

Special Conditions of Sale and Delivery for Software Products/Freeware

I. Scope and Supplementary Provisions

The contract concluded between us and the customer is based on our General Conditions of Sale and Delivery. The following Special Conditions of Sale and Delivery for Software Products/Freeware are supplements to our General Conditions of Sale and Delivery and shall prevail in the event of inconsistency or contradictions. Any alternative or additional terms and conditions, especially those contradicting these terms and conditions shall not be accepted. The delivery of freeware is subject to the special provisions of section VIII. Where the requirement of the written form is provided for in these terms and conditions, it shall be deemed to be satisfied where transmission takes place by means of telecommunications (e.g. e-mail, telefax).

II. Subject matter of the contract

1. The subject matter of the contract is the granting of license rights to use software products (hereinafter referred to as "Software").
2. To be valid, any agreements, ancillary agreements or amendments must be made in writing.

III. Scope, duration and types of use, resale

1. The customer shall have the non-exclusive right to use the software as provided for in the contract. Insofar as the software is integrated in a machine supplied by us, the right to use this software shall be limited to the respective machine. Using the software for other purposes is not permitted.
2. The Customer shall not be permitted to make copies of the software and the documentation supplied, except for an archive copy for backup purposes. The customer may not use the software or parts thereof for the purposes of third parties, or allow third parties access to the documents without our permission.
3. The customer may sell the software to a third party where the purchasing third party has agreed to be bound by these contractual terms. The customer must also hand over all copies of the software, including any backup copies, to the new user, or destroy any copies that have not been handed over. By handing over the software, the customer loses all rights to use it. In the event of resale of the software, the customer shall still be obligated to notify us in writing of the name and full address of the purchaser.

IV. Specification of products and services provided

1. The license right to use the software comprises the right to delivery of the software as well as of the documentation (description of the software product, program or user manual). The customer has no right to be given the source code.
2. We reserve the right either to hand over the software in an installable form together with detailed installation instructions, or to install the software ourselves. In the latter case, the customer shall provide the necessary machine time and service personnel for the system, free of charge, for the duration of installation.

V. Backup and disclaimer of liability

1. The customer is obliged to back up their data before installing the software, notwithstanding the liability provisions specified in section IX of our General Conditions of Sale and Delivery, which still apply. The customer shall also be responsible for ensuring that continuous risk-appropriate backups are made after installation.
2. Backups must also be made before the installation of new software and before maintenance work is carried out. We will accept no liability for damage that may occur through the absence of a usable backup.
3. In the event of data loss, liability shall be limited to the typical restoration expenses that would also have been incurred with regular

risk-appropriate backups provided that the data loss was not willfully or gross negligently caused by us.

4. However, this shall be without prejudice to claims under the German Product Liability Act (ProdHaftG) in any event.

VI. Warranty/liability for material defects

1. Owing to the present state of technology, it is not possible create software in such a way that it works error-free in combination with other software. For this reason, we accept no liability, in particular for the software complying with the conceptions, requirements and purposes of the buyer, or for the software being compatible with other programs.
2. Immediately after a bug/error message appears, the customer must provide us with written documentation of the bug/error, as complete as possible, indicating how the bug/error was noticed or detected and what effects it has.
3. No claims based on defects will be entertained where the customer makes modifications to the software or parts of the software personally or has modifications made by third parties without our authorization. The same shall apply to faults attributable to installation work carried out by the customer.
4. The foregoing notwithstanding, section VII of our General Conditions of Sale and Delivery shall remain unaffected.

VII. Intellectual property rights, confidentiality

1. We reserve all copyrights, intellectual property rights and other rights to the software, the descriptions as well as to the proprietary know-how. The customer shall refrain from any actions that are likely to impair our rights. The customer shall take all necessary measures to ensure that third parties cannot infringe these rights.
2. The customer must keep confidential all information (e.g. trade secrets, know-how) to which it may gain access during the execution of this contract. The customer must take all measures necessary to prevent third parties from gaining knowledge of and exploiting said information, unless otherwise expressly permitted by us (see section III). The foregoing provisions shall continue to apply in full force and effect after the termination of the contract.

VIII. Special provisions pertaining to freeware

1. Freeware shall be deemed to mean non-commercial software that is provided for use free of charge and is not related to a sales package (e.g. bundle). This shall also include design and analysis software.
2. We accept no warranty or liability for this freeware for material or title defects, in particular not for the correctness, absence of errors, completeness or usability of the information. We disclaim all liability associated with the use of this freeware, unless liability is mandatory on account of willful intent, gross negligence or due to the causation of harm to life, limb and health.
3. We also reserve all copyrights, intellectual property rights and other rights for this freeware as provided for in section VII. 1.

IX. Updates/upgrades

The foregoing provisions shall also apply to software updates and upgrades.