

General terms and conditions of business for the delivery and licensing of software ("AGB")

1. Scope

- 1.1 The AGB of TechniSoft apply if they are expressly or tacitly acknowledged by the customer. Amendments and secondary agreements are valid only if they are confirmed in writing by TechniSoft.
- 1.2 The general terms and conditions of business relate to the production, delivery and issue of licences for the use of TechniSoft software.

2. Production and scope of supply

- 2.1 Production and delivery of the software are based on the offer made by TechniSoft. The offer is generally made in writing. It specifies the functions and intended use and describes the requirements to be fulfilled/complied by the customer in relation to hardware, other software, technical installations etc. The nature of the data to be delivered (source code, object code) and their possible protection by a copying protection plug together with the documentation (installation, use etc.) are to be described.
- 2.2 TechniSoft performs the tasks on time.
- 2.3 If the customer subsequently amends and/or extends the scope of supply or fails to meet its obligations, does so belatedly or in an unsatisfactory manner, the agreed performance dates shall be suitably extended. The same applies if circumstances for which TechniSoft is not responsible, such as late delivery by its own suppliers, result in delays.

3. Prices and due dates

- 3.1 Fixed prices and cost estimates made by TechniSoft are subject to the reservation that the customer does not subsequently amend the scope of the contract or instructions and performs his obligations in good time and in an adequate manner. Otherwise TechniSoft may invoice the additional expenditure separately.
- 3.2 The prices fall due for payment as follows unless the parties agree otherwise:
 - 50% with the order
 - 50% after software deliverypayable in each case within 30 days.

4. Installation and acceptance

- 4.1 The customer performs the Software installation himself and bears full responsibility.
- 4.2 After completion of installation, the customer must arrange for an acceptance test of the software and notify any defects without delay to TechniSoft in writing, including the fault documentation with the process documents needed to identify the faults. All defects must be reproducible and possible to eliminate with proportionate effort.
- 4.3 If the customer fails to test the software within four weeks after its installation or if he starts to use the software productive, it shall be deemed to have been handed over in perfect condition and approved by the customer.

5. Use and operation / Security measures

- 5.1 The customer is responsible for the proper choice and use of the software; he must make sure that it is used in compliance with the contract and for the intended purpose and correctly operated by expert personnel.
- 5.2 The customer is responsible for and takes the appropriate security measures to prevent misuse of the software and loss of stored data.

6. Secrecy

- 6.1 The software is a commercial secret of TechniSoft. The customer undertakes to respect secrecy in respect of the software and its documentation and all copies thereof and to take all the necessary measures to prevent access by third parties. He will place the same obligation on his own employees.
- 6.2 The customer undertakes not to make any copies of the software or parts thereof and not to cause such copies to be made over and above those required for the contractual use (in particular for backup purposes). Copies of the documentation may be made for personal use only.

7. Grant and scope of the licence

- 7.1 The customer shall have the right to use the software under the terms and conditions described herein. All other rights, intellectual property rights, the right of disposal and ownership remain exclusively vested in TechniSoft.
- 7.2 TechniSoft grants the customer a non-transferable and non-exclusive licence to use the software for the customer's own purposes. The customer may not assign this right to third parties, grant sublicences or take out charges. Section 11 remains applicable.
- 7.3 TechniSoft supplies the software to the customer in the object code unless otherwise agreed, together with a copy of the documentation in the latest valid and approved version.
- 7.4 Where TechniSoft delivers the software in the source code, the customer may use this software solely for his own purposes and only make modifications to the extent that the original purpose of the software is preserved. The source code or parts thereof may not be used to develop own software products.
- 7.5 Where the software or parts thereof is or are utilized, by reason of the conduct of the customer or of his staff, in any manner whatsoever by a third party, the customer shall in every such case of infringement reimburse TechniSoft the amount which the third party would have had to pay to TechniSoft on the basis of an ordinary valid licence agreement; further claims for compensation by TechniSoft are reserved.
- 7.6 These provisions likewise apply to individual amendments, additions, adjustments and further developments of the software made for the customer.



8. Warranty/Guarantee

- 8.1 If the acceptance test pursuant to Section 4.2 reveals that individual functions as specified in the documentation and in the TechniSoft offer are not satisfied by the delivered software, or if such failure becomes apparent during the warranty period, TechniSoft is required and also entitled to remedy such faults as are established. TechniSoft is entitled to provide an alternative solution instead of repairing the fault.
- 8.2 Should TechniSoft be unable to remedy within a reasonable period faults which have been reported in writing without delay and if these faults are seriously prejudicial to the agreed use of the software by the customer, he is entitled to withdraw from the contract within the warranty period against a refund of payments already made and without any claim to compensation. The right to withdraw from or terminate the contract is excluded in all other cases.
- 8.3 If the software was supplied in the source code, the warranty commitment for the software exists only in so far as the customer has not changed the original source code.
- 8.4 TechniSoft is released from all guarantee obligations if the software defects have occurred because of incorrect installation by the customer, accident, act of god, use other than for the intended purpose, careless handling or incorrect operation, modification or maintenance work by the customer, influence of other appliances or software, inadequacies in the equipment and other circumstances beyond the responsibility and influence of TechniSoft.
- 8.5 TechniSoft will take all possible steps to avoid virus infection of the software. However no guarantee can be given that the software is free from viruses. Liability in this regard is declined by TechniSoft. Anti-virus programs are readily available on the market (McAfee, Norton Anti-Virus, ThunderByte etc., latest release in each case).
- 8.6 The guarantee and warranty period begins with the installation and lasts for six months.
- 8.7 Faults which are reported later will be remedied under any maintenance agreement which may be agreed. If no maintenance agreement exists, TechniSoft will bill the cost of remedying the faults separately.

9. Liability

- 9.1 The customer is responsible for damage which could have been avoided by timely and appropriate performance of the acceptance test. TechniSoft cannot be held liable for this.
- 9.2 Should the customer suffer direct prejudice because of late performance, infringement of rules of due care or the defective nature of the service provided, TechniSoft is liable if it is guilty of gross negligence, but for not more than the overall value of the sum paid by the customer for the services which he has shown to be defective. Further claims against TechniSoft are expressly excluded, in particular claims for consequential damage and data loss, whatever their basis in law may be. Liability for slight negligence is expressly excluded.

- 9.3 The enforcement of claims for compensation presupposes written notification of complaints by the customer no later than one month after the faults could have been detected by him. Claims for compensation must be made no later than one year after delivery.

10. Duration of the licence

- 10.1 Unless otherwise agreed, the customer can use the software for an unlimited period.
- 10.2 If the customer definitively ceases to use the software, the licence shall automatically be deemed to have been terminated. The customer shall notify this fact immediately in writing to TechniSoft.
- 10.3 TechniSoft is entitled to cancel the licence for all the software or parts thereof without notice if the customer is in serious breach of his obligations and in particular of his obligation of secrecy. Claims for compensation by TechniSoft against the customer are reserved.
- 10.4 The licence rights end on termination of the licence and the customer is then no longer entitled to use the software. The customer must delete the software products, including all the copies, and return all materials, documentation and other papers to TechniSoft. The customer must confirm in writing to TechniSoft the fact that the software has been deleted immediately after termination of the licence. The secrecy obligation under Section 6 of the AGB remains in force even after the expiry of the licence.

11. Transfer of rights

- 11.1 Rights and obligations under these AGB or parts thereof may only be transferred by the customer to third parties after TechniSoft has given its written consent. This likewise applies to transfer on the occasion of business acquisitions.

12. Applicable law and place of jurisdiction

- 12.1 Swiss law including the Swiss international private law shall apply. Nevertheless the United Nations Convention on Contracts for the International Sale of Goods (CISG) is not applicable.
- 12.2 **Jurisdiction over any disputes shall be vested exclusively in the courts at the place where TechniSoft has its place of business.**

This provision likewise applies if the customer has his registered office or place of residence outside Switzerland.