

# Additional terms and conditions of Business for the License of Software

## § 1 Scope

These special terms and conditions apply exclusively for the License of Software, together with the general terms and conditions of the supplier. Other contract conditions do not form part of the contract, even if not expressly rejected by the supplier.

## § 2 Extent of services of the Software

The extent of services of the Software is defined either by the License Agreement, the offer of the supplier or the order confirmation of the supplier.

## § 3 Performance time

- (1) The supplier will make every effort to supply the goods or services to the customer on time. The specification of delivery and performance times constitutes non-binding statements, unless the supplier in writing has confirmed them as binding.
- (2) Warnings and the setting of periods of grace by the customer require the written form in order to be valid. Any period of grace must be appropriate.

## § 4 Rights of the customer to the Software

- (1) The software (programme and user manual) is protected by law. The copyright, patent rights, trademark rights and all other proprietary rights to the software and other items, provided or made available by the supplier to the customer in performance of the contract, remain the exclusive property of the supplier. In the case of third-party rights, the supplier has corresponding usage rights, which are passed to customer as part of the license in the software.
- (2) The customer acquires a simple, non-exclusive usage right of the software in order to use it in its own business and for its own purposes. The supplier hereby grants the customer a right to use the software, together with the single right to copy the software and associated documentation onto random access memory and hard disks. Any further use of the software requires the written consent of the supplier, and will be charged separately. The customer may make back-up copies of the programmes required for reliable operation.
- (3) The onward transmission of software (in whole or in part) to a third party, together with all other forms of use, in particular rental or distribution in physical or immaterial form, are not allowed without the prior written consent of the supplier.
- (4) If the customer passes the software on to third party, without the prior written permission of the supplier, the customer will be liable to the supplier for compensation for damages.
- (5) If an item of Software produced by the supplier is passed on by the customer to a third party without the written consent of the supplier, the price agreed between the parties for the production of the software will be forfeited as a contractual penalty. The contractual penalty will not be reconciled against the supplier's claims for compensation for damages.

## § 5 Obligations of the customer

- (1) The customer is obliged to examine all goods provided by the supplier immediately on delivery in accordance with the applicable regulations (§ 377 HGB – German Civil Code), and to report any faults identified in writing, giving an exact description of the fault.
- (2) The customer is further obliged to test every module thoroughly for usability in the concrete situation, before initiating operational use. This also applies to programmes received by the customer within the scope of guarantee services or any possible maintenance contract.
- (3) The customer is further obliged to take adequate precautions in the event that the programme fails to work completely or properly (e.g. fault diagnosis, regular checking of the results). The customer is in particular obliged to carry out data back-ups and install virus protection measures in accordance with the current status of the technology.
- (4) The customer is further obliged to record any faults occurring in a fault report. This report must specify in particular the time and circumstances of the occurrence of faults. The supplier must be allowed an appropriate time for fault-finding and rectification. In the event that the fault-finding and rectification requires an extended period, the supplier is obligated to provide the customer with a usable interim solution.

- (5) In the event of deliveries abroad, all fees, charges, taxes, costs of technical testing etc. incurred outside of the Federal Republic of Germany must be borne by the customer. This also applies to costs of any required legitimisation of certificates of origin, consular charges etc.

## § 6 Rights of the supplier

If it is found following execution of the contract that the claim of the supplier to payment is at risk because of the inability of the customer to make payment, the supplier may decline to provide further services, and grant the customer an appropriate period of grace for proportional payment in return for deliveries or provision of security. If the period of grace elapses unsuccessfully, the supplier is entitled to withdraw from the contract and require compensation for damages. The period of grace may be waived if the customer definitively declines payment, or circumstances exist which justify the immediate withdrawal from the contract by the supplier in the light of the parties' mutual interests.

## § 7 Warranty and liability

- (1) The software is suitable for normal use and possesses the characteristic quality and properties usual for software of this type; it is however not free of faults. The supplier is therefore only liable to provide software, which is basically usable in the sense of the programme description and operating instructions. Functional impairment of software resulting from hardware faults, environmental conditions and incorrect operation or similar does not constitute a fault. Minor reductions in quality may be disregarded. All work performed by supplier shall be in a workmanlike fashion consistent with industry standards.
- (2) The customer will assist the supplier in fault analysis and correction by describing any problems occurring in full, informing the supplier comprehensively, and granting him the time and opportunity required for rectification of the fault.
- (3) The supplier offers no guarantee that the Software conforms to the commercial requirements of the customer. Anything else only applies if this has been agreed in writing between supplier and customer.
- (4) The supplier further offers no guarantee for the computing times of individual programme procedures, since this is determined by the capacity and level of usage of the purchaser's data-processing system.
- (5) If the supplier provides programmes of other manufacturers, its liability is restricted to its responsibility for the selection of the programme suppliers.
- (6) Liability for loss of data is restricted to the typical cost of data restoration which would have been incurred in case of creation of regular back-up copies in accordance with the anticipated risk.
- (7) The warranty period shall be one year from the transfer of the Software.

## § 8 Liability limitation

- (1) Damage Claims of the customer are limited a period of one year from the date of the violation for which liability applies.
- (2) In case of compensation and reimbursement of costs due to deliberate or gross negligence or injury to life, limb or health, and claims resulting from product liability regulations, the legal limitation periods apply in all cases.

## § 9 Precautionary clause

If one of these Additional Terms and Conditions should be invalid, this will not affect the validity of the remainder of the provisions.