

GENERAL LICENSE TERMS – AVILOO BATTERY SOFTWARE

as of June 18th 2025

concerning the use of the AVILOO BATTERY SOFTWARE from AVILOO Inc. ,
a Colorado corporation with offices located at 4949 S. Syracuse St., Suite 550, Denver, CO 80237
("AVILOO")

1. RECITALS

- A. AVILOO desires to license the AVILOO Battery Software („SOFTWARE“) described in Section 2.1, to PARTNER; and
- B. PARTNER desires to obtain a license to use the SOFTWARE for its internal business purposes, subject to the terms and conditions of this CONTRACT.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the PARTIES agree as follows:

2. DEFINITIONS

- 2.1 The terms used in these LICENSE TERMS in capital letters have the definitions assigned to them in this section.

“APPROVED USE” has the meaning given in Section 9.4,

“AUTHORIZED USER” means an employee or contractor of PARTNER who PARTNER permits to access and use the SOFTWARE and DOCUMENTATION pursuant to PARTNER's license hereunder;

“AVILOO BATTERY TEST” means AVILOO FLASH TEST and any other testing procedure developed and/or provided by AVILOO;

“AVILOO BOX” means (i) the technical device; and (ii) the set of OBD cables that the PARTNER can connect to a CUSTOMER's electric or plug-in hybrid vehicle via an analysis plug and, with the help of which, the TEST DATA depending on the AVILOO BATTERY TEST while stationary or while driving can be read during a drive and then evaluated using the SOFTWARE; and (iii) the associated accessories (such as connection or power cables);

“AVILOO FLASH TEST” has the meaning given in Section 3.3.3;

“CONFIDENTIAL INFORMATION” has the meaning given in Section 11.1

“CONTRACT” refers to the LICENSE AGREEMENT and LICENSE TERMS, in case of online shop orders, also includes the PARTNER's order, and any subsequent changes in accordance with the provisions of the LICENSE TERMS;

“CONTRACT TERM” refers to the INITIAL TERM together with all RENEWAL TERM;

“CUSTOMER” means any company or individual who wishes to avail itself of the services offered by PARTNER to test CUSTOMER VEHICLE's batteries using the SOFTWARE;

“CUSTOMER VEHICLES” means vehicles that the PARTNER is entitled to use on the basis of a legal title, such as through purchase, rental, or leasing contracts, or vehicles owned by a CUSTOMER of the PARTNER for which the PARTNER is entitled to perform an AVILOO BATTERY TEST;

“DOCUMENTATION” means AVILOO's user manuals, handbooks, and installation guides relating to the SOFTWARE provided by AVILOO to PARTNER either electronically or in hard copy form or

end-user documentation relating to the SOFTWARE available on the AVILOO Website and via customer support;

"EFFECTIVE DATE" refers to the start date as stated in the LICENSE AGREEMENT, or if absent, the date of contract acceptance by AVILOO. If no written contract acceptance exists, the date of dispatch of the AVILOO BOX(ES) by AVILOO applies;

"FEES" means the LICENSE FEES and TEST FEES together or individually;

"INITIAL TERM" has the meaning given in Section 6.1

"LICENSE AGREEMENT" refers to the agreement between the PARTNER and AVILOO, regarding the licensing of the SOFTWARE, specifying the main mutual obligations of the PARTIES under the CONTRACT;

"LICENSE FEES" means the annual fee for the use of the SOFTWARE;

"LICENSE TERMS" refers to these general license terms;

"LOSSES" has the meaning given in Section 8.1.1

"MARK(S)" has the meaning given in Section 9.1;

"NOTICE" has the meaning given in Section 14.6

"PARTIES" refers to AVILOO and the PARTNER together and **"PARTY"** refers to each one individually;

"PARTNER" refers to the (legal or natural) person who concludes the CONTRACT with AVILOO;

"RENEWAL TERM" has the meaning given in Section 6.1;

"SALES AREA" refers to the country/countries that are explicitly mentioned in the LICENSE AGREEMENT. If no SALES AREA is specified, the SALES AREA shall be the country in which the PARTNER has its registered seat, principal place of business, or main operations;

"SALES LICENSE" has the meaning given in Section 3.3.1;

"SOFTWARE" means AVILOO's analysis and testing software used to evaluate the TEST DATA and to create the AVILOO BATTERY TEST. The SOFTWARE is a proprietary software program that analyses the condition of the batteries that power electronic vehicles and communicates the data collected to AVILOO's servers or analysis. The SOFTWARE is sealed in the AVILOO BOXES and it is periodically updated via a remote link. PARTNER shall not open the AVILOO BOXES and may not make any changes, modifications or otherwise manipulate the SOFTWARE;

"TEST DATA" means all data that is read using the AVILOO BOX and/or evaluated, assessed and recombined using the SOFTWARE;

"TEST FEE" means the fee for each successfully performed AVILOO BATTERY TEST;

2.2 To the extent that a "section" is referred to in these LICENSE TERMS, such reference refers to the corresponding section in these LICENSE TERMS.

2.3 By signing the LICENSE AGREEMENT or ticking the appropriate box in the online shop, these LICENSE TERMS are recognized by the PARTNER as a part of the CONTRACT. AVILOO reserves the right to update these LICENSE TERMS periodically. All significant changes will be communicated to the PARTNER in writing or by email at least thirty (30) days before they take effect. Any terms and conditions of the PARTNER shall only apply if explicitly acknowledged by AVILOO on a case-by-case basis through a specific agreement.

3. OBLIGATIONS OF AVILOO

AVILOO provides the PARTNER with the following services:

3.1 LICENSE FOR THE SOFTWARE

- 3.1.1 **License Grant.** Subject to and conditioned on PARTNER's payment of FEES and compliance with the terms and conditions of this CONTRACT, AVILOO hereby grants PARTNER a non-exclusive, non-sublicensable, and non-transferable license during the CONTRACT TERM and limited to the SALES AREA to: (i) use the SOFTWARE solely for PARTNER's rendering of the AVILOO BATTERY TEST Services as set forth in section 2.1;
- 3.1.2 **Use Restrictions.** PARTNER shall not use the SOFTWARE or DOCUMENTATION for any purposes beyond the scope of the license granted in this CONTRACT. Without limiting the foregoing and except as otherwise expressly set forth in this CONTRACT, PARTNER shall not at any time, directly or indirectly: (i) copy, modify, or create derivative works of the SOFTWARE or the DOCUMENTATION, in whole or in part; (ii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the SOFTWARE or the DOCUMENTATION; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the SOFTWARE, in whole or in part; (iv) remove any proprietary notices from the SOFTWARE or the DOCUMENTATION; or (v) use the SOFTWARE in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.
- 3.1.3 **Reservation of Rights.** AVILOO reserves all rights not expressly granted to PARTNER in this CONTRACT. Except for the limited rights and licenses expressly granted under this CONTRACT, nothing in this CONTRACT grants, by implication, waiver, estoppel, or otherwise, to PARTNER or any third party any intellectual property rights or other right, title, or interest in or to the SOFTWARE.
- 3.1.4 **Delivery.** The SOFTWARE is delivered to PARTNER when the AVILOO BOXES are delivered to PARTNER. AVILOO will endeavor to ship the AVILOO BOXES to be provided under this CONTRACT within 14 days after the EFFECTIVE DATE. The AVILOO BOXES shall be delivered "as is". The description of the SOFTWARE in Section 2.1 describes the SOFTWARE at the time of the conclusion of this CONTRACT. AVILOO has the right to change and adapt the SOFTWARE throughout the CONTRACT TERM as necessary to maintain functionality and improve the SOFTWARE.
- 3.1.5 **Support.** AVILOO provides free email and phone support. Contact details and support hours are published at <https://AVILOO.com/support-en.html> AVILOO will endeavor to answer all inquiries in a careful and timely manner.

3.2 PROVISION OF THE AVILOO BOX

- 3.2.1 **Delivery of AVILOO BOXES.** AVILOO shall provide the PARTNER the number of AVILOO BOXES specified in the LICENSE AGREEMENT.
- 3.2.2 **Disposition of AVILOO BOXES.** The PARTNER has the right to install the AVILOO BOXES in CUSTOMER VEHICLES under this CONTRACT. The CUSTOMER is responsible for returning the AVILOO BOXES to PARTNER in a timely and undamaged manner. PARTNER shall take appropriate precautions to ensure return of the AVILOO BOXES by the CUSTOMERS.
- 3.2.3 **Return of AVILOO BOXES.** The AVILOO BOXES remain the property of AVILOO and must be returned undamaged to AVILOO immediately after termination of this CONTRACT, but no later than four weeks after termination. The PARTNER must bear cost of returning the AVILOO BOXES to AVILOO.
- 3.2.4 **Lost or Damaged AVILOO BOXES.** If (i) an AVILOO BOX is not returned within the period specified in Section 3.2.3; or (ii) a returned AVILOO BOX is damaged (with the exception of usual signs of wear and tear), the PARTNER shall reimburse AVILOO for the damage or loss of the AVILOO BOX

by paying AVILOO US\$ 555.00 for each AVILOO BOX that is damaged or not returned on time to the bank account specified in the invoice.

- 3.2.5 **Damage to AVILOO BOXES.** The PARTNER shall treat the AVILOO BOXES provided with care. The PARTNER must inform AVILOO immediately of any damage (with the exception of normal signs of wear and tear). In the event that such damage is caused to an AVILOO BOX, by the actions of a CUSTOMER or a third party, AVILOO has the right to charge the PARTNER a damage fee of US\$ 555.00, which is to be paid within 14 days after notification of the damage. Payment shall be transferred to AVILOO within 14 days after PARTNER notifies AVILOO of the damage.
- 3.2.6 **AVILOO BOX Replacement.** Once payment for the damaged or lost AVILOO BOX has been paid to AVILOO, AVILOO will provide the PARTNER with a new AVILOO BOX free of charge.

3.3 SALES LICENSE

- 3.3.1 AVILOO grants the PARTNER a non-transferable, non-exclusive right, limited to the SALES AREA, and the CONTRACT TERM, to sell FLASH TESTS as described in Section 3.3.3 ("**AVILOO BATTERY TESTS**") in their own name and for their own account to the PARTNER's CUSTOMERS ("**SALES LICENSE**").
- 3.3.2 Regardless of the granting of the SALES LICENSE, AVILOO remains entitled to distribute the AVILOO BATTERY TESTS, even within the SALES AREA.
- 3.3.3 The AVILOO FLASH test provides information about the condition of the battery in an electric vehicle immediately represented by an AVILOO battery certificate ("AVILOO FLASH TEST").
- 3.3.4 The evaluation of the AVILOO BATTERY TESTS is the sole responsibility of AVILOO.
- 3.3.5 During the CONTRACT PERIOD, the PARTNER is entitled to use the name and any brands or other identifying features of AVILOO to promote the distribution of the AVILOO BATTERY TESTS. The PARTIES will coordinate this in advance.
- 3.3.6 It is expressly stated that the sale of the AVILOO BATTERY TESTS does not lead to a contractual relationship between AVILOO and the CUSTOMERS. Compliance with all obligations between the PARTNER and their CUSTOMER in this context of the distribution of AVILOO BATTERY TESTS, such as the timely delivery or correct implementation of the AVILOO BATTERY TESTS, is the sole responsibility of the PARTNER.

4. OBLIGATIONS OF THE PARTNER

- 4.1 **General.** PARTNER is responsible and liable for all uses of the SOFTWARE and DOCUMENTATION resulting from access provided by PARTNER, directly or indirectly, whether such access or use is permitted by or in violation of this CONTRACT. Without limiting the generality of the foregoing, PARTNER is responsible for all acts and omissions of AUTHORIZED USERS, and any act or omission by an AUTHORIZED USER that would constitute a breach of this CONTRACT if taken by PARTNER will be deemed a breach of this CONTRACT by PARTNER. PARTNER shall take reasonable efforts to make all AUTHORIZED USERS aware of this CONTRACT's provisions as applicable to such AUTHORIZED USER's use of the SOFTWARE, and shall cause AUTHORIZED USERS to comply with such provisions.

5. TERMS OF PAYMENT

- 5.1 Fees.** PARTNER shall pay AVILOO the fees ("FEES") set forth in the LICENSE AGREEMENT without offset or deduction.
- 5.1.1 LICENSE FEES will be billed to PARTNER annually in advance.
- 5.1.2 TEST FEES will be billed to PARTNER every month in arrears.
- 5.1.3 PARTNER shall make all payments hereunder in US.Dollar on or before the due date set forth in the LICENSE AGREEMENT. If no due date is set in the LICENSE AGREEMENT, the payment period shall be 14 days. If PARTNER fails to make any payment when due, in addition to all other remedies that may be available: (i) AVILOO may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (ii) PARTNER shall reimburse AVILOO for all reasonable costs incurred by AVILOO in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (iii) if such failure continues for 30 days following written notice thereof, AVILOO may prohibit access to the SOFTWARE and testing until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to PARTNER or any other person by reason of such prohibition of access to the SOFTWARE.
- 5.1.4 Payment of the LICENSE FEES must be made by electronic transfer to - AVILOO's bank account as stated on the invoice, unless a different payment method has been agreed by the PARTIES. PARTNER is responsible for keeping the billing address and invoice Email up-to-date and notify AVILOO of any changes. Otherwise, messages to the address or email address specified herein are deemed to have been effectively transmitted.
- 5.2 Taxes.** All FEES and other amounts payable by PARTNER under this CONTRACT are exclusive of taxes and similar assessments. PARTNER is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by PARTNER hereunder, other than any taxes imposed on AVILOO's income.
- 5.3 Auditing Rights and Required Records.** PARTNER shall maintain complete and accurate records in accordance with generally accepted accounting principles during the CONTRACT TERM and for a period of two years after the termination or expiration of this CONTRACT with respect to matters necessary for accurately determining amounts due hereunder. AVILOO may, at its own expense, on reasonable prior notice, periodically inspect and audit PARTNER's records with respect to matters covered by this CONTRACT, provided that if such inspection and audit reveals that PARTNER has underpaid AVILOO with respect to any amounts due and payable during the CONTRACT TERM, PARTNER shall promptly pay the amounts necessary to rectify such underpayment, together with interest in accordance with Section 5.1.3, PARTNER shall pay for the costs of the audit if the audit determines that PARTNER's underpayment equals or exceeds 5% for any quarter. Such inspection and auditing rights will extend throughout the CONTRACT TERM and continue for a period of two years after the termination or expiration of this CONTRACT.
- 5.4 Price Adjustment.** All prices are subject to the price adjustment clause in the LICENSE AGREEMENT. If no price adjustment clause has been agreed upon in the LICENSE AGREEMENT this Section 5.4 applies: The LICENSE FEES and the TEST FEES are subject to annual increases. The Consumer Price Index for All Urban Consumers, Denver-Aurora-Lakewood area ("CPI-U") published monthly by the Mountain-Plains Information Office or a comparable index that takes its place serves as a measure for calculating the annual indexation. The indexation adjustment takes place each January 1st, following the EFFECTIVE DATE. The base index for calculating the annual indexation is the index of November of the previous year. (Example: annual indexation for January 2025 is calculated by comparing the index number of November 2023 with the index number of November 2024). Any indexation rates are to be calculated to one decimal figure.

- 5.5 **Bank Fees.** PARTNER is responsible for all bank fees incurred in connection with the transfer, including but not limited to (i) transferring bank fees, (ii) receiving bank fees, (iii) correspondent bank fees. Deductions due to bank charges, exchange rate fluctuations or other transfer costs are not permitted and are not considered full payment and the PARTNER is obliged to immediately make up the missing amount.

6. CONTRACT TERM AND TERMINATION

- 6.1 **Term.** The INITIAL TERM of this CONTRACT begins on the EFFECTIVE DATE and, unless terminated earlier pursuant to any of the CONTRACT's express provisions, will continue in effect until 12 months from such date (the "INITIAL TERM"). This CONTRACT will automatically renew for an additional 12-month term at a time unless earlier terminated pursuant to this CONTRACT's express provisions or either PARTY gives the other PARTY written notice of non-renewal at least 90 days prior to the expiration of the then-current term (each a "RENEWAL TERM" and together with the INITIAL TERM, the "CONTRACT TERM").
- 6.2 **Termination.** In addition to any other express termination right set forth in this CONTRACT:
- 6.2.1 AVILOO may terminate this CONTRACT, effective on written notice to PARTNER, if PARTNER: (i) fails to pay any amount when due hereunder, and such failure continues more than 30 days after AVILOO's delivery of written notice thereof; or (ii) breaches any of its obligations under Section 3.1.2 or Section 5;
- 6.2.2 Either PARTY may terminate this CONTRACT, effective on written notice to the other PARTY, if the other PARTY materially breaches this CONTRACT, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured 10 days after the non-breaching PARTY provides the breaching PARTY with written notice of such breach; or
- 6.2.3 Either PARTY may terminate this CONTRACT, effective immediately upon written notice to the other PARTY, if the other PARTY: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- 6.3 **Effect of Expiration or Termination.** Upon expiration or earlier termination of this CONTRACT, the license granted hereunder will also terminate and, without limiting PARTNER's obligations under Section 5, PARTNER shall cease using and delete, destroy, or return all copies of the DOCUMENTATION and return the SOFTWARE and the AVILOO BOXES and certify in writing to the AVILOO that the SOFTWARE and DOCUMENTATION has been deleted or destroyed. No expiration or termination will affect PARTNER's obligation to pay all FEES that may have become due before such expiration or termination, or entitle PARTNER to any refund.
- 6.4 **Survival.** This Section 6.4 and Sections 2, 5, 7.4, 8, 10, 11, survive any termination or expiration of this CONTRACT. No other provisions of this CONTRACT survive the expiration or earlier termination of this CONTRACT.

7. LIMITED WARRANTIES AND WARRANTY DISCLAIMER.

- 7.1 **Limited Warranty.** AVILOO warrants that: (i) the SOFTWARE will perform as agreed during the CONTRACT TERM; and (ii) at the time of delivery the SOFTWARE does not contain any virus or other malicious code that would cause the SOFTWARE to become inoperable or incapable of

being used in accordance with the DOCUMENTATION. THE FOREGOING WARRANTIES DO NOT APPLY, AND AVILOO STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.

- 7.2 Third-Party Rights.** AVILOO guarantees that the rights of use granted to the SOFTWARE are free from third-party rights that could conflict with contractual use by the PARTNER.
- 7.3 Effect of Breach on Warranties.** The warranties set forth in Section 7.1, and 7.2 do not apply and become null and void if PARTNER breaches any material provision of this CONTRACT, or if PARTNER, any AUTHORIZED USER, or any person provided access to the SOFTWARE by PARTNER or any AUTHORIZED USER, whether or not in violation of this CONTRACT: (i) installs or uses the SOFTWARE on or in connection with any hardware or software not specified in the DOCUMENTATION or expressly authorized by AVILOO in writing; (ii) modifies or damages the SOFTWARE; or (iii) misuses the SOFTWARE, including any use of the SOFTWARE other than as specified in the DOCUMENTATION.
- 7.4 Failure to Comply with Terms of Warranty.** If, during the period specified in Section 7.1, any SOFTWARE fails to comply with the warranty in Sections 7.1 and 7.2, and such failure is not excluded from warranty pursuant to Section 7.3, AVILOO shall, subject to PARTNER's promptly notifying AVILOO in writing of such failure, at its sole option, either: (i) repair or replace the SOFTWARE, provided that PARTNER provides AVILOO with all information AVILOO reasonably requests to resolve the reported failure, including sufficient information to enable the AVILOO to recreate such failure; or (ii) refund the FEES paid for such Software, subject to PARTNER's ceasing all use of and, if requested by AVILOO, returning to AVILOO all copies of the SOFTWARE. If AVILOO repairs or replaces the SOFTWARE, the warranty will continue to run from the EFFECTIVE DATE and not from PARTNER's receipt of the repair or replacement. The remedies set forth in this Section 7.4 are PARTNER's sole remedies and AVILOO's sole liability under the limited warranty set forth in Section 7.1.
- 7.5 Disclaimer of Warranties.** EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTIONS 7.1 and 7.2, THE SOFTWARE AND DOCUMENTATION ARE PROVIDED "AS IS" AND AVILOO HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. AVILOO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. [EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 7.1, AVILOO MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE AND DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET PARTNER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.
- 7.6** Specifically, AVILOO does not provide any warranty for errors or other performance failures of the SOFTWARE, which:
- 7.6.1** Are based on downtimes due to necessary maintenance, software update, or circumstances (such as technical problems of third PARTIES, force majeure) that are not within AVILOO's sphere of influence;
 - 7.6.2** Are based on inadequate quality of the internet connection or errors in the hardware, operating system, or software of other manufacturers that are not attributable to AVILOO;
 - 7.6.3** Were caused by application errors or improper operation on the part of the PARTNER and which could have been avoided with proper and careful use;
 - 7.6.4** Occur as a result of changes to (i) operating systems; (ii) third-party software necessary for the operation of the SOFTWARE; (iii) or interfaces and parameters; (iv) occur due to software viruses or other external influences for which AVILOO is not responsible, such as accidents,

power, or internet failures, or natural disasters; or (v) occur because hardware that is different from the AVILOO BOX is connected to the bus systems on the OBD port of the tested Vehicle.

8. INDEMNIFICATION.

8.1 AVILOO Indemnification.

- 8.1.1 AVILOO shall indemnify, defend, and hold harmless PARTNER from and against any and all losses, damages, liabilities, and costs (including reasonable attorneys' fees) ("LOSSES") incurred by PARTNER resulting from any third-party claim, suit, action, or proceeding that the SOFTWARE or DOCUMENTATION, or any use of the SOFTWARE or DOCUMENTATION in accordance with this CONTRACT, infringes or misappropriates such third party's US intellectual property rights, provided that PARTNER promptly notifies AVILOO in writing of the claim, cooperates with AVILOO, and allows AVILOO sole authority to control the defense and settlement of such claim.
- 8.1.2 If such a claim is made or appears possible, PARTNER agrees to permit AVILOO, at AVILOO's sole discretion, to (i) modify or replace the Software or DOCUMENTATION, or component or part thereof, to make it non-infringing, or (ii) obtain the right for PARTNER to continue use. If AVILOO determines that none of these alternatives is reasonably available, AVILOO may terminate this CONTRACT, in its entirety or with respect to the affected component or part, effective immediately on written notice to PARTNER.
- 8.1.3 This Section 8.1 will not apply to the extent that the alleged infringement arises from: (i) use of the SOFTWARE in combination with data, software, hardware, equipment, or technology not provided by AVILOO or authorized by AVILOO in writing; (ii) modifications to the SOFTWARE not made by AVILOO; (iii) use of any version other than the most current version of the SOFTWARE or DOCUMENTATION delivered to PARTNER; or (iv) third-party products.

8.2 PARTNER INDEMNIFICATION.

- 8.2.1 **Indemnity.** PARTNER shall indemnify, hold harmless, and, at AVILOO's option, defend AVILOO from and against any LOSSES resulting from any third-party claim based on PARTNER's, or any AUTHORIZED USER's: (i) negligence or willful misconduct; (ii) use of the SOFTWARE or DOCUMENTATION in a manner not authorized or contemplated by this CONTRACT; (iii) use of the SOFTWARE in combination with data, software, hardware, equipment, or technology not provided by AVILOO or authorized by AVILOO in writing; (iv) modifications to the SOFTWARE not made by AVILOO; (v) use of any version other than the most current version of the SOFTWARE or DOCUMENTATION delivered to PARTNER, provided that PARTNER may not settle any third-party claim against AVILOO unless such settlement completely and forever releases AVILOO from all liability with respect to such third-party claim or unless AVILOO consents to such settlement, and further provided that AVILOO will have the right, at its option, to defend itself against any such third-party claim or to participate in the defense thereof by counsel of its own choice.
- 8.2.2 **Sole Remedy.** THIS SECTION 8.2 SETS FORTH PARTNER'S SOLE REMEDIES AND AVILOO'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR DOCUMENTATION INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN NO EVENT WILL AVILOO'S LIABILITY UNDER THIS SECTION 8.2 EXCEED THE TOTAL AMOUNTS PAID TO AVILOO UNDER THIS CONTRACT IN THE ONE-YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM,
- 8.2.3 **Limitations of Liability.** IN NO EVENT WILL AVILOO BE LIABLE UNDER OR IN CONNECTION WITH THIS CONTRACT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (ii) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (iii) LOSS OF GOODWILL OR REPUTATION; (iv) USE, INABILITY TO USE,

LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER AVILOO WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL AVILOO'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNT PAID TO AVILOO UNDER THIS CONTRACT IN THE ONE-YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

9. TRADEMARKS, TRADENAMES.

- 9.1 Grant or License to Use Trademarks.** Subject to the terms set forth in this CONTRACT, AVILOO hereby grants to PARTNER, a non-exclusive right to use during the CONTRACT TERM and only in connection with this CONTRACT, AVILOO's trademarks, tradenames, and branding, in word form, in combination with another unique term, in stylized form, and/or combined with a unique design component (the "MARK(S)) as separately shared with PARTNER by AVILOO. Subject to this CONTRACT, as between the PARTIES, AVILOO or its parent company, AVILOO GmbH, shall be and remain the sole owner of all right, title, and interest in and to the MARK(S). All goodwill arising from the PARTNER's use of the MARK(S) in connection with this CONTRACT shall inure, as between the PARTIES, solely to the benefit of the AVILOO.
- 9.2 Similar Marks.** PARTNER shall not use or file an application for any trademark that is similar to the MARK(S) owned by AVILOO or its parent company, AVILOO GmbH, or subsidiaries.
- 9.3 Prior Approval re Use of MARK(S).** PARTNER shall obtain AVILOO's prior written approval (which may be given in email form) of form and content for each specific use of the MARK(S) in connection with this CONTRACT.
- 9.4 Termination of Right to Use MARK(S).** The license granted in this CONTRACT shall be (i) valid solely during the Term, (i) limited to the specific purpose of marketing of the AVILOO BATTERY TEST Services (the "APPROVED USE"), and (iii) deemed limited, non-exclusive, non-transferable, royalty-free license, without rights to sublicense, for the approved use, which license shall terminate and revert to AVILOO contemporaneously with the expiration of the CONTRACT TERM or upon any earlier termination of this CONTRACT.
- 9.5 Non-assignability.** The license granted herein is strictly personal to AVILOO. Neither this CONTRACT nor any of the rights granted to PARTNER hereunder may be sold, transferred, assigned, or sublicensed by PARTNER to any person, firm, or corporation, and no rights shall devolve by an operation of law or otherwise upon any assignee, receiver, liquidator, trustee, or other party. In the event of any attempted assignment or sublicense without consent, AVILOO may at its option immediately terminate the rights and licenses herein granted to PARTNER by written notice to PARTNER.
- 9.6 Notice in Event MARK(S) are transferred.** AVILOO shall notify PARTNER in writing in the event that AVILOO sells, assigns, or transfers its rights in the MARK(S).

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Ownership of IP.** PARTNER acknowledges that, as between PARTNER and AVILOO, AVILOO owns all right, title, and interest, including all intellectual property rights, in and to the SOFTWARE, DOCUMENTATION, and TEST DATA collected through the use of the SOFTWARE. The same applies to the TEST DATA as original result of an evaluation and/or recombination of data read out of the OBD-port by AVILOO. With respect to third-party products, the applicable third-party licensors own all right, title and interest, including all intellectual property rights, in and to the third-party products.

- 10.2 Right to Use SOFTWARE.** This CONTRACT does not grant the PARTNER or any CUSTOMER rights beyond use of the SOFTWARE. AVILOO expressly reserves all rights to the SOFTWARE and the AVILOO BOXES, including all global technology, intellectual property and property rights thereto. The same applies to the TEST DATA recorded using the AVILOO-BOX, insofar as this TEST DATA is the original result of an evaluation and/or recombination of data read out of the OBD port by AVILOO.
- 10.3 Copyright Notices.** Without the written consent of AVILOO, the PARTNER is not permitted to remove, hide, or obscure any copyright notices or other proprietary notices by AVILOO from the SOFTWARE, the AVILOO BOXES, or from other materials made available under this CONTRACT. A breach of this provision is considered a serious breach of contract in accordance with Section 6.3.
- 10.4 No Tampering.** The PARTNER may not change, edit, adapt, reverse-engineer, reproduce, disassemble, decompile, or duplicate the SOFTWARE or the AVILOO BOXES, nor use any other technical or logical procedures in this regards to improve their structure, processes, functionality or to influence other patentable features or to obtain information about them.
- 10.5 No Editing of Results.** The PARTNER is prohibited from subsequent editing of the results of the AVILOO BATTERY TESTS, including the AVILOO Battery Certificates. The same applies to their translation, duplication, distribution, sale and any other making available to third PARTIES, regardless of the manner and purpose. This does not include making the AVILOO Battery Certificates available within the scope of the marketing of electric vehicles by the PARTNER (e.g. uploading to sales platforms, etc.).
- 10.6 No Creation of Databases.** The PARTNER is prohibited from creating databases of any kind from the results of the AVILOO BATTERY TESTS for any purpose other than that described and intended by this CONTRACT, including the AVILOO Battery Certificates. The results of AVILOO BATTERY TESTs may be stored by PARTNER in databases so that PARTNER can access them, however under no circumstances may the PARTNER or any CUSTOMER disseminate database services that contain the results of AVILOO BATTERY TESTS in whole or in part.
- 10.7 Liquidated Damages.** Distribution, copying, or dissemination of SOFTWARE or any AVILOO BATTERY TEST DATA or reports will cause AVILOO injury that may be difficult to quantify due to the nature of wrongly disclosed software and data. Accordingly, if PARTNER violates one or more provisions of this Section 10, the PARTNER shall pay AVILOO liquidated damages in the amount of US\$ 100,000. This wrongful disclosure liquidation of damages is due on demand and upon AVILOO's proof of wrongful dissemination and, as such, is a contractual penalty due for payment within 14 days of AVILOO's demand. AVILOO's further claims for damages and AVILOO's right to extraordinary termination of the CONTRACT remain unaffected.

11. CONFIDENTIAL INFORMATION

- 11.1** From time to time during the Term, either PARTY may disclose or make available to the other PARTY information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media/in written or electronic form or media, whether or not marked, designated or otherwise identified as "confidential" (collectively, "CONFIDENTIAL INFORMATION"). CONFIDENTIAL INFORMATION does not include information that, at the time of disclosure, is: (i) in the public domain; (ii) known to the receiving party at the time of disclosure; (iii) rightfully obtained by the receiving party on a non-confidential basis from a third party; or (iv) independently developed by the receiving party. The receiving party shall not disclose the disclosing party's CONFIDENTIAL INFORMATION to any person or entity, except to the receiving party's employees who have a need to know the

CONFIDENTIAL INFORMATION for the receiving party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each PARTY may disclose CONFIDENTIAL INFORMATION to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the PARTY making the disclosure pursuant to the order shall first have given written notice to the other PARTY and made a reasonable effort to obtain a protective order; or (ii) to establish a PARTY's rights under this CONTRACT, including to make required court filings. On the expiration or termination of the CONTRACT, the receiving party shall promptly return to the disclosing party all copies, whether in written, electronic, or other form or media, of the disclosing party's CONFIDENTIAL INFORMATION, or destroy all such copies and certify in writing to the disclosing party that such CONFIDENTIAL INFORMATION has been destroyed. Each PARTY's obligations of non-disclosure with regard to CONFIDENTIAL INFORMATION are effective as of the EFFECTIVE DATE and will expire five years from the date first disclosed to the receiving party; provided, however, with respect to any CONFIDENTIAL INFORMATION that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this CONTRACT for as long as such CONFIDENTIAL INFORMATION remains subject to trade secret protection under applicable law.

12. PUBLIC DISCLOSURE OF RELATIONSHIP

- 12.1 Public Announcements.** Public announcements disclosing this CONTRACT, its formation and its execution, in particular to the media, must be coordinated in advance between the PARTIES.
- 12.2 Internet Disclosure.** PARTNER grants AVILOO the right to disclose their cooperation on the AVILOO website for the CONTRACT TERM. For this purpose, the PARTNER grants AVILOO a personal, locally unrestricted, free, non-exclusive, non-assignable, non-transferable and non-sublicensable right to use all intellectual property rights, such as in particular trademarks or identification marks (e.g. logos), which are necessary for disclosing the PARTIES' relationship to the public. AVILOO grants PARTNER similar rights to disclose its relationship with AVILOO. The timing of all public announcements must be agreed to in advance by the PARTIES.

13. APPLICABLE COMMUNICATIONS

- 13.1** All communications relating to the CONTRACT must be made in writing and must be sent to the address or email address provided by the PARTIES unless another form is required under mandatory law. E-Mails count as written communication. Simple electronic signatures meet the written form requirement.
- 13.2** Each PARTY is obliged to notify the other PARTY of any changes to its contact details. Otherwise, messages to the address or email address disclosed to the other PARTY last are deemed to have been effectively transmitted.

14. MISCELLANEOUS PROVISIONS

- 14.1 Entire CONTRACT.** This CONTRACT, together with any other documents incorporated herein by reference and all related Exhibits, constitutes the sole and entire CONTRACT of the PARTIES with respect to the subject matter of this CONTRACT and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this CONTRACT, any related Exhibits, and any other documents incorporated herein by reference, the following order of precedence governs: (i) first, the LICENSE

AGREEMENT, (ii) second, this CONTRACT, excluding any Exhibits; (iii) third, any Exhibits to this CONTRACT as of the EFFECTIVE DATE; and (iv) fourth, any other documents incorporated herein by reference.

- 14.2 No Agency Relationship.** AVILOO and the PARTNER are independent PARTIES. Nothing in this CONTRACT shall be interpreted in such a way that a PARTY becomes an agent, employee, franchisee, joint venture partner, or legal representative of the other PARTY.
- 14.3 Cost of Contract Review.** Each PARTY bears the cost of legal advisors and representation relating to negotiations relating to this CONTRACT.
- 14.4 Attorney's Fees.** In the event that any suit or action is instituted to enforce any provision in this CONTRACT, the prevailing PARTY in such dispute shall be entitled to recover from the losing PARTY all fees, costs and expenses of enforcing any right of such prevailing PARTY under or with respect to this CONTRACT, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.
- 14.5 Counterparts.** This CONTRACT may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.
- 14.6 Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "NOTICE") must be in writing and addressed to the PARTIES at the addresses set forth on the first page of this CONTRACT (or to such other address that may be designated by the PARTY giving NOTICE from time to time in accordance with this Section). All NOTICES must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile, or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this CONTRACT, a NOTICE is effective only: (i) upon receipt by the receiving PARTY, and (ii) if the PARTY giving the NOTICE has complied with the requirements of this Section.
- 14.7 Force Majeure.** In no event shall AVILOO be liable to PARTNER, or be deemed to have breached this CONTRACT, for any failure or delay in performing its obligations under this CONTRACT, (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond AVILOO's reasonable control, including but not limited to: (i) acts of God; (ii) flood, fire, earthquake, epidemics, or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (iv) government order, law, or actions; (v) embargoes or blockades in effect on or after the date of this CONTRACT; (vi) national or regional emergency; (vii) strikes, labor stoppages or slowdowns, or other industrial disturbances; and; (viii) shortage of adequate power or transportation facilities.
- 14.8 Privacy Policy.**
- 14.8.1** The PARTIES shall comply with applicable data protection regulations when executing the CONTRACT and will ensure compliance with these requirements by their representatives, employees, and third-parties attributable to them. For the processing of personal data within the scope of the fulfillment of this CONTRACT, reference is made to the AVILOO data privacy policy available on the AVILOO website.
- 14.8.2** The processing of personal data of CUSTOMERS is the responsibility of PARTNER. PARTNER must obtain the consent of the persons concerned to process the personal data or to ensure the lawfulness of the processing in accordance with applicable data protection legislation.
- 14.9 Amendment and Modification; Waiver.** No amendment to or modification of this CONTRACT is effective unless it is in writing and signed by an authorized representative of each PARTY. No waiver by any PARTY of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the PARTY so waiving. Except as otherwise set forth in this CONTRACT, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this CONTRACT will operate or be construed as a waiver thereof, and (ii) no single or partial

exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

- 14.10 Severability.** If any provision of this CONTRACT is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this CONTRACT or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the PARTIES hereto shall negotiate in good faith to modify this CONTRACT so as to effect the original intent of the PARTIES as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 14.11 Governing Law; Submission to Jurisdiction.** This CONTRACT is governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Colorado. Any legal suit, action, or proceeding arising out of or related to this CONTRACT or the licenses granted hereunder may be instituted in the federal courts of the United States or the courts of the State of Colorado in each case located in the city of City and County of Denver, and each PARTY irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding.
- 14.12 Assignment.** PARTNER may not assign or transfer any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of AVILOO. Any purported assignment, transfer, or delegation in violation of this Section is null and void. No assignment, transfer, or delegation will relieve PARTNER of any of its obligations hereunder. This CONTRACT is binding upon and inures to the benefit of the PARTIES hereto and their respective permitted successors and assigns.
- 14.13 Export Regulation.** The Software may be subject to US export control laws, including the Export Control Reform Act and its associated regulations. PARTNER shall not, directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. PARTNER shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the US.
- 14.14 US Government Rights.** Each of the DOCUMENTATION and the SOFTWARE is a “commercial product” as that term is defined at 48 C.F.R. § 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. § 12.212. Accordingly, if PARTNER is an agency of the US Government or any contractor therefore, PARTNER only receives those rights with respect to the SOFTWARE and DOCUMENTATION as are granted to all other end users under license, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government partners and their contractors.
- 14.15 Equitable Relief.** Each PARTY acknowledges and agrees that a breach or threatened breach by such PARTY of any of its obligations under Section 9 or, in the case of PARTNER, Section 3.1.2, would cause the other PARTY irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other PARTY will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary

damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

14.16 Counterparts. This CONTRACT may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.