

CONTRACTUAL AND WEB SHOP CONDITIONS FOR SCANSOR

1 Definitions and subject matter of the contract

1.1 Definitions

Manufacturer: itesys AG, Langfeldstrasse 53a, 8500 Frauenfeld (CH). Manufacturer of Scansor SAP sensors.

Customer: The contractual partner of itesys. Sales are only made to B2B customers.

License & maintenance conditions: The license & maintenance conditions for Scansor.

Parties: The manufacturer and the customer.

SAP sensor(s): Software from the manufacturer as an add-on for PRTG to monitor and evaluate SAP systems and databases.

Scansor/Software: The SAP sensors of the manufacturer.

Contract: The license and maintenance agreement concluded between the parties via the web shop as defined in Section 2.

Web shop: The web shop of the manufacturer at www.scansor.com.

Contractual and web shop conditions: This document.

1.2 Subject of the contract

With the conclusion of the contract, the manufacturer grants the customer the rights of use for a certain number of Scansor SAP sensors (including support and maintenance services) in accordance with the provisions of these contract and web shop conditions and the applicable license & maintenance conditions.

2 Contractual basis

These contractual and web shop conditions and the license and maintenance conditions, together with the key data of the license and maintenance package and the associated price as specified in the web shop, form the license and maintenance contract (the "**contract**") in force between the parties.

The contract contains all the provisions between the parties applicable to the subject matter of the contract. Any general terms and conditions of business or reference conditions by the customer shall not become part of this contract, even without express objection by the manufacturer in individual cases.

By submitting his offer, the customer confirms that he is entering into this contract within the framework of a B2B business relationship.

In the case of translations into other languages, such translations shall only serve the purpose of better comprehensibility; the version in German shall remain legally authoritative.

3 Conclusion of the contract

3.1 Date of conclusion of the contract

All contents of the web shop represent an invitation by the manufacturer to the customer to submit an offer. The contract is only concluded when the customer receives the manufacturer's declaration of acceptance (order confirmation).

All information within the framework of the web shop is completely subject to change, and the manufacturer reserves the right to make any changes up to the time of conclusion of the contract.

3.2 Web shop order process

The information in the web shop is an invitation by the manufacturer to the customer to submit an offer. By clicking on the button marked "Order and pay", the customer submits a corresponding offer according to the information in his shopping cart.

The receipt of the order (offer by the customer) is confirmed to the customer by e-mail by an automatically generated confirmation of receipt. This confirmation of receipt does not constitute an acceptance of the offer. The contract is not concluded until the declaration of acceptance in the form of the order confirmation has been sent to the customer by the manufacturer.

4 Software and license key

4.1 General conditions

The software was developed by Paessler for joint use with PRTG. PRTG (PRTG Network Monitor) is a prerequisite for using the software. PRTG requires a separate license. This can also be obtained from itesys on request.

The customer is responsible for clarifying whether the software meets his requirements, expectations and system requirements.

4.2 License / Scope of the right of use

For the duration of the contract, the manufacturer grants the customer the non-exclusive, single, geographically unlimited, non-transferable and non-sublicensable right to use the Scansor SAP sensors up to the maximum number according to the selected license package, subject to payment of the license and maintenance fee. The right of use is limited to the customer's own, company-internal purposes. Use for third parties or transfer to third parties is not permitted.

4.3 Downloading the software

The delivery of the licensed software takes place via download by the customer.

4.4 Activation and license key

The customer receives an individualized license key to activate the Scansor SAP sensors, which is linked to the "machine ID" of the PRTG installation. The use of Scansor SAP sensors by the customer is limited to this specific PRTG installation. For distributed monitoring with PRTG via remote probes, the Scansor SAP sensors license must be installed on multiple remote probes and thus distributed to multiple license keys by itesys.

The license begins at the time of order confirmation by the manufacturer.

The conditions and restrictions according to the license & maintenance conditions apply. Upon expiry or termination of this contract for any reason whatsoever, the customer's license entitlement shall terminate. Reactivation is possible according to Section 6.4.

5 Support and maintenance services

The manufacturer provides support and maintenance services for the Scansor SAP sensors as described in the license and maintenance conditions, including any updates and upgrades (enhancements and new developments) provided.

For support requests, the manufacturer provides an e-mail address or ticket tool via the customer portal. Use of the support and maintenance services requires that the customer use the latest version of the Scansor SAP sensors. The conditions and restrictions according to the license & maintenance conditions apply.

6 Contract duration, automatic contract extension, termination option

6.1 Contract duration and maintenance period

The customer can choose between different maintenance periods, which determine the contract period. The maintenance period (and thus the contract period) begins at the time of order confirmation by the manufacturer and lasts as long as defined in the corresponding license and maintenance package.

6.2 Automatic contract extension and termination option

The contract shall be automatically extended for a new maintenance period of the same duration as the previous one, at the prices valid at that time, unless it is terminated by written notice from one of the parties, observing a period of notice of 30 days before the end of the maintenance period.

For the purposes of this provision, 'written notice' shall also include notices by e-mail, provided that the receiving party confirms receipt of the notice.

If the contract is not terminated in due time, the manufacturer will send the customer an invoice and new license keys for the new maintenance period after the last possible date for termination and before the end of the current maintenance period.

The manufacturer endeavors to inform the customer by e-mail at least 60 days before the end of the current maintenance period about the forthcoming contract extension. The contract will be extended (unless the customer terminates the contract in due time) in any case, i.e. also in the absence of such notification.

6.3 Consequences of termination

Upon termination of this contract, for whatever reason, the license rights of the customer shall lapse. The Scansor SAP sensors will continue to run in a restricted version after this date and the customer is free to continue to operate the Scansor SAP sensors in this restricted version at his own risk, without any warranty from the manufacturer or entitlement to support and maintenance services.

6.4 Reactivation of maintenance

If the customer has terminated the contract, the customer has the option to reactivate the contract within thirty (30) days after the expiry of the last maintenance period, either by notifying the manufacturer in writing or by using the functionality in the web shop.

In this case, the contract is reactivated, with an uninterrupted extension of the maintenance period.

In this case, the customer will only be charged for the new maintenance period (from the expiry date of the previous maintenance period). In this case, a new license fee is not due.

7 Remuneration and terms of payment

7.1 License and maintenance fee

Licenses can be purchased in pre-defined license packages according to Scansor's current price list or any customer-specific offer. The **license fee** is due once upon conclusion of the contract. The **maintenance fee** is determined by the predefined license packages and the maintenance period and is due at the beginning of the maintenance period (i.e. for the first maintenance period at the time of contract conclusion, subject to the following terms of payment).

7.2 Terms of payment and offsetting

All prices are exclusive of the applicable statutory VAT. The customer can choose from the payment options active in the web shop.

Invoices are payable within 30 days of receipt. After this payment period has expired, the customer is immediately in default. The customer is not entitled to offset or assign any claims to which he may be entitled.

The conclusion of the contract and the provision of contractual services (in particular, the delivery of license keys) can be made dependent on payment in advance by the manufacturer.

8 General provisions

8.1 Intellectual property rights

Only licensing, and no transfer of intellectual property rights, occurs.

All intellectual property rights and other industrial property rights remain or arise entirely with the manufacturer or, if applicable, its licensor.

Updates and upgrades made available to the customer in the course of maintenance are subject to the same license conditions as the original Scansor SAP sensors.

Under no circumstances shall the customer have the right to view the source code or to have the source code released.

8.2 Obligations to cooperate

The customer is obligated to provide all cooperation necessary for the manufacturer to fulfill its contractual obligations. This includes, in particular, the following obligations to cooperate:

- Coordination and commissioning to involve internal customer departments and external partners of the customers;
- Providing information and system access necessary for work by the manufacturer;
- Handing over of the work equipment prescribed by the customer which is necessary for carrying out the planned activities;
- Procuring and providing the infrastructure and remote access to the software;
- Procurement of necessary software and associated license keys; and
- Participation in workshops and surveys.

The customer must inform himself about the currently valid list prices before a possible extension of the contract.

8.3 Disclaimer of warranty

Any warranty for material defects and defects of title is excluded to the extent permitted by law.

8.4 Liability

8.4.1 For direct damage

The manufacturer is liable without limitation for direct damage and personal injury caused intentionally or by gross negligence.

For all other direct damages, the liability of the manufacturer is limited to the amount of remuneration paid by the customer under the contract in question in the previous calendar year, but in any case to the maximum amount of CHF 100,000.

8.4.2 For indirect and further damages

To the extent permitted by law, any further liability on the part of the manufacturer for other or further claims and damages, in particular for compensation for indirect, incidental or consequential damages, loss of profit, lost use, unrealized savings, loss of earnings or production and loss of data, regardless of their legal basis, is expressly excluded.

8.5 Obligation to back up data

The customer is responsible for a regular back-up of his data. Failure to comply with this obligation shall be deemed to be contributory negligence.

8.6 Involvement of third parties

The manufacturer may call in third parties to fulfill its contractual obligations. For such third parties, the manufacturer is only liable for careful selection, instruction and monitoring.

8.7 Confidentiality

Both parties undertake to use all knowledge of business and/or trade secrets of the respective other party obtained within the scope of the contractual relationship only for the execution of the contract and to treat them confidentially for an unlimited period of time. The customer also undertakes to keep secret all confidential information concerning the software, in particular with regard to the source code and development documentation.

Both parties also oblige their employees to maintain appropriate secrecy.

8.8 Transferability

Rights and obligations from the contractual relationship may not be assigned, transferred or pledged to third parties without the prior written consent of the other party. Such consent shall not be refused without good reason.

8.9 Reference customers

The manufacturer may list the customer as a reference customer in public communications, in marketing documents and on its website.

8.10 Changes and notification

The manufacturer can change these contractual and web shop conditions at any time. In this case, the manufacturer will inform the customer of the changed contractual and web shop conditions in a suitable form. If the customer does not object to the changes within 30 days of this notification, the new provisions shall apply. If a customer objects to the new contractual and web shop conditions, the manufacturer can terminate the contract in question at any time to the end of a month without incurring any costs or compensation. There is no obligation to reimburse any prepaid residual terms.

8.11 Severability clause

Should individual provisions be incomplete or legally invalid, the validity of the remaining provisions shall not be affected. The invalid provision shall be replaced by a valid provision which is as close as possible to the invalid provision in economic terms.

8.12 Applicable law and place of jurisdiction

Swiss law is applicable, excluding the conflict of laws and the Vienna Convention on Contracts for the International Sale of Goods (CISG). The exclusive place of jurisdiction is Zurich 1.

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