

Licence Conditions

I. Right of use

1. We grant the customer a simple, i.e. non-exclusive right to use the software and associated documentation to the agreed extent in accordance with the licence certificate.
2. The customer receives a licence certificate at the time of purchase, which documents the number of licences purchased (e.g. number of concurrent users), the geographical area (e.g. company location), the version purchased and any other restrictions (e.g. of temporal nature). The licence certificate serves as proof of the scope of the right of use.
3. The licence entitles the customer to use the specified version. Subsequent versions can be purchased via updates as part of an additional service level agreement or separately. The licence conditions apply equally to the subsequent version, unless the customer is provided with updated licence conditions together with the new version.
4. The customer is entitled to use the software and related documentation for its own business operations. The customer is not entitled to sell, rent, lend, lease or otherwise transfer or make available the software, documentation or rights mentioned in these licence conditions in whole or in part to third parties without our prior written consent. In the case of succession of business rights, Clause III shall apply.
5. The documentation is provided to the customer for internal use only. Furthermore, with regard to confidentiality, Clause VII shall apply.
6. The rights of use mentioned here are granted to the customer under the condition precedent that the customer has paid in full the licence price or – in the case of an overall project price – the fees accruing for the licence share.

II. Further rights and obligations of the customer

1. The customer receives the software in object code. The customer may not reverse engineer or translate the software and the customer may not extract any parts unless this is mandatorily permitted under the provisions of the Copyright Act (German Urheberrechtsgesetz).
2. The customer may provide remote access to its IT infrastructure, which may be used in particular for defect handling pursuant to Clause IV as well as additional standby or maintenance services or services governed by a service level agreement. The provision of the connection and the necessary communication devices and equipment for remote access shall be carried out by the customer.
3. The customer is responsible for the operating environment of the software as specified in the Software Requirements (e.g. operating system, database, web browser). If the customer updates the operating environment or parts of the operating environment and consequently required components are no longer available, software functions may be restricted or missing. The same applies if project or customer-specific third-party components are removed by the customer as part of an update. If the customer concludes a service level agreement, he will regularly receive information on the software compatibility of the standard version of the purchased software.
4. The extent of use can be technically logged. If the customer uses the software more extensively than authorised (e.g. on more workstations than licensed), the necessary additional licence rights will be invoiced on the basis of the current licence prices.
5. For software products or software product components from third parties or other manufacturers, the licence conditions of the respective manufacturers apply.

III. Transfer of licence in the event of legal succession

1. If the customer's business or part of it is transferred to another owner, the licences may be transferred by the customer to the new owner, provided that the following conditions are met:
 - a) the customer informs us in writing about the transfer of business,
 - b) the owner assumes all rights and obligations arising from the licence conditions,
 - c) related ongoing agreements such as service level, standby or maintenance agreements are also taken over by the owner,
 - d) the new owner is not in a competitive relationship with us,
 - e) the transfer is not legally inadmissible or impossible for other reasons (e.g. export restrictions).
2. The new owner acquires the licences to the extent that this can be proven by the customer's licence certificate. With the transfer, the licence certificate shall be handed over to the new owner.

IV. Defects

1. A defect exists if the software does not perform a task as described in the documentation and the malfunction can be reproduced and located. If no quality is described, the standard quality shall apply.
2. The customer is obliged to examine the software for defects without delay. The customer shall notify us of recognisable defects without delay; however, at the latest within eight working days. The inspection and complaint period shall commence upon delivery, in the case of software deliveries together with a system including assembling / installation / commissioning, after its completion or, insofar as a trial operation was expressly agreed, after its completion. The customer shall notify us of any hidden defects without delay after these have been discovered. If the customer omits to immediately examine the software and to file any complaints in good time, the customer cannot file any claim on account of a defect.
3. If the customer has performed its duty to examine and the requirement to make a complaint in respect of a defect immediately on receipt of the goods, the following shall apply:

- a) If the quality of the software deviates from the agreed quality only to an immaterial extent, the customer shall only have the right to an appropriate reduction of the price.
 - b) In the case of deviations within the meaning of the preceding section a) that are not immaterial, the claims of the customer due to defects are initially limited to a right to subsequent fulfilment. We shall have the right to choose between rectification of defects or replacement delivery. Should this fail, i.e. the remedy of the defect or subsequent delivery is impossible, unreasonable, denied or inadequately delayed, the customer shall be entitled to any other statutory rights in case of defects. Subsequent fulfilment is deemed to have failed after the second attempt without success unless the nature of the defect or other circumstances provide otherwise.
 - c) The removal of a defect shall also be deemed to have occurred if the customer is shown reasonable possibilities of avoiding the effects of an error in the software.
 - d) The warranty shall not be applicable if the customer modifies the software or has it modified by third parties without our consent, and elimination of the defect is hence impossible or rendered unreasonably difficult. In any case, the customer undertakes to bear the additional costs arising from the modification.
4. If it turns out that the notice of defect was unjustified, we may invoice the expenses incurred by us in accordance with our general price list valid at the time of the rectification of the defect, insofar as the customer could have recognised the non-existence of such a defect by exercising the necessary care and the services rendered by us are not otherwise contractually owed.
 5. Claims arising from liability for defects shall become statute-barred after one year.

V. Third-party property rights

1. If a claim is made against the customer by a third party due to a defect of title, the customer shall inform us immediately of the claim so that further action can be coordinated.
2. The customer authorises us to take legal action against such third-party claims in and out of court if necessary and will provide us with appropriate support in doing so. The customer will not itself make any promises of liability, settlements or other agreements with the third party without our prior written consent.
3. In the event of a claim by third parties, we are entitled to modify or replace the software in such a way that it no longer infringes the rights of third parties, insofar as this does not impair the functionality or only to an insignificant extent.
4. In all other respects, Clause IV shall apply to defects of title.

VI. Data backup, IT security

1. The customer is responsible for backing up its data. This includes the creation of regular and risk-appropriate backup copies.
2. The customer is responsible for the security of its systems and data and shall keep them free of malware with economically reasonable effort.

VII. Confidentiality

1. The customer undertakes to treat all information received in connection with the software and documentation and not generally accessible, in particular business secrets and know-how, as confidential and not to make it accessible to third parties without our prior written consent. If a corresponding confidentiality agreement is concluded, this shall take precedence.

VIII. General conditions

1. The Licence Terms are exclusively governed by German substantive law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) as well as to possible conflict of law and referral rules.
2. The exclusive mutual place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Bremen / Germany if the customer is a businessman, a legal person under public law or a public special fund. However, we also have the right to bring an action against the customer at his general place of jurisdiction.
3. Also in the case of cross-frontier consignments, the exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be Bremen in the Federal Republic of Germany. We reserve the right to also have recourse to any other court that is competent and responsible at the local and international level.
4. Personal data is collected, used and stored by us in accordance with the applicable data protection regulations.
5. If the licence conditions are incomplete or contain provisions which are or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The parties agree to replace the invalid provision by and/or supplement the agreement with a valid provision which comes as close as possible to the original intention the parties had in mind in respect of the missing or invalid provision.
6. In all other respects, our „Conditions of Sale and Delivery and Terms of Payment“ shall apply, in particular with regard to warranty and/or liability.

As of: January 2022

OAS AG

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