

Anapaya General Terms and Conditions

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1. Scope

- (a) GTC scope of application. These GTC apply to all Deliverables ordered by Customer and provided to Customer by Anapaya under an Order, even if not explicitly referenced therein. General terms and conditions of Customer shall not apply, unless expressly confirmed by Anapaya in writing.
- (b) STC scope of application. These GTC contain general rules applicable to all types of Deliverables provided by Anapaya to Customer under an Order. In addition, STC will apply specifically to Software, Services or Product Supplies. Each of the STC apply (i) in addition to the GTC; and (ii) only if and to the extent that the provision of such Software, Services or Supplies have been expressly agreed in an Order.
- (c) Order of precedence. Any Order shall have precedence over the GTC and the STC. Unless the context requires otherwise, the STC shall apply in addition to, and not in lieu of, the GTC.

2. Definitions

- (a) Capitalized terms shall bear the meaning assigned to them hereafter:
 - (i) **Agreement** means these GTC together with any other documents referring to the GTC, including any Order and the applicable STC.
 - (ii) **Affiliate** means, with respect to a Party, any corporation, partner, partnership, association or other business entity which directly or indirectly controls, is controlled by, or is under common control with such party.
 - (iii) **Confidential Information** means, in relation to a Party, business or technical information that is marked or reasonably to be considered as confidential, and – in relation to Customer – Customer Data.
 - (iv) **Customer** means the person that has entered into an Order with Anapaya.
 - (v) **Customer Data** means data or information generated for or uploaded by or on behalf of Customer in connection with the Deliverables.
 - (vi) **Deliverables** means Software, Services and/or Product Supplies.
 - (vii) **GTC** means these general terms and conditions of Anapaya.
 - (viii) **Order** means an executed order form, statement of work or other form of contract pursuant to which Customer orders and Anapaya provides Deliverables, including all documents attached to or referenced in the Order. An Order may comprise multiple individual contracts for separate Deliverables, in which case each such individual contract shall be deemed a separate Order.
 - (ix) **Party** means Anapaya and/or Customer.
 - (x) **Product Supplies** means equipment (including firmware) sold by Anapaya to Customer.
 - (xi) **Services** means any services provided by Anapaya to Customer under the Agreement.
 - (xii) **Software** means proprietary standard software licensed by Anapaya to Customer under the Agreement.
 - (xiii) **STC** means the specific terms and conditions of Anapaya.
- (b) Capitalized terms in elsewhere the Agreement shall bear the meaning assigned to them in the relevant document.

3. Ordering of Deliverables

- (a) Offer validity period. Offers issued by Anapaya shall be valid for thirty (30) calendar days unless stated otherwise in the offer.
- (b) Order execution. Orders shall be binding when they are signed by the Parties or – if placed electronically – either upon the earlier of (i) acknowledgment by Anapaya in electronic form; or (ii) commencement of performance by Anapaya. Where Customer has placed an indicative order providing for a band of authorized amount of spend over a certain period of time (**Open Purchase Order** or **OPO**), the Order shall be binding each time a Deliverable is called by Partner from the OPO within the authorized amount, unless the Order is rejected by Anapaya for valid reasons within five (5) business days after receipt.
- (c) Effective date. Unless stated otherwise, the effective date of an Order shall correspond to the date when the Deliverable is first rendered.

4. Provision of Deliverables

- (a) Reference to contract documents. The provision of Deliverables by Anapaya is set forth in the Order as well as these GTC and the applicable STC.
- (b) Subcontractors. Anapaya may commission subcontractors with the provision of Deliverables. Anapaya shall remain liable for any subcontractor's performance as if Anapaya had provided the Deliverables itself. Anapaya shall be solely responsible for all payments to be made to such subcontractors, including any applicable taxes.
- (c) Third party products or services. Anapaya may refer third-party products or services, including connectors, add-ons, implementation or consulting services, to Customer. Any direct procurement by Customer of such third-party products or services is solely between Customer and the relevant third party, and the relevant third parties shall not be considered as agents, subcontractors or subprocessors of Anapaya.
- (d) Changes to Deliverables. Anapaya may change the specifications of recurring Deliverables from time to time, provided that such changes will not materially impair the functionality or performance of such Deliverables.
- (e) Completion dates. Unless agreed otherwise in the relevant Order, completion dates for Deliverables are indicative only and dependent on the circumstances discovered at the time of performance.
- (f) Default. If Anapaya is unable to comply with a deadline expressly agreed to be binding in the Order for reasons attributable to Anapaya, Customer shall grant to Anapaya a reasonable additional period for completion. If Anapaya fails to comply with such additional period, Customer shall be entitled to terminate the respective Order in whole or in part after expiry of a second reasonable additional period. Deliverables (or parts thereof) which have already been provided in accordance with the Order and can be used as such in an objectively reasonable manner by Customer shall be remunerated by Customer.
- (g) Delays beyond Anapaya's control. If delays are caused by Customer, by a third party that is not a subcontractor of Anapaya or by events beyond Anapaya's reasonable control, the schedule shall automatically be extended by a period equal to the duration of the hindrance and by a reasonable start-up period after the hindrance has ended. Anapaya shall be entitled to charge the documented additional cost incurred due to such delay.

5. Receipt and Use of Deliverables by Customer

5.1. Customer Cooperation

- (a) Timely cooperation. Customer ensures that all cooperation duties required for the provision of the Deliverables by Anapaya are provided timely and free of charge.
- (b) Assistance by Customer. Customer shall be obliged to actively assist Anapaya in the course of provision of the Deliverables, including by:
 - (i) notifying Anapaya of all processes and circumstances that could be relevant to the provision of the Deliverables;
 - (ii) performing coordination work and make decisions in due time as needed;
 - (iii) providing the required data, records, and information in due time and adequate quality;
 - (iv) promptly inspecting any Deliverables provided by Anapaya and notifying deficiencies.
- (c) Cooperation obligations. Customer's obligations to cooperate include the creation of all preconditions in Customer's operating environment that are needed to provide the Deliverables. In particular, Customer shall:
 - (i) implement the technical and operational prerequisites on its premises and within its infrastructure in view of the provision of the Deliverables by Anapaya based on instructions given by Anapaya in this regard;
 - (ii) obtain necessary approvals, authorizations and third-party consents needed for Anapaya to provide the Deliverables;
 - (iii) provide and operate appropriate connectivity services for on-site and remote works required for the provision of the Deliverables;
 - (iv) grant Anapaya staff and/or third parties engaged by Anapaya upon proper identification access to Customer's premises, both during ordinary working hours and, upon prior announcement, at other times;
 - (v) if needed, make available fully equipped workplaces for tasks to be carried out on Customer's premises by Anapaya or third party staff deployed on Customer's premises.
- (d) Single point of contact. Customer shall nominate a contact person who acts as a single point of contact and is responsible for the provision of binding information.
- (e) Data back-up. Customer shall be solely liable for the safekeeping and backing up of its data (including Customer Data and installed software).
- (f) Consequences of non-performance. If Customer fails to perform its co-operation obligations, Anapaya shall not be responsible for any delays or other consequences resulting therefrom and shall be reimbursed for any additional cost or frustrated expenses incurred.

5.2. System Requirements

- (a) Dependency on system requirements. The access to and use of the Deliverables by Customer is dependent on certain system requirements. Customer shall be solely responsible procure all system requirements required to access and use the Deliverables.

- (b) System requirements disclaimer. Anapaya is not responsible for problems, conditions, delays or failures ensuing from Customer's non-compliance with the system requirements and/or related to Customer's network connections or caused by the Internet.

6. Remuneration

- (a) Payment obligation. Customer shall pay to Anapaya, in consideration for the provision of Deliverables, the fees agreed upon in the Order or – in the absence of any agreed fees – set forth in Anapaya's then-current pricelist.
- (b) Payment milestones. Unless otherwise agreed in the Order, recurring fees shall be invoiced monthly in advance and usage-based or non-recurring fees monthly in arrears.
- (c) Payment term. Fees shall be payable within thirty (30) days from the date of invoice in the specified currency. All charges and bank fees incurred through payment shall be borne by Customer. Upon expiration of the payment period, Anapaya shall be entitled, after one reminder, to charge interest on all outstanding payments at the statutory default interest rate.
- (d) Expenses. Expenses and additional costs (e.g., travelling expenses, meals and accommodation) and the costs of auxiliary means specifically used for Customer in the course of performance of Deliverables (hardware, databank fees, packaging and shipment fees, etc.) shall be charged to Customer additionally.
- (e) Taxes. Fees do not include taxes. Customer is responsible for paying all sales, use and value-added taxes associated with its receipt of services hereunder. If Anapaya is obliged to pay or collect taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Anapaya with a valid tax exemption certificate authorized by the competent tax authority.
- (f) No set-off. Customer shall not be entitled to set-off possible own claims against claims of Anapaya or of third parties to whom Anapaya has assigned its rights and/or transferred its obligations under the Agreement.

7. Proprietary Rights

7.1. Anapaya Intellectual Property

- (a) Ownership. Anapaya or its licensors exclusively and unrestrictedly retain ownership of all intellectual property rights in the Deliverables
- (b) Customer right to use. Anapaya grants Customer and its Affiliates a non-transferrable and non-exclusive right to use the Deliverables during the term of the Agreement. The content and scope of the right to use are indicated in the applicable STC and the Order.
- (c) Third party terms. If third party products or services are embedded in the Deliverables, Customer accepts the related license terms and use restrictions, as conveyed to Customer by Anapaya.
- (d) Rights reserved. No rights are granted to Customer hereunder other than as expressly set forth herein.

7.2. Customer Input

- (a) Customer input license. Customer herewith grants to Anapaya a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Deliverables any of Customer's input, suggestions, enhancement requests, recommendations or other feedback relating to the Deliverables.
- (b) No implementation obligation. Anapaya shall have no obligation to implement Customer input in the Deliverables.

8. Limited Warranty

- (a) Anapaya warranties. Anapaya warrants that
 - (i) it has the necessary legal or regulatory authorizations to provide the Deliverables;
 - (ii) the Deliverables are during the warranty period set forth in the applicable STC materially conformant to the specifications set forth in the Agreement; and
 - (iii) the permitted use of the Deliverables does not infringe upon intellectual property rights of third parties.
- (b) Warranty exclusions. Anapaya's warranty shall not apply if and to the extent a non-conformance is caused because the Deliverables are (i) not used in accordance with the Agreement; (ii) modified by Customer or a third party without Anapaya's authorization; or (iii) combined with other systems or services not supplied by Anapaya.
- (c) Exhaustive warranties. Except as explicitly set forth in the Agreement, Anapaya does not make any warranties, and expressly disclaims all other warranties, guaranties, conditions, and representations, whether oral or written, expressed or implied, or arising by usage of the Deliverables, including, but not limited to, non-infringement, fitness for a particular purpose, meeting Customer's requirements, or satisfactory quality.
- (d) Notification and remedy. Customer shall notify Anapaya without undue delay of any alleged non-conformance of the Deliverables, including a description of such non-conformance. Customer shall use the technical means provided to it for fault diagnosis before submitting any notification of non-conformance. Anapaya shall remedy any non-conformance that materially impairs or impedes Customer's use of the Deliverables within a reasonable time at its choice by means of a re-performance, repair (including by provision of a workaround) or replacement. Anapaya may also remedy a non-conformance by using remote means and for such purpose may remotely access Customer Data, systems or devices. If Anapaya has failed to cure the same material non-conformance for two (2) consecutive times, Customer may, to the exclusion of any other rights or remedies, (i) request a reasonable reduction of the fees for the affected Deliverables; or (ii) terminate the affected part of the Order with immediate effect.
- (e) IP infringements. If a Deliverable or a part thereof is or, in the reasonable opinion of Anapaya, may become the subject of a complaint by a third party based on an alleged infringement of intellectual property rights, Anapaya may, at its option, (i) provide Customer the right to use the Deliverable free of all liability for breach of intellectual property rights; (ii) replace the Deliverable with one that complies with the essential contractual properties of the existing Deliverable; (iii) modify the Deliverable so that it no longer breaches any intellectual property rights; or, (iv) if none of the above possibilities can be achieved at reasonable costs, terminate the affected Order with immediate effect.

9. Liability and Indemnification

- (a) Limited liability for direct damage. Anapaya's total aggregate liability under or in conjunction with the Agreement for direct damage shall be limited to the lower of (i) amount of the fees paid by Customer under the relevant Order for the twelve (12) months preceding the event causing damage; or (ii) CHF 100,000.
- (b) Exclusion of liability. Anapaya shall in no event be liable to Customer for any indirect or consequential damage, loss of data, damage caused by business interruption, loss of use, loss of profits or third-party claims.
- (c) Exceptions. The aforementioned limitations and exclusions of liability shall not apply in case of (i) death or physical injury; (ii) damage caused by willful intent or gross negligence; or (iii) if mandatory law provides otherwise.
- (d) Anapaya indemnities. Anapaya shall indemnify, defend and hold harmless Customer against any third-party claims that are based on a breach of Anapaya's warranty of non-infringement pursuant to section 8(a)(iii).
- (e) Customer indemnities. Customer shall indemnify, defend and hold harmless Anapaya against any third-party claims that are based on: (i) Customer's use of the Deliverables in a manner not permitted under the Agreement; or (ii) Customer Data and any other information or material uploaded on or used together with the Deliverables by or on behalf of Customer.
- (f) Indemnification procedures. The indemnified Party shall inform the indemnifying Party promptly upon becoming aware of any third party claim and authorize the indemnifying Party to conduct the defense of such third party claim. The indemnified Party shall reasonably cooperate in the defense of such claim, if requested by the indemnifying Party, at indemnifying Party's expense.

10. Customer Data

- (a) Acceptable Customer Data. Customer Data shall not contain infringing, obscene, threatening, or otherwise unlawful or tortious material, including material that may (i) violate privacy or intellectual property rights; (ii) disrupt the performance of the Deliverables; or (iii) create a security risk for the Deliverables or other users of the Deliverables.
- (b) Data protection compliance. Subject to the provisions set forth in the Order Form, the Parties shall comply with applicable data protection laws in relation to the processing of Customer Data. To the extent that Anapaya in the course performance of the Deliverables processes Customer Data as a data processor, Anapaya's separate data processing agreement, as referenced in the applicable Order or otherwise made available by Anapaya in electronic form, shall apply.
- (c) Use of anonymized data. Subject to applicable data protection law, Anapaya or its affiliates may use Customer Data in anonymized form and for an unlimited period of time in order to develop, maintain and improve Anapaya's products or services, to tailor products and services to customers' needs and for market research purposes.
- (d) Customer Data back-up. Unless otherwise agreed in the Order, Customer shall be responsible for backing-up Customer Data and to take adequate measures to mitigate damages due to data loss.

11. Confidentiality

- (a) Confidential information. Neither Party shall disclose or use for any purpose outside the scope of this Agreement the other Party's Confidential Information, except with the other Party's prior written permission or as permitted under the Agreement. Each Party agrees to protect the Confidential Information of the other Party in the same manner that it protects its own Confidential Information of like kind (but in no event using less than a reasonable degree of care and reasonable technology industry standards).
- (b) Mandatory disclosure. If a Party is obliged by an enforceable order or by law to disclose Confidential Information of the other Party, it shall promptly provide the other Party with prior notice of such compelled disclosure (to the extent legally permitted) and provide reasonable assistance, at the other Party's cost, if the other Party wishes to prevent or contest the disclosure.
- (c) Exclusions. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the other Party; (ii) was known to a Party prior to its disclosure by the other Party without breach of any obligation owed to the other Party; (iii) was independently developed by a Party without breach of any obligation owed to the other Party; or (iv) is received from a third party without breach of any obligation owed to the other Party, provided that Customer Data containing personal data shall be handled in accordance with the standards required by this Agreement and applicable data protection laws, even if the same information may be generally known, publicly available or otherwise accessible to Anapaya from other sources.
- (d) Survival. The obligations under this section shall survive termination of the Agreement for a period of two (2) years.

12. Term and Termination

- (a) Term. Each Order for recurring Deliverables will be concluded for an initial term and automatically extended by additional renewal terms. Unless otherwise agreed in the Order, the initial term and each renewal term shall be set at twelve (12) months.
- (b) Termination for convenience. Unless otherwise agreed, any Order for recurring Deliverables can be terminated in writing by either Party (i) to the end of the initial term or any renewal term with a notice period of (1) ninety (90) calendar days if the term is twelve (12) months or longer; and (2) thirty (30) days if the term is shorter than twelve (12) months, or (ii) to the end of any billing period with a notice period of thirty (30) days if there is no fixed initial or renewal term.
- (c) Termination for cause. In addition, each Party may terminate the Agreement in full or in part for good cause immediately in case of
 - (i) a material breach or other important reason attributable to the other Party, provided that the reason for termination is not remedied (if remediable) within one (1) month after having given notice; or
 - (ii) the other Party's insolvency, inability to pay its debts in the ordinary course of business, liquidation or permanent cessation of business.
- (d) Consequences of termination. Upon termination of an Order, Customer's right to use the respective Deliverables shall cease immediately. Material delivered to the other Party for the duration of the Order (e.g. equipment, documents, keys) must be returned within thirty (30)

calendar days after the termination or expiration of the respective Order, at the expenses of the returning Party.

- (e) Partial termination. The termination of an Order does not affect the remainder of the Agreement.
- (f) Accrued receivables. Termination shall not relieve Customer of the obligation to pay fees accrued or due and payable to Anapaya prior to the effective date of termination.
- (g) Termination assistance. At the end of an Order, regardless of the reason for its termination, both Parties shall cooperate for the purpose of a proper handover of operations.
- (h) Surviving Provisions. All provisions of the Agreement intended by their terms or nature to survive shall survive any termination or expiration of the Agreement.

13. Suspension

- (a) Suspension right. Anapaya shall be entitled to suspend performance of the Deliverables without notice in case of material non-compliance of Customer with the Agreement. The same shall apply in case of force majeure, i.e., an event beyond Anapaya's reasonable control that prevents or significantly impairs Anapaya's capability to perform its obligations under the Agreement.
- (b) Consequences. Upon suspension of an Order, Customer's right to use the respective Deliverables shall be suspended immediately. During the period of suspension of an Order, Customer shall be fully liable for all damage resulting thereof and remain liable for the corresponding fees.
- (c) Effect. The suspension of an Order does not affect the remainder of the Agreement.

14. Applicable Law and Jurisdiction

- (a) Applicable law. The Agreement shall be governed by and construed in accordance with the substantive laws of Switzerland. The application of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.
- (b) Jurisdiction. Any dispute, controversy, or claim arising out of, or in relation to, this Agreement, including regarding the validity, invalidity, breach or termination thereof, shall be submitted to the exclusive jurisdiction of the courts of the city of Zurich, subject to the subsequent paragraph.
- (c) Arbitration. If Customer is domiciled in a country other than Switzerland, a member state of the European Union or the European Economic Area, or the United Kingdom, any dispute, controversy, or claim arising out of, or in relation to, the Agreement, including regarding the validity, invalidity, breach or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Arbitration Centre in force on the date on which the Notice of Arbitration is submitted in accordance with those Rules. The number of arbitrators shall be one or three; the seat of the arbitration shall be Zurich, Switzerland; the arbitral proceedings shall be conducted in English.

15. Miscellaneous

- (a) Relationship of the Parties. The Parties are independent contractors. This Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.
- (b) Publicity. Customer consents to the identification of Customer as a customer of Anapaya on Anapaya's website, and in other marketing materials distributed by Anapaya (which may include emails and other web and print materials). In connection with such activity, Anapaya may also display Customer's marks or logos on Anapaya's marketing materials. The foregoing shall be deemed a worldwide, royalty-free and non-exclusive license to the use of Customer's name, marks and logos for this purpose and during the term of the Agreement.
- (c) Notices. Unless otherwise set forth in the Agreement, all notices under the Agreement must be given at least in text form (e.g., e-mail). The Parties shall immediately notify each other about any changes of the contact data they have provided each other with.
- (d) Severability. If any provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of the Agreement or invalidate or render unenforceable such provision in any other jurisdiction. Upon such determination that any provision is invalid, illegal or unenforceable, the Agreement shall be modified to effectuate the original intent of the Parties as closely as possible.
- (e) Waiver and cumulative remedies. No failure or delay by either Party in exercising any right or remedy under the Agreement shall constitute a waiver of such right or remedy. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party.
- (f) Assignment. Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party (which consent shall not be unreasonably withheld). Notwithstanding the foregoing, Anapaya shall at any time have the right, without any consent of Customer, to assign any receivables arising under the Agreement and all security and ancillary rights relating hereto to any third party.
- (g) Entire agreement. The Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. There are no agreements, representations, warranties, promises, covenants, commitments, or undertakings other than those expressly set forth herein. This Agreement supersedes all prior agreements, proposals or representations, written or oral, concerning its subject matter.
- (h) Form requirements. Subject to Anapaya's rights to unilaterally adapt certain contractual terms as expressly set forth in the Agreement, no modification, amendment, or waiver of any provision of the Agreement shall be effective, unless being agreed upon in text form (e.g. email, scanned signatures) or in writing by the Party against whom the modification, amendment or waiver is to be asserted. Transmission by e-mail or any other equivalent form of electronic exchange or execution shall be deemed to comply with such form requirement. The Parties agree that the Agreement may be executed, exchanged, stored and processed by applying any form or simple or advanced e-signatures (e.g. DocuSign, etc.) and that such e-signatures shall comply with the form requirements set forth herein.