Terms of Use
of Hoval Limited
for SaaS services of the HovalSupervisor cloud product

Status 8 April 2026

1. Scope

1.1. These Terms of Use of Hoval Limited, with its registered office in Newark, Nottinghamshire, NG24 1JN, registered with the Companies House of England & Wales under number 592844 (hereinafter "**Hoval**") and its contractual partners – which may be both entrepreneurs and consumers in accordance with the Consumer Rights Directive (Directive 2011/83/EU of 25 October 2011) – (hereinafter "**Customers**") apply to all contracts for services of the HovalSupervisor cloud product as a Software-as-a-Service solution (hereinafter "ToU SaaS"). These Terms of Use shall also apply to all future business relationships, even if they are not expressly agreed again. Hoval reserves the right to change the ToU SaaS to a reasonable extent.

1.2. Hoval hereby objects to any conflicting or supplementary terms and conditions of purchase, terms of use or other general terms and conditions of the Customer. Conditions of purchase, terms of use and other general terms and conditions of the Customer shall only apply if they have been expressly recognised by Hoval in writing. This shall apply even if reference is made to the Customer's own general terms and conditions in the context of an order or in other documents of the Customer and Hoval does not expressly object in this case.

1.3. If the Customer purchases the services according to the articles of the Hoval price list, it is hereinafter referred to as "**Individual Customer**"; if it purchases additional services and these are described in individual contracts, e.g. as a contractor, energy supplier, plant supervisor or district/local heating supplier, it is hereinafter referred to as "**Professional Customer**"; the Individual Customer and Professional Customer are hereinafter also referred to jointly as "**Customers**".

1.4. The contract is concluded upon conclusion of an agreement, upon receipt of an order confirmation from Hoval or upon activation of the user account.

Delivery times are non-binding.

1.5. The Professional Customer and – where applicable in individual cases – the Individual Customer undertake to conclude a separate contractual agreement with their own customers whose systems they manage (hereinafter "**End Customers**"), which describes the relationship between the End Customer and the Professional/Individual Customer as well as the defined services. The Professional/Individual Customer shall ensure that the respective End Customers are also bound by the requirements of the following provisions.

1.6. The Professional/Individual Customer undertakes to fully comply with all data protection provisions applicable to it, in particular the provisions of Regulation (EU) 2016/679 (General Data Protection Regulation, GDPR) and Regulation (EU) 2023/2854 (EU Data Act), in relation to its End Customers.

The Professional/Individual Customer shall ensure that its End Customers have access to their own data at their request. This includes in particular the obligation to enable End

Customers to access their own data by setting up their own user profile or by any other suitable technical measure.

If an End Customer informs the Professional/Individual Customer that it wishes to continue using SaaS services via another provider in the future, the latter is obliged to provide the necessary support in accordance with Chapter VI of the EU Data Act and clause 7 of the Data Protection Agreement of Hoval. In particular, this includes the obligation to ensure that the End Customer receives its data in a structured, commonly used and machine-readable format.

1.7. Hoval's services include the provision of the HovalSupervisor cloud software solution for use as Software-as-a-Service. The Customer acquires a licence for temporary use of the software via the Internet. Accordingly, the following contract regulates the conditions for acquiring the licence and the scope of the permitted use.

1.8. The Customer is not authorised to act as a representative or trading partner of Hoval.

2. Software services

2.1. The subject matter of the contract is the provision of the HovalSupervisor cloud software for a limited period of time for a fee by means of remote access via the Internet (Software-as-a-Service). The software is not physically transferred. (hereinafter referred to as the **"Object of Performance"**).

A quality of the contractual software solution that goes beyond the functionality defined in this way is not owed; special Customer requests are only binding if they are additionally agreed in writing.

2.2. HovalSupervisor cloud is a copyright-protected online portal developed by Hoval Aktiengesellschaft that is used to visualise, operate and store the system statuses of all connected system components.

The detailed range of functions of the HovalSupervisor cloud software can be found in the current sales documents. These are regularly updated when new technical updates or new technologies become available. Hoval reserves the right to adapt the functional scope of the software service at any time and to inform the Customer of this within a reasonable period of time, at the latest within 30 working days.

2.3. Hoval shall provide the Customer with access to the HovalSupervisor cloud online portal for a fee, with the option of accessing the contractually agreed number of End Customer systems, provided the Customer is an entrepreneur, and receiving notifications of the supervised systems by e-mail or other communication channels.

2.4. The Customer receives a customer login consisting of an e-mail address (user name) and password. The password can be changed or reset by the Customer at any time. The change of user name can be ordered from Hoval for a one-off fee. The costs for changing the user name and other optional one-off services can be found in the Hoval price list.

The Customer login is highly personalised, i.e. personalised for the respective natural person who uses Hoval's services. A joint use, sharing or similar of a customer login by several natural persons, even if they are assigned to a corporate customer, is prohibited. Every natural person who wishes to use Hoval's services requires their own personal customer login.

In the event of a breach of these requirements, Hoval shall be entitled to cease its services immediately or to terminate the business relationship without notice and for cause.

2.5. Hoval grants the Customer a personal, non-exclusive, non-transferable usage right to the Hoval software during the term of the contract.

2.6 The Customer's right of use is limited to the contractually agreed number of systems. If End Customers of a Professional Customer should have access to the HovalSupervisor cloud software, this shall take place in accordance with the provisions in clause 7.

2.7. The establishment and maintenance of the data connection between the transfer point defined in clause 7.2. and the Customer's IT systems (or, in the case of Professional Customers, their End Customers) is not the Object of Performance. The Customer bears sole responsibility for the functionality of its Internet access, including the transmission paths and his computers (required hardware and software); in the case of Professional Customers, this also applies to their End Customers.

2.8. The source code of the software is also not the Object of Performance.

2.9. Furthermore, Hoval is not responsible for ensuring that End Customers grant effective access to their systems and authorise the Professional Customer accordingly. This is not the responsibility of Hoval and shall be regulated by the Professional Customer in a separate service agreement with the End Customer.

3. Contract fulfilment, Customer data

3.1. The scope of the services owed by Hoval is set out in clause 2 and clause 3.5 below.

3.2. For the term of this contract, the Customer grants Hoval its consent

a.) to store, reproduce and otherwise use contact data provided by Individual Customers, Professional Customers and their End Customers for the purpose of implementing this contract, in particular for transmission to external service providers within the European Union and the EFTA states which Hoval uses to implement this contract (including data centres), and

b.) to store and use the content data transmitted by Individual Customers, Professional Customers and their End Customers, in particular technical parameters of the heating systems, for the purpose of this contract, in particular to carry out the necessary backups during the term of the contract, as well as to improve the functions and services offered by the software and the systems themselves. This data can also be transferred to external service providers within the European Union and EFTA states (including data centres) for the performance of this contract.

3.3. In addition, Hoval is granted the following rights irrevocably, free of charge and with worldwide validity, both for Hoval and for its affiliated companies within the meaning of Article 3(3) of Annex I to COMMISSION REGULATION (EU) No 651/2014 of 17 June 2014 (General Block Exemption Regulation).

a.) Hoval is permitted to use data transmitted in connection with the HovalSupervisor cloud software in pseudonymised form for machine learning and for product improvements and enhancements. The Customer consents to this.

b.) To the extent permitted by law, Hoval shall be entitled to store, use, transfer and/or utilise all information provided, generated, read out or processed by the Individual Customer, Professional Customer and/or its End Customers in connection with the HovalSupervisor cloud software, with the exception of personal data, for any purposes beyond the purpose of the contract. The Customer consents to this. These purposes include, but are not limited to, the improvement or expansion, production, commercialisation and distribution of Hoval products as well as, for example, statistical, analytical and internal purposes.

The Customer warrants that it is authorised to grant the rights of use and exploitation provided for in clauses 3.2. and 3.3. and that it has not entered into any agreements to the contrary.

3.4. With the concluded contract and its execution, Hoval does not assume the position or tasks of a commercial agent with regard to the information of the Customer and presentation of its contents.

3.5. Hoval endeavours to ensure a high level of availability of the Object of Performance. Further details on availability are regulated in the Service Level Agreement (SLA) attached as Annex 1, which is an integral part of these Terms of Use.

3.6. In the event of force majeure and unforeseen events for which Hoval is not responsible and which make it necessary to restrict or discontinue the services of the Hoval product, Hoval shall be released from the obligation to perform for the duration of the hindrance and shall be granted a reasonable period of time for performance. Force majeure shall include fire, strike, lockout, failure of telecommunications systems, failure in the data centre of the infrastructure operator and other circumstances for which Hoval is not responsible and which make the services of Hoval significantly more difficult or impossible, irrespective of whether they have arisen at Hoval or one of its vicarious agents.

3.7. Hoval is entitled to have services owed under the contract performed by subcontractors / service providers, vicarious agents or assistants.

4. Remuneration and terms of payment

4.1. Hoval shall charge the annual fee for the agreed Object of Performance in accordance with the individual price agreement or the annual fee shown in the respective valid Hoval price list. Unless otherwise agreed, the remuneration is always invoiced in advance for the first time at the start of the contract year and for the following contract years. The optional one-off services can be found in the individual price agreement or the current Hoval price list. Unless otherwise contractually agreed, payment is due 30 days after the invoice date.

The actual access to End Customer systems by the Professional Customer has no influence on the annual flat rate.

4.2. The amounts stated in the individual price agreement or in the current Hoval price list are calculated on the basis of the labour and infrastructure costs existing at the time the contract is concluded (e.g. collectively agreed wages, costs for cloud services, provision of servers, electricity/energy costs; transport costs).

4.3. Hoval is entitled to adjust the prices after expiry of the original basic contract term and after expiry of each further completed contract year. The price adjustment takes place on

certain key dates, therefore price adjustments are possible after the offer has been submitted.

4.4. Hoval shall send the Customer price information about the price change in text form in good time, i.e. three months before the change takes effect. The Customer is entitled to terminate the contract with a notice period of one month until the envisaged date of entry into force of the new price agreement. The Customer's right of cancellation in accordance with clause 5.2 remains unaffected.

4.5. If the Customer is in default of payment, Hoval shall be entitled to charge statutory default interest. Upon request, the Customer shall confirm receipt of the invoice and the date of receipt in writing.

4.6. If the payment deadline has passed, Hoval may block access without prior notice until the receivables have been paid in full and deactivate the notification function for managed systems.

4.7. All claims of Hoval shall become due immediately if the terms of payment are not complied with or if Hoval becomes aware of circumstances which are likely to reduce the creditworthiness of the Customer. In such cases, Hoval shall also be entitled to perform outstanding services only against advance payment or to demand appropriate security.

5. Duration of contract, cancellation, withdrawal

5.1. Subject to individual contractual provisions, contracts are concluded for a fixed basic contract period of one year; ordinary cancellation is generally excluded within this basic contract period.

If the Customer intends to change the provider of SaaS services, it may terminate the contract with two months' notice. In this case, a basic contract term is not deemed to have been agreed. The change of provider shall be notified to Hoval in writing at the address specified in clause 5.3 at least two months before the intended effective date.

The right to extraordinary cancellation for good cause remains unaffected.

5.2. The term of the contract is extended for an indefinite period unless the contract is cancelled before the end of the basic contract period with three months' notice to the end of the basic contract period. The contract, which has been extended for an indefinite period, can be cancelled by either party with three months' notice to the end of a calendar month.

5.3. The cancellation shall be made in writing or via the authorised digital channels (web forms) and shall be sent to Hoval Ltd., Northgate, Newark, Nottinghamshire, NG24 1JN.

5.4. Hoval reserves the right to withdraw from concluded contracts until the performance of the services or deliveries owed by Hoval if Hoval becomes aware of reasons in the person of the Customer, such as lack of creditworthiness or behaviour of the Customer in breach of contract. In this case, the Customer only has the right to be reimbursed for services already rendered; any further claims, in particular claims for damages, are excluded.

5.5. Extraordinary cancellation is only permissible if one of the two parties breaches essential contractual obligations and does not cease this breach upon written request and after a reasonable deadline has been set. This is the case, for example, with:

- Default of payment by the Customer of more than three months, after a final deadline for fulfilment has been set;
- Breach of secrecy and confidentiality regulations by a party.

6. Responsibility of the Customer, blocking, exemption

6.1. The Customer shall not transmit any content or incorporate any content into the HovalSupervisor cloud product system of Hoval that is unlawful under the legal system of any country. If the Customer has a branch in a member state of the European Union, it will observe the legal system in that country and also the English legal system.

6.2. In particular, the Customer undertakes to respect and comply with the special statutory regulations on teleservices and media services and the other statutory regulations on data protection, copyright, trade secrets, trade mark law, the law against unfair competition and related areas of law as well as the (fundamental) right to protection of the general personality, and not to disseminate any content or services that offend common decency or otherwise have dubious content. This applies in particular to the dissemination of, reference to or provision of pornography, right-wing extremism, incitement to violence or crime, discrimination, gambling or other offensive content.

6.3. All passwords assigned by Hoval shall be changed immediately by the Customer to passwords known only to the Customer. The contractual relationship that can be assigned to the user account and the access data is (with the exception of the provisions of clause 7.2) non-transferable (including renting, leasing, lending or sub-licensing). The access data shall be kept secret and protected against access by third parties by means of suitable, effective measures. The Customer shall inform Hoval immediately if there is any suspicion that the access data may have become known to unauthorised persons. The Customer alone shall be responsible for the consequences of misuse of the access data; Hoval shall not be liable. The Customer is liable for all actions carried out under his user account.

6.4. The Customer is not authorised to use scrapers, robots, spiders or other comparable tools for data collection or extraction, programs, algorithms or methods for searching, accessing, acquiring, copying or controlling the HovalSupervisor cloud software. Furthermore, the Customer is not authorised to gain access to non-public areas of the HovalSupervisor cloud software or its underlying technical systems, to test, scan or investigate the vulnerability of the HovalSupervisor cloud software or to knowingly transmit Customer data or other content containing viruses or worms, Trojans or other contaminated harmful components or otherwise interfere with the proper functioning of the HovalSupervisor cloud software.

6.5. Furthermore, the Customer is not authorised to edit, modify, reverse-engineer, decompile, disassemble or otherwise determine the source code of the HovalSupervisor cloud software or parts thereof, or to create derivative works of the HovalSupervisor cloud software. However, the mandatory, non-waivable provisions of Articles 5 and 6 of Directive 2009/24/EC (Computer Programs Directive) – as well as their national implementation provisions – remain unaffected by this. The Customer is also not permitted to commission third parties with the aforementioned measures.

6.6. In any event, Hoval reserves the right to review and make a final decision on the Customer's obligations as described in clauses 6.1 to 6.5. Hoval shall be entitled at any time, after prior or simultaneous notification of the Customer, to prevent further use with immediate effect if, according to Hoval's justified assessment, this contradicts the obligations in clauses 6.1 to 6.5.

6.7. Hoval may also block the Customer's entire application if isolation of the offending content is not possible or only possible at disproportionate expense. The Customer reserves the right to prove at a later date that its content is lawful or that it holds the rights required for its use and/or publication.

Claims for damages by the Customer due to the exercise of the right to block and switch off by Hoval are excluded.

6.8. The Customer warrants that it is the owner of the right to use the data and content transmitted by it in the course of the execution of the contract – also and in particular in the context of this contract and via the Internet – and to transmit the data and content to Hoval for the execution of the contract.

6.9. This applies in particular to the required consent of the End Customers of Professional Customers, authors and other persons who have rights to the data and content and, in the case of images of natural persons or works protected by copyright (including buildings) and special categories of personal data within the meaning of Article 9 of the General Data Protection Regulation (GDPR), also to the required consent of these persons or authors.

6.10. The Customer shall indemnify Hoval against all claims of third parties, including costs, arising from alleged infringements of licence, property or other rights upon first request. The Customer shall bear all possible liabilities, in particular as a result of claims asserted by third parties – including by collecting societies – and the associated costs, in particular the reasonable costs of legal defence.

6.11. In the event of claims by third parties, Hoval's obligation to keep the data and content of the Individual Customer, Professional Customer and its End Customers available shall be suspended until the Customer has brought about a final clarification of the rights thereto. The same applies if the data and content made available to Hoval is objected to by legal or natural persons acting for the protection of competition, or public authorities.

6.12. Instead of blocking the relevant data and content, Hoval may also remove the content from the server immediately. If the Customer does not remove the relevant content from the server at the first request, Hoval is also entitled to terminate the respective contract without notice.

6.13. Any disadvantages and additional costs arising from the breach of these contractual obligations shall be borne by the Customer.

7. Right of use of the Customer and its authorised users and End Customers

7.1. The software solution provided to the Customer is legally protected. The copyright, patent rights, trade mark rights and all other ancillary copyrights to the software as well as to other objects which Hoval makes available to the Customer within the framework of the initiation and execution of the contract shall be the exclusive property of Hoval in the relationship between the contracting parties. Insofar as third parties are entitled to the rights, Hoval has the corresponding rights of exploitation.

7.2. Hoval grants the Customer a non-exclusive, non-transferable and non-sublicensable right to use the agreed software solution and the associated user documentation of HovalSupervisor cloud within the agreed scope for the duration of the contract. The right of use referred to above in this clause 7.2 includes

- also the use by authorised users who are in an employee or freelancer relationship with the Customer and who are notified to Hoval at least in text form prior to use. The Customer guarantees that each authorised user complies with the regulations for the proper use of the software solution in accordance with these Terms of Use.

- in the case of Professional Customers, the right of use referred to in this clause 7.2 also includes use by authorised End Customers who are in a contractual relationship with the Professional Customer and which the Professional Customer creates and/or activates as users, insofar as the Professional Customer guarantees this to Hoval within the scope of its contractual agreements with the respective End Customer,

  - that the Professional Customer provides the respective End Customer with all documents necessary for the use of the HovalSupervisor cloud, in particular the user manual and instructions for the proper use of the HovalSupervisor cloud (these are available on the Hoval country website or on request from the Hoval branch);

  - that the contractual agreements with the End Customer contain all material provisions of these Terms of Use and that each authorised End Customer complies with the regulations for the proper use of the software solution in accordance with these Terms of Use;

  - that the End Customer's right of use is dependent on the existence of the Professional Customer's right of use vis-à-vis Hoval;

  - that the End Customer is not entitled to any (compensation) claims against Hoval, even in the case of parameterisation via the HovalSupervisor cloud – just as in the case of changes to the parameterisation directly on the systems themselves – insofar as any damage incurred is attributable to improper parameterisation;

  - The Professional Customer shall indemnify Hoval against all claims of End Customers plus costs upon first request, insofar as it is responsible for the damage and the cause lies within its sphere of control/organisation. The Professional Client shall be liable if, among other things, the Professional Client has breached an obligation resulting from these ToU SaaS. The Professional Customer shall bear all possible liabilities, in particular as a result of claims asserted by third parties and the associated costs, in particular the reasonable costs of legal defence.

The use takes place by accessing the software functionalities on the Hoval server architecture. The transfer point for Hoval's services is the router output of the data centre used by Hoval. The Customer shall not receive any further rights.

7.3. Any use of the software beyond the use permitted under this contract is not permitted. The Customer is not authorised to allow third parties to use the software or to make it accessible to third parties; in particular, the Customer is not permitted to reproduce or sell the software, parts thereof or rights thereto. The Customer shall also pay the fees if a third party uses the software if and to the extent that the Customer is responsible for the use. Third parties in the aforementioned sense are not the authorised users and authorised End Customers described in clause 7.2.

7.4. In the event of serious breaches of these obligations incumbent on the Customer, Hoval shall be entitled to block the Customer's access – and in the case of Professional

Customers also that of its connected End Customers – at the Customer's expense. Such blocking does not release the Customer from the obligation to pay the fee for the use of the software.

8. Warranty

8.1. Unless otherwise stipulated below, Hoval's warranty shall be governed by the rules of tenancy law for the agreed quality of the Object of Performance.

8.2. In the event of a defect, the Customer shall be entitled to rectification or replacement of the service at Hoval's discretion. If a defect subject to the warranty obligation cannot be rectified or if further attempts to rectify the defect are unreasonable for the Customer, the Customer may terminate the contract instead of having the defect rectified, unless the defect represents only an insignificant reduction in the suitability of the service.

8.3. For each software solution provided, Hoval warrants that the software solution fulfils the main functions as set out in its program description. However, complete freedom from errors cannot be guaranteed due to the large volume of data and the large number of hardware and operating constellations that occur in practice, as well as operating errors. Data loss cannot be completely ruled out either. The Customer shall therefore back up its data at regular intervals. It shall keep the necessary documents for any reconstruction in the event of data loss.

8.4. Only the description of the HovalSupervisor cloud provided by Hoval prior to the conclusion of the contract or agreed in a separate document shall be decisive for the quality of the HovalSupervisor cloud. In the event of updates, the latest version of the description provided shall apply. This also applies in particular to the properties with regard to IT security. A more extensive quality is not owed and in particular does not result from public statements or advertising by Hoval's sales partners.

The information on the properties of the Object of Performance, technical data and specifications in the concept or the service descriptions and other contract-relevant documents serve solely to describe the respective service. They are not to be regarded as a guarantee (or warranted quality) within the meaning of the Civil Code. A guarantee shall only be granted if it has been expressly designated as such in writing by Hoval prior to the conclusion of the contract.

8.5. The Customer shall notify Hoval of any defects without delay.

8.6. The warranty obligation shall not apply if the Customer has not used the service provided by Hoval in accordance with its intended purpose.

8.7. In addition to the statutory provisions, the Customer shall only be entitled to withdraw from the contract and claim damages instead of performance due to a breach of non-performance-related obligations – so-called secondary obligations – if it has previously warned Hoval in writing and set a reasonable deadline for remedying the damage and the breach of duty has nevertheless not been remedied by Hoval.

8.8. The warranty for only insignificant reductions in the suitability of the service, such as insignificant deviations from the agreed quality or only insignificant impairment of the usability of the HovalSupervisor cloud, is excluded.

The application of the tenant's right to self-remedy is excluded.

In the event of a reduction in the suitability of the service, the Customer is obliged to notify Hoval immediately in order to enable prompt rectification of the defect.

8.9. In the event of impossibility or failure to remedy the defect, culpable or unreasonable delay or serious and final refusal to remedy the defect by Hoval or other unreasonableness of the remedy of the defect for the Customer, the Customer shall in particular be entitled to reduce the remuneration owed in accordance with the extent of the impairment (reduction). The Customer (irrespective of whether it is a consumer or an entrepreneur in accordance with the Consumer Rights Directive) shall only be entitled to offset claims that have been legally established and are undisputed or recognised by Hoval. This shall not apply if and insofar as the respective counterclaim of the Customer results from the same contractual relationship as the claim of the user; the Customer shall be at liberty to assert notices of defects or counterclaims from the same contract. This shall not affect the Customer's right to reclaim the excess payment under the law of unjust enrichment.

8.10. Extraordinary cancellation without notice by the Customer due to failure to allow use of the rental object is excluded unless the establishment of use in accordance with the contract is deemed to have failed. Failure shall be deemed to exist in particular if the elimination of the restriction of use is definitively impossible or if the user does not succeed even after two attempts to rectify the defect within a reasonable period of time.

9. Liability

9.1. Claims of the Customer for compensation for expenses or damages, regardless of the legal grounds, are limited to damages caused by Hoval or one of its vicarious agents or contractors

a.) in the event of intent and gross negligence;

b.) in the event of negligent or wilful injury to life, limb or health;

c.) in the event of a breach of a material contractual obligation, the fulfilment of which is essential for the proper execution of the contract and on the observance of which the respective party regularly relies and may rely, but limited to the damage reasonably to be expected at the time of conclusion of the contract;

d.) for claims arising from the Product Liability Act, but only in accordance with the provisions therein;

e.) due to fraudulent concealment of a defect or assumption of a guarantee of quality;

f.) in the event of any other further-reaching mandatory statutory liability

9.2. The above limitations of liability shall also apply to the personal liability of Hoval's legal representatives, employees and staff, vicarious agents and assistants.

9.3. Liability for the functionality of the software provided by Hoval is limited to the amount of the agreed remuneration.

9.4. Liability for indirect damage or loss of profit is excluded.

9.5. Hoval shall only be liable for the loss of data in accordance with the above paragraphs if such a loss could not have been avoided even by appropriate data backup measures

on the part of the Individual Customer, Professional Customer or its End Customers. If the data stocks of the Individual Customer, Professional Customer or their End Customers change, the Customer shall also carry out a data backup in this respect. In other respects, any liability of Hoval for loss of data of the limitations shall be limited to the amount of the agreed remuneration or the remuneration invoiced by Hoval.

9.6. The liability is determined in accordance with the statutory provisions, with the amount of liability per claim – irrespective of the legal grounds – being limited to the sum of the fees for specific software services per calendar year multiplied by a factor of 2.5.

9.7. Furthermore, Hoval does not guarantee that it will be able to send and/or receive information. Hoval is not responsible or liable for services provided and any resulting misuse or damage by third parties not contracted by Hoval. Hoval excludes any liability for security deficiencies of the Internet.

9.8. In the event of termination of the contract – for whatever reason – services rendered up to that point shall be invoiced pro rata. Claims for further compensation are excluded insofar as this is legally permissible. The liability for damages resulting from injury to life, body or health as well as in the case of intent or gross negligence remains unaffected.

10. Limitation period

10.1. Claims for defects by a Customer which is an entrepreneur shall lapse after 12 months. The statutory limitation period of 24 months applies to consumers.

10.2. Claims for damages that are not related to a defect and are not based on injury to life, limb or health and were not caused intentionally or by gross negligence shall become time-barred within one year of the end of the year in which the claim arose and the Customer became aware of the circumstances giving rise to the claim or should have become aware of them without gross negligence.

10.3. The provisions in clauses 10.1 and 10.2 shall not apply if the claims are based on an intentional or grossly negligent breach of duty by Hoval, in the event of intentional or negligent injury to life, limb or health, in the event of liability under the Product Liability Act or in the event of any other further-reaching mandatory statutory liability.

11. Privacy statement

11.1. The collection and processing of data as well as the rights and obligations of the parties under data protection law are governed by the applicable data protection law (in particular the GDPR and the EU Data Act), the Hoval Privacy Policy and these Terms of Use.

By concluding the contract, the Customer consents to the processing of its data in accordance with these provisions.

Customers of Hoval which are entrepreneurs (in particular Professional Customers) undertake to comply with all applicable data protection regulations and to ensure that the processing of personal and non-personal data of their own customers (End Customers) is lawful. They are obliged and solely responsible to make Hoval’s current data protection declaration available to their End Customers in a lawful form – for example by providing a link or in text form – and to ensure themselves that the necessary consents to the processing of data, in particular personal data, have been lawfully obtained before services from Hoval are utilised.

Customers which themselves have End Customers shall indemnify Hoval against all third-party claims arising from a breach of data protection obligations by those End Customers.

11.2. The following types of data are subject to processing: Customer master data, system and service data, user, access and connection data. With regard to data processing in connection with Hoval's services, Hoval assumes the following responsibility:

- for the collection of data;
- for the storage of data;
- for the modification and deletion of the data, the restriction of data processing and data transfer;
- for appropriate security of data transmission and processing. With regard to data processing within the platform provided by Hoval, the Customer assumes the following responsibility:
- for compliance with its statutory retention obligations in relation to the data;
- for compliance with nationally applicable data protection regulations and requirements;
- for the confidential handling of data and appropriate processing of data.

11.3. Both parties are jointly responsible, irrespective of the responsibilities assigned to them individually:

- for the lawfulness of the processing;
- for the fulfilment of information obligations in a precise, transparent, comprehensible and easily accessible form;
- for processing and responding to requests from data subjects;
- for ensuring that data processing is carried out in accordance with the requirements of applicable data protection regulations and the protection of the rights of the data subject;
- to ensure that only authorised persons have access to the personal data and that all persons involved in data processing are obliged to maintain confidentiality with regard to the data;
- for mutual support in complying with the provisions agreed in this contract and applicable statutory data protection regulations.

11.4. Each party may engage processors in the context of data processing and shall ensure that the necessary data processing agreement is lawfully concluded.

11.5. If Hoval processes data in a third country (i.e. outside the European Union (EU) or the European Economic Area (EEA)) or if this is done in the context of the use of third-party services or the disclosure or transfer of data to third parties, this will only take place if it is done to fulfil our (pre-)contractual obligations, on the basis of your consent, on the basis of a legal obligation or on the basis of our legitimate interests. Subject to legal or

contractual authorisations, we process the data, or have the data processed, in a third country only if the special requirements of Article 44 et seq. GDPR apply, i.e. the processing takes place, for example, on the basis of special guarantees, such as the officially recognised determination of a level of data protection corresponding to the EU (such as with regard to Switzerland) or compliance with officially recognised special contractual obligations (so-called “standard contractual clauses”).

11.6. The parties undertake to inform one another immediately as soon as a competent data protection supervisory authority contacts them in connection with this contract, the cooperation or the data processing. The parties shall – as far as legally permissible and reasonable – consult with one another before providing information to the data protection supervisory authority or disclosing information in connection with this contract, the cooperation or the data processing. This coordination obligation does not apply if and insofar as there is a legal obligation to provide information immediately, in particular in accordance with Art. 31 GDPR or national implementation regulations.

11.7. The parties are liable to data subjects in accordance with the statutory data protection regulations, in particular in accordance with Article 82 GDPR.

12. Confidentiality

12.1. The parties shall maintain secrecy about all information to be treated confidentially that has come to their knowledge in the context of the contractual relationship and shall only use such information towards third parties – for whatever purpose – with the prior written consent of the other party. The information to be treated as confidential includes the information expressly designated as confidential by the party providing the information and such information the confidentiality of which results from the circumstances of the transfer. This applies in particular to all End Customer data, the agreed settlements, pricing and discounts. In case of doubt, the facts are to be treated as confidential.

12.2. The obligations under clause 12.1 shall not apply to such information or parts thereof for which the receiving party proves that the information or parts thereof

a.) was known by it or generally accessible to it prior to the date of receipt or was made known to it after the date of receipt by a third party lawfully and without obligation of confidentiality;

b.) was known or generally accessible to the public before the date of receipt; or

c.) was known or generally accessible to the public before the date of receipt, without the party receiving the information being responsible for this.

12.3. Public declarations of cooperation between the parties shall only be made by prior mutual agreement. The Customer is not authorised to act as a representative or trading partner of Hoval. The Customer is not authorised to use information about an intended or existing contractual cooperation for reference or marketing purposes without the prior consent of Hoval.

12.4. The obligations under clause 12.1. shall continue to exist beyond the end of the contract for an indefinite period of time, as long as an exception under clause 12.2. is not proven.

13. Concluding provisions

13.1. English substantive law shall apply exclusively, to the exclusion of international agreements (e.g. CISG).

13.2. It is agreed that the English courts have exclusive jurisdiction

13.3. Should individual provisions be wholly or partially invalid, this shall not affect the validity of the remaining provisions of these ToU SaaS. The contracting parties shall replace the invalid provision with a provision that comes as close as possible to the economic purpose of the invalid provision. The same applies to any gaps in these ToU SaaS.

13.4. Amendments and supplements require the written form; this applies in particular to the amendment of this formal requirement.

Annex 1 – Service Level Agreement (SLA)

1. Subject of regulation

The following provisions of this Service Level Agreement (SLA) specify the access to the software owed by Hoval in terms of time and technology in the form of a service description.

2. Technical availability

2.1. All non-time-based performance specifications in this Service Level Agreement refer to the quality of the HovalSupervisor cloud offered to the Customer for use at the transfer point of the data network operated by Hoval. Impairments in the area of data transmission from this transfer point to the Customer and/or in the area of the Customer's IT system itself shall not be taken into account.

2.2. Technical availability means the Customer's ability to use all the main functions of the software. Periods of insignificant disruption during which the main functions can still be performed are therefore not taken into account when calculating availability.

3. Time availability

3.1. The time availability indicates the percentage of the recorded period for which the HovalSupervisor cloud is available at the transfer point according to the following specifications:

Weekday	Period
Working day (Monday to Friday excluding public holidays[1])	02:00 to 24:00 hours (CET) (Scheduled maintenance work and data backups are carried out daily from 00:00 to 02:00. Operation is not possible during this time.)

3.2. Hoval shall not be obliged to make the application software available for use outside the periods ordered by the Customer. If the service period booked by the Customer has expired, Hoval will close the application.

3.3. Time availability is defined as follows for the aforementioned periods:

All working days	98%

[1] Public holidays on working days: New Year 01.01.; Epiphany 06.01.; Easter Monday (variable); Labour Day 01.05.; Ascension Day (variable); Whit Monday (variable); Corpus Christi (variable); Assumption Day 15.08.; Austrian National Day 26.10.; All Saints' Day 01.11.; Feast of the Immaculate Conception 08.12.; Christmas 25.12.; Boxing Day 26.12.

3.4. The actual time availability achieved is calculated on the basis of working days. The provider's measuring instruments in the data centre are decisive for proving availability.

3.5. When calculating the actual availabilities, downtimes not attributable to Hoval are deemed to be available times. These downtimes therefore neither represent impairments nor do they justify any claims, regardless of their legal basis.

The following circumstances are examples of these non-attributable downtimes:

- maintenance or other services agreed with the Customer, as a result of which access to the application software is not possible;
- unforeseen maintenance work that becomes necessary, if this work was not caused by a breach of Hoval's obligations to provide the services (force majeure, in particular unforeseeable hardware failures, strikes, natural events, etc.);
- downtimes due to virus or hacker attacks, insofar as Hoval has taken the agreed protective measures or, in the absence of an agreement, the usual protective measures;
- downtimes due to Customer specifications, due to unavailability of the Customer's equipment or due to other interruptions caused by the Customer (e.g. failure of the Customer to cooperate);
- downtime extensions caused by the Customer blocking console or remote access;
- downtimes due to specifications from third-party software manufacturers;
- downtimes for the installation of urgently needed security patches;
- downtimes due to software errors in Customer applications or due to errors in the system and system-related software caused by Customer applications or data; or
- downtimes caused by third parties (persons not attributable to Hoval).

4. Owed availability

4.1. The software is temporally and technically available if it can be accessed within the relevant time period in accordance with clauses 3.3. to 3.5.

4.2. The Customer assumes the obligation to report any impairment of availability to Hoval. Hoval will endeavour to eliminate the impairments without delay. There is no entitlement to restoration of the availability of the software insofar as the agreed availability is guaranteed.

5. Priorities

If Hoval's services do not correspond to the values specified in this Service Level Agreement, Hoval shall, in the event of impairment of both the time and technical availability, first restore the time availability of the services, then the owed data throughput, the response time behaviour, the packet delay and finally the packet loss rate.

6. Fault report, restoration of services

6.1. The Customer may report non-compliance with the owed availability as a fault. It shall only report faults that are to be dealt with in accordance with this SLA via the fault hotline provided by Hoval through the employees trained and authorised for this purpose. When reporting the fault, the Customer shall indicate which persons are available to Hoval as contact persons at the Customer's premises for this fault and how they can be reached by telephone. The contact persons shall be named in such a way that Hoval can contact one of the named contact persons directly during the duration of the fault, at least within the Customer's business hours.

6.2. A fault to be remedied by Hoval does not exist in the event of impairment of data transmission outside the data network operated by Hoval, e.g. due to line failure or malfunction at other providers or telecommunications providers, or utilisation of the system capacities provided in breach of contract, e.g. due to an excessive number of accesses by the Customer.

7. Remuneration

No separate remuneration shall be charged for the provision of services in accordance with this SLA. However, if the Customer has reported a fault to Hoval and it is established after an inspection that the fault has occurred due to a circumstance for which the Customer is responsible, Hoval may invoice the Customer for the services provided to identify the fault at the hourly rates applicable to such services in accordance with the Hoval price list, unless the Customer could not have recognised, even with the necessary care, that the fault had occurred due to a circumstance for which the Customer is responsible.