Provisions Software

These Terms and Conditions Software (the "Terms") apply in addition to the "General Terms" of SKIDATA and take precedence over them in the event of a conflict.

1.   General Terms
These provisions govern the use of the Software provided to the Principal by SKIDATA.

2.   License
2.1. Principal shall be granted a non-exclusive, non-transferable, non-sublicensable, time-limited and revocable right to use the software package limited to the term of the contract. The Software Package may only be used within the contractually agreed scope and in connection with the contractually agreed SKIDATA Solution.

2.2. The client does not acquire ownership of software and therefore has no claim to modification or release of the source code.

2.3. The Software Package may only used in conjunction with compatible SKIDATA products and systems. The use of supplied third-party software is subject to the applicable contractual provisions of the respective manufacturer. Any other use of the Software Package, in particular in connection with third-party products, requires the express consent of SKIDATA (see section "Third Party Components" below). Software from Microsoft Corporation is also subject to compliance with the applicable End User License Agreement (EULA), which is made available to Principal by SKIDATA at the following link: https://www.skidata.com/ms-eula

2.4. The client shall acquire a sufficient number of software licenses in accordance with the number of devices specified in the contract.

2.5. SKIDATA and SKIDATA's agents are entitled to check the Principal's accesses (documents, systems, computers) required for the license check, insofar as they are related to the SKIDATA Solution, within normal business hours. If such an inspection reveals that the number of licenses purchased is less than the number required, Principal shall immediately pay the license fee for the required and missing licenses. This also applies to the license fee for use in the past. If the client cannot prove the start of actual use in the current contract year, the license fee for an earlier contract year and for the current contract year must be paid in any case.

3.   Updates and Upgrades
3.1. Principal shall be provided with software updates, service packs, hot fixes and patches (collectively referred to as "**Updates**") as part of the SKIDATA Solution as soon as they are available or required. Furthermore, upgrades of the Software, including new versions of the Software (collectively referred to as "**Upgrades**"), shall be made available to Principal as part of the SKIDATA Solution as soon as they are available. For the sake of clarity, the distinction between Updates and Upgrades is explained as follows: A change of a software version from 16.01 to 16.02 constitutes an Update, while a change from 16.01 to 17.01 is considered an Upgrade.

3.2. The Principal shall accept the installation of updates or upgrades.

3.3. If Principal does not install updates or upgrades, it does so at its own risk. A failure to install updates or upgrades may jeopardize the security and operability of the SKIDATA Solution and may result in a violation of third party licenses, regulations, or laws. As a result, any associated guarantees or warranty claims of the Principal against the SKIDATA Solution may become void. SKIDATA assumes no liability for damages resulting from the non-installation of Updates and Upgrades.

3.4. Principal acknowledges and accepts that SKIDATA uses software for automated software download ("Digital Software Deployment" or "DSD") to transfer software to improve system quality via a secure connection from a central SKIDATA server to Principal's system. Principal may choose between an automated or semi-automated (manual) installation of the software. Regular, mainly automated updates and upgrades are required to maintain the operation of the SKIDATA solution. If Principal opts for a semi-automated SKIDATA Solution, Principal shall be responsible for ensuring that all regular updates or upgrades are carried out. If the Principal does not carry out the necessary updates and an update by SKIDATA becomes necessary to maintain the functionality, the updates will be carried out by the SKIDATA service team for a fee. Such service cases are not included in the Mobility Suite Subscription.

3.5. The Principal acknowledges that upgrades may necessitate changes to the system requirements that require the replacement of hardware, individual hardware components, or licenses for third-party products. All resulting costs shall be borne by the Principal. These costs are not included in the license fee, unless expressly agreed otherwise in writing.

3.6. The Principal agrees that maintenance work, updates and upgrades to components of the software package may result in temporary functional restrictions or temporary unavailability. Such a restriction does not constitute downtime and has no influence on the agreed availability of the software package.

3.7. SKIDATA is not obliged to inform Principal about maintenance work, updates or upgrades of the Software. However, SKIDATA shall take commercially reasonable measures to announce maintenance work, updates or upgrades with reasonable lead time and to keep the duration of maintenance times as short as possible. Security-related maintenance measures may be carried out at any time and without prior notice, even at short notice.

3.8. It is the sole responsibility of the Principal to back up all relevant files and data before installing updates and upgrades. SKIDATA accepts no liability for the loss of files, information or data or for any resulting damage. This shall also apply to damage caused by SKIDATA's negligence. Principal waives all claims in this respect.

4.   Responsibilities of the Principal

4.1. The Principal is obliged to notify SKIDATA immediately of any changes in the number of devices operated with the Software.

4.2. If the Principal is permitted to replace hardware, the Principal undertakes to remove the software completely and irretrievably from the replaced devices in a verifiable manner.

4.3. Principal is prohibited from carrying out or arranging for the following actions itself or through third parties without the prior written consent of SKIDATA: (i) reverse engineering, decompiling, disassembling or other actions aimed at converting SKIDATA software, computer systems, servers or other SKIDATA products into a human readable/perceivable form, (ii) copying, publishing, transferring and/or distributing the SKIDATA Solution or related content, (iii) making copies of the Software Package, object or source code or any part thereof, (iv) modifying, adapting, translating or creating derivative works based on the Software Package, related documentation or other SKIDATA deliverables or any part thereof, (v) combining the SKIDATA solution or other SKIDATA products with open source software of any kind, (vi) providing access and thus access to other SKIDATA systems, programs, features or data beyond the rights granted under the contract, (vii) disclosure and/or transfer of the passwords or access data provided to unauthorized third parties, (viii) removal or manipulation of copyright notices or other protective notices (ix) direct or indirect use or transfer of the Software for the provision and performance of services for third parties; and (x) making or using copies of the software for purposes not expressly provided for in these terms and conditions, even if the software or accompanying materials have been combined with or integrated into other software. If the Principal makes a backup copy of the Software in accordance with these Terms &Conditions, it shall be obliged to affix all copyright and/or proprietary notices affixed or printed on the original copy unchanged on the copy.

4.4. SKIDATA solutions may require the use of third-party products (collectively, the "Third Party Components") and/or be subject to certain system requirements. The respective requirements are described in the documentation for the respective product. SKIDATA is entitled to add or modify Third Party Components itself or through third parties at its own discretion. Principal shall be solely responsible for the maintenance and operation of the Third Party Components. The respective terms of use and license terms of the respective manufacturer shall apply exclusively and must be complied with by Principal. The use of Third Party Components shall be at Principal's own risk. SKIDATA assumes no liability for damages or losses caused by Third Party Components. All costs and fees in connection with the use of Third Party components shall be borne by Principal.

5.   Limitation of Liability

Licenses for third-party software are subject to ongoing adaptations by the software manufacturers, whereby the actual license model to be applied depends not only on the individual design of the SKIDATA system, but also on the entire IT environment, over which SKIDATA has neither influence nor knowledge. Licenses to third-party software supplied with SKIDATA products are based on a non-binding recommendation by SKIDATA. Principal accepts and confirms that SKIDATA excludes any liability or warranty with regard to the recommendation and provision of third-party software licenses. Furthermore, SKIDATA shall only be liable for defective third-party software to the extent that the software supplier is liable to SKIDATA.