



# EASY SOFTWARE

## GENERAL TERMS AND CONDITIONS OF EASY SOFTWARE (UK) LTD

### GENERAL PROVISIONS

#### § 1 Application scope

1.1. The terms below apply to the licensing of standard software and - if and as agreed - rendering professional services, such as customization of software for the Customer's purposes by EASY SOFTWARE (UK) LTD (hereinafter referred to as EASY). Software customization in the context of this contract only refers to customizing of standard software, not individual software. The term "software" hereinafter comprises both standard and customized standard software.

1.2. The Terms and Conditions below also apply to supporting the Customer in maintaining standard software (hereinafter referred to as "software maintenance") by EASY.

1.3. This Contract also applies to subsequent orders by the Customer, regardless whether the individual subsequent order expressly refers to the Terms and Conditions.

1.4. Deviating Terms and Conditions provided by the Customer will not become part of this Agreement unless they are expressly recognized by EASY in writing. The provision of services without any objection by EASY does not constitute an acceptance of the Customer's Terms and Conditions.

#### § 2 Customer's obligations to cooperate

2.1. The Customer is obliged to support EASY with the performance of the agreed services in an appropriate manner. Regarding software maintenance and possibly agreed professional services, additional specific cooperation obligations apply.

2.2. The Customer is obliged to obtain all necessary rights concerning third-party hardware and software he uses himself. The same applies in case the software enables the indirect usage of third-party's software

2.3. The parties will attempt to define the Customer's obligations to cooperate prior to conclusion of the contract. If the parties are unable to do so, EASY will request the Customer in advance to render the necessary obligations to cooperate within an appropriate period. If the Customer fails to meet his obligation to cooperate in time in spite of a defined time or a timely request by EASY, EASY will be free of its duties for the period of the Customer's default. All deadlines will automatically be extended by the period of time which is caused by the Customer's default and in addition by an appropriate recovery period. EASY's further rights in case of the customer's default remain unaffected.

2.4. EASY is entitled to demand further appropriate cooperation from the Customer if such is necessary for EASY's performance of its services.

#### § 3 Subcontractors

3.1. EASY is entitled to make use of subcontractors, fully or in part, when performing its services.

3.2. EASY will inform the Customer of the subcontractors used upon the latter's request.

#### § 4 Copyright and related rights

4.1. EASY ensures that the copyright of the software is owned by EASY, the software is free from any third-party rights and shall indemnify the Customer from claims by third parties including the reasonable costs of legal defense. The indemnification requires that

4.1.1. the Customer informs EASY of such claims without delay in writing,

4.1.2. the Customer does not engage in legally relevant actions against third parties, in particular does not conclude a settlement out of court without the written approval by EASY, provides legal acknowledgement (Anerkennung) or engages in actions that are similar to those named before,

4.1.3. the Customer supports EASY to the necessary extent with the legal defense against a third party, in particular by providing information, and

4.1.4. the Customer grants EASY the opportunity to determine and execute the legal defense strategy, in particular by selecting attorneys and drafting writs. For this purpose, the Customer will deliver the necessary statements and grant powers of attorney. EASY will reasonably take the legitimate interests of the Customer into account during the legal defense.

4.2. EASY will undertake appropriate efforts at its own cost in case of conflicting third party rights, so that the Customer can still use the affected software. For this purpose, EASY may

4.2.1. provide the Customer with the rights that are required for the use, or

4.2.2. modify the respective software in such manner that its usage is not restricted and EASY's obligations are not modified, whereby third party rights are no longer affected.

4.3. If EASY is unable to provide a workaround pursuant to clause 4.2, EASY may terminate the contract. Further rights of the Customer remain unaffected.

#### § 5 Deadlines and Dates for Supplies and Services

5.1. Deadlines and dates for the performance of supplies and services by EASY are only binding if expressly agreed by the parties in writing.

5.2. Deadlines and dates automatically extend by the time of impairment, plus an appropriate recovery period if

5.2.1. the Customer does not meet his obligations to cooperate in due time, or

5.2.2. other impairments occur for which EASY is not responsible. EASY will immediately inform the Customer of the circumstances of any impairments and hence obstructions that may arise thereof, regardless of the type of an impairment.

#### § 6 Changes to the subject of the contract / Change Requests

6.1. Each party is authorized to request changes to the performance scope ("Change Request").

6.2. If the Customer demands a Change Request, EASY will assess the Change Request with regard to the effects on the agreed scope and costs, following his, submit a proposal for the implementation of the Change Request to the Customer which may include an additional fee. EASY is not obliged to submit a proposal in case of a Customer's Change Request.

6.3. If EASY wants to suggest a Change Request to the Customer, EASY will submit a corresponding offer to the Customer.



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6.4. A Change Request will only become part of this contract when the Customer expressly orders it in writing. Following that order, the deadlines agreed upon between the parties and, if necessary, also the payment schedules will be changed pursuant to the specifications contained in the proposal for the Change Request.

## § 7 Conditions, Remuneration and Terms of Payment

7.1. For licensing software the Customer will pay the license fee to EASY as defined in the respective License Terms and order confirmation. Details about the license terms are regulated in the General Terms and Conditions "Licensing".

7.2. Remuneration for professional services (consulting) provided by EASY as well as services carried out as part of maintenance is based on time and material pursuant to the most recent EASY price list unless other arrangements have been made in writing. Details about rendering professional services are regulated in the General Terms and Conditions "Consulting".

7.3. The amount of remuneration which is payable annually by the Customer to EASY for software maintenance results from the Information on Software Maintenance and order confirmation. If the Customer acquires more licenses, modules or other software, the remuneration for software maintenance will be adjusted accordingly. Details about the license fee and the license terms are regulated in the General Terms and Conditions "Licensing" and "Software Support and Maintenance", as well as in the "Licensing Policy" and the "Maintenance and Support Rules".

7.4. Remuneration is due on the billing date.

7.4.1. Remuneration for software licensing will be billed by EASY upon delivery of the software.

7.4.2. Remuneration for professional services will be billed by EASY on a monthly basis in arrears.

7.4.3. Remuneration for recurring services will be billed by EASY in advance.

7.5. The term of payment is 14 days from the billing date.

7.6. All prices apply in addition to the accruing costs for postage, packaging, insurance, travel expenses and other allowable expenses as well as the applicable sales tax/VAT.

## § 8 Other Warranty

8.1. In case of defects of the contractual performance, in particular the software and its documentation, the Customer shall report this immediately and provide information known to be relevant for identifying the defect in writing in accordance with the provisions of commercial law (e.g. § 377 HGB - German Commercial Code).

8.2. Rectification shall be to the choice of EASY in the form of remedying the defect or new delivery.

8.3. If EASY does not succeed with rectification within a reasonable period (usually at least two (2) weeks) more than twice (2x), the Customer may reduce the price or withdraw (zurücktreten) from or terminate the contract. However, the right to withdraw (Recht zum Rücktritt) from the software licensing contract or to terminate the software maintenance contract only applies to significant defects and if EASY failed to produce a workaround.

8.4. For the duration of the software maintenance contract, software defects will be remedied as part of software maintenance. This does not apply to defects with regard to professional services provided by EASY.

8.5. Warranty claims will lapse within one (1) year, beginning with the provision of the software or Patches/ Hotfixes/ Bugfixes or new release versions. Services subject to acceptance will begin to lapse upon acceptance of the service. In case of fraudulent intent, in case of intentional breach and gross negligence and taking over a guarantee (Garantie), the statutory warranty provisions remain unaffected.

8.6. If scripting by the Customer causes a discrepancy between the actual and the agreed functionality of the software, that discrepancy will not be classified as a software defect. The Customer will perform scripting at his own responsibility and his own risk.

## § 9 Limited Liability

9.1. EASY shall be fully liable in the event of an injury of life, body or health, for violating a specifically described guarantee (Garantie), as well as in case of mandatory statutory liability (e.g. Product Safety Act) and for claims by the Customer resulting from the Product Liability Act, and in case of intentional breach and gross negligence. Statutory limitations for such claims shall remain unaffected.

9.2. In the event of simple negligence, EASY shall be liable only in the event of violating material contractual obligations and limited to the amount of the predictable damage whose occurrence can be typically anticipated for contracts of this type. Essential contractual obligations within the above meaning are obligations essential to reaching the purpose of the contract or whose fulfillment enables proper implementation of the contract and adherence to which the customer may rely upon on a regular basis. The typically foreseeable contractual damage is such which can be typically expected in usual damage progression.

9.3. Apart from that, liability by EASY is precluded. Except in cases according to clause 10.1, damage claims by the Customer will lapse within twelve (12) months from gaining knowledge, but not later than 10 years after those claims arose. In cases according to clause 9.1 the legal statute of limitations shall apply.

9.4. Personal liability of the legal representatives and employees of EASY is precluded unless the respective damage was caused by intentional breach or gross negligence.

9.5. EASY shall not be liable in the event of force majeure. Force majeure comprises all circumstances and events outside the scope of responsibility of EASY, such as strikes, lockout, natural events, catastrophes, official intervention, legal prohibitions or other events impeding EASY without its fault to perform its services.

9.6. Contributory negligence of the Customer must be charged up against the amount of potential damage claims. EASY shall be liable for data recovery only if the Customer has performed all standard and adequate backup and security precautions. The Customer must ensure that the data to be recovered is contained in machine-readable format and that it can be recovered with minimum effort. EASY's liability is limited to the expenses required for the data recovery.

9.7. With regard to scan functions of the software (software that performs electronic capture of paper documents and their conversion into machine-readable data material), the Customer must ensure that the data exists until it is converted trouble-free into machine-readable format on available physically data material.

## § 10 Export regulations

EASY software may be subject to export control legislation, standards, provisions, limitations and national security checks of the Federal Republic of Germany, the European Union and/or the United States of America. The Customer is obliged to observe possible restrictions that may derive from those measures and, if necessary, acquire independently the required permissions. The Customer shall indemnify EASY from all consequences resulting from a violation of this provision.



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## § 11 Non-disclosure and data protection

11.1. The Customer and EASY shall treat the information they receive from the respective party as part of initiating and executing the contract as strictly confidential. The term "Information" is subject to broad interpretation and comprises, in particular, any documents of electronic type or print format, including the terms of the contract, as well as the information that has become known during a verbal presentation or discussion. Such information as is publicly known or that the Customer or EASY has received from third parties without violating a confidentiality obligation is exempt from the confidentiality obligation. Confidential information received shall only be used inasmuch as the information is necessary to fulfill the purpose of the contract. The use for other purposes is not allowed, unless the other party, respectively, submits its prior written consent.

11.2. EASY or the Customer will return confidential information that they may have obtained when their services are complete and will delete all remaining copies unless the respective party is legally obligated to retain a copy of the information. In that case, it will be destroyed promptly after expiration of the legal retention period.

11.3. The parties shall adhere to the applicable provisions of data protection. Inasmuch as the services provided by EASY constitute order data processing according to Art. 28 DSGVO or concluding an agreement according to Art. 28 Abs. 3 DSGVO is mandatory, the parties conclude an agreement on data processing according to the contract text available at <https://easy-software.com/uk/contracts/odpa/> concurrently with confirmation of order.

## § 12 Transfer of rights

Cession or transfer of rights and/or obligations arising from a contract by the Customer requires prior written consent by EASY.

## § 13 Final provisions

13.1. Contracts and contract amendments, contract-related declarations, notifications, and documentation as well as other legal transactions to which no special legal written form requirements apply must be in writing unless the Parties agree on different, additional formalities. In addition to the formalities specified in Clauses 126, 126 a, 126 b of the civil code of Germany (Bürgerliches Gesetzbuch – BGB) or similar regulations from other legislations, declarations using electronic signatures (Clause 127 of the civil code of Germany) also satisfy written form. This also applies to modifying a written form provision.

13.2. If individual clauses of this contract are or become wholly or partially ineffective or non-executable, this will not affect the validity of the remaining provisions.

13.3. Jurisdiction for all disputes arising from this contract is Mülheim an der Ruhr, Germany.

13.4. The laws of the Federal Republic of Germany apply, excluding the UN Convention on Contracts for the International Sale of Goods of April 11, 1980 (Vienna Agreement – CISG).

## ADDITIONAL PROVISIONS

The following provisions apply in addition, depending on the type of service that the Customer receives from EASY.

### § 14 End of life / End of life termination

14.1. EASY software is subject to constant technological progress. In individual cases, this may cause changes to the software in such a manner that the software is completely replaced in terms of functionality by a new product or a new solution ("successor"). In that case, the successor will replace the software. The Customer is not entitled to a license for the

successor. To clarify, the parties hereby agree that an innovation which is only a new release version does not constitute a successor.

14.2. EASY shall inform the Customer of its planned changes to the software product suite via the EASY Newsletter and via its home page on a regular basis. If the EASY software

14.2.1. is replaced by a successor or

14.2.2. if it is no longer developed and therefore discontinued, EASY must announce this measure by giving six (6) months' written notice ("End of Life").

14.3. At the same time, the written announcement of the "End of Life" constitutes ordinary termination of software maintenance for the corresponding software at the next possible date. EASY will inform the Customer in its written announcement about options for updates or migration to a current successor.

## § 15 Term of contract / termination

15.1. The term of the software maintenance contract begins with deployment of the software to the Customer. Deployment may be through EASY or a third party authorized by EASY.

15.2. The software maintenance contract ends December 31 of the calendar year following one year to the year the contract became effective (example: if the contract starts July 15, 2017, it will end December 31, 2019). The contract will be extended by one (1) year unless it is terminated by a party by giving three (3) months' notice prior to the end of the respective term.

15.3. The right to terminate a contract for good cause remains unaffected. From EASY's viewpoint, good cause exists particularly when

15.3.1. the Customer materially violates his contractual duties, particularly when the Customer performs illegal changes to the software by himself or through third parties;

15.3.2. an insolvency cause within the context of Sections 17 to 19 of the German Insolvency Code (InsO) exists with the Customer;

15.3.3. the Customer's financial situation deteriorates in such a manner that proper fulfillment of the contract can no longer be expected, even if there is no insolvency cause within the meaning of Sections 17 to 19 InsO, or when

15.3.4. the Customer is in arrears paying the owed remuneration for more than two months or a total amount that equals the remuneration for two months.

15.4. Terminations must be in writing via registered letter with advice of delivery.

## REFERENCES

In addition to these General Terms and Conditions the following regulations apply:

- General Terms and Conditions "Licensing" (<https://easy-software.com/en/contracts/gtcl/>)
- General Terms and Conditions "Software Support and Maintenance" (<https://easy-software.com/en/contracts/gtcm/>)
- General Terms and Conditions "Consulting" (Professional Services) (<https://easy-software.com/en/contracts/gtcc/>)
- General Terms and Conditions "Cloud" (<https://easy-software.com/en/contracts/gtcs/>)