

Genias Graphics GmbH & Co. KG
General Terms and Conditions
for the Transfer of Standard Software

1.0 Subject of the contract and grant of the right of use

- 1.1 GENIAS GRAPHICS grants to the buyer the non-exclusive and non-transferable right of use of the standard software in object code with operating instructions, as designated in the data sheet which is component of the contract, for an unlimited period.
- 1.2 The contractual standard software is protected by copyright (§§ 69 a German Copyright Act). The copyright is subject matter of this contract of sale.
- 1.3 The buyer is granted the right of permanent use of the contractual standard software, and that for only one machine (central unit) at the same time unless multiple use or network operation arises from the data sheet. The buyer shall use the contractual standard software only to the extent conform with the contract, if so with dongle, which the installation, the loading and the running of the program as well as a copy for data protection belong to.
- 1.4 Unless the contracting parties have concluded legally independent agreements, no additional services as e. g. guidance, installation, adaptation, maintenance, servicing, training etc. are owing and accruing by GENIAS GRAPHICS.

2.0 Safekeeping and Troubles of the Dongle

- 2.1 In case the contractual standard software is equipped with a dongle, the buyer shall always keep this carefully, not set into action any bypassing program and immediately notify an eventual loss of the dongle. Unless there is a cause of warranty, troubles of the dongle shall be settled by exchange, but only against reimbursement of costs according to the price list, and loss of the dongle only against purchase of a new copy of the contractual standard software. The buyer shall use the contractual standard software equipped with a dongle only in connection with this.

3.0 Design of the Contractual Standard Software

- 3.1 The buyer is granted the contractual standard software in object code and in a design required for the operating system set out in the data sheet.

4.0 Right of Duplication and Protection against Seizure

- 4.1 The buyer may duplicate the contractual standard software as far as the respective duplication is necessary for the use of the program. Among the necessary duplications are the transfer of the program from the original data carrier to the main storage device of the hardware applied and its installation there as well as the loading of the program into the main memory.
- 4.2 Furthermore, the buyer may duplicate for safety purposes. Only one back-up copy may, however, be made and kept each time. This back-up copy shall be marked as a copy of the program granted.
- 4.3 The buyer shall take appropriate measures to prevent third parties from using the program and the documentation. The original data carriers supplied by GENIAS GRAPHICS as well as the back-up copies shall be kept in a place which is secured against seizure by third parties. It is the responsibility of the user to enforce staff observance of the present contractual terms and conditions as well as the copyright.
- 4.4 The buyer shall not make additional copies including providing the program code to a printer or photocopying the manual. Additional manuals which may eventually be needed for staff members shall be bought from GENIAS GRAPHICS.

5.0 Multiple Uses and Network Application

- 5.1 The buyer may use the contractual standard software on any hardware at his disposition. If, however, he changes the hardware he shall erase the contractual standard software on the hardware used hitherto.

- 5.2 It is not allowed to store, stock, or use the contractual standard software on more than one piece of hardware. Should the buyer use the contractual standard software on several hardware configurations simultaneously, e. g. several staff members, this shall be agreed upon in advance and the buyer shall obtain additional licenses.

- 5.3 The use of the contractual standard software within a network or any other multi-station computing systems is not allowed as far as there is the possibility of multiple use of the program at the same time is established. If the buyer wants to use the contractual standard software within a network or any other multi-station computing system he shall prevent the multiple use by protective mechanisms against seizure or pay a network fee to GENIAS GRAPHICS which has to be agreed upon separately and the amount of which is fixed according to the number of users to be connected to the computing system. GENIAS GRAPHICS will immediately tell the buyer the payable network fee in the actual case as soon as the buyer has given notice of the planned network use inclusive of the number of users to be connected. The use of the contractual standard software in the network is not allowed before the complete payment of the network fee.

6.0 Range of Functions

- 6.1 The range of functions of the contractual standard software as well as the conditions for the use of the hardware and software for the contractual standard software may be drawn from the operating instructions delivered with the latter and eventually from the data sheet.

7.0 Changes

- 7.1 The translation, processing, arrangement, and any other form of remodeling of the contractual standard software as well as the duplication of the results obtained by the buyer are only allowed after prior written consent by GENIAS GRAPHICS or the producer (author) of the software, respectively.

8.0 Transfer (Sale, Letting a. o.) to Third Parties

- 8.1 The buyer shall not sell or donate the contractual standard software inclusive of the user manual and the other accompanying material to third parties.
- 8.2 The buyer shall not temporarily leave (hire, lease, or lend) the contractual standard software inclusive of the user manual and the other accompanying material to third parties.

9.0 Handing-over, Delivery

- 9.1 The buyer bears the risk and the cost of shipping of the contractual standard software and the pertaining deliveries in any event.

10.0 Remuneration, Purchase Price

- 10.1 The contractual standard software devolves to the buyer on paying the remuneration which is shown in the data sheet in connection with the price list and which GENIAS GRAPHICS will charge.

11.0 Maturity of the Purchase Price, Delay of Payment - Set-off and Retaining Liens, Reservation of Property Right

- 11.1 The purchase price shall be paid within four weeks after submission of account at the latest. After that time it shall bear interest at a rate of the ruling basic percentage plus eight percent and, if the buyer is a consumer, plus five percent. In addition to that the buyer shall pay the lump-sum of 10 EURO each for the first and second reminders by GENIAS GRAPHICS.
- 11.2 GENIAS GRAPHICS reserves the right of proving a higher damage caused by the buyer and to be compensated for by him. If, on the other hand, the buyer proves to GENIAS GRAPHICS that no damage or only a substantially lower damage occurred in consequence of the delay of payment the buyer shall only compensate GENIAS GRAPHICS for this damage.
- 11.3 The buyer has the right of set-off only when his counterclaim is either finally and absolutely proven by Court, or un-

disputed, or recognised by GENIAS GRAPHICS.

- 11.4 The buyer shall only have retaining liens as far as they rest on the same contractual relationship.
- 11.5 GENIAS GRAPHICS reserves the proprietary right in the goods supplied until all debts due at the time of delivery have been paid. Until then the buyer shall not acquire the right of use of the contractual standard software. The buyer shall immediately notify to GENIAS GRAPHICS the seizure of the contractual standard software by third parties.
- 11.6 In case of the buyer's delay in payment indebted by him as well as in case of a substantial lack of proper care by the customer the assertion of the reservation of proprietary right by GENIAS GRAPHICS shall not be considered as revocation of contract unless GENIAS GRAPHICS notifies this explicitly to the buyer.

12.0 Excess of the Right of Use

- 12.1 If the buyer exceeds the right of use granted in violation of the contract he shall pay the amount of 150 percent of the remuneration according to GENIAS GRAPHICS' price list for the individual extent of use per excess copy or participant in the excess, respectively.
- 12.2 The claiming of a surpassing damage by GENIAS GRAPHICS remains unaffected.

13.0 Requirement to Examine and to Notify Defects

- 13.1 The buyer shall examine the software supplied inclusive of the documentation within 8 working days after delivery, particularly with regard to the completeness of the data carriers and manuals as well as the capability of functioning. Defects which are found or can be found in this shall be reported to GENIAS GRAPHICS within three additional working days through certified mail. The notification of defects shall include a detailed description to the buyer's best endeavours.
- 13.2 Defects which cannot be found in the framework of the described properly examination shall be notified within three working days after detection in compliance with the requirements for the notification of defects stated in 13.1.

14.0 Warranty

- 14.1 GENIAS GRAPHICS will remove all defects of the software supplied inclusive of the manuals and additional material within the warranty period of twelve months from delivery after respective notification by the buyer as far as the defects impair the way of functioning as stipulated in the contract and this not only irrelevantly. This is effected by remedying or replacement at GENIAS GRAPHICS' option
- 14.2 If GENIAS GRAPHICS is not prepared or unable to mediate remedying or replacement, or if there is a delay in these measures for an appropriate time-limit set by the buyer, or if these measures fail for other reasons, the buyer is entitled to cancel the contract or to claim reduction of the purchase price.
- 14.3 Unless otherwise stipulated GENIAS GRAPHICS is not liable for damages which do not appear at the software supplied itself, except physical injuries; in particular, GENIAS GRAPHICS does not assume liability for loss of data or other consequential damage.

15.0 Liability

- 15.1 GENIAS GRAPHICS has unlimited liability for damages of sound title, in particular for damages due to violation of third parties' copyrights. This applies as well if the software lacks a warranted quality or if the damage is caused with intent or by gross negligence by GENIAS GRAPHICS inclusive of its representatives or persons employed in fulfilling the contract. The liability for malicious deceit remains unaffected.
- 15.2 If it is impossible for GENIAS GRAPHICS to effect the performances, and if GENIAS GRAPHICS is responsible for that, GENIAS GRAPHICS has liability for compensation of the damage typically occurring unless the buyer proves a higher damage.

- 15.3 As far as GENIAS GRAPHICS violates a „cardinal“ obligation or an „essential“ obligation culpably it is bound to compensate the buyer for the damage typically occurring.

- 15.4 If GENIAS GRAPHICS violates non-essential contractual obligations by negligence GENIAS GRAPHICS' liability is excluded.

16.0 Duty to Exercise Proper Care

The buyer shall keep the original data carriers supplied at a place which is secured against unauthorised seizure by third parties and forcibly draw the attention of its staff members on the observance of the present contractual terms and conditions as well as the copyright.

17.0 Conditions of License

The buyer acknowledges the rights of use and the conditions of license of the producer and author of the contractual standard software which are integral part of the contract.

18.0 Written Form

All agreements containing a change, a supplement, or an appropriation of these contractual terms and conditions as well as specific warranties and arrangements shall be put down in written form. This applies also to the derogation of this writing clause itself.

19.0 Forum, Place of Performance

The forum for all legal disputes arising in connection with this contract shall be Regensburg. The place of performance shall be the place of GENIAS GRAPHICS' registered office.

20.0 Salvatory (Escape) Clause

The invalidity of one or several stipulations in this contract shall not affect the validity of the residual contract. The contracting parties commit themselves to substituting that valid settlement for the invalid stipulation which answers the object pursued with the invalid stipulation as much as possible. Until such a settlement is reached that settlement which answers best the sense and the purpose of the invalid stipulation shall be applicable in lieu of the invalid stipulation. The same shall apply in case of a gap in the contract needing settlement.

21.0 Applicable Law

This contract shall be governed by German Law, in particular the German Civil Code (BGB) and the German Trade Code (HGB). The UN Convention of Vienna on Contracts on the International Sale of Goods shall not be applicable.

22.0 Conflicting Trading Terms and Conditions

The foregoing general terms and conditions shall apply to all GENIAS GRAPHICS contracts on the transfer of standard software. Eventual trading conditions of the buyer shall not be component of such a contract.