

Special Supplementary Terms and Conditions of Purchase for Products Regarding Open Source Software
of Keenfinity GmbH ("**Special Supplementary OSS Terms and Conditions of Purchase**")

the Free Software definition published by

1. Scope

- a) These Special Supplementary Terms and Conditions of Purchase for Products with regard to Open Source Software of Keenfinity GmbH and/or its affiliated companies in which Keenfinity GmbH has the industrial lead (hereinafter collectively referred to as "**KEENFINITY**") shall apply in business transactions with companies with regard to the purchase/licensing of software, services and hardware, including updates of the supplier (as a stand-alone product or as part of a delivered software or hardware) ("**Contract Products**"). These Contract Products may also be integrated in, embedded in or used in combination with products manufactured or distributed by KEENFINITY (hereinafter collectively referred to as "**KEENFINITY Products**"). These Supplementary OSS Terms and Conditions of Purchase supplement in this respect the General Terms and Conditions of Purchase of Keenfinity GmbH. These Supplementary OSS Terms and Conditions of Purchase shall also apply to software parts (patches, fixes) and new versions or updates of the above-mentioned software provided by the SUPPLIER under warranty or as part of software maintenance services.
- b) Our Special Supplementary OSS Terms and Conditions of Purchase shall apply exclusively; we only accept general terms and conditions of the supplier which conflict with or deviate from our Supplementary OSS Terms and Conditions of Purchase to the extent that we have expressly agreed to them in writing. The acceptance of goods or services of the supplier or their payment does not constitute consent, even if the acceptance or payment is made in knowledge of conflicting or supplementary contractual terms and conditions of the supplier. Similarly, any previously agreed contractual terms of the Supplier that conflict with or supplement these Terms and Conditions of Purchase shall no longer be accepted.

2. Definitions

- a) "**Open Source Software**", "**Free and Open Source Software**", "**OSS**", "**FOSS**" or "**OSS Component**" shall mean Software
- (1) under a license agreement that
- conforms to the Open Source definition published by the Open Source Initiative (OSI) or

- the Free Software Foundation (FSF);
 - permits the distribution or provision of access to the Software only if material or information (e.g. license texts, copyright/author notices, source code or *written offer* for it, makefiles, scripts, other software...) or links to material and/or information ("**Additional OSS Materials**") are provided or otherwise disclosed together with the Software ("**OSS License**"); or
 - (2) which is dedicated to the public domain.
- b) "**Copyleft Terms**" means an OSS License that requires that modifications or derivative works of the OSS Component be licensed under such terms of such OSS License (e.g.: GPLv2).

3. OSS-related obligations

- a) **Legal/License Obligations.** SUPPLIER will comply with all obligations related to OSS (e.g. OSS licenses and copyright law) applicable to the Contract Products.
- b) **Agreement on certain types of licenses.** In addition, software licensed under
- (1) GNU Affero General Public License (AGPL), Reciprocal Public License (RPL), Apple Public Source License (APSL), Open Source License (OSL), Common Public Attribution License (CPAL), Server Side Public License (SSPL), or any other license where providing the functionality or using the software or portions thereof as a service (e.g., SaaS, Application Service Providing [ASP], Managed Service Providing [MSP]) triggers the license obligations (e.g., providing the source code).
 - (2) any other OSS license with copyleft conditions
- may only be part of the Contract Products if this has been expressly agreed between the parties in writing (incl. by fax, e-mail).
- c) **What to deliver.** To the extent required by the applicable OSS licenses: SUPPLIER shall deliver the Contract Products bundled with all "**Additional OSS Materials**" (= any material that must accompany the Contract Products on distribution, e.g. license texts, copyright notices, source code files, build instructions).
- d) **How to deliver.** SUPPLIER shall deliver all **Additional OSS Materials** in digital form, which enables data processing (e.g. SPDX, pdf or txt), or display via a program function (e.g. (e.g. *menu*

item or about dialogue), in a manner permitted by the applicable OSS Licenses, in particular, a link to download the Additional OSS Materials shall only be considered after separate approval by KEENFINITY.

- e) **Written Offer.** To the extent that an OSS License permits the submission of a *written offer* instead of Additional OSS Materials, SUPPLIER shall, upon request, provide KEENFINITY with the Additional OSS Materials, subject to the requirements of section 3.d) (this document is the request to provide the Source Code as offered). This shall apply irrespectively of any time limit.
- f) **Remedies, Indemnification.** Without prejudice to any other rights of KEENFINITY, SUPPLIER agrees to remedy any breach of this section 3. within a reasonable time after it has become aware of it or has been notified of it by KEENFINITY, and to indemnify or reimburse KEENFINITY for all costs, expenses and damages arising out of any failure to perform or delay in performance (whether by act or omission) of this section 3.
- g) **Extraordinary Request for Information.** In the event of reasonable doubt by KEENFINITY as to compliance with these Terms and Conditions, KEENFINITY may request from SUPPLIER a list of the OSS components included in the Contract Products with the following information: (1) name and version number of the OSS component, (2) name and version number of the OSS license resp. notice whether dedicated to the public domain (3) the origin of the OSS component (e.g. URL/home page), (4) information on how SUPPLIER has complied with the OSS License obligations of the OSS components.
- h) **Development Tools.** If the Contract Products are compilers or other software development tools (**"Development Tools"**), SUPPLIER shall ensure that the OSS terms of the Development Tools do not affect the software license of the development result or other output artifacts (**"Output Artifacts"**) (e.g. it shall ensure a permissible compilation process if the compiler is licensed under the GCC Runtime License). Furthermore, SUPPLIER shall inform KEENFINITY about OSS that may be injected into the Output Artifacts by the development tools (= **"OSS Injections"**). In addition, SUPPLIER shall ensure that the Development Tools automatically provide all Additional OSS Materials relating to such OSS Injections together with the Output Artifacts in accordance with section 3.c).