Schindler Technik AG's General Terms of Use for watchboxx®

§ 1 General, scope of application

(1) These General Terms of Use (hereinafter also named "GTU") apply to all supply relationships, services and continuing obligations (e.g. rental relationships) which Schindler Technik AG (hereinafter "ST.AG") entered into with the customer, with respect to software (hereinafter named "watchboxx®") developed by ST.AG. The customer's differing, conflicting or supplementary General Terms and Conditions shall only become part of the contract if ST.AG has expressly agreed to their validity. This requirement for consent applies at all times, for example even if ST.AG unreservedly carries out deliveries/services with knowledge of the Terms and Conditions of the customer. These (General) Terms of Use apply in their current version as a framework agreement for all future transactions between the parties for the supply and use of the watchboxx® (including associated services), without ST.AG having to refer to them again in each individual case and also if ST.AG carries out the service with knowledge of different or contrary terms.

(2) In individual cases, individual agreements made with the customer (including collateral agreements, supplements and amendments) always have precedence over these GTU. A written contract or our written confirmation shall determine the content of such agreements.

(3) Legally relevant declarations and notifications, that are to be delivered from the customer to ST.AG after the conclusion of the contract (e.g. deadlines, defect notifications, notice of withdrawal or reduction) are required in writing in order to be valid.

§ 2 Conlusion of contract

(1) ST.AG's quotes on the use of the watchboxx® are non-binding.

(2) Commissioning by the customer is considered a binding contract offer. ST.AG is entitled to accept this contract offer within a period of ten working days following ST.AG's receipt of it, unless the order provides otherwise.

(3) The acceptance is declared in writing through an order confirmation to the customer.

§ 3 Contractual object

(1) The watchboxx® contains one of the proprietary softwares developed by ST.AG, whose interface uses open source software components (hereinafter referred to as "open source software"). At the customer's request, ST.AG also procures the required open source software for the customer and delivers the watchboxx® along with the open source software as software distribution. Unless not specifically related to the open source software, the GTU concern the watchboxx® in the sense of the proprietary software developed by ST.AG, whereby the accessibility to the open source software made available to the customer is on a contractual basis.

(2) The watchboxx® is a system for monitoring the hardware, software and facility components of a network. The watchboxx® is directly connected to the network and displays the status and interaction of components in the IT network. Disruptions in the IT environment (hereinafter referred to as the "IT infrastructure") are recognised, localised and documented early with the interface to the hardware, software and facility.

(3) ST.AG lets the customer use the watchboxx® (specified in more details in the order confirmation) for an agreed duration for the customer's own internal purposes.

(4) ST.AG delivers, installs and carries out the startup procedure and instructs the customer on how to use the watchboxx®.

(5) The watchboxx® is installed into the customer's available system. ST.AG hardware can also be purchased on request and with separate conditions. Hardware rental is not provided.

(6) ST.AG also provides watchboxx® software support.

(7) The customer receives a user handbook and a configuration handbook in German for the watchboxx®. These handbooks can be downloaded online via the watchboxx® user interface.

(8) The watchboxx® is and remains the property of ST.AG and is entrusted to the customer for normal use (indicated in the order confirmation as "Scope of Use"). Using the watchboxx® beyond the scope of use agreed upon in the order confirmation (including any hardware conditions / watchboxx® instant and run-time restrictions, as well as restrictions on the number of permitted services) is prohibited.

(9) If extensions on the scope of use are necessary during the contract duration, this is to be agreed upon separately and at a charge.

§ 4 Performance area

(1) ST.AG assumes the supply, installation, commissioning and instruction on the use of the watchboxx®, as well as any watchboxx® related support.

This service area, the terms of use and the order conformation form a financial and legal entity and are broken down as follows:

- Delivery and installation (see § 5);
- Instruction (see § 6);
- Support services (see § 7).

§ 5 Delivery, installation, obtaining operational readiness

(1) ST.AG and the customer agree to the conditions for the initial configuration (naming conventions, user permissions, detector groups, etc). The customer provides ST.AG with an overview of the IT infrastructure which will generally be monitored.

(2) The contracting parties shall seek to establish an initial configuration of the representative cross section of the IT infrastructure through ST.AG. Further configuration can be carried out by the customer within the agreed scope of use, unless otherwise agreed.

(3) The agreed upon configuration (initial configuration) is documented in a report. Any further extensions and/or changes to the initial configurations are to be commissioned and paid for as a separate service, if these are carried out by ST.AG. (see § 14)

(4) The same applies for advisory services, expenditure or workshops requested by the customer, which go beyond the scope agreed upon in the order confirmation according to paragraph 1 and 2. (see § 14).

(5) Unless no other regulation has been agreed upon in the order confirmation, the services are to be renumerated according to the hours spent in compliance with the current watchboxx® price overview at the time of the service provision.

(6) ST.AG delivers the watchboxx® to the installation site specified in the order confirmation.

(7) ST.AG assumes the installation of the watchboxx® and integrates the system into the customer's IT infrastructure in coordination with the expert staff (named by the customer).

(8) The delivery of the watchboxx® and the process of making it ready for operation are carried out at an agreed time.

(9) After successfully commissioning and testing the functionality, ST.AG will demonstrate the operational readiness of the watchboxx® to the customer and creates a report which is to be signed by the customer.

(10) The cost of the initial installation (delivery, installation, commissioning and instructing at the customer's site in accordance with § 5 und § 6) is calculated with a one-time payment. Additional services are to be agreed upon and paid for separately.

§ 6 Instruction

(1) As part of the installation and commissioning procedure, ST.AG will instruct the customer's employees on the handling and configuration of the watchboxx® specifically for the watchboxx® which is ready for operation within the customer's IT infrastructure.

(2) The watchboxx®'s scope of commissioning and instruction for use at the customer's premises is agreed in the order confirmation. Any additional expenditure, training or workshops are to be commissioned and paid for separately. (see § 14)

§ 7 Support services

(1) The customer will receive the watchboxx® for the duration of the contract in a condition suitable for contractual use and will carry out any necessary maintenance and repair work. ST.AG monitors the functioning of the watchboxx® within the framework of technical possibilities and initiates the necessary measures to eliminate malfunctions. The corresponding measures are carried out at regular intervals, as well as for any defects, faults or damages which occur.

(2) The customer must notify ST.AG of any defects, faults or damages immediately.

(3) ST.AG will provide support services for the watchboxx® during the normal business hours which are given in the order confirmation.

(4) ST.AG provides a support hotline to receive error messages. All error messages concerning watchboxx® are generally reported via the electronic ticket platform ST.AG-SMP. Generally, only error messages which have received a ticket ID from ST.AG-SMP are authorized. Troubleshooting measures are normally carried out remotely via a maintenance access.

(5) After receiving an error message, the customer receives a confirmation email with a ticket number. Unless otherwise agreed, ST.AG will contact the customer as soon as possible to confirm the commencement of work, to obtain more relevant information and/or to propose a solution.

(6) If hardware is delivered to the customer within the framework of a contract and becomes the property of the customer, the manufacturer's support and warranty conditions apply (e.g. IBM ePAC: IBM-On-Site-Service NBD).

(7) If Demand Work is necessary at the customer's premises, the customer (or a person authorised by the customer) is present on-site during this work to comply with accident prevention regulations. Demand Work at the customer's site is to be commissioned and paid for separately.

(8) ST.AG also remotely carries out ongoing updates on the watchboxx®'s running software; and namely within the same release version of the software delivered with the watchboxx®. Updates include both bug fixes and also minor function enhancements and extensions. For updates, the release no. will change after the decimal place (e.g. V3.1 to V3.2). The scope and the cycle of updates is at the discretion of ST.AG.

(9) The recording of new watchboxx® releases is carried out on the basis of the customer's separate commissioning, subject to a charge. A new release may contain substantial functional improvements and software enhancements. A new release can be recognised through a change to the release no. after the decimal place (e.g. V2.22 to V3.0).

(10) The type of backup for the current confuguration is agreed on together with the commissioning and then recorded.

(11) Repairs or increased service costs which result from other causes, are not included in the scope of the services included in contractual support and are thus renumerated separately: in particularly due to force majeure, destruction, fire, lightning or overvoltage, theft, explosion, water, transport, defects, improper handling, other damages (and partial damages), unauthorised third party intervention, safety equipment, installation or additions to equipment which are not carried out by ST.AG, as well as defects or faults to the electricity supply, the air conditioning or other facilities required for the operation of watchboxx®.

§ 8 Configuration changes

(1) ST.AG carries out the configuration changes to the watchboxx®, which are wanted by the customer, if they are separately commissioned and paid for by the customer.

(2) The support regulations for carrying out configuration work can be found under § 7 and the regulations on the appropriate use under § 14.

§ 9 Participation

(1) The customer is responsible for the agreed participation services as well as any agreed supplies and the agreed provision of hardware and the system environment. They will provide the necessary information and documents from this area to ST.AG.

(2) The customer shall particularly make sure that there is an explanation from ST.AG about the specific requirements of monitoring the IT infrastructure using the watchboxx®, which result from the characteristics of the IT infrastructure and the business processes of the customer.

(3) The customer appoints ST.AG as a competent person, authorized to implement the integration of watchboxx®-related decisions. In return, ST.AG appoints a responsible contact partner.

(4) Before the delivery of the watchboxx®, the customer has to manage the spatial and technical requirements, which are necessary to install the watchboxx® and make it ready for operation. These are provided to them in good time by ST.AG.

(5) The customer also provides ST.AG with electronic interfaces, if they are necessary for ST.AG to carry out the contractual activities.

(6) If, on the customer's request, this obligation to deliver the watchboxx®is not assumed as software distrubution (= watchboxx® along with open source software), the customer is obliged to provide the open source software as a main service, in accordance with the appendix.

(7) If the customer does not completely meet the contractual participation obligations on time or in an incorrect way, ST.AG's service responsibilities are suspended until the participation obligations are carried out.

§ 10 Using the watchboxx®, use by third parties

(1) The watchboxx® is exclusively transferred for the customer to use, unless dealing with open source software. The watchboxx® may only be used for the purposes indicated in the order confirmation (scope of use).

(2) The customer is not authorized, without permission from ST.AG, to transfer the use of the watchboxx® to a third party (unless dealing with open source software), particularly to rent or to lease it. The customer's employees are permitted to use the equipment under contractual use.

§ 11 Using the software

(1) ST.AG grants the customer simple, non-exclusive rights of use in the agreed scope of use for the duration of the contract (unless dealing with open source software, for which the rights of use listed in the appendix apply).

(2) The use of the watchboxx® is only permitted in the designated scope of use (unless dealing with open source software).

(3) The customer is only authorized to reproduce the watchboxx® (unless dealing with open source software), if it is necessary for the watchboxx®'s contractual use. The customer may create a copy of the watchboxx® for hedging purposes; in the event that ST.AG has not provided the customer with backups and these are updated accordingly to any changes made by ST.AG.

(4) The customer may not make any changes to the watchboxx® (unless dealing with open source software). This does not apply if the changes are necessary to remedy faults and ST.AG is in default in remedying the faults, the corrective actions are unjustified or otherwise the reasons for the immediate corrective actions are unable to be included in ST.AG's area of responsibility.

(5) The decompilation or reverse engineering of the software is not allowed (unless dealing with open source software). Translations of the code form, which are essential for obtaining the information necessary to achieve interoprability of an independently created computer program with the licensed computer program or with another computer program, are excluded from this, provided they meet the conditions in § 69 in paragraph 1 of the German Copyright Act (UrhG).

(6) The information gained from actions under the preceeding paragraph 5 may not be used for purposes other than to achieve the interoperability of independently created software. It may not be

disclosed to third parties, unless this is necessary for the interoperability of independently created software. Using the information for developing, creating or marketing software with a primarily similar expression or for any other means which damage the copyright, is also not allowed.

(7) Characteristics of the watchboxx®, particularly copyright notices, trademarks, serial numbers or the like may not be removed, altered or made unrecognisable.

(8) The customer has the simple right of use for the duration of the contract to carry out individual changes and extensions to the watchboxx® at their own request.

(9) The open source software (e.g. run-time environments) is delivered with the data carrier (data carrier, virtual or physical server, depending on the agreement in the order confirmation), provided that the watchboxx® is delivered as software distribution at the customer's request (see $ 9 Participation). Open source software is subject to separate license conditions. Information identifying the respective open source software licensors and the corresponding applicable license conditions are documented in the appendix "Open source software" and are a separate component of the General Terms and Conditions. In the source code along with the license conditions, the open source software is referred to as the surface of the watchboxx®.

(10) The customer acknowledges these license conditions by using and applying the watchboxx® as well as in the case of delivering the watchboxx® as a software distribution. If the customer does not accept these provisions, they alone are authorised to use the watchboxx® without access to the appropriate open source software, whereby ST.AG points out that in this case, the contractual functionality of the watchboxx® is not achieved.

§ 12 Customer's obligation to care and to tolerate

(1) The customer will ensure the proper use and the proper operation of the watchboxx® by adequately qualified personnel. The customer will reasonably follow ST.AG's maintenance and care instructions in this context, particularly the information contained in the licensed user handbook. (7) Characteristics of the watchboxx®, particularly signs, numbers or labels may not be removed, altered or made unrecognisable.

(2) The customer grants ST.AG employees and commissioned agents free access to the watchboxx® within normal business hours for maintenance and repair work. The authorised security interests of the customer must be respected here.

§ 13 Modifications to the watchboxx®; change to the delivery site

(1) ST.AG is entitles to make modifications to the watchboxx®, as long as they are for the purpose of preserving the operability. Improvements may only be made if they are reasonable for the customer and the contractual use of the watchboxx® is not impaired.

(2) Modifications to the watchboxx® carried out by the customer need prior agreement from ST.AG. Actions carried out by the customer, which do not need approval, remain unaffected in compliance with § 69 of the German Copyright Act (UrhG).

(3) Installing the watchboxx® at a delivery site different to the one given in the ST.AG order confirmation is subject to prior approval from ST.AG. ST.AG will only withold consent for important reasons which make the implementation unreasonable. The expenses and follow-up costs related to changing the site location as well as any additional costs incurred in the area of support for ST.AG are borne by the customer.

(4) In the event that the customer makes any modifications to the IT infrastructure, which represent essential criteria in calculating the user fee for the watchboxx®, the customer is obliged to inform ST.AG about these.

§ 14 Renumeration

(1) A user fee, to be paid yearly for the provision, support and documentation of the watchboxx® is included in the order confirmation. The user fee includes renumeration for the grant of use, the support and the documentation of the watchboxx® in the form agreed on in the order confirmation (see § 7)

(2) No license fees are to be collected for delivering any open source software (watchboxx® as a software distribution). Nevertheless, a separate open source software fee for the support of the open source software is applicable in addition to the fee referred to in paragraph 1, if agreed upon.

(3) Unless separately disclosed, the prices indicated there are understood to be the prices plus applicable VAT. The obligation to pay the user fee referred to in paragraph 1 (and possibly the open source software support fee referred to in paragraph 2) begins when ST.AG achieve operational readiness pursuant to § 5.

(4) The cost of the initial installation (delivery, installation, commissioning and instructing at the customer's premises in accordance with § 5 und § 6) is calculated separately with a one-time payment by means of the latest watchboxx® price overview and the order confirmation.

(5) Additional services from ST.AG, which go beyond the scope of the contractually agreed and delivered initial installation (e.g. implementation, modification, adaptation and configuration activities, workshops, work and troubleshooting at the customer's site etc.) are to be agreed on and paid for separately. These costs are calculated separately by means of the current watchboxx® price overview.

(6) In the event of a new watchboxx® version being released, the customer is obligated to pay an additional one-time fee, if the customer would like to use the new release- the amount of which is clear from the order confirmation or the current watchboxx® price overview. This only does not apply if the new release is carried out in the calendar year in which the customer began using the watchboxx®.

(7) In the event that there is a payment delay, ST.AG can deny the customer access to the system after a certain period of grace. The customer is to bear the expenses from ST.AG which arise due to re-activation.

(8) ST.AG is entitled to increase the user and support fees after the first twelve months of concluding the contract, with a written notice three months prior to the 1st January - unless and insofar as the material and personnel costs have increased in order to maintain the contractually used equipment. The customer has the right to terminate the contractual relationship within a period of six weeks after the announcement that the user fees are being increased. The customer can demand a corresponding reduction of the user fee at the end of the period indicated here in sentence 1 if the corresponding material and personnel costs of ST.AG are reduced.

§ 15 Payment conditions

(1) In each case, invoices are due within 14 days of the invoice date without deduction and plus the applicable VAT. For lease / user fees and services, discount deductions are fundamentally not allowed.

(2) The amount of the user and support fees are agreed in the order confirmation. You will be charged for getting the equipment ready for operation. You will be billed annually in advance. In the first year of the contract you will be billed proportionally based on the time taken to prepare the equipment for operation. In subsequent years, the user fee is due before the 15th January of each year.

(3) Optionally, there is the option of other terms of payment: You will be charged a surcharge of 2% for half-yearly payments, 3% for quarterly and 5% for monthly payments. The applicable payment method is agreed in the order confirmation.

(4) Moreover, the prices of the current watchboxx® price overview apply.

§ 16 Duration of the contract, ending the contract

(1) The use of the watchboxx® is based on these terms and conditions. The contract begins on the date of hand-over/completion of operational readiness and is concluded for an indefinite period of time with the minimum contract duration agreed on in the order confirmation.

(2) The contractual relationship can only be terminated in writing at the earliest after the expiry of the minimum contract duration and with a period of three months before the end of the contractual year.

Otherwise the contractual relationship extends automatically for another contractual year.

(3) The right to extraordinary termination for good cause remains unaffected for each party.

(4) Upon termination of the contractual relationship, the customer has to return the watchboxx® to ST.AG in proper condition and to completely and permanently delete all originally made copies (unless it is dealing with OS software).

(5) A report is created for this purpose, in which the deletion of the watchboxx® by the customer is confirmed in writing.

(6) Any costs incurred by the termination and return of the equipment are borne by the customer.

§ 17 Liability for defects

(1) Repairs are carried out on the watchboxx® to remedy defects for the duration of the contract, if ST.AG are responsible for the defects. For this, ST.AG must be allocated a resonable period of time. Defects to the open source software are only remedied as part of the support and only in so far as this has been agreed with regards to the open source software. Otherwise, the customer is responsible for the open source software (see § 9 Participation).

(2) A termination by the customer pursuant to $ 543, paragraph 2, sentence 1, no. 1 of the German Civil Code for not providing the contractual use is only permissable if reasonable opportunity was given to the contractor to remedy the defects and this has failed. Failure to remedy the defects is only conjectured if this is impossible, if ST.AG refuses to remedy it or unreasonably delays it, if reasonable doubts concerning the chances of success exist or if it unreasonable for the customer for other reasons.

(3) The rights of the customer for defects are excluded if the latter makes modifications or lets modifications be made to the watchboxx® without ST.AG's consent, unless the customer proves that the modifications do not have any undue impact for ST.AG on the analysis and rectification of the defects. The rights of the customer for defects remain unaffected, unless they are entitled to make changes, particularly with regards to exercising the right to self-repair according to § 536 a, paragraph 2 of the German Civil Code and this was carried out professionally and comprehensively documented.

§ 18 Liability and breaches of duty

(1) ST.AG is only liable for cases of slight negligence if an essential contractual obligation (cardinal obligation) is violated or in case of default or impossibility. In the case of liability for slight negligence, this liability is limited to damages which are vorseeable or typical. A liability for the lack of guaranteed quality, liability due to malice, liability for personal injury and/or defects remain unaffected according to the Product Liability Act and the Federal Data Protection Act.

(2) In case of loss of data, ST.AG is only liable for those costs which would have been necessary for proper and regular backups to restore the data by the customer. The limitation does not apply if and when the backup is part of the services provided by ST.AG.

(3) The liability limitations do not apply to claims based on intent or gross negligence, injury to life, limb or health or claims in bad faith, in so far as the product liability law comes into effect as well as there being a promise guarantee and (with respect to the latter), nothing is otherwise ruled.

§ 19 Data protection, confidentiality and security

(1) The customer gives ST.AG all relevant further information acquired through legal regulations, which is necessary for ST.AG to know for reasons of data protection and confidentiality.

(2) Before handing over data and data carriers to ST.AG, the customer ensures that protectable content is deleted, except where otherwise agreed.

(3) ST.AG ensures that all individuals, who are entrusted by them to process or fulfill the contract, observe the statutory provisions on data protection. The necessary obligations under the data protection law to maintain data confidentiality must be carried out before the start of any activity, at the latest, and must be confirmed in writing to the customer

upon request.

(4) The customer and ST.AG are obliged to handle all confidential information, trade and business secrets obtained under the contractual relationship, confidentially, and especially must not divulge this to third parties or for any use other than for contractual purposes.

(5) Confidential information is information which would be regarded as worthy of being protected from reasonable third parties or is marked as confidential; this can be information that becomes known during oral presentations or discussions. Confidential information may be used solely for the purpose of fulfilling the obligations determined in this contract. The obligation for confidentiality does not apply to information which is already legally known to the parties or is known outside of this contract without breaching a confidentiality commitment.

§ 20 Audit rights

(1) ST.AG is entitled to check whether the watchboxx® is being used in accordance with these terms of use. ST.AG may require information from the customer for this purpose, in particular taking information about the period and scope of the watchboxx® usage as well as access to the books and the customer's hardware and softare (also remotely to determine system statistics). ST.AG is to be granted access to the customer's business premises during usual business hours for this purpose.

(2) If ST.AG determines a breach of the agreed scope of use during these checks, a corresponding adjustment of the user agreement is required. In addition, the customer has to reimburse the costs of the audit to ST.AG. Additional (especially legal) rights concerning the breaches of the contractual scope of use remain reserved.

§ 21 General

(1) The customer is entitled to exercise the right of retention or right to withhold performance only against undisputed or legally established counterclaims.

(2) The law of the Federal Republic of Germany is exclusively applicable for this contract. The UN purchase right (UNCITRAL) is excluded. References to foreign legal systems are invalid.

(3) The customer can relinquish the rights from this contract only with written approval from ST.AG.

(4) Unless otherwise regulated, contractual information and statements must at least be in written form. The recording of complaints in the ticket system suffices. Contract amendments must be in writing. Likewise, this clause relating to the written form, must be cancelled in writing.

(5) Should provisions of these Terms of Use be or become wholly or partially invalid, the validity of the remaining provisions is not affected. The parties commit themselve to replace the invalid provision with a provision that reflects the economic intention as best possible.

(7) Jurisdiction and its place of execution, to the extent legally permitted, is Berlin.

§ 22 Appendix

If the watchboxx® is delivered as software distribution along with the open source software, the terms described below are applicable for the contained **open source components**.

I.	Software or Elements of Software falling under the *GNU General Public License Version 2* (see http://www.st-ag.de/license.php?type=oss_gpl_2)
1.	Nagios
2.	NagiosGrapher
3.	RRD-Tool

4. NdoUtils

5. MySQL

6. libmysqlclient15-dev

II. Software or Elements of Software falling under the *GNU Lesser General Public License*
(see http://www.st-ag.de/license.php?type=oss_lgpl)

1. WalterZorn DragDrop

2. Syslog-NG

III. Software or Elements of Software falling under the *MIT-License*
(see http://www.st-ag.de/license.php?type=oss_mit)

1. RAVIS BirdEye

2. jQuery

IV. Software or Elements of Software falling under the Artistic-License
(see http://www.st-ag.de/license.php?type=artistic)

1. libsnmp-perl

2. libsxml-simple-perl

V. Software or Elements of Software falling under The PHP-License
(see http://www.st-ag.de/license.php?type=oss_php)

1. PHP5-ldap

VI. Software or Elements of Software falling under this unnamed-License 1
(see http://www.st-ag.de/license.php?type=oss_license_1)

1. libxml2-dev

VII. Software or Elements of Software falling under this unnamed-License 2

(see http://www.st-ag.de/license.php?type=oss_license_2)

1. libcurl4-openssl-dev

VIII. Software or Elements of Software falling under The BSD License and BDS-like-License
(see http://www.st-ag.de/license.php?type=oss_netsnmp)

1. libssnmp-dev

IX. 2-clause BSD (FreeBSD) License
(see http://www.st-ag.de/license.php?type=oss_openlayers)

1. OpenLayers

X. Creative Commons Attribution-ShareAlike 2.0
(see http://www.st-ag.de/license.php?type=oss_ccasa_2)

1. OpenStreetMap