis the Contractor under clause 11 hereof. Furthermore, the Customer shall commit the third party to secrecy and confidentiality, unless said third party is subject to a professional duty of secrecy. Upon the Contractor's request, the Customer shall provide the Contractor, without undue delay, with the

confidentiality agreements entered into with said third party. The Customer may only engage independent third parties, such as consultancy firms, auditors or similar, to carry out any such audit. Prior to any such engagement, the Contractor will be informed about the company to be engaged for the audit. The Contractor has the right to object to any third party deemed unsuitable. Third parties may be deemed unsuitable, in particular, if they belong to a group of companies that operates in the same markets as the companies of Schwarz Group or that is a supplier or buyer, or a potential supplier or buyer.

- 11.7. Instead of an audit, proof of compliance with the obligations hereunder may, at the Contractor's choice, also be provided by presentation of a suitable current letter of attestation or a report by an independent entity (e.g., a certified public accountant (Wirtschaftsprüfer) or a data protection or quality auditor) or a suitable certification by way of an IT security or data protection audit – e.g., pursuant to ISO 27001 or BSI-Grundschutz – ("Audit Report"), provided that the Audit Report appropriately enables the Customer to satisfy itself that the Contractor has complied with its contractual obligations.

12. Term, Termination and Amendment

- 12.1. Term and termination of this Agreement conform to the term and termination provisions of the Main Agreement, unless otherwise stipulated in this Agreement. Termination of the Main Agreement shall automatically trigger termination of this Agreement. This Agreement may not be terminated in isolation.
- 12.2. Insofar as the provision of processing services that are the subject of this Agreement has not yet been completed following the expiration of the Main Agreement, or the Contractor otherwise processes personal data that is the subject of this Agreement after the expiration of the Main Agreement or the termination of this Agreement, the term of this Agreement ends, by derogation of clause 12.1, only upon the completion of the processing services and the full and complete erasure or return of personal data to the Customer.
- 12.3. Any amendment to this Agreement shall generally require the consent of both parties. By way of exception, this Agreement may be amended by unilateral notice given by the Contractor, insofar as the amendment is prompted by a justified need to amend the Contractor's contracts with all its customers identically, e.g., because it concerns a standardized process of the Contractor, and the amendment reasonably takes the interests of the Customer into account and the Customer does not object to the amendment. To this end, the Contractor shall notify the Customer of the future amendment to this Agreement in text form no later than two months prior to the date proposed for its entry into effect. If the Customer does not notify the Contractor of its objection to the amendment prior to the date proposed for its entry into force, the Customer shall be deemed to have given its consent thereto. The Contractor will specifically advise the Customer in the notice of amendment of this legal consequence, the start of the period, the deadline and the date on which the amendment enters into force. In the event that the Customer objects to the amendment of this Agreement, the Contractor shall have a special right of termination with immediate effect with regard to this Agreement and the Main Agreement.

13. Customer as the Processor

- 13.1. Insofar as the Customer merely acts as a processor for another controller with regard to personal data that is subject to this Agreement, the Contractor is a subcontractor of the respective controller. In such case, the following applies:
- 13.2. The Customer acts in the name of the respective controller and in accordance with its instructions as the sole point of contact for all communications between the respective controller and the Contractor with regard to the exercising of the rights of the controller and the enforcement of the data protection obligations of the (other) processor. As the sole point of contact, the Customer shall forward to the Contractor all notifications addressed to the Contractor by the respective controller without undue

delay. As the sole point of contact, the Customer shall forward to the respective controller all notifications addressed to the respective controller by the Contractor without undue delay.

- 13.3. The Contractor shall inform the Customer without undue delay of any notifications (including any instructions) and/or requests (including information requests or requests regarding audits and inspections) it receives directly from the respective controller. The Customer shall coordinate such notifications and/or requests as the sole point of contact between the respective controller and the Contractor and assist the Contractor in handling such notifications and/or requests.
- 13.4. At the request of the Contractor, the Customer shall provide the Contractor with a list of the respective controllers.
- 13.5. The Customer warrants to the Contractor that the engagement of the Contractor as a subcontracted processor, the exercising of the rights of the controller by the Customer and the enforcement of the data protection obligations of the processor (including any instructions) in the name of the respective controller is duly and validly authorized by the respective controller at all times and will remain so.

14. Miscellaneous

- 14.1. Where individual provisions of this Agreement are or become invalid, this shall not affect any other provisions hereof. Instead of the invalid provision, the parties undertake to agree to a legally valid provision that most closely reflects the purpose of the invalid provision and thus complies with the requirements of Article 28 GDPR.
- 14.2. Should this Agreement not contain a particular provision, the provisions of the Main Agreement shall apply. In the event of conflicts between this Agreement and any other agreements between the parties, particularly the Main Agreement, the provisions of this Agreement shall take precedence.
- 14.3. In the event that the parties have made this Agreement in multiple language versions, the German version alone shall be binding.

Annexes:

Annex 1: Purpose, Type and Scope of Data Processing, Type of Data and Categories of Data Subjects

Annex 2: Other Processors

Annex 1: Purpose, Type and Scope of Data Processing, Type of Data and Categories of Data Subjects

<p>Purpose of Data Processing</p>	<p>Provision and operation of STACK IT Services procured by the Customer in accordance with the Main Agreement and the respective service level agreements (see clause 4 of the Main Agreement).</p> <p>At a minimum, this concerns the support services to be provided under the Main Agreement. It also concerns, if applicable, the provision and operation of the following STACKIT products, as defined in the respective service level agreement (provided these services are agreed in the Order Form):</p> <ul style="list-style-type: none"> • Client-Side Encryption <p>Clarification: No personal data is processed in the provision and operation of the STACKIT product Key Management Service; services of this nature are consequently not subject of this Agreement.</p>
<p>Type and Scope of Data Processing</p>	<p>Type and scope of data processing depend on the services commissioned by the Customer and the Customer's instructions. These services include, above all, the collection, capturing, storing, reading, retrieving and erasing of data.</p> <ul style="list-style-type: none"> • Special circumstances for support services <ul style="list-style-type: none"> ○ For support services concerning Google products, this may also include the transfer of personal data on behalf of the Customer to Google, as governed by clause 11.3 of the Main Agreement, as well as any transfer to other recipients at the special request of the Customer. ○ Following special approval of the Customer in its Google Workspace instance, the Contractor will, if applicable, receive (administrator) access to the Google Workspace instance of the Customer in order to assist in resolving support cases. ○ Following special approval from the respective end user in the sphere of control of the Customer, the Contractor will, if applicable, receive remote access to the computer of the respective end user in order to assist in resolving support cases. • Special circumstances for Client-Side Encryption <ul style="list-style-type: none"> ○ The processing of personal data is limited to the provision of the encryption key for

	<p>the computer of the respective end user. The Contractor is not involved in the encryption and decryption, which only takes place locally on the client side, nor is it involved in the authentication process on the basis of an authorization and user role concept, which is only carried out by Google.</p>
<p>Type of Data</p>	<ul style="list-style-type: none"> • For support services <ul style="list-style-type: none"> ○ Contact details of the person in the sphere of control of the Customer who opens a support case or is involved in communications regarding a support case (name, position, business e-mail address, business telephone number) ○ Content of a support request or the content of further communications within a support case (description of the respective issue and, if applicable, screenshots, log files, documents, etc., attached to such communications that may contain other personal data of other end users or other third parties) ○ Content that support staff may view when remotely accessing an end user's computer or the Google Workspace instance of the Customer in the processing of support cases (only to the extent that the Contractor was expressly granted corresponding access rights) • For Client-Side Encryption <ul style="list-style-type: none"> ○ Metadata of the communications of the end user's browser with the key access control list (KACL) service of the Contractor: e-mail address of the end user, IDP (identity provider, typically Google, or with the use of single sign-on potentially also another identity provider), token expiration/token creation time and IP ○ The Contractor does not process data from (encrypted) documents and associated metadata (e.g., file names), information about the end user's authorizations and similar information (processing is carried out exclusively by Google, if applicable on the basis of a data processing agreement between the Customer and Google).
<p>Categories of Data Subjects</p>	<ul style="list-style-type: none"> • For support services <ul style="list-style-type: none"> ○ Employees of the Customer (or a controller other than the Customer) ○ Other third parties related to the Customer (or a controller other than the Customer),

	<p>if applicable (e.g., employees of business partners of the Customer/controller).</p> <ul style="list-style-type: none"> • For Client-Side Encryption <ul style="list-style-type: none"> ○ Employees of the Customer (or a controller other than the Customer)
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Annex 2: Other Processors

Company Name, Address	Purpose of Data Processing
Anynines GmbH, Science Park, 2, 66123 Saarbrücken, Germany	Development support and operational support
Cloud&Heat Technologies GmbH, Königsbrücker Str. 96, 01099 Dresden, Germany	Development support and operational support
Exivity BV, Kabelweg 21, 1014 Amsterdam, Netherlands	Development support and operational support
Freiheit.com Technologies GmbH, Budapester Str. 45, 20359 Hamburg, Germany	Consultancy and development support
Inovex GmbH, Karlsruher Str. 71, 75179 Pforzheim, Germany	Consultancy and development support
ISD Feniqs GmbH, Sternstraße 166-168, 67063 Ludwigshafen, Germany	Consultancy and operational support
Nextevolution GmbH, Van-der-Smissen-Straße 9, 22767 Hamburg, Germany	Development support and operational support
Rewion GmbH, Fichtenweg 6, 71711 Murr, Germany	Consultancy and operational support
Schwarz Global Services Barcelona S.L.U., calle Bergara n °13, 08002 Barcelona, Spain	Development support and operational support
SCHWARZ DIGITS SPAIN S.L.U., 51 Cherni vrah Blvd. Office X – Floor 11, BG-1407 Sofia, Lozenets District, Bulgaria	Development support and operational support
Schwarz IT KG, Stiftsbergstraße 1, 74172 Neckarsulm, Germany	Development support and operational support
BridgingIT GmbH N7 5 6 68161 Mannheim, Germany	Development support and operational support
Inovex GmbH Karlsruher Straße 71 75179 Pforzheim, Germany	Development support and operational support