

General Terms and Conditions of syniotec GmbH (GTC)

Status: October 8, 2024

1. Scope of Application | Subject Matter of the Contract

1.1 syniotec GmbH, Am Wall 146, 28195 Bremen, Germany (hereinafter referred to as the “Provider”) operates the Software as a Service solutions SAM & RAM (“SAM & RAM”), through which the operational and disposition processes of construction machinery and equipment can be managed. In addition, the Provider offers IT services as well as telemetry hardware products for the disposition and optimization of work processes of construction machinery (collectively the “syniotec Technology”).

1.2 The subject matter of these General Terms and Conditions (hereinafter referred to as the “GTC”) is (i) the provision and operation of SAM & RAM in the form of application software made available to the customer via an API over a remote data connection as a Software as a Service product (hereinafter referred to as the “SOFTWARE”) for the use of its functionalities, and (ii) the allocation of storage space (50 MB per machine or equipment profile) on the Provider's servers (hereinafter collectively referred to as the “Contractual Services”) against payment of the agreed fee. These GTC apply to all Contractual Services provided by the Provider within the scope of making the SOFTWARE available for use by the customer. These GTC shall also apply to all future contractual relationships between the parties concerning SAM & RAM.

1.3 All agreements entered into between the Provider and the customer are exclusively set forth in these GTC, the service description of SAM & RAM, and the specific offer. These documents form an integral part of the contract.

1.4 The customer's internet access is not subject to this contract. The customer bears sole responsibility for the functionality of its internet access, including the transmission paths to its IT systems.

1.5 These GTC apply exclusively. Conflicting conditions or conditions of the customer that deviate from these GTC shall not become part of the contract, even if the Provider is aware of them, unless the Provider has expressly agreed to their validity in writing.

1.6 The Provider is entitled to amend and adapt these GTC during the term of the contract with future effect if this becomes necessary due to a compelling reason, such as compelling operational reasons, changes in statutory laws, or case law, or if exclusively new services of the Provider are introduced (such as the expansion of the portfolio through the provision of further services). The Provider will

transmit the amended terms to the customer in text form prior to the planned effective date and will specifically highlight the new regulations and the date of their entry into force. At the same time, the Provider will grant the customer a reasonable period of at least four (4) weeks to declare whether it objects to the amended terms of use. If no objection is made within this period, which begins upon receipt of the notification in text form, the amended terms shall be deemed agreed. At the start of the objection period, the Provider will separately inform the customer of this legal consequence, i.e., the right to object, the objection period, and the significance of silence.

1.7 The use of the services generally does not include the provision of the software for local installation on the customer's IT systems. However, the Provider reserves the right to provide services for local installation as well. All rights to the syniotec Technology used by the Provider (in particular hardware, source code, etc.) shall remain solely with the Provider. The Contractual Services may contain components that are subject to Open Source Software licenses. Separate provisions may apply to these components where applicable.

2. Essential Definitions

2.1 "Force Majeure" means an event that is unforeseeable for either party. In this sense, Force Majeure includes, in particular, (i) fire, explosions, or other accidents; (ii) storms, earthquakes, tornadoes, floods, volcanic eruptions, or other natural disasters; (iii) war, threat of war, terrorism, insurrection, or other civil unrest; (iv) epidemics, pandemics, quarantine restrictions, or other restrictions imposed by public health measures; (v) strikes or other labor disputes of the parties or their suppliers or their employees; or (vi) sanctions or embargoes.

2.2 "Customer" means the legal entity or natural person specified in more detail in the offer.

3. Conclusion of Contract

3.1 Information regarding SAM & RAM, products, and services on the internet or in brochures, catalogs, or other materials provided by the Provider is—unless expressly designated otherwise—non-binding with regard to performance, quantity, and ancillary services, and does not yet constitute a binding offer by the Provider to conclude a contract.

3.2 Offers made by the Provider to the customer are non-binding unless expressly designated otherwise. Every order/placement of an order by the customer requires acceptance and confirmation by the Provider. The Provider may accept or reject an order at its own discretion. A contract is only formed upon order confirmation (at least in text form) by the Provider.

3.3 An order placed by the customer that deviates from the terms of an offer by the Provider, even if only in insignificant points, shall always be deemed a rejection of that offer and a new offer by the customer. A contract corresponding to the new offer shall only be formed upon written acceptance and/or order confirmation by the Provider.

3.4 Silence or implied conduct on the part of the Provider does not constitute acceptance or order confirmation.

4. Performance of Contractual Services and Rights of the Provider

4.1 The Provider shall make the use of the SOFTWARE available to the customer with an average annual availability of 98%, excluding maintenance work, to the extent described in the offer. The measurement point for availability is the service transfer point in the form of the exit point of the API interface.

4.2 Within the scope of provisioning the SOFTWARE, the Provider shall receive documentation of the SOFTWARE in the form of an electronic user manual (hereinafter referred to as the "Documentation").

4.3 The Provider reserves the right, while safeguarding the legitimate interests of the customer and complying with a notice period of three (3) weeks, to modify, expand, or discontinue individual services, in particular, if this is necessary to prevent abuse or if the Provider is obliged to do so under statutory regulations. If the contractually compliant use of the Contractual Services by the customer is thereby affected in a non-insignificant manner, the customer is entitled to request a price adjustment or to terminate the contract. Without compliance with a notice period, the Provider may at any time make improvements, expansions, or adaptations of the Contractual Services to the state of the art, provided that the identity of the service is maintained.

4.4 The Provider is entitled to block or remove Prohibited Content after weighing the interests of both parties; the same applies if the Provider is legally obliged to do so due to a third-party complaint, a court judgment, or an official administrative order.

4.5 The Provider is entitled to block the customer's access to the SOFTWARE if (i) there are concrete indications that the access data has been or is being misused; (ii) there are indications that unauthorized third parties have otherwise gained access to the customer's IT infrastructure; (iii) blocking is strictly necessary for technical reasons; (iv) the Provider is obliged to block access due to applicable laws, court orders, or administrative orders; and/or (v) the customer is in default with the payment of the agreed fee for more than 3 months or for a total amount corresponding to 3 months despite multiple reminders.

4.6 The Provider shall notify the customer of the blocking in text or written form at least one week before the blocking takes effect, provided that the notification is

reasonable when weighing the interests of both parties and is compatible with the purpose of the blocking.

4.7 The Provider shall allocate a defined storage space on a server to the customer for the storage of its data. The customer may store content on this server in accordance with the technical specifications set forth in the offer. If the storage space is no longer sufficient to store the data, the Provider will inform the customer. The customer may reorder corresponding capacities subject to availability at the Provider. The Provider shall ensure that the stored data can be retrieved via the internet.

4.8 The customer is not entitled to transfer this storage space, in part or in full, to a third party for use, whether for a fee or free of charge.

4.9 The customer undertakes not to store any content on the storage space whose provisioning, publication, or use violates applicable law, official measures, or third-party rights.

4.10 The Provider is obliged to take appropriate precautions against data loss and to prevent unauthorized access by third parties to the customer's data. For this purpose, the Provider will perform weekly backups, scan the customer's data for viruses, and install state-of-the-art firewalls. The customer is granted the option to receive a full backup version of its data stored in SAM & RAM on the servers operated by the Provider at any time against a net payment of EUR 2,500.00 in the format requested by the customer.

5. Granting of Rights of Use and Data Processing

5.1 Subject to the full and unconditional payment of the due compensation, the customer receives a simple, non-transferable, non-sublicensable right, limited to the territory of Germany and the term of the contract, to use the SOFTWARE via the internet to the extent granted in the contract for the customer's own business and contractually permitted purposes. The Provider expressly does not grant the customer any further rights, in particular, any rights to the software itself.

5.2 If the Provider provides the customer with supplements (e.g., patches, supplements to the Documentation) or a new release of the SOFTWARE (e.g., updates, upgrades) during the term of the contract, these shall be subject to the provisions of the contract.

5.3 The customer is not entitled to use the SOFTWARE beyond the scope stipulated in this contract or to make it accessible to third parties. In particular, the customer is not entitled to reproduce and/or sell the software or parts thereof, whether for a fee or free of charge, or to pass it on to a third party in any other form, to enable a third party to use it or become aware of it, or to use the software for a third party, above all not to rent or lease it. The right of use expires upon termination of the contract, regardless of the reason.

5.4 In the event of unauthorized transfer of use, the customer shall, upon request, immediately provide the Provider with all information necessary to assert claims against the unauthorized utilizing third party, in particular, the third party's name and address.

5.5 The customer grants the Provider the irrevocable right to use the data points fed into the SOFTWARE during the contract term to continuously develop the SOFTWARE. This right includes using analyses of the entered data points in an anonymized form for presentations and publications by the Provider. This right survives any termination of the contract unless opposed by legitimate interests of the customer. The provisions of Sections 87a et seq. of the German Copyright Act (UrhG) remain unaffected.

5.6 If and to the extent that additional software intellectual property rights within the meaning of Sections 69a et seq. UrhG or rights of use to the SOFTWARE or to any further developments arise during the contract term due to the data points fed in pursuant to the preceding Section 5.5, these shall belong exclusively to the Provider along with all financial exploitation powers, without the Provider being obliged to pay any compensation to the customer. They are hereby assigned or granted to the Provider in advance, without restriction in terms of content, time, and space, and shall be sublicensable and transferable. The Provider hereby accepts the assignment and granting of these rights.

6. Technical Requirements on the Customer Side

6.1 The use of the SOFTWARE requires the existence of the system requirements specified in the offer as well as internet access with a bandwidth of at least 10 Mbit/s on the customer side.

6.2 The provision of these requirements as well as internet access, including transmission services from the service transfer point to the devices used by the customer, are not subject to this contract but are the sole responsibility of the customer.

7. Cooperation Obligations of the Customer

The parties agree that the provision of the Contractual Services depends significantly on the efficient and successful cooperation of the parties. Against this background, the customer will fulfill, among others, the following cooperation obligations at no cost to the Provider. In particular, the customer will:

7.1 Keep the access data assigned to it as well as any other agreed identification and authentication security measures secret, protect them from access by third parties, and not pass them on to unauthorized third parties. This data must be protected by appropriate and standard measures. The customer will inform the Provider immediately if there is a suspicion that access data and/or passwords could have become known to unauthorized persons;

7.2 Create the technical usage requirements specified in Section 6;

7.3 Comply with the restrictions and obligations regarding the rights of use pursuant to Section 5;

7.4 Ensure that the content transmitted or stored by it does not infringe upon third-party rights (for example, personal rights, rights to one's own image, copyrights, trademark rights, etc.) or otherwise violate applicable law (for example, data protection regulations) ("Prohibited Content");

7.5 Not misuse or allow the misuse of the SOFTWARE, in particular, not transmit information offers with unlawful or immoral content or refer to such information that serves incitement to hatred (Volksverhetzung), instructs to commit criminal offenses, glorifies or downplays violence, is sexually offensive or pornographic, is suitable to seriously endanger the morals of children or adolescents or impair their well-being, or could damage the reputation of the Provider or third parties;

7.6 Refrain from attempting, either itself or through unauthorized third parties, to retrieve information or other data without authorization, to interfere or allow interference with the SOFTWARE, or to penetrate the Provider's data networks without authorization;

7.7 Indemnify, defend, and hold harmless the Provider and its vicarious agents from any and all third-party claims (including the costs of necessary legal defense) based on an unlawful use of the SOFTWARE by the customer or occurring with its approval, or arising in particular from data protection, copyright, or other legal disputes associated with the use of the SOFTWARE. If the customer recognizes or must recognize that such an infringement is imminent, it is obliged to inform the Provider immediately;

7.8 Designate a contact person and (authorized) representative to the Provider, as well as provide contact details (email address and telephone number) for communication in connection with the performance of the contract;

7.9 Inform the Provider immediately in text form of any inaccuracies or changes in the contact details, as well as in the event of a change of a contact person or representative designated pursuant to Section 7.8, providing updated information.

8. Remuneration, Invoicing, and Payment Terms

8.1 For the provision of the Contractual Services, the customer shall pay the Provider the remuneration specified in the offer.

8.2 All prices are subject to the respective statutory value-added tax (VAT) applicable at the time. Payments shall be made via wire transfer to an account to be designated by the Provider. Payments must be ordered in

such good time that, under standard banking business procedures, receipt of payment can be expected within the deadline.

8.3 The Provider shall issue an electronic invoice (in PDF format) for the respective calendar month at the time of the payment deadlines specified in the offer or, if no payment deadlines have been agreed, at the end of each calendar month. Invoices will be sent exclusively electronically to the email address last verifiably communicated by the customer to the Provider in text form. In the event of changes to the email address, the customer must immediately notify the Provider of the current email address in text form.

8.4 In the event of default in payment, the Provider may demand default interest in the amount of 0.5% of the outstanding invoice amount per calendar week. Section 286(3) of the German Civil Code (BGB) shall not apply. The Provider reserves the right to prove higher damages, and the customer reserves the right to prove lower damages.

8.5 Fees are due for payment without deduction within 14 days of receipt of a proper invoice. Payments must be made exclusively using the payment method "Bank Transfer" offered by the Provider.

8.6 The customer shall only be entitled to set-off or withholding if its claims are undisputed, legally established, or stand in a direct reciprocal relationship (synallagmatisch) to the respective claim of the Provider.

9. Claims in Case of Defects (Warranty)

9.1 The Provider warrants that the Contractual Services are free from defects that negate or reduce their value or suitability for normal use or the use presupposed under the respective applicable version of the service description. An insignificant reduction in value or suitability shall not be taken into account.

9.2 The customer must provide the Provider with all necessary information, documents, or data for the analysis and rectification of defects and, in exceptional cases, allow and permit access to the customer's servers if necessary.

9.3 If a non-insignificant defect occurs in the Contractual Services provided by the Provider, the Provider will, at its own option, either rectify the defect within a reasonable time or re-perform the objected service free of defects (collectively referred to as "Supplementary Performance"). Supplementary Performance may also occur by handing over or installing a new program version or a workaround. If the defect does not or only insignificantly impair functionality, the Provider is entitled, to the exclusion of further warranty claims, to remedy the defect by delivering a new version or an update within the scope of its version, update, and upgrade planning.

9.4 If Supplementary Performance fails, in particular, because the defect is not remedied despite attempts, Supplementary Performance is unreasonably delayed, or is unjustifiably refused, the customer may, at its option and under the statutory prerequisites, terminate the contract, reduce the price, or claim damages or reimbursement of expenses.

9.5 The customer has no warranty claims for defects caused by damage, incorrect connection, or incorrect operation on its part.

9.6 Claims of the customer due to defects shall lapse within twelve months after they arise, unless the Provider has fraudulently concealed the defect; the statutory limitation period for damage claims of the customer remains unaffected.

9.7 The Provider assumes no warranty or liability whatsoever for test and/or beta versions of the software made available to the customer free of charge.

10. Limitation of Liability

The Provider's liability is conclusively defined as follows:

10.1 The Provider is liable without limitation for damages resulting from intentional or grossly negligent acts, culpable injury to life, body, and/or health, in the case of a breach of an express warranty explicitly designated as a "Guarantee", and in the case of mandatory statutory liability under the German Product Liability Act (Produkthaftungsgesetz).

10.2 In cases other than those described in Section 10.1, the Provider's liability for the slight negligent breach of an essential contractual obligation (Kardinalpflicht), the fulfillment of which is necessary to achieve the purpose of the contract and on the fulfillment of which the customer may therefore regularly rely, shall be limited to damages foreseeable at the time of contract conclusion and typical for this type of contract; however, this liability is capped at a maximum of: €5 million for personal injury and property damage, and €1 million for financial losses.

10.3 In all other cases, the Provider is not liable for slight negligence.

10.4 The Provider's strict liability for damages (pursuant to Section 536a BGB) for defects existing at the time of contract conclusion is excluded. Sections 10.1 to 10.3 remain unaffected.

10.5 The customer is responsible for regularly backing up its data at reasonable intervals. In the event that the Provider is liable in principle for a loss of data, this liability shall be limited to the amount that would be required to restore the data if such reasonable, regular backups had been performed.

10.6 The Provider's liability for data loss caused by technical failures, interrupted data transmissions, or other problems arising in this context that are outside the Provider's sphere of influence (e.g., disruptions on the transmission paths of telecommunications service providers or the internet) is excluded.

10.7 The body of liability regulations in Sections 10.1 to 10.6 shall also apply in favor of the corporate bodies, employees, representatives, and/or vicarious agents of the Provider.

11. Confidentiality

11.1 The parties undertake to maintain strict confidentiality towards third parties regarding any documents, knowledge, experiences, and information on products, services, know-how, and technology that become known or are handed over to the other party within the scope of executing this contract (hereinafter referred to as "Confidential Information").

11.2 The confidentiality obligation pursuant to Section 11.1 does not apply to information if and to the extent that (i) it was already lawfully in the receiving party's possession prior to disclosure and without a confidentiality obligation; (ii) it was published through no act of their own or has otherwise become generally known through no fault of their own; (iii) it was lawfully transmitted to them after the conclusion of the contract by one or more third parties without a confidentiality obligation, i.e., without a breach of this contract by the receiving party; (iv) it is released in writing by the disclosing party; (v) it has been made accessible to a third party by the disclosing party without corresponding obligations and restrictions; or (vi) it must be disclosed due to statutory or administrative regulations, provided that the disclosing contracting party is informed of this requirement immediately and the scope of disclosure is limited as far as possible, or must be disclosed due to a court decision, provided that the disclosing contracting party is informed of this decision immediately and if there is no possibility to appeal the decision.

11.3 The parties shall use Confidential Information exclusively for the purpose of fulfilling obligations under an existing contract. The parties are obliged to bind their employees and other persons involved in this contract and its processing to compliance with this confidentiality in an appropriate manner.

11.4 The confidentiality provisions under this Section 11 shall survive the termination of the contract for a duration of two (2) years.

11.5 In the event of conflicts between a separate Non-Disclosure Agreement ("NDA") concluded by the parties and the regulations of this Section, the regulations of the NDA shall take precedence.

11.6 To the extent that the Provider processes personal data on behalf of the customer within the scope of the contractual performance, the parties undertake

to conclude a Data Processing Agreement (DPA) pursuant to Art. 28 GDPR. The Provider provides a corresponding template. The use of the services is only possible upon conclusion of this agreement. The respective applicable version of the DPA forms a constituent element of the contractual relationship.

12. References and Press Releases

The customer permits the Provider to use the customer's name, corporate logo, images, and videos for marketing and promotional purposes. This includes use on the Provider's website, in presentations, on social media, in advertising materials, and across other communication channels.

13. Engagement of Subcontractors

The Provider is entitled to have individual parts or the entirety of its performance obligations performed by third parties (e.g., by subcontractors).

14. Contract Term and Termination

14.1 Unless expressly agreed otherwise, the contract term begins on the date specified as the start of the contract in the Provider's order confirmation, and the minimum term of the contract is one (1) year ("Term"). After the expiry of the Term, the contract shall automatically extend by a further two (2) years in each case, unless it is ordinarily terminated by either party with a notice period of one (1) month prior to the expiry of the respective Term. The customer is granted the right to terminate the contract prematurely within the first 6 months after contract signing. This must be done in writing before the end of the 6-month period.

14.2 The right to extraordinary termination for good cause remains unaffected. The statutory provisions shall apply in this respect. A sale of individual business divisions of the Provider or a change of shareholders does not justify a special right of termination for the customer. A good cause for the Provider exists, in particular, (i) if the customer is in default with the payment of invoices for two consecutive months or a non-insignificant part of the remuneration, or (ii) is in default in a period extending over more than two months with the payment of the remuneration in the amount of a sum reaching the remuneration for two (2) months, and/or (iii) if the customer violates its obligations under Section 7 even after a warning has been issued, or (iv) the Provider is prevented from providing its contractual services by an event of Force Majeure and this hindrance to performance continues for more than sixty (60) calendar days.

14.3 Any termination must be made in writing to be legally effective.

15. Force Majeure

If the performance of contractual obligations is hindered by an event of Force Majeure, the affected party shall be released from the obligation to fulfill the affected duties for the duration of the Force Majeure event. The affected party must inform the other party in writing without delay of the circumstances that led to the occurrence of Force Majeure. As long as the Provider is prevented from providing the contractual services due to an event of Force Majeure, the customer shall be released from its obligation to pay.

16. Choice of Law, Jurisdiction, and Miscellaneous Provisions

16.1 The place of performance is the registered office of the Provider (Bremen, Germany).

16.2 The law of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) and the regulations of International Private Law (conflict of laws).

16.3 The Provider is entitled to transfer the rights and obligations arising from this contract, as well as the contract as a whole, to an affiliated company pursuant to Sections 15 et seq. of the German Stock Corporation Act (AktG) without the prior consent of the customer.

16.4 If the customer is a merchant (Kaufmann), a legal entity under public law, or a special fund under public law, the registered office of the Provider shall be agreed as the exclusive place of jurisdiction. The Provider reserves the right to sue the customer at its general place of jurisdiction as well.

16.5 There are no ancillary agreements outside of this contract and its annexes. Any amendments, supplements, or the cancellation of these GTC and/or the contract must be made in writing; this also applies to the amendment, supplement, or cancellation of this written form requirement clause.

16.6 Should individual provisions of these GTC be or become invalid or unenforceable in whole or in part, or should a loophole be found in these terms, the validity of the remaining provisions shall not be affected thereby. In this case, the parties undertake to agree upon a valid provision in place of the invalid provision that comes as close as possible to the economic purpose of the invalid provision. The same applies to any loopholes in the agreements.