

The Supplementary Terms and Conditions of Delivery for Software apply exclusively to the temporary - as well as unlimited - provision of individual and standard software (hereinafter referred to as "Software"), also as part of or in connection with the delivery of the associated target hardware. However, insofar as a breach of duty or a disruption of performance is not caused by the delivery of the software itself or the Supplementary Terms and Conditions of Delivery for Software do not contain any provisions, the General Terms and Conditions of Sale and Delivery of EKS InTec GmbH (hereinafter referred to as "EKS") shall apply in the version valid at the time of conclusion of the contract.

1 Use of the software and related documentation

- 1.1 Software within the meaning of these Supplementary Terms and Conditions of Delivery for Software is individual or standard software (e.g. operating, application, configuration programs) programmed by EKS, also as part of or in connection with the delivery of the associated target hardware, which is delivered together with the hardware products as part of the delivery service.
- 1.2 The provision of documentation requires a separate written agreement. If documentation is provided, the term "software" in the following also includes documentation. The provision of documentation requires a separate written agreement. If documentation is provided, the term "software" in the following also includes documentation.
- 1.3 Software supplied by EKS is protected by copyright. All copyright protection and exploitation rights are held exclusively by EKS.
- 1.4 With payment of the consideration, the customer acquires a non-exclusive license, i.e. EKS grants the customer the non-exclusive right to use the software at a time only on one device (target hardware) or at one workstation.
- 1.5 This right of use is limited to the agreed period, in the absence of such an agreement, this right of use is unlimited in time.
- 1.6 The Customer may transfer the Software from one device (Target Hardware) or workstation to another device (Target Hardware) or to another workstation, provided that the Software can only be used at any time in accordance with the number of licenses purchased from EKS.
- 1.7 Insofar as the Customer is provided with software for which EKS only has a derived right of use (hereinafter referred to as "Third-Party Software"), the terms of use agreed between EKS and its licensor shall apply in addition and in priority over the provisions of this Section 1. In the contract documents, EKS will refer to the existence and the terms of use of third-party software and make it available to the customer. In the event of a breach of these Terms of Use by the Customer, EKS and its licensor shall be entitled to assert the resulting claims and rights in its own name.
- 1.8 EKS grants the customer the right - revocable for important reasons - to transfer the rights of use transferred to him to third parties by renouncing his own use. If the Software was acquired together with a device, the software may only be distributed to third parties for use together with this device. The Customer shall ensure that the third party is not granted any further rights of use to the Software than the Customer is entitled to under these Terms of Delivery and that at least the obligations arising from these Terms of Delivery with regard to the Software are imposed on the third party. In the event of the transfer of a right of use to a third party, the customer is obliged to return or delete all copies delivered to the customer or made by the third party.
- 1.9 The customer is not entitled to grant sublicenses.
- 1.10 The Customer is not entitled to modify, translate, reverse engineering, disassemble, create derivative works from the Software or separate parts thereof. The customer is only permitted to decompile within the framework of §69e UrhG (German law applicable)
- 1.11 The customer puts the software into operation himself. EKS will support the customer in this regard at the customer's request for a separate fee.
- 1.12 Unless the Software is provided with copy protection, the Customer is permitted to make a copy, which the Customer may use exclusively for backup purposes. A copyright notice present in the software may not be removed.
- 1.13 The software is made available exclusively in machine-readable form (object code). The transfer of the source code is excluded.
- 1.14 If software is made available by means of electronic communication media (e.g. the Internet), the transfer of risk takes place when the software leaves the area (e.g. during download) over which EKS has influence.

2 Software defects

- 2.1 Customer acknowledges that it is not possible to develop Software in such a way that it works flawlessly in all use cases and combinations. The scope of performance and functions of software products is therefore determined by the product descriptions valid at the time of conclusion of the contract. Only deviations from the product description that can be proven and reproducible by the customer are considered material defects of the software. A material defect does not exist if it does not occur in the last version of the software provided to the customer and its use is reasonable for the customer.
- 2.2 EKS does not warrant that the software supplied is compatible with the data processing environment used by the customer - in particular with software and hardware products used by the customer.
- 2.3 The Customer shall take all reasonable measures to prevent or limit the consequences of damage caused by defective software. Notices of defects must be made immediately in writing, describing the defect and the corresponding data processing environment as precisely as possible. The customer must provide the documentation of the error message in the form of documents verifiable by EKS about the nature and occurrence of deviations from the service description and must cooperate in the limitation of errors. He must ensure the regular backup of programs and data entered and processed. Insofar as the customer culpably violates this obligation, EKS shall not be liable for any

resulting consequences, particularly not for the replacement of lost or damaged data or programs. This does not involve a change in the burden of proof.

- 2.4 Claims for defects expire in 12 months. The limitation period for material defects begins with the commissioning or installation of the software, but in any case, no later than 6 months after delivery or acceptance.
- 2.5 If, during this period, errors occur in the software supplied by EKS that do not only insignificantly impair its value or suitability, EKS will investigate these errors and, if they are defects subject to warranty, remedy them at its own discretion by eliminating the defect or delivering defect-free software. Program errors are eliminated either by showing that the error can be circumvented in a way that is reasonable for the customer or by delivering a new output stock (update). Alternatively, EKS is free to provide a new version (upgrade). If Customer refuses access to the Licensed Material for the above purposes or fails to include updates or upgrades provided to Customer in the User Environment, subsequent performance shall not be deemed to have failed. If, in the event of a warranty claim, the remedy of defects by means of replacement delivery is unsuccessful after several attempts, the customer may demand a proportional reduction of the purchase price or rescission of the contract.
- 2.6 Claims by the customer due to the expenses necessary for the purpose of remedying the error, in particular transport, travel, labor and material costs, are excluded if the expenses increase because the software has been moved to a location other than the customer's branch, unless the transfer corresponds to its intended use.
- 2.7 Further claims, in particular claims for compensation for damage that has not occurred to the software itself, such as loss or incorrect processing of data, are excluded to the extent specified in Section 4.

3 Defects of title

Unless otherwise agreed, EKS is obliged to ensure that the software is only made free of industrial property rights and copyrights of third parties (hereinafter referred to as "property rights") in the country of the place of performance. If a third-party asserts claim against the Customer due to the infringement of intellectual property rights by the delivery of the software provided by EKS and used in accordance with the contract, EKS shall be liable to the Customer for software made available for an unlimited period of time within the limitation periods regulated in Section 2.4 as follows:

- 1.1 EKS may, at its discretion and at its expense, either obtain a right of use for the software in question, modify it in such a way that an intellectual property right is not infringed, or replace it. In this respect, a corresponding application of number 2 applies. EKS's obligation to pay damages is governed by Clause 4.
- 1.2 The above-mentioned obligations of EKS shall only exist to the extent that the customer immediately informs EKS in writing of the claims asserted by the third party, does not acknowledge a violation and EKS reserves the right to take all defensive measures and settlement actions.
- 1.3 If the Customer discontinues the use of the Software for damage mitigation or other important reasons, the Customer is obliged to inform the third party that the cessation of use does not imply an acknowledgment of an infringement of intellectual property rights.
- 1.4 Claims by the customer are excluded if the customer is responsible for the infringement of intellectual property rights or if the infringement of intellectual property rights is caused by special specifications of the customer, by an application that was not foreseeable by EKS or by the fact that the software is modified by the customer or used together with hardware not supplied by EKS.
- 1.5 In the event of other defects of title, the provisions of Section 2 shall apply accordingly.

2. Liability

Unless otherwise provided in these Terms and Conditions, EKS shall be liable for damages and reimbursement of futile expenses (hereinafter referred to as "damages") due to breach of contractual or non-contractual obligations only in the event of intent or gross negligence on the part of EKS's legal representatives or vicarious agents, in the event of injury to life, limb or health, due to the assumption of a guarantee or a procurement risk, the violation of essential contractual obligations, due to mandatory liability under the Product Liability Act or other mandatory liability. However, compensation for the breach of essential contractual obligations is limited to the foreseeable damage typical for the contract, unless there is intent or gross negligence on the part of EKS's legal representatives or vicarious agents or liability is incurred due to injury to life, limb or health or the assumption of a guarantee or procurement risk. A change in the burden of proof to the detriment of the customer is not associated with the above provisions.

4 Termination

The right to use the Software ends automatically without the need for termination if the Customer violates any material provision of these Terms and Conditions.

5 Export restrictions

The export of the software and the documentation may be subject to approval - e.g. due to their nature or intended use. The Customer shall be liable for any violations of export control regulations insofar as it uses the Software outside the country in which the Customer's place of business specified in the delivery address is located and shall indemnify EKS against any claims by third parties arising from the violation of such export control regulations.