

## General Terms and Conditions for the provisioning and use of standard software of the Genias Graphics GmbH & Co. KG

### 1. General Provisions, Definitions

1.1 The following General Terms and Conditions ("General Terms and Conditions") of the Genias Graphics GmbH & Co. KG, Regensburger Straße 31, 93128 Regensburg, Germany ("GENIAS GRAPHICS") shall apply to any offers made by GENIAS GRAPHICS to a purchaser ("Purchaser") and to all agreements between GENIAS GRAPHICS and Purchaser governing the provisioning and use of standard software (hereinafter called "software").

1.2 The following General Terms and Conditions are exclusive. Any general terms and conditions and/or terms and conditions of sales by Purchaser are hereby objected to the amount they contradict the following General Terms and Conditions. Any contradicting terms and conditions of sales of Purchaser shall only become part of the agreement if accepted by GENIAS GRAPHICS explicitly and in written form.

1.3 These General Terms and Conditions shall only apply to business customers, hence in particular merchants, entrepreneurs, corporate bodies organized under public law and special funds under public law.

1.4 An entrepreneur in the context of these provisions is any natural or legal entity or partnership vested with legal capacity who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession (§14 BGB).

1.5 These General Terms and Conditions shall also apply to any future offers to and any agreements with the Purchaser. If upon conclusion of an agreement a more recent version of these General Terms and Conditions is available and those are incorporated, henceforth those shall replace the preceding General Terms and Conditions.

### 2. Subject of the agreement, grant of rights

2.1 GENIAS GRAPHICS grants Purchaser for an indefinite period of time the non-exclusive and non-transferable right to use the object code of the software as defined by the contract documents together with the instruction manual. The contract documents shall determine the hard- and software environment, particularly the operating system, the purchase price and any further understandings not embraced by these provisions. In particular the contract documents together with 6. and 7. of these provisions shall define the scope and the limitation of the rights granted.

2.2 Upon payment of the total purchase price as determined by the offer or invoice the Purchaser shall be vested with the rights granted by the agreement. The rights as defined in 2.1 are granted subject to the condition precedent of the payment of the full purchase price. The use of the software before that event shall solely be governed by the provisions set forth herein.

2.3 Purchaser shall be made available for download the software in object code and in the form required by his operating system by Tecplot Inc. (USA) (www.tecplot.com). Where required, Purchaser will be provided access data (username and password) and product activation key.

2.4 The software will be made available for download in the version contractually agreed upon for a period of four weeks. Upon expiry of this period, GENIAS GRAPHICS may make available this version and others, though no claim exists to this effect.

2.5 The software subject to an agreement is copyright protected (§§ 69a ff. UrhG).

2.6 The scope of operation and the hard- and software requirements for the software subject to an agreement are stated in the provided instruction manual and in the contract documents.

2.7 Additional services, such as introduction, installation, customization care, maintenance, training and so forth are not provided by GENIAS GRAPHICS. The parties to this agreement may

set forth additional independent agreements governing these services if required.

### 3. Purchaser's obligations, costs for renewed provision of access data and product activation key

3.1 Purchaser has the obligation to prevent any access by unauthorized third parties to the software or the documentation through reasonable precautions.

3.2 Purchaser shall store the access data, the product activation key as well as copies made according to paragraphs 6.2 and 6.3 at a location and in a way that by reasonable means safeguards against the unauthorized access by third parties. Furthermore Purchaser has the explicit obligation to instruct his or her employees to abide by the provisions set forth herein as well as copyrights.

3.3 Purchaser has the obligation to notify GENIAS GRAPHICS without delay of the loss of access data, the product activation key or copies of the software.

3.4 GENIAS GRAPHICS reserves the right to demand an appropriate expense allowance for the renewed provision of access data.

3.5 In the event of loss of the product activation key before its use or in the event of a necessary reinstallation a renewed provision of a product activation key will only be executed against payment of an administration fee of 1 percent of the list price of the respective software at the time of purchase, but at least 200.- €. The renewed provision does not extend the scope of rights granted by the original agreement.

### 4. Purchase price, due date of the payment, delay of payment, offset of payments, right of retention

4.1 The purchase price for the software shall be designated in the contract documents according to the price list and invoiced by GENIAS GRAPHICS.

4.2 The purchase price is due without deductions no later than two weeks from the effective date of the invoice. In the event of delay of the payment GENIAS GRAPHICS reserves the right to charge 10.00 € per reminder; but for Purchaser successfully proves the actual pecuniary loss is less than this charge or none at all. If so Purchaser needs to reimburse for the actual loss only.

4.3 Apart from the terms set forth in 4.2. GENIAS GRAPHICS reserves the right to prove a more substantial loss caused by Purchaser.

4.4 Purchaser has a right to offset outstanding money only if the claim is uncontradicted, res judicata or has been admitted by GENIAS GRAPHICS.

4.5 Purchaser has a right of retention only if it arises from the same agreement.

### 5. Delivery and provision

5.1 The software subject to an agreement shall be made available for download to Purchaser by Tecplot Inc. (USA). Purchaser accesses the server via the website of TECPLOT INC. (USA).

5.2 The software shall be installed by Purchaser.

5.3 Training how to use the software can be ordered separately against payment.

### 6. Scope of rights

6.1 Purchaser has the right to use the software subject to an agreement for an unlimited period of time. The use is restricted to one machine (central unit) at the same time unless multiple or network use is specified in the data sheet. Purchaser may use the software subject to an agreement solely within the scope specified in the actual agreement. This comprises installation, loading and running the program as well as creating a backup copy.

6.2 Purchaser may copy the software subject to an agreement as long as the copying is pivotal to use the software for the purpose agreed upon. Necessary copies e.g. include the one-off file storage for the purpose of the installation of

the software to a mass storage device and loading it into the RAM.

6.3 Furthermore Purchaser may create backup copies.

6.4 Purchaser may use the software subject to an agreement with any relevant hardware. In case the hardware is changed the software shall be deleted from the hardware used prior.

6.5 Purchaser hereby acknowledges and accepts the rights to use and the license conditions of the author and manufacturer of the software to the amount they become part of the agreement.

### 7. Limitations of rights

7.1 Purchaser may not create any additional copies of the software exceeding the rights set forth in 6.2 and 6.3. This also comprises print outs of the program code or photocopies of the instruction manual. Additional instruction manuals for employees must be ordered from GENIAS GRAPHICS.

7.2 Translation, editing, composition and any other modifications of the software subject to an agreement and copying of the resulting works by Purchaser are only allowed after a prior permission in written form by GENIAS GRAPHICS or the manufacturer (author) of the software.

7.3 Purchaser is not entitled to remove or sidestep any mechanism protecting the software against unauthorized use, but if necessary to use the software failure-free. This shall not interfere with Purchaser's mandatory rights according to §§ 69d und 69e UrhG.

7.4 Copyright notations, serial numbers and other distinguishing marks that serve the identification of the software may not be removed or altered. The same applies to a suppression of an on-screen appearance of these distinguishing marks.

7.5 The use of the software subject to an agreement within a network or other multi-station system is not allowed if thereby a simultaneous multiple use of the software is feasible. In the event Purchaser needs to use the software subject to an agreement within a network or other multi-station system he shall take precautions to prevent a simultaneous use or otherwise pay GENIAS GRAPHICS a network fee. The amount of this fee depends on the number of connected users within the system. GENIAS GRAPHICS will promptly calculate the specific fee as soon as Purchaser informs GENIAS GRAPHICS of the intended network use and the number of connecting users in written form. A use of the software in a network may not commence before the complete payment of the full network fee.

### 8. Warranty

8.1 Warranty claims become statute-barred after twelve months unless the defect has been maliciously concealed by GENIAS GRAPHICS.

8.2 GENIAS GRAPHICS will resolve any defects of the software delivered upon note by Purchaser including the instruction manual and other documentation; as long as the defect affects the contractually agreed condition not merely insignificantly. GENIAS GRAPHICS can opt for either rectification of the defect or the making available of a revised version.

8.3 Purchaser may withdraw from the agreement or claim damages if GENIAS GRAPHICS is either incapable of an immediate rectification of the defect or of a making available of a revised version or refuses this or exceeds Purchaser's appropriate respite or fails in other ways to do so.

### 9. Duty of examination and notice of non-conformity

9.1 Purchaser shall examine the provided software and the included documentation immediately upon first download, pursuant to an ordinary merchant's duty of diligence; in particular regarding the completeness of the software made available for download and the manuals and the operability. Apparent and during this examination noticeable defects shall be immediately reported to GENIAS GRAPHICS,

at latest within one week after the download of the software and the accessories. Any download of another version of the software or accessories triggers its own duty of examination as described above. The notice of non-conformity shall describe the defect as detailed as possible. Notice of non-conformity is excluded as far as it concerns the version of the software contractually agreed upon and made available at the time of the handover of the product activation key, if since the handover of the product activation key more than four weeks have passed.

9.2 Any defects that are not apparent or that could not be noticed during the examination also must be reported immediately after their discovery according to the same requirements as in 9.1; at latest one week after discovery.

9.3 In the event that Purchaser does not or not in timely manner notify GENIAS GRAPHICS according to § 377 HGB the software made available is deemed to be approved and Purchaser is barred from warranty.

9.4 Purchaser is not barred from warranty because he infringed his duties of examination and notice of non-conformity if and as far as the defect was concealed by GENIAS GRAPHICS maliciously or was caused by GENIAS GRAPHICS with intent or grossly negligent.

### 10. Liability

10.1 GENIAS GRAPHICS is liable for intent and gross negligence without restraint.

10.2 Regarding entrepreneurs the liability for slight negligence in the event of an infringement of essential contractual duties is limited to that amount of detriment that was foreseeable when entering into the agreement and that is typical for the type of agreement and barred from the rest. Essential contractual duties are the basic, elemental duties arising from the agreement whose adherence is pivotal to a successful implementation of the agreement, whose infringement imperils the goal of the agreement as such and on whose adherence the customer reasonably relies and may rely on.

10.3 As far as GENIAS GRAPHICS merely negligently infringes essential contractual duties liability is limited to the amount of detriment that was foreseeable when entering into the agreement and that is typical for the type of agreement.

10.4 The aforementioned exclusions of liability do not apply to infringements of life, body and physical integrity as well as claims pertaining to the product liability code and claims due to expressed guarantees.

10.5 The exclusions of liability aforementioned also apply to the benefits of GENIAS GRAPHICS legal agents and servants or assignees.

### 11. Miscellaneous

11.1 The invalidity of one or multiple terms within this agreement shall not affect the validity of this agreement as a whole. The parties covenant to substitute the invalid term with a valid one, which comes closest to the economic goals pursued with the invalid term. The same rule shall govern any missing terms or loopholes in the agreement that need of regulation.

11.2 Venue for all disputes arising from this agreement is Regensburg. Place of fulfillment is the location of GENIAS GRAPHICS head office.

11.3 This agreement is governed by German legislation, in particular the BGB and the HGB. The applicability of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

Date of these General Terms and Conditions: 01.01.2017