



GENERAL TERMS & CONDITIONS

Perception Park GmbH

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November 2014

Perception Park GmbH („**Perception Park**“) is an IT service provider, specializing in „Chemical Color Imaging“ and a business focus – amongst other things – on the development and marketing of technologies, products and services or software applications for „hyperspectral imaging“ and industrial image processing. Details to product solutions, services and other technologies are inter alia accessible on the company’s website under <www.perception-park.com>.

These General Terms and Conditions ("**GTC**") govern the legal framework regarding (i) the granting and transfer of a simple right of use to the Software / relevant Software applications (defined below) as well as (ii) provision of individual software-specific services (e.g. elaboration of organizational concepts, preparation of individual programs, delivery of (bibliotheca-) standard programs etc.) and (iii) deployment of product-specific hardware components to business- and service clients of Perception Park (hereinafter "**Client(s)**").

I. Definition

Irrespective of and in addition to the definitions made in these GTC and used repeatedly, the following important shall have the meaning indicated below:

Contractual Services

The aggregate of Contractual Services from Perception Park to the Customer, including but not limited to the provision of the Software and –applications based thereon as well as product-specific Hardware.

GTC:

These General Terms and Conditions of Business, which are deemed the exclusive basis for the contractual relation between Perception Park and any Counterparty.

Hardware

Product-specific hardware components made available to the customer as part of Contractual Services from Perception Park.

Intellectual Property:

Any proprietary rights, including in particular copyrights, trademarks- and signs and any protectable Know-how in connection with or relating to the services from Perception Park.

Perception Park:

Perception Park GmbH, (FN 400381 x), Nikolaiplatz 4/3, A-8020 Graz, Austria;

Perception Tools:

Software solutions and plug-ins being based on the technology of Perception Park for a simplified handling / application as well as a facilitated access to hyperspectral data;

Perception System:

Data processing unit including configuration software being based on the technology of Perception Park.

Perception Services:

Expertise to Chemical Color Imaging, Hyperspectral Imaging und Chemical Imaging.

Perception Studio: *Operating environment and/or plug-in platform for combined Software applications and use of Perception Tools.*

Software-Applications: *Several Software-based applications, in particular Perception Tools, Perception System Solutions, Perception Apps and the Perception Studio.*

User / Customer: *Any natural person and / or legal entity making use of the Software, Hardware and related applications and services (as the case may be) on the basis of these GTC.*

**§1
Scope of application**

- (1) Even if not expressly incorporated by reference, these GTC apply to all present and future services of Perception Park to Customers.
- (2) On the date the contractual relationship pursuant to §2 (1) is established, the Customer acknowledges these GTC and these shall henceforth apply over the entire term of the business relation. The Customer's commercial terms and conditions or terms and conditions of purchase, if any, do not automatically become part of the contract and shall apply only if Perception Park acknowledges these in writing in a particular case by virtue of an individual agreement.
- (3) Perception Park employees and other vicarious agents or assistants Perception Park relies upon to provide the contractual service are not authorized to reach side agreements the contents of which exceeds the scope of the agreement reached with the Customer or that of these GTC.

**§2
Conclusion of contract and contract terms**

- (1) The contract relationship between the Customer and Perception Park is established by virtue of the Customer's written order and Perception Park' written and duly signed acceptance notice.
- (2) Products and services Perception Park presents or advertises online, in brochures or other advertising materials do not represent binding offers.
- (3) Perception Park may reject a Customer order if:
 - (a) there is reasonable doubt with regard to the Customer's identity, legal capacity or legal personality;
 - (b) there is reasonable suspicion that the Software or other Software-applications made available by Perception Park in the context of processing the order are abusively used;
 - (c) other circumstances exist that would render a contractual relationship with the Customer unreasonable from Perception Park point of view.
- (4) The Software as well as any documentation, proposals, test programs, etc. relating to the Contractual Services are Intellectual Property of Perception Park and may neither be reproduced nor made available to third parties (as the case may be). If no contractual relation occurs, any (pre-) contractual items, documentations, proposals, test programs etc. provided to the Customer shall be returned or deleted at request and may no longer be used.

- (5) The Customer is aware of the essential functional features of the Software and Hardware being delivered; the Customer, itself, shall bear the risk that any of the Contractual Services hereunder may not meet the Customer's desires and/or (operational) requirements, as the case may be. With regard to issues of doubt, the Customer shall seek the advice of Perception Park employees, its vicarious agents or third-party experts prior to concluding the contract (binding acceptance notice by Perception Park according to §2 (1)).

The technical options and conditions of use of the Software (e.g. concerning hardware and data carriers) are evident from the service and function specifications ("**Function Specifications**") prepared by Perception Park that shall be provided to the Customer upon request. If necessary, the Function Specifications are also available as "download" from Perception Park' website at <www.perception-park.com>.

- (6) Any information on technical data or product features Perception Park provides in printed matter, catalogues, advertisements, price lists and other information and promotional materials merely represent a general description and labeling of Perception Park's services and may not be relied upon for asserting Customer claims, if any. A guarantee as to a certain quality shall only be deemed to exist if such guarantee has been expressly indicated and agreed.
- (7) In case of any disagreement about the content of computer terms and symbols, quality requirements, format requirements or the like, the provisions set forth in the Function Specifications, as amended upon conclusion of the contract, shall prevail.
- (8) Subject to timely prior notice, Perception Park may change, extend or limit the contents and scope of Contractual Services at any time in a manner that is reasonable for the Customer. Perception Park will particularly take such measures if technical or legal circumstances so require or if this serves to protect the functionality of Software.

§3

Subject-matter of the contract and scope of services

- (1) The subject-matter of the Contractual Services to be provided by Perception Park may be:
- (a) to grant a non-exclusive right to use the Software and/or Software-applications as defined in Section I hereof that is neither transferable nor confined in fact and time to the term of this contract pursuant to §6;
 - (b) to participate in properly implementing and putting into operation the Software and provide support in the changeover, if any, to a new software system and Software-applications;
 - (c) Provision and delivery of Hardware;
 - (d) to conduct product training and establish an E-mail account for customer enquiries and error reports, if any;
 - (e) to carry out on a regular basis repair and maintenance work on the Software, Software-applications and Hardware provided on a case by case basis.

Software updates by Perception Park shall be invoiced separately. If it should become necessary to update Software directly at the Customer's premises, the related expenses (travel expenses, employee costs, etc.) incurred by Perception Park shall also be invoiced separately.

- (f) to carry out work to rectify a malfunction of the Software that has been reported in accordance with §5 (2);
- (g) to prepare program carriers, individual software programs or program adjustments and deliver standard (bibliotheca) programs;

- (h) general services and expertise with regard to Chemical Color Imaging Hyperspectral Imaging and Chemical Imaging.
- (2) The type and scope of Contractual Services are subject to the service specifications that were delivered by Customer when placing the order or prepared by Perception Park, itself, against a fee and agreed with the Customer, along with the binding information, documentation and auxiliary materials included therein. These also include practical test data and sufficient test options that will be made available by the Customer in due time during normal working hours and at its own cost and expense. (Product) Details and service contents relating to the granting of rights to use the Software are evident from the Function Specifications.
 - (3) The Customer shall verify that the service specifications (see §3 (2)) prepared by Perception Park against a fee are accurate and complete and it shall issue a notice of approval.
 - (4) Changes of the contract volume or the service specifications made after Perception Park has issued a (legally) binding acceptance notice pursuant to §2 (1) require Perception Park' prior consent and may result in separately agreed dates and prices.
 - (5) If the provision of services under the order should turn out to be impossible for legal or factual reasons, Perception Park is required to notify the Customer immediately. If the Customer fails to change the service specifications or create the conditions required to enable Perception Park to provide services, Perception Park may refuse to execute the order. This applies, without limitation, if the provision of services has been rendered impossible due to an omission of the Customer or a subsequent change of the service specifications. In this case, expenses incurred by Perception Park for its activities so far as well as costs of demounting (if any) shall be reimbursed by the Customer.
 - (6) Program carriers, documentation, function and service specifications will be shipped at the Customer's own cost and expense and risk. Any additional training (Perception Services) or information requested by the Customer will be charged separately.

§4

Customer's services and obligations

- (1) The Customer undertakes to use the Software and other Contractual Services according to its intended purpose and the terms of the contract. In particular, the Customer may use the Software only according to the Function Specifications.
- (2) Changes to the system requirements that are within the Customer's control shall be notified in due time prior to completion of service provision. Any delay and additional costs which arise due to any change in the performance of the service shall be borne by the Customer.
- (3) The Customer shall timely make available free of charge any documentation, information and equipment within its control that may be necessary for the provision of the services owed by Perception Park. Moreover, the Customer shall timely request any cooperation and the provision of documents by third parties which are required for the provision of Perception Park's services.
- (4) The Customer shall grant Perception Park or its employee's access to the rooms during ordinary business hours pursuant to §7 (3) as necessary for performing the contract and shall grant adequate access to internal systems (hard- and software) and to employees of the Customer, if any, if this is necessary to enable Perception Park to provide services under the contract.
- (5) If the Customer fails to timely participate or provide or request deliverables, Perception Park' delivery and service dates shall be postponed accordingly and Perception Park shall separately charge additional expenses thus incurred.

- (6) The Customer shall immediately report to Perception Park in writing any change to its company name or legal form, if any, as well as its address, invoice address and bank details. If no such change is reported, documents shall be deemed received by the Customer if these were sent to the address or paying agent most recently indicated by the Customer.

§5

Acceptance and troubleshooting

- (1) The Customer shall accept from Perception Park the Contractual Services at the terms that were consensually determined in the service specification pursuant to §3 (2). The Software's functions and features are evident from the Function Specifications pursuant to §2 (5). If standard (bibliotheca) programs are ordered, placement of the order is deemed to confirm that the Customer is aware of the scope of the programs ordered.
- (2) Upon delivery, the Customer shall subject the deliverable (individual programs, program adaptations, Software) to a diligent performance test. In doing so, the Customer shall compare the functional features that were determined in the service specifications and accepted by Perception Park to the actual product features. Program defects or improper use of the Software, if any, occurring during the performance test shall be notified to Perception Park within a reasonable period of time, however, no later than within 5 (*five*) working days after delivery. Hidden defects of the product shall be reported within 3 (*three*) working days as of the date the defect becomes evident. Statutory warranty periods shall apply to consumers.
- (3) Complaints shall initially be made per e-mail to <*support@perception-park.com*> and thereafter in writing addressed to Perception Park's business address, accompanied by a detailed report on (i) the type of defect; (ii) the application where the defect occurred; and (iii) measures, if any, already taken to rectify the defect. If no error report is made within the time limit set forth in §5 (2), the delivery shall be deemed approved by the Customer.
- (4) If the Customer should already use the Software in real time operation, that Software shall be deemed accepted in any case.
- (5) In case of a complaint pursuant to §5 (2), the Customer shall (i) name a contact person; and (ii) describe in detail the error that occurred. If substantial defects exist that make real time operation of the Software impossible and if these are timely reported in an appropriate manner, the Customer shall be required to declare acceptance again after the defects have been rectified.
- (6) For purposes of error analysis and rectification of defects, the Customer shall appropriately cooperate within the meaning of §4 (providing information material and granting access to the business premises). If Perception Park's error analysis shows that there is no defect, which Perception Park would be required to rectify, Perception Park may charge for the error analysis frustrated expenses at applicable hourly rates to the Customer.
- (7) If, in an unjustified manner, the Customer fails to timely accept Contractual Services or can be held responsible for a defect with the provision of service hereunder (if any), Perception Park shall be reimbursed for any damage it suffers as a consequence. The same applies if the rectification of a defect is affected or an existing damage is increased due to the Customer having culpably neglected its cooperation duties.
- (8) The Customer may not refuse acceptance of Contractual Services in reliance on insignificant defects, except in case of consumer transactions.
- (9) Power failures, malfunctions, maintenance work or other unavoidable events that are outside Perception Park's control may interrupt the provision of Contractual Services. In such case, Perception Park will honestly and to its best belief strive to rectify malfunctions and interruptions as fast as technically and economically feasible.

§6

Copyright and use

- (1) In case of a Software license, Customer shall be granted a non-exclusive, non-transferable permit to use the Software (application) and underlying Intellectual Property according to Section I, such right to use being confined in terms of subject matter and time to the term of the relevant contractual relationship.
- (2) All present and future Intellectual Property, in particular copyrights to the Software and protection rights or Know-how to the Contractual Services (programs, documentations, etc.) currently are and – upon termination of the contractual relation – shall unrestrictedly transfer to Perception Park's or its licensors' (as the case may be) property. All specifications, further developments and adjustments of the Software or of programs based thereon that come into existence as a result of the contractual relationship with the Customer shall transfer to Perception Park's or its licensors' (intellectual) property when they come into existence. These also include any rights that may arise worldwide from copyright or other provisions governing intellectual property rights.
- (3) While using the Software according to the terms of the contract, the Customer may not edit, change or otherwise shape the software, transfer it to third parties, connect it to other programs or retranslate (decompile) it into another display format, provided that Perception Park has not explicitly authorized the Customer to do so. Likewise, the Customer may not remove, bypass or change copying or safety mechanisms, program elements of digital rights management (DRM) security codes or the Software's marker features (property notices, brands, copyright notice).
- (4) The Customer may not use the Software (Software-applications) and other Contractual Services beyond the contractually agreed purposes or allow third parties that are not part of the Customer's operations to use the Software / Software-applications or other Contractual Services or temporarily or permanently transfer it to third parties. Unless otherwise agreed, "third parties" within the meaning of this provision also include the Customer's branch offices or affiliated companies (Section 228 (3) of the Austrian Business Corporations Code), if any.
- (5) The Customer shall hold harmless and indemnify and grant full satisfaction to Perception Park for non-compliance with the present conditions of use, including, but not limited to infringement of copyright or other intellectual property rights of Perception Park or third parties.

§7

Compensation, terms of payment

- (1) Perception Park shall charge order-related product or utilization fees for providing the Contractual Services described in § 3 (2), including the granting of rights to use the Software. In this context, the licensing fee for granting an ordinary right to use the Software is collected in advance in the form of an annual flat-rate compensation. Perception Park determines its prices based on billing costs customary in the industry.
- (2) Licenses for the Software may be obtained on the basis of the following price schemes:
 - (a) Fixed-term license:

A license for the Software / selected Software-applications is obtained for the period of one year. All costs incurred by Perception Park in connection with out-licensing the Software, including expenses for software support and software updates, are covered by an annual license fee.
 - (b) Indefinite license

A license for the Software / selected Software-applications is obtained for an indefinite term. Costs incurred by Perception Park in connection with out-licensing the Software shall be covered by a one-time license fee. Software-related additional services (software support and software updates) that Perception Park provides to the Customer within the first year of the contract term are included in the utilization fee. However, additional services provided by Perception Park after the first year of the contract term has expired are charged separately.
- (3) Based on the daily rates, as amended from time to time and announced by Perception Park, Perception Park shall charge the following surcharges for services (e.g. error analyses) it provides outside ordinary business hours: surcharge of 50 % outside ordinary business hours and on Sundays and public holidays 100 %. "Ordinary business hours" within the meaning of this provision are: Monday through Friday, 8 a.m. – 5 p.m.
- (4) All prices are denominated in euros exclusive of value added tax. Shipping costs, if any, shall be charged separately and apply only to the present contract.
- (5) As a rule, fees are payable after receipt of the invoice on the due date indicated in the invoice or, in the absence of a due date, within 14 (fourteen) calendar days after receipt of the invoice by the Customer. The invoiced amount shall be credited to the bank account indicated in the invoice on the due date, at the latest. If the Customer is in default of payment, Perception Park may put the provision of the relevant services on hold until the relevant service (utilization) fee has been paid in full. In case of default of payment, permission to use the Software may be revoked. If the Customer is in default with two partial payments, Perception Park may accelerate payment of the full amount (*acceleration of maturity date*).
- (6) Payment shall be deemed received on the date the amount is available to Perception Park or credited to Perception Park's bank account indicated in the invoice. In case of delayed payment by the Customer, Perception Park shall charge default interest at a rate of 12 % p.a. as of the 15th day after the invoice date, unless costs in excess thereof have been incurred. In case of consumer transactions, the generally applicable default interest rate of 4 % p.a. shall apply. Dunning, enquiry and other costs incurred in the context of recovering a claim shall be borne by the Customer. This shall not restrict Perception Park's right to assert any further damages.
- (7) The Customer shall pay the fees by bank transfer with a payment slip or by electronic bank transfer (*online banking*) or grant Perception Park authorization to directly debit fees. The Customer shall bear all expenses arising in connection with payment transactions.
- (8) The Customer waives its right to set off any counterclaims against Perception Park's compensation claims, unless these counterclaims have been acknowledged by Perception Park in writing or determined by a court. Moreover, the Customer may not withhold payments on the grounds of incomplete total delivery, guarantee or warranty claims or complaints.

- (9) All tax liabilities arising from the contract relationship with Perception Park, except income tax, shall be borne solely by the Customer. The Customer shall hold harmless and indemnify Perception Park for any wrongful assertion of such tax claims.
- (10) Partial invoices are subject to the payment terms fixed for the entire order pursuant to § 7 (1) by analogy.

§8 Warranty

- (1) Perception Park provides its services on the basis of the generally valid industrial standards and practices.
- (2) Perception Park warrants that the Software and Hardware will be in operational condition on the provision date, possess the commonly expected qualities and will be consistent with the usual state of the art applicable at that time. However, the Customer is aware that due to program errors it is impossible to provide an entirely error-free computer service according to the state of the art.
- (3) Moreover, Perception Park shall be liable within the scope of statutory provisions that the rights to use the Software / selected Software-applications granted to the Customer pursuant to § 6 (1) are free of any third-party rights that might prevent the contractual use by the Customer. If third parties assert claims or proprietary rights against the Customer, it shall immediately notify Perception Park. The Customer may not acknowledge third-party claims on its own initiative. Perception Park shall, at its own discretion, defend or satisfy these claims or replace the relevant service by an equivalent service that complies with the order, if this is acceptable to the Customer.
- (4) Perception Park does not warrant for errors or other failures of the Software,
 - (a) due to errors of the hardware, the operating system or the software of other producers beyond Perception Park's control;
 - (b) due to improper use of whatever nature or inappropriate handling by the Customer, which could have been avoided by proper and diligent use;
 - (c) resulting from (i) changed operating system components, interfaces and parameters, (ii) use of inadequate organization resources and data carriers, as far as these are required, (iii) atypical operating conditions (including, but not limited to non-compliance with the installation and storage conditions), and (iv) damage in transit;
 - (d) due to virus infection or other external effects outside Perception Park's control, such as fire, accidents, power failure, etc.;
 - (e) due to transmission errors on data carriers or on the internet.
- (4) Any warranty that the Software and other Contractual Services is/are suitable for a specific purpose sought by the Customer is excluded.
- (5) If an order concerns the change or supplementation of already existing programs, warranty refers to such change or supplementation. This will not revive warranty for the original program. Programs that are subsequently changed by the Customer's own programmers or by third parties are excluded from the warranty.

- (6) In case the Customer timely and appropriately reported defects pursuant to § 5 (3), if any, in the course of accepting the service and if Perception Park has confirmed such defects in the context of an error analysis to be carried out, the Customer may reduce the price or rescind the contract subject to applicable legislation. Rescission of the contract and price reduction shall be excluded, if Perception Park repairs defects primarily by follow-up or exchange within a reasonable period of time.
- (7) Support, error diagnosis, correction of an error and trouble-shooting for which Customer is responsible and any other corrections, modifications and supplements will be carried out by Perception Park against compensation of costs. This also applies to the repair of defects if the Customer itself or a third party changes or supplements programs or otherwise interferes with the software.

§9

Support and Maintenance

- (1) Perception Park provides support services to the Customer and carries out maintenance work exclusively for the Software (-applications) and Hardware components. Perception Park does not provide support or carry out maintenance work for third-party software, open-source software or Hardware, unless an explicit agreement beyond these GTC is concluded in that respect. Perception Park and the Customer may agree on additional software support or maintenance services for standard (library) programs.
- (2) Support and maintenance agreements may be concluded for either limited or indefinite periods. Maintenance agreements entered into for an indefinite period may be terminated by either party with a three months' notice period after a full contractual year has expired.
- (3) Support and maintenance services by Perception Park include an information service, an E-mail service and an update service.
- (4) In the course of the information service, the Customer is notified of new program conditions, available updates and program developments and is granted online-access to a technical knowledge base.
- (5) The E-mail service includes professional advice provided to the Customer by qualified Perception Park employees in case of occasional problems regarding the use of the Software and/or Hardware. That advice is provided electronically via the e-mail address <support@perception-park.com> or directly at the Customer's premises. If advice is repeatedly sought for similar problems, Perception Park may make further advice on the subject-matter of the contract subject to compulsory additional training measures beyond the Support and maintenance agreement and against a fee.
- (6) In the context of the update service, Perception Park provides program updates to the Customer. These include corrections of errors, resolving problems, if any, that occur neither during the test run nor in the course of practical use within the warranty period, as well as improvements and extensions of the scope of services.
- (7) If the hotline service provided by Perception Park is unable to solve the problems of the contractually agreed scope of support services, Perception Park may, at its sole discretion, solve the problem on location of the computer system at the Customer's premises or at its corporate seat. Generally support and maintenance services are performed at the corporate seat of Perception Park. Perception Park will separately charge additional costs thus incurred.

§10
Liability and damages

- (1) Perception Park shall be liable within the scope of statutory provisions for damage to the Customer caused by officers, employees, vicarious agents or other individuals contractually authorized to provide services to the Customer, only if intent or gross negligence is proven. Any liability for slight negligence is excluded, except in case of damage to life and limb.
- (2) Liability for loss or damage of data shall be excluded, if the Customer failed to take adequate or security measures customary in the industry. Except for personal injury, payment of damages to companies is limited to EUR 5,000.00.
- (3) Perception Park shall be liable for the destruction of data or software only as far as the Customer has fulfilled its contractual obligations to appropriately use the Software pursuant to § 4 (1).
- (4) Recourse claims, if any, asserted against Perception Park by the Customer or third parties in reliance on product liability within the meaning of the Austrian Product Liability Act shall be excluded, unless the relevant party entitled to assert recourse claims proves that the mistake was within Perception Park's control and was caused by at least gross negligence.
- (5) Events of force majeure which make it significantly more difficult or impossible to provide the Contractual Services entitle Perception Park to postpone the fulfillment of its obligations as long as that obstacle continues to exist and by a reasonable start-up period. Force majeure shall include strikes, lock-outs, government interference and similar circumstances, to the extent these are unpredictable, serious and have not been caused by Perception Park. Perception Park disclaims any liability in these cases.
- (6) In case of transactions with entrepreneurs, any damage claims the Customer may have against Perception Park shall forfeit as early as six months after the damage and the injurer have become known.
- (7) As far as Perception Park liability is excluded under these GTC, the same shall apply to the liability of officers, employees, vicarious agents or other individuals authorized under an agreement to provide services to the Customer.

§11
Confidentiality and privacy policy

- (1) The Customer shall be solely responsible for any personal (user) data, whether these are sensitive data within the meaning of Section 4 of the Austrian Data Privacy Act 2000, or non-sensitive data that Perception Park transmitted, used or processed in the context of providing its Contractual Services. If Perception Park gains access to the Customer's hardware and software (e.g. in the course of remote maintenance or fault repair) this is not for the purpose of commercial processing of personal data.

- (2) Perception Park respects privacy and protection of personal data. With respect to lawful use / processing of data, Customers shall declare themselves as follows:

BY USING THE CONTRACTUAL SERVICES OF PERCEPTION PARK I CONFIRM AND AGREE TO THE COLLECTION AND USE OF PERSONELL DATA AND CERTAIN OTHER INFORMATION.

CUSTOMERS WHICH DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS PRIVACY POLICY, SHALL NOT USE THE WEBSITE(S) OF PERCEPTION PARK.

- (3) The Customer is required to obtain the relevant individuals' consent prior to handling or processing (personal) data and shall hold harmless and indemnify Perception Park for third-party claims, if any.

- (4) Perception Park and the Customer will keep confidential and use only for purposes of the relevant contract all trade and business secrets of the other party, which may come to their knowledge within the scope of the business relationship. The recipient will not make available such trade and business secrets to a third party, except with the other party's prior written consent.
- (5) Perception Park hereby alerts Customer that there is no assurance of confidentiality with respect to data, information etc. transmitted in non-encrypted format via the Internet.
- (6) Upon termination of the business relationship, the Customer is required to return to Perception Park or destroy any confidential documentation it received in connection with the performance of the contract.
- (7) These confidentiality obligations shall be valid for a period of five years after the business relationship has been terminated.
- (8) The obligations set forth in §11 (4) shall also apply to the Customer's or Perception Park's vicarious agents and employees, if any.

§12 Loyalty

Customer assumes loyalty obligations towards Perception Park. For the term of the contract and for 12 months following termination thereof, they will refrain from soliciting and employing, also through third parties, any employees of Perception Park who were engaged in the realization of Contractual Services. In case of non-compliance with the underlying obligation, Customer shall pay flat-rate damages in the amount of a customary annual salary of the solicited employee.

§13 No assignment

The transfer of this contract and the assignment of rights and obligations hereunder shall require the other party's written consent.

§14 Final provisions

- (1) These GTC shall be governed by and construed in accordance with Austrian law, to the exclusion of the UN Sales Convention. All disputes arising out of or in connection with these GTC shall be referred to the court in Graz having jurisdiction in commercial matters.
- (2) Perception Park may amend these GTC at any time and shall notify the Customer in writing of the amendments' content and the proposed entry into force at least one month prior to the proposed entry into force of the amended GTC. The Customer may object to these amendments. Unless it raises its objection prior to the proposed entry into force, the amended GTC shall become effective as of the disclosed date.
- (3) Any amendment of and modification to these GTC and to any other agreement shall be valid only if confirmed by Perception Park in writing.

Should any term hereof be or become ineffective, invalid or non-enforceable, this shall not affect the effectiveness, validity or enforceability of the remaining terms hereof. The invalid or non-enforceable term shall be replaced by a valid and enforceable term, the economic purpose and economic result of which closest reflects the invalid term and the parties' original intent. The parties undertake to immediately record in writing and sign such replacing term.