

KEENFINITY GMBH

Supplementary Terms and Conditions of Purchase for Software

Project” refers to the use of the Licensed Software by KEENFINITY within the scope of providing services for

1. Area of Application

These Supplementary Terms and Conditions of Purchase for Software of KEENFINITY GmbH and/or its affiliates in which KEENFINITY GmbH has the industrial leadership (hereinafter collectively referred to as “KEENFINITY”) shall apply in conjunction with and as a complement to the Terms and Conditions of Purchase of KEENFINITY <https://www.keenfinity-group.com/xc/en/support/information-for-business-partners/#purchasing-terms-and-conditions> to all software supplies of the supplier (as a stand-alone product or embedded as a component in any supplied hardware) for use in or in combination with products manufactured and/or distributed by KEENFINITY (hereinafter collectively referred to as “KEENFINITY Product(s)”). With regard to Open Source Software, the Additional Purchasing Terms and Conditions for Products regarding Open Source Software of KEENFINITY shall apply additionally

(<https://www.keenfinity-group.com/xc/en/support/information-for-business-partners/>)
#Global Supplementary Terms & Conditions .

The Terms and Conditions set forth below shall also apply to software parts (fixes and patches) and to new versions or updates of the aforementioned software provided by the supplier in the course of its warranty obligation or as part of software maintenance services.

The aforementioned software supplies are hereinafter collectively referred to as “**Licensed Software**”.

In their scope, the applicable KEENFINITY Cybersecurity General Requirements take precedence over the following regulations in case of deviations and/or contradictions.

2. Grant of rights of Use for the Licensed Software

- a) The supplier grants to KEENFINITY a paid-up, non-exclusive, worldwide, perpetual and irrevocable right to Use (as defined below) the Licensed Software in accordance with the Terms and Conditions set forth in these Terms.
- b) The term “Use” shall comprise KEENFINITY’s right
 - (i) to download, copy, install, transmit, store, load, test and/or execute the Licensed Software;
 - (ii) to integrate, embed and/or combine the Licensed Software with other software or hardware or any KEENFINITY Product (hereinafter referred to as “**Materials**”);
 - (iii) to translate, to modify and/or to create derivative works of the Licensed Software, e.g. for the purpose of creating interfaces to the Licensed Software of KEENFINITY or of implementing or combining the Licensed Software with other software components or hardware, including the right of reproduction, distribution and public communication of the results obtained;
 - (iv) to calibrate, configure and parameterize the Licensed Software;
 - (v) to demonstrate, to market, to distribute, to disseminate or to otherwise dispose of the Licensed Software as part of Materials or together with Materials;
 - (vi) to Resell the Licensed Software, whereas the term “**Reselling**” means the distribution of the Licensed Software by KEENFINITY to third parties, including a distribution of copies of the Licensed Software, and including the right to rent or lend such Licensed Software, irrespective of whether such distribution is effected in a tangible or intangible form; and
 - (vii) to Use the Licensed Software for Managed Service Projects, whereas the term “**Managed Service**

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third parties, e.g. as Software as a Service (hereinafter referred to as “SaaS”), Platform as a Service (hereinafter referred to as “PaaS”), Application Service Provider (hereinafter referred to as “ASP”), hosting and cloud services for third parties etc.

Sections 69d and 69e German Copyright Act (UrhG), in particular the right to make back-up copies, as well as any other mandatory law regulations shall remain unaffected by the foregoing provisions.

- c) With respect to all results, improvements and/or inventions generated by supplier either prior to the date of entering into an agreement with KEENFINITY or during but outside the scope of the agreement with KEENFINITY and which are necessary for the exploitation of the Licensed Software and the KEENFINITY Product and Materials, supplier grants to KEENFINITY a paid-up, non-exclusive, worldwide, irrevocable, perpetual and non-sublicensable license to further develop, manufacture and distribute KEENFINITY Products and Materials. This license also encompasses the right to have production performed by third parties.
- d) Unless explicitly otherwise agreed in writing between the parties, the right of Use shall not be restricted to a specific production location, a specific product portfolio (e.g. project or platform) of KEENFINITY, but shall encompass the Use of the Licensed Software for and in connection with all existing and/or future KEENFINITY Products.
- e) Once the remuneration owed under an agreement has been paid, all claims of supplier for granting the rights pursuant to this section 2 have been settled. This shall also apply to the granting of rights for unknown types of use, unless this is not reasonable for supplier considering the income and advantages deriving from such new type of use.

3. Use tied to specific hardware

Insofar as the Licensed Software shall only be used with specific hardware in accordance with the agreement, or if the functionality thereof can only be used in connection with specific hardware which the supplier supplies to KEENFINITY, the rights of use defined in sections 1 and 2 shall apply only in connection with the respective hardware of the supplier.

4. Documentation

KEENFINITY has the right to Use, duplicate/reprint, to translate modify, disseminate and otherwise dispose of the documentation provided by the supplier, including the operating manual provided by the supplier.

5. Sub-licensing

KEENFINITY has the right to grant sub-licenses to the Licensed Software and to the corresponding documentation (in accordance with the provisions of sections 1 to 4 above) to:

- a) Authorized Third Parties which require a right to Use the Licensed Software in connection with one or several KEENFINITY and/or customer project(s). The term “**Authorized Third Party**” shall comprise systems developers and system integrators commissioned by KEENFINITY or a KEENFINITY customer who are responsible for developing, combining and/or integrating the Licensed Software with or in other Materials. The term “**Authorized Third Parties**” shall further comprise third parties which require a right to Use the Licensed Software in order to render repair, maintenance or similar services for the Materials;
- b) Customers of KEENFINITY and/or any of KEENFINITY customer’s affiliates which require a right to Use, to market, to distribute, to disseminate or to otherwise dispose of the Licensed Software as part of Materials or for the purpose of maintaining and/or repairing the Materials. This right also includes the right to grant end

users corresponding rights.

6. Warranty and update duties

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- a) Unless explicitly otherwise agreed in writing in the respective individual contract, the supplier shall provide to KEENFINITY throughout the warranty period without entitlement to any separate remuneration the following services free of charge:
- all generally available new versions and updates as well as error corrections or work arounds (fixes and patches) of the Licensed Software and to inform KEENFINITY thereof accordingly without undue delay in writing or in text form;
 - all required information with regard to error restriction, error correction and/or error environment; and
 - technical support on the telephone or via email.
- b) To the extent that KEENFINITY could be a subject to a legal recourse claim by a KEENFINITY customer with regard to the requirements of the EU directive 2019/770, SUPPLIER is also obligated during and after the warranty period to enable KEENFINITY at any time without any separate remuneration to provide to its KEENFINITY customers updates of KEENFINITY Products and Materials as well as corresponding information (e.g. deriving from or in connection with § 327f German Civil Code – *Bürgerliches Gesetzbuch*).

7. Support and maintenance obligations

Upon KEENFINITY's request the supplier is obligated to offer further support and maintenance services during and after the warranty period at economically reasonable conditions.

8. Source Code

The term "**Source Code**" means a program code in the form of a text of a computer program written in a programming language and readable by humans in computer science, which cannot be changed by KEENFINITY. If, in accordance with the agreement, the Source Code of the Licensed Software is not provided to KEENFINITY, the supplier agrees that upon KEENFINITY's request it shall enter into a Source Code escrow agreement at a renowned depository to be chosen by KEENFINITY and deposit the Source Code for the benefit of KEENFINITY.

9. Test recognition

The supplier shall ensure that the Licensed Software does not contain any illegal functionalities that recognize a Test Situation and / or optimize the product characteristics in such Test Situations. A "**Test Situation**" is defined as a standardized procedure for the assessment of product characteristics, carried out by authorities or third parties recognized by law or by market recognition. Functionalities optimizing the product characteristics in Test Situations must comply with legal and state-of-the-art requirements and must be explicitly agreed with KEENFINITY as part of the Licensed Software.

10. Miscellaneous

The termination of an individual contract (for whatever legal reason) shall be without prejudice to any rights of use granted to KEENFINITY's and/or its customers and/or any of the KEENFINITY customer's affiliates and end users that were granted up to the termination thereof.

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