

## Conditions of Use for Computer Software

Dienst Verpackungstechnik GmbH (hereinafter "DIENST")

### Preface

These Conditions of Use are valid for computer software which is supplied with, or intended for, DIENST's mechanical, electrical and/or electronic machines or devices (hereinafter: "Devices") irrespective of whether they have, for example, been delivered together with the device on a separate data carrier or have already been preinstalled, or are made available as a download or are supplied subsequently as a so-called update or upgrade. The computer software supplied subject to these Conditions of Use, including the user documentation (Operating instructions, chapters 7 to 9) and any other accompanying documentary material is hereinafter referred to as "Software". The Software is the intellectual property of DIENST and is protected, in particular, by national copyright laws, international conventions and other legal provisions. Unauthorised use of the software may give rise, inter alia, to contractual and statutory rights to claim injunctive relief and damages as well as being subject to criminal sanctions.

### § 1 Rights of use

1. The User may duplicate the delivered program provided the respective duplication is necessary in order to use the program. Necessary duplication includes, in particular, the installation of the program from the original data carrier onto the mass storage device of the hardware employed and loading the program onto the main memory.
2. Software which is supplied with, and/or intended for, DIENST devices may be used only in conjunction with the use and operation of DIENST devices. The same applies to data sets which are generated using the Software. Use of such data sets with Devices other than those from DIENST requires the express written consent of DIENST. Demonstration and training software may only be used for demonstration and training purposes.
3. In addition, the User may make backup copies purely for archiving purposes. In general, however, only a single backup copy may be made and stored. This backup copy must be labelled as a backup of the program supplied and stored as such. These backup copies may only be passed on to third parties subject to the restrictions set out in § 3.
4. Where, for reasons of data security or to ensure fast reactivation of the computer or machine system after a crash, it is essential to carry out a regular backup of the entire database including the computer programs used, the User may create only as many backup copies as are absolutely necessary. The respective data carriers must be labelled appropriately. The backup copies may only be used for purely archiving purposes.
5. The User is obliged to take suitable measures to prevent unauthorised third-party access to the program and the documentation. The original data carriers supplied and the backup copies must be stored in a location which is secure from unauthorised access by third parties. The User's staff must be clearly advised of the need to comply with the foregoing Conditions of Use and the provisions of the Copyright Act.
6. The User may not carry out any additional duplication, which includes printing out the programme code on a printer and photocopying the whole operating instructions or significant parts thereof. Where necessary, additional operating instructions required for staff must be obtained from DIENST. In the case of the transfer of the Software pursuant to § 3, it must be obtained from DIENST's responsible representative or from DIENST.

### § 2 Multiple usage

1. The User is entitled to use the Software on any hardware at its disposal. If the User changes the hardware, however, it must delete the Software from the hardware previously employed.
2. Simultaneous backup, storage or use on more than one piece of hardware is not permitted. If the User wishes to use the Software on numerous hardware configurations simultaneously, such as where it is used by more than one employee, it must purchase a corresponding number of program packages.
3. Use of the transferred Software on a network or other multiple-station computer system is not permitted insofar as it allows for simultaneous multiple use of the programme. Where the User wishes to use the Software on a network or other multiple-station computer system, it must prevent simultaneous multiple use by way of access protection mechanisms or pay DIENST a separate network fee, the level of which is determined by the number of users linked to the computer system. The Licensor shall inform the user promptly of the network fee payable in the individual case, as soon as the USER notifies DIENST, in writing, of the planned use of a network including the number of users linked to it.

Use in this type of network or multiple-station computer system is only permitted following full payment of the network fee.

### § 3 Resale and leasing

1. The User is only entitled to resell the Software together with the Device for which the Software is intended. In the case of demonstration and training software which is not linked to the acquisition of a machine, transfer is permitted in accordance with the following provisions.
2. The User may only sell or give away the device with the Software, including the operating instructions and other accompanying material, to a third party, on a permanent basis, provided the acquiring third party declares that it accepts to be bound by the continued application of these Conditions of Use. The same applies to the transfer of demonstration and training software. In the event of transfer, the User must hand over all copies of the program to the new user or destroy the copies which are not handed over. As a result of the transfer, the previous User's right to use the program expires. He is obliged to comply with the duty to provide information pursuant to § 8 of this contract
3. The User may not rent, lease or otherwise assign the Software, including the operating instructions and other accompanying material, for commercial purposes. With respect to training and demonstration software, any transfer for value to a third party is prohibited unless a fee was paid to DIENST when the training and demonstration software was originally acquired.
4. The User may not transfer the Software to third parties where there is a reasonable suspicion that the third party will breach the Conditions of Use, in particular by making unauthorised copies.

### § 4 Decompilation and program modifications

1. The reverse translation of the supplied program code into other code forms (decompilation) and other forms of reconstructing the various software manufacturing stages (reverse engineering) are not permitted. The interface information which is required in order to bring about an interoperability of an independently created computer program can be obtained for a small fee from DIENST, either direct or through the corresponding representative.
2. The removal of other copy protection or similar protective mechanisms is only permitted insofar as such protective mechanisms adversely affect or prevent trouble-free use of the program. The User shall bear the burden of proving that the trouble-free use of the program is adversely affected or prevented by the copy protection. § 8(2) of the present Conditions of Use shall be taken into account.

3. The corresponding actions under paragraph 2 may only be assigned to commercially operating third parties who are potential competitors of DIENST if DIENST will not carry out the changes for reasonable remuneration. DIENST must be allowed sufficient time to examine the assignment and informed of the name of the third party.
4. Insofar as the aforesaid actions are carried out for commercial reasons, they are only permitted provided they are essential for the creation, servicing or functioning of an independently created interoperable program and the necessary information has not yet been published or is not otherwise available, for example by requesting it from DIENST.
5. Copyright notices, serial numbers and other program identification may not, under any circumstances, be removed or modified. The same applies to the suppression of the onscreen display of such features.

#### § 5 Claims under warranty

1. Defects in the supplied software (material defects and defects in title), including the operating instructions and other documentation, will be rectified by DIENST following appropriate notification by the User within the one-year warranty period which commences on delivery. DIENST shall decide whether this is to take place by elimination of the defect (repair) or by delivery of defect-free software (replacement delivery). Replacement delivery may take place, at the discretion of DIENST, either by transmission of a data carrier containing the software, by transmission of the software online or by provision of the software via DIENST's FTP server for download by the User.
2. Where defects cannot be rectified within a reasonable period, or where repair or replacement delivery is deemed to have failed for other reasons, the User may choose either to demand a reduction in the price, compensation or the reimbursement of unnecessary expenses. The last two claims are governed by § 6 of this contract.
3. Failure of repair or replacement delivery may only be assumed if DIENST has been allowed sufficient opportunity to effect repair or replacement without achieving the desired result; if repair or replacement is impossible or is refused or unreasonably delayed by DIENST; if there is legitimate reason to doubt the likelihood of success or if repair or replacement is unreasonable on other grounds.

#### § 6 Liability

1. The User's claims for compensation or reimbursement of unnecessary expenses shall be governed by the present clause § 6, irrespective of the legal form of the claim.
2. DIENST shall be fully liable for loss arising from death, injury or damage to health due to a negligent breach of duty by DIENST or an intentional or negligent breach of duty by one of DIENST's statutory representatives or vicarious agents.
3. For the remaining liability claims DIENST shall only be fully liable in the absence of the guaranteed quality as well as for intent and gross negligence also of its legal representatives and executive employees. DIENST shall be liable for any failure by other vicarious agents only to the extent of the warranty for simple negligence under Paragraph 4 of this liability clause.
4. In the case of simple negligence, DIENST shall only be liable in the event of a breach of duty the observance of which is of particular importance for accomplishing the object of the Agreement (material contractual

obligation). In the event of a breach of the cardinal obligation liability shall be limited in amount to five times the amount of the transfer fee as well as to such damages that are typically to be expected within the scope of a transfer of devices.

5. Liability for loss of data is limited to the typical cost of recovery which would arise assuming that regular backup copies have been made corresponding to the level of risk.
6. The foregoing provisions shall also apply in favour of the DIENST staff, representatives and vicarious agents.
7. The liability according to the Product Liability Act remains unaffected, § 14 ProdHG.

#### § 7 Inspection and reporting obligations

1. The User shall inspect the supplied software, including documentation, within eight working days after delivery, particularly with regard to the integrity of data carriers and manuals as well as the operability of the basic program functions. Any defects that are detected, or can be detected, during this process must be reported to DIENST, within a further eight working days, by recorded delivery or by email with confirmation of reading and receipt. The defect report must contain a description of the defects with as much detail as possible.
2. Defects that cannot be detected as part of the properly conducted inspection described above must be reported within eight working days after detection in compliance with the notification requirements contained in sub-clause 1 above.
3. In the event of a breach of the inspection and reporting obligations, the software is deemed to have been accepted in the knowledge of the relevant defect.

#### § 8 Duty to furnish information

1. In the event of a resale of the software the user is obliged to notify DIENST in writing of the name and full address of the purchaser.
2. The Purchaser is obliged, irrespective of the value of the transferred Software, to notify DIENST in writing of the removal of copy protection or similar protective mechanism from the program code. The disruption caused to the use of the program for such a change to be permitted must be described by the Purchaser as accurately as possible. The duty to provide a description includes a detailed description of the symptoms of the disruption which have arisen, the probable cause of the disruption and, in particular, a detailed description of the modification carried out on the program.

#### § 9 Written Form

Any agreements amending, supplementing or making these Conditions of Use concrete, as well as special guarantees and understandings must be laid down in writing. Where they are expressed by representatives or auxiliaries of DIENST they are only binding following the written confirmation by DIENST.

#### § 10 Special conditions for goods other than software

With regard to the delivery of goods other than software or the provision of services, especially the delivery of devices, these Conditions of Use for Computer Software are supplemented by the GENERAL TERMS AND CONDITIONS of DIENST Verpackungstechnik GmbH.

## § 11 Place of Execution, Jurisdiction and Applicable Law

1. The place of performance for all obligations of the parties arising under this contract shall be Hochheim am Main (Germany). Place of jurisdiction is Wiesbaden (Germany).
2. The Agreement shall be governed by German law to the exclusion of the UN Convention on the International Sale of Goods (CISG).