DATACOLOR AG – TERMS AND CONDITIONS

1.   Definitions

"**Affected Party**" has the meaning given in sec. 13.4.

"**Authorized Reseller**" has the meaning given in sec. 7.1.1.

"**Authorized Reseller Agreement**" has the meaning given in sec. 7.1.1.

"**Confidential Information**" has the meaning given in sec. 7.

"**Customer**" has the meaning given in sec. 2.

"**Customer Data**" has the meaning given in sec. 7.7.

"**Customer Personal Data**" has the meaning given in sec. 11.

"**Datacolor**" has the meaning given in sec. 2.

"**End-of-Support**" shall mean the date on which a Software version is no longer supported and no bug fixes or new version updates are provided.

"**Error**" has the meaning given in sec. 8.1.2.

"**Hardware**" has the meaning given in sec. 2.

"**Intellectual Property Rights**" has the meaning given in sec. 7.4.

"**License Fee**" has the meaning given in sec. 7.2.2.

"**Maintenance and Support Services**" has the meaning given in sec. 8.

"**Maintenance and Support Service Fees**" has the meaning given in sec. 8.5.

"**Minimum Contract Term**" has the meaning given in sec. 8.6.

"**New Intellectual Property Rights**" has the meaning given in sec. 7.4.

"**Non-Affected Party**" has the meaning given in sec. 13.4.

"**Order Confirmation**" has the meaning given in sec. 4.

"**Perpetual Licensing Model**" has the meaning given in sec. 2.

"**Quotation**" has the meaning given in sec. 4

"**Software**" has the meaning given in sec. 2.

"**Specifications**" means specific technical information about Datacolor products in effect on the date Datacolor ships Customer's orders, which is available on Datacolor's website (www.datacolor.com).

"**Subscription Fees**" has the meaning given in sec. 7.1.3.

"**Subscription Licensing Model**": has the meaning given in sec. 2.

"**Subscription Term**" has the meaning given in sec. 7.1.2

"**Supported Environment**" has the meaning given in sec. 7.7.

"**Supported Version**" shall mean a launched Software version that will be maintained for a period of time to be defined by Datacolor at its own discretion.

"**Terms**" has the meaning given in sec. 3.

"**User**" means each individual named employee, subcontractor, or third-party service provider of Customer who accesses or uses the Software by or through Customer.

2.   Products and Services provided by Datacolor

Datacolor AG, with registered office in Risch, canton of Zug, ("**Datacolor**"), is a provider of color management software ("**Software**") and hardware. Datacolor offers to its commercial customers ("**Customer**") the following products and services:

(i)   Sale of hardware (either separate or together with embedded Software) ("**Hardware**").

(ii)   Sale and license of Software: Depending on the applicable Order Confirmation, Customer either obtains a license to use the Software on a yearly subscription basis with limited fixed terms ("**Subscription Licensing Model**") or a perpetual license with a one-time fee ("**Perpetual Licensing Model**").

(iii)   Hardware repair, Software updates, upgrades and maintenance, training and other services provided by Datacolor.

3.   Scope of the T&C

(a)   These Terms and Conditions apply to all legal relations in connection with sales and services of Datacolor to the Customer (the "**Terms**").

(b)   Except as specified herein, in the event of a conflict between these Terms and a term in the Quotation of Datacolor, Order Confirmation of Datacolor or in an individual agreement concluded by Datacolor and the Customer, the terms of the Quotation of Datacolor, Order Confirmation of Datacolor or individual agreement shall prevail.

(c)   With respect to terms and conditions of the Customer, these Terms apply exclusively. Deviating, conflicting or supplementary terms and conditions of the Customer shall only become part of the contract between Datacolor and the Customer if and insofar as Datacolor expressly consented to their application in writing.

4.   Conclusion of contract

(a)   Prior to the conclusion of a contract, Datacolor usually provides the Customer with a non-binding quotation ("**Quotation**"). By accepting Datacolor's quotation or sending a purchase order to Datacolor within the time limit specified in the Quotation, Customer places a legally binding order offer to Datacolor. A legally binding contract between Datacolor and Customer is only concluded upon Datacolor's acceptance of the order

offer by an order confirmation of Datacolor ("**Order Confirmation**") in text form.

(b) Unless otherwise stated in the Quotation, Datacolor is entitled to accept Customer's order within 30 calendar days of its reception by Datacolor. At the end of this period, Customer's order will expire automatically, unless Datacolor has accepted the order (e.g. by issuing an Order Confirmation).

5. Prices and Payment Conditions

(a) All prices set forth in price lists are non-binding. Prices can be adapted by Datacolor at any time.

(b) Unless otherwise agreed in the Order Confirmation, prices in force at the time of the conclusion of the contract shall apply. However, Datacolor reserves the right to adapt agreed-upon prices in an Order Confirmation, if:

(i) the agreed delivery occurs later or the agreed delivery terms are prolonged due to reasons Datacolor is not responsible for;

(ii) laws, rules or generally accepted principles for sales and services are changed after the contract has been concluded.

(c) Prices do not include transportation costs. If an order is shipped to Customer, the Customer shall bear all costs resulting from the shipment.

(d) Prices are exclusive of, and Customer will pay, applicable sales, use, service, value-added or any other taxes and charges.

(e) All fees and expenses are quoted and invoiced in the currency specified in the applicable Order Confirmation. Unless otherwise agreed in these Terms or the Order Confirmation, all invoiced amounts are due and payable by Customer within 30 calendar days after the invoice date. Invoices for contractual services will be issued in advance of the service period.

(f) Title to the products will only pass upon complete payment of the respective invoice of Datacolor by the Customer.

(g) Payment terms are subject to Datacolor's credit approval process. Datacolor reserves its right to unilaterally change the above payment terms at any time due to Customer's financial condition, previous payment record or the nature of Customer's relationship with Datacolor.

6. Provisions on the Sale of Hardware

6.1 Product and Specifications

(a) The requirements and functions of the Hardware are specified in the Specifications.

(b) If Customer wishes to use the Hardware together with the Software, the Customer either requires a license under the Subscription Licensing Model (see sec. 7.1) or the Perpetual Licensing Model (see sec. 7.2).

6.2 Fees

The Customer shall pay Datacolor the purchase price for the sale of Hardware set forth in the Order Confirmation.

6.3 Delivery

(a) Datacolor informs Customer about the estimated shipping date for Hardware in the Order Confirmation. Datacolor will make reasonable efforts to meet the estimated shipping date. However, all shipping dates stated by Datacolor are non-binding and for guidance only unless expressly set forth in writing by Datacolor.

(b) In the event deliveries or services cannot be supplied or rendered on a date expressly confirmed in writing by Datacolor, the Customer may, after the expiry of an additional period of at least 30 calendar days set in writing to Datacolor, put Datacolor in default and, after a further grace period of 30 calendar days for delivery has expired without remedy, withdraw from the respective contract. These are all rights and remedies of the Customer in case of a delay by Datacolor. All further remedies and claims for delay shall be fully waived, in particular claims for damages.

(c) For delivery, shipment and risk of loss, the Incoterms specified in the Order Confirmation shall apply. If the Parties have not agreed on any Incoterms, delivery occurs and the risk for loss and damage for the Hardware passes to Customer as soon as the Hardware is made available by Datacolor for dispatch at the warehouse/factory of Datacolor.

6.4 Inspection, Acceptance

(a) The Customer is obliged to examine the Hardware supplied by Datacolor immediately upon delivery with respect to completeness, correctness and possible defects.

(b) Customer shall notify Datacolor in writing of incomplete or wrong deliveries, possible defects, damages and complaints immediately after discovery, in any case, however, at the latest 7 calendar days after delivery. After the expiry of such period, the Hardware shall be deemed accepted by the Customer.

6.5 Installation at Customer's Premise

(a) If agreed in writing with the Customer, Datacolor will install Hardware at the location agreed with the Customer and perform an installation test. The Customer shall grant Datacolor the necessary access to the premises.

(b) If an installation test is agreed upon in writing prior to shipment, installation is completed and the Hardware (including the embedded Software) is deemed accepted when it passes Datacolor's installation and test procedures.

(c) If Customer schedules or delays installation by more than 30 calendar days after receipt of the Hardware, Customer's acceptance of the Hardware will occur on the 31st day after delivery.

6.6 Warranty

(a) The warranty period for Hardware shall be one year from date of Datacolor's invoice to the Customer.

(b) Provided that the Customer has fulfilled its inspection obligations according to sec. 6.4, the Customer may claim from Datacolor replacement or repair of defective Hardware or parts thereof if returned to Datacolor within 90 calendar days of delivery. Datacolor may at its sole discretion choose to either repair or replace the defective Hardware. All other warranty claims by the Customer are excluded.

(c) Customer's warranty applies exclusively to material or manufacturing defects or non-conformity of the Hardware with the Specifications. In particular, normal wear and tear and damage caused by improper handling, self-inflicted damage or repair by the Customer or third parties not approved by Datacolor are excluded from warranty.

(d) When defective Hardware is returned to Datacolor, the Customer pays shipping expenses to Datacolor, and Datacolor will pay expenses to return the repaired or replaced Hardware if a customer's warranty claim is valid. In any case, any travel and living expenses to the Customer by Datacolor are excluded from warranty.

7.   Provisions on the Licensing of Software

7.1   Subscription Licensing Model

7.1.1   Grant of License, Restrictions

(a) Effective upon Customer's payment of the applicable Subscription Fees, Datacolor hereby grants to Customer, for the duration of the applicable Subscription Term, a non-exclusive, non-sub-licensable and non-transferable license to access and use the Software via the Internet on a subscription basis solely for Customer's business purpose, subject to the terms and conditions of these Terms and the applicable Order Confirmation. Datacolor may, at its own discretion, make changes or updates to the Software at any time without notice.

(b) In deviation from sec. 7.1.1(a) Datacolor may grant to a Datacolor authorized reseller ("**Authorized Reseller**") the right to sublicense the Software for subsequent distribution, subject to the terms and conditions of a separate agreement to be concluded between Datacolor and the Authorized Reseller ("**Authorized Reseller Agreement**").

(c) Customer may not do any of the following itself, or through any other person: (a) copy, modify or create derivative works based upon the Software; (b) decompile, disassemble, or reverse engineer the Software in whole or in part; (c) defeat, disable or circumvent any protection mechanism related to the Software; (d) sell, license, sublicense, lease, rent, distribute, disclose, permit access to, or transfer to any third party, any portion of the Software or any product (as a separate product or bundled with any other products other than the Software) created with the Software, or, in particular, without limiting the generality of the foregoing, distribute the Software or any such product on any media, over networks, electronic bulletin boards, or websites, or allow any third party to use the Software; (e) publish or otherwise communicate any review of or information about Software performance to any third party without the prior written consent of Datacolor; (f) export, use or download the Software in violation of any applicable laws or regulations, in particular to export the Software to any sanctioned and/or embargoed countries.

(d) Datacolor may host the Software on its own servers or may use a third party to host the Software.

7.1.2   Subscription Term

(a) The term for the Subscription Licensing Model ("**Subscription Term**") shall be twelve (12) months, unless otherwise specified in an applicable Order Confirmation, and shall begin on the subscription commencement date set forth in the applicable Order Confirmation.

(b) At the completion of the initial Subscription Term, the Subscription Term shall renew automatically for successive 12 months renewal periods unless either party gives written notice to the other party to terminate the Subscription Licensing Model with at least 30 calendar days prior to the end of the then-current Subscription Term.

7.1.3   Subscription Fees and Payment Conditions

(a) Customer shall pay to Datacolor the fees set forth in each Order Confirmation for the Subscription Term ("**Subscription Fees**"). The Subscription Fees cover the license for the use of the Software, the updates and upgrades of the Software, new Supported Versions of the Software and maintenance and support services for the Software as specified in sec. 8 during the applicable Subscription Term.

(b) Each Subscription Fee is due and payable by Customer in advance for 12 month periods as of the start date of the initial or renewed Subscription Term, unless otherwise agreed.

(c) Each license purchased entitles one User to access the Software. If any additional licenses are ordered during the Subscription Term to grant access to additional Users, the related Subscription Fees will be calculated on a pro-rata basis for the remainder of the then-current Subscription Term and calculated in full for each successive Subscription Term thereafter and are due in full as of the moment of acceptance by Datacolor of such order.

7.1.4   Number of Users

(a) Customer shall not access or use, or permit the access or use of the Software by more Users than the number of licenses granted in the Order Confirmation, whether or not such Users are actively accessing or using the Software at the same time.

(b) Datacolor may monitor the number of Users, and if the actual number of Users exceeds the number of licenses granted in the Order Confirmation, Datacolor may, at its sole discretion, (a) immediately cease such excess usage; or (b) increase the Subscription Fee about the number of additional Users, whereby the increase of the Subscription Fee shall be calculated retroactively from the date the number of Users exceeded the number of licenses granted to the Customer for a Subscription Term for each additional licenses required to cover the excess usage. Subscription Fees for excess usage shall be based on Datacolor's then-current price list or as specified in the applicable Order Confirmation. Datacolor also reserves the right to claim damages.

7.1.5 Delivery

Datacolor shall use commercially reasonable efforts to make the Software accessible to Customer's computer with internet access. The Software is deemed delivered and accepted by Customer once Datacolor has completed all steps to provide Customer access to the Software.

7.1.6 Extraordinary Termination

(a) Notwithstanding any other termination provision in these Terms, either party may terminate the Subscription Licensing Model, at any time upon 30 calendar days prior to written notice, if the other party materially fails to comply with any of the terms and conditions of these Terms or the applicable Order Confirmation and such failure is not cured by the end of such 30 calendar days period.

(b) Datacolor may terminate these Terms immediately if Customer materially fails to comply with sec. 5, 6.2, 7.1.1, 7.1.3, 7.4, 7.7, 8.2, 8.5 or 10. of these Terms or if any of the following events occur affecting Customer: (a) voluntary bankruptcy or application for bankruptcy; (b) involuntary bankruptcy or application for bankruptcy not discharged within 60 calendar days; (c) appointment of receiver or trustee in bankruptcy for all or a portion of Customer's assets; (d) appointment of an administrator in respect of Customer or (e) an assignment or arrangement for the benefit of creditors.

7.1.7 Effects of Termination

(a) Upon any termination of the Subscription Licensing Model, Customer shall immediately cease accessing and using the Software. Customer will remain obligated to pay all Subscription Fees due and/or incurred prior to termination.

(b) Immediately upon termination, Customer shall destroy the Software and all copies of the Software or return the Software to Datacolor. With Datacolor's written consent, one copy of the Software may be retained subsequent to termination for archival purposes.

(c) Customer shall have the limited right for 30 calendar days after such termination to export or print Customer Data from the Software. Upon the expiration of this 30 days period, Datacolor is entitled to destroy or otherwise dispose of the Customer Data.

(d) In case of termination, Customer shall not be entitled to any full or partial refund of the Subscription License Fee.

7.2 Perpetual Licensing Model

7.2.1 Grant of License, Restrictions

(a) Effective upon Customer's payment of the applicable License Fee, Datacolor hereby grants to Customer a non-exclusive, non-sub-licensable, non-transferable and perpetual license to install and use the Software solely for Customer's business purpose, subject to the terms and conditions of these Terms and the applicable Order Confirmation.

(b) Datacolor may, at its own discretion, make changes or updates to the Software at any time without notice.

(c) If Customer has purchased according to the Order Confirmation a single-user version of the Software, the license is limited to the use of one copy of the Software on a single computer.

(d) If Customer has purchased, according to the Order Confirmation, the multi-user version, the license includes the right to place a copy of the Software and Software data files on a single network server and allow a specific number of Users access to the Software, provided, however, that Customer has purchased a Software license for the number of Users accessing the Software.

(e) Customer may not do any of the following itself, or through any other person: (a) copy, modify or create derivative works based upon the Software; (b) decompile, disassemble, or reverse engineer the Software in whole or in part; (c) defeat, disable or circumvent any protection mechanism related to the Software; (d) sell, license, sublicense, lease, rent, distribute, disclose, permit access to, or transfer to any third party, any portion of the Software or any product (as a separate product or bundled with any other products other than the Software) created with the Software, or, in particular, without limiting the generality of the foregoing, distribute the Software or any such product on any media, over networks, electronic bulletin boards, or websites, or allow any third party to use the Software; (e) publish or otherwise communicate any review of or information about Software performance to any third party without the prior written consent of Datacolor; (f) export, use or download the Software in violation of any applicable laws or regulations, in particular to export the Software to embargoed and sanctioned countries.

(f) In deviation from sec. 7.2.1(a), Datacolor may grant to an Authorized Reseller the right to sublicense the Software for subsequent distribution, subject to the terms and conditions of a separate Authorized Reseller Agreement.

7.2.2 License Fees and Payment Conditions

(a) Customer shall pay Datacolor a one-off fee set forth in the Order Confirmation for each license ("**License Fee**").

(b) The License Fee does not cover any updates or upgrades or new Supported Versions of the Software or other maintenance and support services as specified in sec. 8. Customer may only request such services for additional fees if a separate Order Confirmation is concluded.

7.2.3 Extraordinary Termination of License

(a) Notwithstanding any other termination provision in these Terms, each party may terminate the Perpetual Licensing Model, at any time upon 30 calendar days prior written notice, if the Customer materially fails to comply with any of the terms and conditions of these Terms or the applicable Order Confirmation and such failure is not cured by the end of such 30 calendar days period.

(b) Datacolor may terminate these Terms immediately if Customer materially fails to comply with sec. 5, 6.2, 7.2.1, 7.2.2, 7.4, 7.7, 8.2, 8.5 or 10. of these Terms or if any of the following events occur affecting Customer: (a) voluntary bankruptcy or application for bankruptcy; (b) involuntary bankruptcy or application for bankruptcy not discharged within 60 calendar days; (c) appointment

of receiver or trustee in bankruptcy for all or a portion of Customer's assets; (d) appointment of an administrator in respect of Customer or (e) an assignment or arrangement for the benefit of creditors.

(c) In case of termination, Customer shall not be entitled to any full or partial refund of the License Fee.

7.2.4 Effects of Termination

(a) Upon any termination of the Perpetual Licensing Model, Customer shall immediately cease accessing and using the Software.

(b) Immediately upon termination, Customer shall destroy the Software and all copies of the Software or return the Software to Datacolor. With Datacolor's written consent, one copy of the Software may be retained subsequent to termination for archival purposes.

7.3 Specifications

The requirements and functions of the Software are set forth in the Specifications.

7.4 Intellectual Property Rights, Restrictions

(a) For the purposes of these Terms, intellectual property rights ("**Intellectual Property Rights**") shall mean all registered and unregistered rights worldwide in connection with patents, copyrights, trademarks, domains, designs, software and its source and object code, web designs, graphics, photographs, animations, videos, texts, documentation and operating instructions, concepts, databases and know-how, regardless of whether they can be protected or not.

(b) Customer acknowledges that Datacolor is and will remain the sole and exclusive owner of all Intellectual Property Rights in and to the Software. Customer shall have no right, title or interest therein or thereto, other than the limited license expressly set forth in these Terms.

(c) If and to the extent that under these Terms or any other agreement between Datacolor and Customer, Intellectual Property Rights are created or developed ("**New Intellectual Property Rights**"), Datacolor shall be the sole and exclusive owner of the New Intellectual Property Rights. Customer hereby transfers to Datacolor all right, title and interest in and to such New Intellectual Property Rights upon their creation and together with any associated copyrights without restrictions in terms of subject matter, time or geographical scope.

(d) If Customer has any rights, titles, and interests in the New Intellectual Property Rights that cannot be transferred to Datacolor due to restrictions by mandatory law, Customer hereby automatically grants to Datacolor an exclusive, irrevocable, perpetual, worldwide, transferable, sub-licensable, fully paid and royalty-free license to such New Intellectual Property Rights without restrictions in terms of subject matter, time or geographical scope, and in particular but not exclusively with the right to use in any possible way, to disclose, to export, to make receptible, to reproduce, to distribute, to exploit, to modify and to further develop.

(e) Customer shall assist Datacolor in every way, including by signing and filing any documents with the competent authorities and providing any information reasonably required, both during and after the term of this contract, to obtain and enforce any and all Intellectual Property Rights relating to New Intellectual Property Rights.

(f) Customer shall ensure that Customer and its employees or affiliates involved in the creation or development of New Intellectual Property Rights under these Terms waive any claim to moral rights in and to such New Intellectual Property Rights and hereby grant to Datacolor the perpetual, irrevocable, exclusive and royalty-free right to execute such moral rights.

(g) For the avoidance of doubt, Customer and Datacolor hereby reserve and retain ownership of all rights, titles, and interests in any Intellectual Property Rights that each party has created or acquired before entering into these Terms or which each party creates or acquires independently of these Terms.

7.5 Material Warranty

(a) Datacolor grants the Customer the licence to use the Software on an "as is" and "as available" basis, excluding any warranty of quality.

(b) Datacolor also offers no warranty and disclaims any warranty for the general marketability and suitability of the Software for a specific purpose, conformity with applicable regulations and data accuracy. Furthermore, any warranty for the availability of the Software and certain contents of the Software is excluded. The selection and use of the Software is the sole responsibility of the Customer.

7.6 Warranty of Title

(a) Datacolor warrants that, to the best of its knowledge, it has the necessary rights to grant the Customer the rights to the Software in accordance with the provisions of these Terms. Should a third party nevertheless claim that the contractual use of the Software in accordance with these Terms infringes their rights, the Customer is obliged to (i) inform Datacolor immediately and (ii) offer Datacolor the defense, including the conclusion of a settlement. The Customer shall support Datacolor to an appropriate and reasonable extent. The Customer is not entitled to recognize, settle or pay such a third-party claim (not even partially), unless Datacolor expressly agrees to such action in writing.

(b) In defense against third-party claims, Datacolor may, at its discretion, procure the right for the Customer to continue using the Software or replace or modify the Software. If Datacolor is unable to take any of these measures, Datacolor is entitled to terminate the license to use the Software with immediate effect. The Customer's right to use the Software ends with the declaration of cancellation by Datacolor. Any further legal warranty by Datacolor regarding the Software is excluded.

7.7 Customer's Responsibilities

(a) To run the Software, Datacolor will recommend certain equipment and configuration requirements ("**Supported Environment**"). Even if the Customer uses the Supported Environment, Datacolor does not warrant that the Software will meet the Customer's requirements or that it will run error free. The Customer shall solely be responsible for ensuring that its IT infrastructure fulfils the requirements for the proper operation of the Software and shall provide appropriate

technical and operational preparation and support work so that Datacolor can fulfil its services in accordance with these Terms.

(b) The Customer shall solely be responsible for each User that accesses the Software and for all data created by use of or access to the Software or stored in the Software ("**Customer Data**"). The Customer is solely responsible for all necessary authorizations for the inclusion of content in the Software and the Customer grants Datacolor permission to use, store and process the content in accordance with the provisions of these Terms. The Customer is solely responsible for compliance with the laws, rules and regulations applicable to the Customer when using the Software.

8. Maintenance and Support Services

The following terms apply to updates, upgrades and new Supported Versions of the Software as well as support and/or maintenance services under the Subscription Licensing Model (hereinafter all together "**Maintenance and Support Services**").

8.1 Scope of Maintenance and Support Services

The Maintenance and Support Services provided by Datacolor to Customer are limited to technical support as per sec. 8.1.1, error correction as per sec. 8.1.2 and updates and upgrades as per sec. 8.1.3. In particular, the Maintenance and Support Services do not include the right for specific enhancements of the Software desired by the Customer (such as new designs or graphics).

8.1.1 Technical Support

(a) Datacolor shall provide the support necessary for Software of current Supported Versions to perform in accordance with the current Specifications.

(b) Datacolor provides on-call support and support via e-mail during the period of 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding locally observed Datacolor holidays.

(c) Where necessary, according to Datacolor's assessment, Datacolor may provide on-site support. The resulting expenses (including travel and accommodation expenses of Datacolor's employees) are not covered by the annual Maintenance and Support Service Fees and will be charged to the Customer separately.

(d) Datacolor will replace, against the charge of the Customer, the license keys necessary to run the Software in the event of a loss.

8.1.2 Error Correction

(a) Any deviation of the current version of the Software from the capabilities and functions described in the Specification is an error within the meaning of these Terms ("**Error**").

(b) If Customer discovers an Error in a current Supported Version during the term of these Terms, Customer must notify Datacolor by filing out a customer support request form at https://www.datacolor.com/business-solutions/customer-support/contact-customer-support/ as soon as feasible in the normal course of business, in

any case within 5 calendar days of discovery, and document each Error found.

(c) Datacolor provides support for Error corrections during the period of 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding locally observed Datacolor holidays. At Customer's request and upon Datacolor's approval, Datacolor may provide services outside of these hours, but may charge for its expenses at its prices valid at that time.

8.1.3 Updates and Upgrades

(a) Datacolor shall provide the Customer with updates and upgrades of the Software and new Supported Versions of the Software, as well as any changes or additions to the documentation that the Customer requires to use the features and functions of the updates and upgrades, as soon as they are available.

(b) The Customer shall review each delivered update and/or upgrade during a period of 30 calendar days after delivery and notify Datacolor whether it wishes to accept the update and/or upgrade. If no notification is made within this period, the delivered update shall be deemed accepted.

(c) The accepted update, upgrade and/or new Supported Version shall become the current version of the Software and the subject matter of these Terms.

8.2 Exclusions

(a) Maintenance and Support Services are contingent on the proper use of all equipment and do not cover equipment which have been modified without Datacolor's approval, or which have been subjected to unusual physical or electrical stress or acts of nature. Datacolor shall be under no obligation to furnish support (preventive or remedial): (i) if adjustment, repair or parts replacement is required because of accident, neglect, misuse, failure of electrical power, air-conditioning, humidity control, transportation or causes other than ordinary use; (ii) if the equipment is maintained or repaired or if attempts to repair service the items are made by other than Datacolor personnel without prior approval by Datacolor.

(b) Maintenance and Support Services do not include (i) operating supplies or accessories, paint, or refinishing the items or furnishing materials for this purpose, (ii) electrical work external to the machines or maintenance of accessories, alterations, attachments, or other devices not furnished by Datacolor unless otherwise specifically agreed in writing, (iii) travel and living expenses of Datacolor personnel for remedial maintenance, or (iv) training of Customers, employees of Customers or Users. These services will be charged separately to Customer.

8.3 Restrictions regarding Non-Supported Versions of the Software

(a) After the launch of a new Supported Version of the Software, Datacolor shall, in its sole discretion, have the right to stop providing previous versions of the Software and no longer provide a license key.

(b) Customer understands and accepts that Datacolor will only provide Maintenance and Support Services for Supported Versions and not for any versions of the Software for which Datacolor no longer offers support

(Software at End-of Support). The decision as to whether a particular version of the Software is no longer supported by Datacolor is at Datacolor's sole discretion. The End-of Support dates for the various versions of the Software are visible on Datacolor's website under the following link: https://www.datacolor.com/business-solutions/customer-support/discontinued-products/.

8.4   Due Diligence

(a)   In providing the Maintenance and Support Services, Datacolor shall use its best efforts in accordance with the current state of art.

(b)   However, Datacolor does not owe any success for the provision of Maintenance and Support Services and disclaims any warranty in connection with the provision of the Maintenance and Support Services. Sec. 7.5 (Material Warranty) and 7.6 (Warranty of Title) shall apply *mutatis mutandis* to Maintenance and Support Services. In particular, Datacolor will not assure uninterrupted operation or errorless of the Software. The uninterrupted operation or error-freeness of the Software is not guaranteed.

8.5   Prices and Payment Obligations

Unless governed otherwise in these Terms, Customer shall pay Datacolor the Maintenance and Support Services fees set forth in the Order Confirmation ("**Maintenance and Support Service Fees**").

8.6   Term and Termination

(a)   The term for the Maintenance and Support Services shall be, unless otherwise agreed in the Order, 12 months, and shall begin on the day specified in the Order Confirmation or the day the Order Confirmation is sent to Customer ("**Minimum Contract Term**").

(b)   After the expiry of the Minimum Contract Term, the Order Confirmation on the Maintenance and Support Services is automatically extended for successive 12 months renewal periods, unless either party gives written notice to the other party of its intent not to renew at least 30 calendar days prior to the end of the then-current term.

9.   Limitation of Liability

(a)   Datacolor is only liable for unlawful intent and gross negligence and only for direct damage caused by physical injury. Any further liability of Datacolor is excluded to the extent permitted by law. In particular, Datacolor is not liable for slight or medium negligence, lack of economic success, loss of profit or other consequential damages and indirect damages. In particular, Datacolor shall not be liable for any damages if the Software delivers incorrect or incomplete results.

(b)   Furthermore, any liability of Datacolor for the actions of auxiliary persons and contractual partners is excluded to the maximum extent permitted by law.

10.   Confidential Information

(a)   The Customer shall treat all information and data transmitted or otherwise made accessible to it by Datacolor, as well as other knowledge about internal circumstances and processes (e.g. business transactions and planning) of Datacolor, as strictly confidential ("**Confidential Information**") and shall only use it for the purposes of executing the contract between Datacolor and the Customer.

(b)   The obligation to keep Confidential Information confidential does not apply to Confidential Information that was already known beforehand without an obligation of confidentiality or that is or becomes generally known.

11.   Data Protection

(a)   In the event that Datacolor is processing under these Terms and any contract concluded under these Terms any personal data of the Customer ("**Customer Personal Data**") on behalf of the Customer and, with respect to the processing of such Customer Personal Data, qualifies as a data processor within the meaning of the applicable data protection law, Datacolor:

(i)   shall process or use the Customer Personal Data solely for the purpose of fulfilling these Terms and/or any contract concluded between the Parties under these Terms and in accordance with the Customer's instructions. Subject to the fulfilment of legal, regulatory or official obligations of Datacolor, or if otherwise stated in these Terms or any contract concluded between the Parties, Datacolor will not process or use the Customer Personal Data for any other purpose;

(ii)   shall take and maintain appropriate technical and organizational measures to ensure the confidentiality, integrity and availability of Customer Personal Data at all times and protect it from unauthorized processing, access or disclosure and from accidental or unlawful destruction, loss or alteration;

(iii) may engage sub-data processors to provide its services, but only with the prior consent of the Customer. The Customer's consent shall be deemed to have been given for the sub-data processors listed on Datacolor's website under the following link: https://www.datacolor.com/legal/sub-processors. Datacolor shall inform the Customer within a reasonable period of time if Datacolor appoints new sub-data processors or replaces existing sub-data processors. The Customer may object to the appointment of a new sub-data processor or the replacement of an existing sub-data processor within 14 calendar days (calculated from receipt of the notification) for important data protection reasons. If the Customer raises an objection and the Parties do not find an amicable solution, Datacolor may terminate any contract concluded under these Terms with a notice period of 30 calendar days.

(b)   The Customer is responsible for and represents and warrants to Datacolor that (i) all Customer Personal Data provided to Datacolor has been lawfully collected and provided to Datacolor and (ii) the processing of Customer Personal Data by Datacolor in accordance with these Terms and the Customer's instructions, if any, does not violate any laws or rights of third parties, including, but not limited to, privacy rights. The Customer shall indemnify and hold Datacolor harmless from and against any liability arising out of or in

connection with any breach of these warranties and obligations, which indemnity shall include, without limitation, any damages, costs, claims or reasonable expenses (including court costs and reasonable attorneys' fees) incurred by Datacolor as a result of such breach.

12. Customer Reference

The Customer grants to Datacolor the right, free of charge, to use the Customer's name, including its logo, as customer reference and advertising purposes in both print and electronic media.

13. Miscellaneous

13.1 Amendment

These Terms may only be modified or amended by a written document signed by both parties.

13.2 Assignment

Customer may not assign any rights or obligations hereunder without prior written consent of Datacolor.

13.3 Severability

Should a provision of these Terms be or become void or invalid, this shall not affect the remaining part of the Terms. Void or invalid provisions shall be replaced by valid provisions that come closest to the economic purpose of the void or invalid provision. The same procedure is to be followed if a gap in the contract arises or a provision proves to be unenforceable.

13.4 Force Majeure

(a) For the purposes of these Terms and any contracts concluded under these Terms, "Force Majeure" refers to any event or circumstance beyond the reasonable control of a party, which prevents or delays the party from performing its obligations under these Terms and any contracts concluded under these Terms. Such events may include but are not limited to, natural disasters (such as floods, earthquakes, and hurricanes), war, terrorism, civil unrest, labour strikes, epidemics, pandemics, governmental actions or interventions, and significant disruptions to transportation or energy supply.

(b) A party affected by a Force Majeure event (**"Affected Party"**) shall notify the other party (**"Non-Affected Party"**) as soon as practicable, detailing the nature of the Force Majeure event, its expected duration, and the impact on its ability to fulfil its obligations.

(c) Except for payment obligations, upon the occurrence of a Force Majeure event, the obligations of the Affected Party under these Terms and any contracts concluded under these Terms will be suspended for the duration of the Force Majeure event. The suspension shall only apply to the obligations directly affected by the Force Majeure event.

(d) The Affected Party shall use reasonable efforts to mitigate the effects of the Force Majeure event and to resume the performance of its obligations as soon as reasonably possible.

(e) If the Force Majeure event continues for a period longer than 3 months, either party may terminate these Terms

and any contracts concluded under these Terms by providing written notice to the other party. Upon such termination, neither party shall have any further liability to the other under these Terms and any contracts concluded under these Terms, except for obligations that accrued before the occurrence of the Force Majeure event.

13.5 Governing Law & Jurisdiction

(a) These Terms and any contracts concluded under these Terms shall be exclusively governed by and construed in accordance with the substantive laws of Switzerland, excluding its conflict of laws principles and excluding the UN Convention on Contracts for the International Sale of Goods.

(b) The exclusive place of jurisdiction for any dispute, claim or controversy arising under, out of or in connection with or related to these Terms and any contracts concluded under these Terms, including, without limitation, disputes, claims or controversies regarding its existence, validity, interpretation, performance, breach or termination, shall be the city of Zurich, district 1, Switzerland.