

**RS AGB Nutzungsbedingungen für CamIQ Software
(Stand 21.12.2017)**

§ 1 Vertrag

Um die Software ordnungsgemäß nutzen zu können, muss der Kunde mit dem Hersteller einen Lizenzvertrag abschließen. Durch die nachfolgende Nutzung des Programms erklärt er sein Einverständnis mit der Geltung der nachfolgenden Bedingungen.

§ 2 Rügeobliegenheit

- (1) Der Kunde ist verpflichtet, die gelieferte Software auf offensichtliche Mängel, die einem durchschnittlichen Kunden ohne weiteres auffallen, zu untersuchen. Offensichtliche Mängel sind beim Verkäufer innerhalb von zwei Wochen nach Lieferung schriftlich zu rügen.
- (2) Mängel, die nicht offensichtlich sind, müssen beim Verkäufer innerhalb von zwei Wochen nach dem Erkennen durch den Kunden gerügt werden.
- (3) Die Mängel, insbesondere die aufgetretenen Symptome, sind möglichst präzise zu beschreiben.
- (4) Bei Verletzung der Untersuchungs- und Rügepflicht gilt die Software in Ansehung des betreffenden Mangels als genehmigt.

§ 3 Rechtsübertragung und Preise

- (1) Der Hersteller räumt hiermit dem Kunden das einfache, nicht ausschließliche und zeitlich unbeschränkte Recht ein, das beiliegende datenträgergespeicherte Softwareprogramm (nachfolgend "Software" genannt) in maschinenlesbarer Form (Objektcode) sowie das Begleitmaterial zu nutzen. Begleitmaterial in diesem Sinne sind die Programmbeschreibung und die Bedienungsanleitung.
- (2) Ein darüberhinausgehender Erwerb von Rechten an der Software ist mit dieser Nutzungsrechtseinräumung nicht verbunden. Der Hersteller behält sich alle Verbreitungs-, Ausstellungs-, Vorführungs-, Aufführungs- und Veröffentlichungsrechte an der Software vor. Gleiches gilt für die Bearbeitungs- und Vervielfältigungsrechte, soweit nicht nachfolgend ausdrücklich anders vereinbart.
- (3) Bestimmte Bestandteile der Software unterliegen zum Teil den Rechten Dritter und den jeweils entsprechenden Lizenzvereinbarungen. Weitere Details zu den Rechten Dritter und den jeweiligen Lizenzbestimmungen können Sie der in den Produkten enthaltenen Datei "NOTICE.TXT" entnehmen.

§ 4 Umfang der Nutzung

- (1) Vervielfältigungsrechte des Kunden
 - a) Der Kunde darf das gelieferte Programm vervielfältigen, soweit die jeweilige Vervielfältigung für die Benutzung des Programms notwendig ist. Zu den notwendigen Vervielfältigungen zählen die Installation des Programms vom Originaldatenträger auf den Massenspeicher der eingesetzten Hardware sowie das Laden des Programms in den Arbeitsspeicher.
 - b) Darüber hinaus kann der Kunde eine Vervielfältigung zu Sicherungszwecken vornehmen. Es darf jedoch grundsätzlich nur eine einzige Sicherungskopie angefertigt und aufbewahrt werden. Diese Sicherungskopie ist als solche des überlassenen Programms zu kennzeichnen und mit dem der Programmdokumentation beiliegenden

Herstelleraufkleber zu versehen.

- c) Ist aus Gründen der Datensicherheit oder der Sicherstellung einer schnellen Reaktivierung des Computersystems nach einem Totalausfall die turnusmäßige Sicherung des gesamten Datenbestands einschließlich der eingesetzten Computerprogramme unerlässlich, darf der Kunde Sicherungskopien in der zwingend erforderlichen Anzahl herstellen. Die betreffenden Datenträger sind entsprechend zu kennzeichnen. Die Sicherungskopien dürfen nur zu rein archivarischen Zwecken verwendet werden.
- (2) Mehrfachnutzungen und Netzwerkeinsatz beim Kunden
 - a) Der Kunde darf die Software auf jeder ihm zur Verfügung stehenden Hardware einsetzen. Wechselt der Kunde jedoch die Hardware, muss er die Software von der bisher verwendeten Hardware löschen.
 - b) Ein zeitgleiches Einspeichern, Vorrätig halten oder Benutzen auf mehr als nur einer Hardware ist unzulässig. Möchte der Kunde die Software auf mehreren Hardwarekonfigurationen zeitgleich einsetzen, etwa durch mehrere Mitarbeiter, muss er eine entsprechende Anzahl von Lizenzen erwerben.
 - c) Der Einsatz der überlassenen Software innerhalb eines Netzwerkes oder eines sonstigen Mehrstations-Rechnersystems ist unzulässig, sofern damit die Möglichkeit zeitgleicher Mehrfachnutzung des Programms geschaffen wird. Möchte der Kunde die Software innerhalb eines Netzwerkes oder sonstiger Mehrstations-Rechnersysteme einsetzen, muss er eine zeitgleiche Mehrfachnutzung durch Zugriffsschutzmechanismen unterbinden oder dem Rechtsinhaber eine besondere Netzwerkgebühr entrichten, deren Höhe sich nach der Anzahl der an das Rechnersystem angeschlossenen Benutzer bestimmt. Die im Einzelfall zu entrichtende Netzwerkgebühr wird der Rechtsinhaber dem Kunden umgehend mitteilen, sobald dieser dem Rechtsinhaber den geplanten Netzwerkeinsatz einschließlich der Anzahl angeschlossener Benutzer schriftlich bekannt gegeben hat. Der Einsatz in einem derartigen Netzwerk oder Mehrstations-Rechnersystem ist erst nach der vollständigen Entrichtung der Netzwerkgebühr zulässig.
 - (3) Dekompilierung und Programmänderungen durch den Kunden
 - a) Die Rückübersetzung des überlassenen Programmcodes in andere Codeformen (Dekompilierung) sowie sonstige Arten der Rückerschließung der verschiedenen Herstellungsstufen der Software (Reverse-Engineering) einschließlich einer Programmänderung sind nur dann zulässig, wenn der Kunde vorab erfolglos versucht hat, die Spezifikationen von dem Anbieter zu erhalten.
 - b) Die Entfernung eines Kopierschutzes oder ähnlicher Schutzroutinen ist nur zulässig, sofern durch diesen Schutzmechanismus die störungsfreie Programmnutzung beeinträchtigt oder verhindert wird. Für die Beeinträchtigung oder Verhinderung störungsfreier Benutzbarkeit durch den Schutzmechanismus trägt der Kunde die Beweislast. Der Kunde muss die vorgenommenen Programmänderungen sowie die aufgetretenen Störungssymptome dem Rechtsinhaber mittels detaillierter Erläuterung schriftlich anzeigen.
 - c) Die entsprechenden Handlungen nach Abs. b. dürfen nur dann kommerziell arbeitenden Dritten überlassen werden, die in einem potentiellen Wettbewerbsverhältnis mit dem Rechtsinhaber stehen, wenn der Rechtsinhaber

die gewünschten Programmänderungen nicht gegen ein angemessenes Entgelt vornehmen will. Dem Rechtsinhaber ist eine hinreichende Frist zur Prüfung der Auftragsübernahme einzuräumen sowie der Name des Dritten mitzuteilen.

- d) Sofern die genannten Handlungen aus gewerblichen Gründen vorgenommen werden, sind sie nur im gesetzlichen Rahmen zulässig. Der Kunde hat sich zur Schaffung, Wartung oder zum Funktionieren eines unabhängig geschaffenen interoperablen Programms die notwendigen Informationen beim Rechtsinhaber zu erfragen. Die Anschrift hat der Kunde beim Kunden zu erfragen.
- e) Urhebervermerke, Seriennummern sowie sonstige der Programmidentifikation dienende Merkmale dürfen auf keinen Fall entfernt oder verändert werden.
- (4) Weiterveräußerung und Weitervermietung
- a) Der Kunde darf die Software einschließlich des Benutzerhandbuchs und des sonstigen Begleitmaterials auf Dauer an Dritte veräußern oder verschenken, vorausgesetzt der erwerbende Dritte erklärt sich mit der Weitergeltung der vorliegenden Vertragsbedingungen auch ihm gegenüber einverstanden. Im Falle der Weitergabe muß der Kunde dem neuen Kunden sämtliche Programmkopien einschließlich gegebenenfalls vorhandener Sicherheitskopien übergeben oder die nicht übergebenen Kopien vernichten. Infolge der Weitergabe erlischt das Recht des alten Kunden zur Programmnutzung. Er ist verpflichtet, der Informationspflicht nach den Bestimmungen des § 10 dieser Anlage nachzukommen.
- b) Der Kunde darf die Software einschließlich des Benutzerhandbuchs und des sonstigen Begleitmaterials Dritten auf Zeit überlassen, sofern dies nicht im Wege der Vermietung zu Erwerbszwecken oder des Leasing geschieht und sich der Dritte mit der Weitergeltung der vorliegenden Vertragsbedingungen auch ihm gegenüber einverstanden erklärt und der überlassende Kunde sämtliche Programmkopien einschließlich gegebenenfalls vorhandener Sicherheitskopien übergibt oder die nicht übergebenen Kopien vernichtet. Für die Zeit der Überlassung der Software an den Dritten steht dem überlassenden Kunden kein Recht zur eigenen Programmnutzung zu. Eine Vermietung zu Erwerbszwecken oder das Verleasen sind unzulässig.
- c) Der Kunde darf die Software Dritten nicht überlassen, wenn der begründete Verdacht besteht, der Dritte werde die Vertragsbedingungen verletzen, insbesondere unerlaubte Vervielfältigungen herstellen. Dies gilt auch im Hinblick auf Mitarbeiter des Kunden.

- (5) Vertragsstrafe, Sonderkündigung und weitere Rechtsverfolgung
- a) Verstößt der Kunde schuldhaft gegen die Verpflichtung, die Nutzung der Software innerhalb der hier vorgenommen Grenzen zu verwenden, wird eine Vertragsstrafe in Höhe des dreifachen Verkaufspreises fällig. Dem Kunden bleibt der Nachweis eines geringeren Schadens offen.
- b) Bei einer Pflichtverletzung gemäß dem voranstehenden Absatz ist der Rechtsinhaber darüber hinaus berechtigt, den Vertrag fristlos und mit sofortiger Wirkung zu kündigen. Gegebenenfalls beim Kunden noch vorrätige Softwareexemplare sind von diesem gegen Rückerstattung des jeweiligen Entgelts abzüglich obiger Vertragsstrafe an den Rechtsinhaber zurückzugeben. Die anfallenden Transportkosten gehen zu Lasten des Kunden.

- c) Die Verfolgung weitergehender Ansprüche, etwa nach dem Urheberrechtsgesetz, sowie insbesondere auch von sonstigen Schadensersatzansprüchen bleibt vorbehalten.

§ 5 Gewährleistung

- (1) Die ordnungsgemäße Funktionsweise der gelieferten Software wird nur dann gewährleistet, wenn die Software in einer den zum Zeitpunkt der Auslieferung bestehenden Standards entsprechenden Systemumgebung geliefert wird. Eine Gewährleistung dafür, daß die Software in jeder Systemumgebung ablauffähig ist, wird nicht übernommen.
- (2) Mängel der gelieferten Software werden vom Lieferanten zunächst durch Nacherfüllung behoben. Dem Lieferanten steht grundsätzlich ein zweimaliges Nacherfüllungsrecht zu. Schlägt die Nacherfüllung fehl, kann der Kunde grundsätzlich nach seiner Wahl Herabsetzung der Vergütung (Minderung) oder Rückgängigmachung des Vertrags (Rücktritt) verlangen. Bei einer nur geringfügigen Vertragswidrigkeit, insbesondere bei nur geringfügigen Mängeln, steht dem Kunden jedoch kein Rücktrittsrecht zu.
- (3) Der Kunde muß dem Lieferanten offensichtliche Mängel innerhalb einer Frist von zwei Wochen ab Empfang der Ware schriftlich anzeigen; andernfalls ist die Geltendmachung des Gewährleistungsanspruchs ausgeschlossen. Zur Fristwahrung genügt die rechtzeitige Absendung.
- (4) Wählt der Kunde wegen eines Rechts- oder Sachmangels nach gescheiterter Nacherfüllung den Rücktritt vom Vertrag, steht ihm daneben kein Schadensersatzanspruch wegen des Mangels zu. Wählt der Kunde nach gescheiterter Nacherfüllung Schadensersatz, beschränkt sich dieser auf die Differenz zwischen Kaufpreis und Wert der mangelhaften Sache. Dies gilt nicht, wenn der Kunde die Vertragsverletzung arglistig verursacht hat. Von einem Fehlschlagen der Nacherfüllung ist erst auszugehen, wenn dem Lieferanten hinreichende Gelegenheit zur Nacherfüllung eingeräumt wurde, ohne daß der gewünschte Erfolg erzielt wurde, wenn die Nacherfüllung unmöglich ist, wenn sie vom Lieferanten verweigert oder unzumutbar verzögert wird, wenn begründete Zweifel hinsichtlich der Erfolgsaussichten bestehen oder wenn eine Unzumutbarkeit aus sonstigen Gründen vorliegt.
- (5) Ist der Kunde Unternehmer, beträgt die Gewährleistungsfrist ein Jahr ab Ablieferung der Ware. Dies gilt nicht, wenn der Kunde dem Lieferanten den Mangel nicht rechtzeitig angezeigt hat (Ziffer 3 dieser Klausel).
- (6) Als Beschaffenheit der Ware gilt grundsätzlich nur die Produktbeschreibung des Herstellers als vereinbart. Öffentliche Äußerungen, Anpreisungen oder Werbung des Herstellers stellen daneben keine vertragsgemäße Beschaffenheitsangabe der Software dar.
- (7) Erhält der Kunde eine mangelhafte Installationsanleitung, ist der Lieferant lediglich zur Lieferung einer mangelfreien Installationsanleitung verpflichtet und dies auch nur dann, wenn der Mangel der Installationsanleitung der ordnungsgemäßen Installation entgegensteht.
- (8) Garantien im Rechtssinne erhält der Kunde durch den Lieferanten nicht.
- (9) Die Gewährleistungsrechte des Kunden entfallen, soweit ein Mangel darauf beruht, dass der Kunde oder ein Dritter ohne Zustimmung des Lieferanten Produkte verändert, unsachgemäß benutzt oder repariert hat oder

Produkte nicht den Richtlinien des Lieferanten oder Herstellers gemäß installiert, betrieben und gepflegt worden sind.

§ 6 Haftung

- (1) Der Hersteller haftet nicht für die Wiederbeschaffung von Daten, es sei denn, dass der Lieferant deren Vernichtung grob fahrlässig, vorsätzlich verursacht und der Lizenznehmer sichergestellt hat, dass diese Daten aus Datenmaterial, das in maschinenlesbarer Form bereitgehalten wird, mit vertretbarem Aufwand rekonstruiert werden können.
- (2) Bei leicht fahrlässigen Pflichtverletzungen haftet der Hersteller nur bei Verletzungen von Kardinalspflichten. In diesen Fällen ist die Haftung der Höhe nach auf den vertragstypischen, vorhersehbaren Schaden begrenzt.
- (3) Der Ausschluss oder die Beschränkung der Haftung des Herstellers gilt auch für die persönliche Haftung ihrer Organe, Mitarbeiter, Vertreter und Erfüllungsgehilfen.
- (4) Die vorstehenden Haftungsbeschränkungen betreffen nicht Ansprüche des Kunden aus Produkthaftung. Weiter gelten die Haftungsbeschränkungen nicht bei dem Hersteller zurechenbaren Körper- und Gesundheitsschäden oder bei Verlust des Lebens des Kunden
- (5) Schadensersatzansprüche des Kunden verjähren nach einem Jahr ab Ablieferung des Programmes. Dies gilt nicht, wenn dem Hersteller grobes Verschulden vorwerfbar ist, sowie bei dem Lieferanten zurechenbaren Körper- und Gesundheitsschäden oder bei Verlust des Lebens des Kunden.

Sicherheitshinweis:

Der Hersteller weist darauf hin, dass die Software nicht für Einsatzbereiche konzipiert wurde, in denen Menschen durch fehlerhafte Funktion der Software oder durch Steuerungen angeschlossener Geräte gefährdet werden können. In solchen Bereichen sind zusätzliche, von der Software unabhängige Sicherungsmaßnahmen zu treffen, die eine Gefährdung von Menschen ausschließen.

§ 7 Kollision mit anderen Geschäftsbedingungen

Sofern der Kunde ebenfalls Allgemeine Geschäftsbedingungen verwendet, kommt der Vertrag auch ohne ausdrückliche Einigung über den Einbezug Allgemeiner Geschäftsbedingungen zustande. Soweit die verschiedenen Allgemeinen Geschäftsbedingungen inhaltlich übereinstimmen, gelten diese als vereinbart. An die Stelle sich widersprechender Einzelregelungen treten die Regelungen des dispositiven Rechts. Gleiches gilt für den Fall, daß die Geschäftsbedingungen des Kunden Regelungen enthalten, die im Rahmen dieser Geschäftsbedingungen nicht enthalten sind. Enthalten vorliegende Geschäftsbedingungen Regelungen, die in den Geschäftsbedingungen des Kunden nicht enthalten sind, so gelten die vorliegenden Geschäftsbedingungen.

§ 8 Schriftform

Sämtliche Vereinbarungen, die eine Änderung, Ergänzung oder Konkretisierung dieser Vertragsbedingungen beinhalten, sowie besondere Zusicherungen und Abmachungen sind schriftlich niederzulegen. Werden sie von

Vertretern oder Hilfspersonen des Lieferanten erklärt, sind sie nur dann verbindlich, wenn der Lieferant hierfür seine schriftliche Zustimmung erteilt.

§ 9 Hinweis- und Kenntnisnahmebestätigung

Dem Kunden ist die Verwendung der vorliegenden Vertragsbedingungen seitens des Lieferanten bekannt. Er hatte die Möglichkeit, von ihrem Inhalt in zumutbarer Weise Kenntnis zu nehmen.

§ 10 Informationspflichten

- (1) Der Kunde ist im Falle der Weiterveräußerung der Software verpflichtet, dem Hersteller den Namen und die vollständige Anschrift des Käufers schriftlich mitzuteilen.
- (2) Sofern es sich bei der überlassenen Software um speziell an die Hardware des Kunden angepasste Software mit einem Kaufpreis von mehr als 2.500 € handelt, ist der Kunde auch verpflichtet, dem Hersteller einen Hardwarewechsel schriftlich anzuzeigen. Gleiches gilt für den Fall, dass der Kunde die betreffende Software innerhalb eines Netzwerks einsetzen möchte.
- (3) Der Kunde ist unabhängig vom Wert der überlassenen Software dazu verpflichtet, dem Hersteller die Entfernung eines Kopierschutzes oder einer ähnlichen Schutzroutine aus dem Programmcode schriftlich anzuzeigen. Die für eine derartige erlaubte Programmänderung notwendige Störung der Programmnutzung muss der Kunde möglichst genau umschreiben. Die Umschreibungspflicht umfasst eine detaillierte Darstellung der aufgetretenen Störungssymptome, der vermuteten Störungsursache sowie insbesondere eine eingehende Beschreibung der vorgenommenen Programmänderung.

§ 11 Rechtswahl

Die Parteien vereinbaren im Hinblick auf sämtliche Rechtsbeziehungen aus diesem Vertragsverhältnis die Anwendung des Rechts der Bundesrepublik Deutschland unter Ausschluss des UN-Kaufrechts.

§ 12 Gerichtsstand, Salvatorische Klausel

- (1) Sofern der Kunde Kaufmann im Sinne des Handelsgesetzbuchs, juristische Person des öffentlichen Rechts oder öffentlich-rechtliches Sondervermögen ist, wird für sämtliche Streitigkeiten, die im Rahmen der Abwicklung dieses Vertragsverhältnisses entstehen, Kiel als Gerichtsstand vereinbart.
- (2) Sollten einzelne Klauseln dieses Vertrags unwirksam sein oder werden, wird diese Klausel durch eine ersetzt, die dem wirtschaftlich Gewollten am nächsten kommt.

**RS End User Licence Agreement (EULA) for CamIQ
Software
(Stand 21.12.2017)**

§ 1 Agreement

The customer must enter into a licence agreement with the manufacturer in order to make proper use of the software. By using the program the user acknowledges consent in accordance with the conditions in force.

§ 2 Claim Obligation

- (1) The customer is obliged to check the delivered software for obvious defects. In the case of obvious errors, a written claim must be made to the supplier within two weeks of delivery.
- (2) In the case of non-obvious defects, a claim must be made in writing by the customer to the supplier within two weeks of detection of the defect.
- (3) The defects, especially their symptoms, must be described as accurately as possible.
- (4) In case of infringement of above obligations, the software is regarded as accepted and considered to be free from defects.

§ 3 Transmission of Rights and Prices

- (1) The manufacturer grants the customer a basic, non-exclusive and timely non-restricted right to use the enclosed software program recorded on a data carrier (hereinafter referred to as "software") in machine-readable format (object code) as well as the attached material. Attached material in this sense refers to the program description and the operating instructions.
- (2) Above aforementioned user rights the customer does not acquire any additional rights with regard to the software. The manufacturer retains all rights to the software pertaining to distribution, exhibition, demonstration, performance and publication. The same applies to adaptation rights and copyrights if not explicitly stated otherwise in the following paragraphs.
- (3) Special parts of the software are subject to rights of third parties and the corresponding licence agreements. Detailed information about the rights of third parties and the licence agreements can be found in the file "NOTICE.TXT" in the product directory.

§ 4 Scope of Usage

- (1) Customer copyrights
 - a) The customer is entitled to copy the delivered program only if copying is necessary for its' usage. Among the necessary copies is the installation of the program from the original data carrier to the mass memory of the used hardware as well as loading of the program into the hardware's RAM.
 - b) Furthermore the customer is entitled to make a security backup copy. The customer is entitled to make and store only one (1) single recovery backup. This copy has to be marked as backup copy of the provided program and has to be fitted with the manufacturer's sticker provided with the program documentation.
 - c) Due to reasons of data safeguarding or to ensure that a computer system can be reactivated quickly after a

complete system breakdown it may be imperative to periodically store the complete data stock, including the used computer programs. In such a case the customer is entitled to make backup copies as required. The corresponding data carriers have to be marked accordingly. The backup copies are to be used solely for archiving purposes.

- (2) Multiple usage and network application by the customer.
 - (a) The customer is entitled to use the software on any hardware available to the customer. In case that the customer changes the hardware, he is obliged to delete the software from the previously used hardware.
 - (b) Simultaneous storage, stocking or usage on more than one hardware device is not permitted. If the customer wants to run the software simultaneously on several hardware configurations, e.g. for several employees, he has to buy a corresponding number of additional licences.
 - (c) Use of the sold software in networks or other multiple station computer systems (servers) is unlawful if it provides the possibility for simultaneous multiple usage of the program. If the customer wants to run the software in networks or other multiple station computer systems he has to prevent simultaneous multiple usage by access prevention mechanisms or he has to pay a special network fee to the holder of the software rights. The fee is dependent on the number of users to be connected to the computer system. The individual fee for this situation will be provided by the holder of the rights to the customer after the customer himself has informed the holder of the rights in writing about the planned network application and the number of connected users (clients).
The use in such network or multiple station computer system is only permitted after the complete network fee has been paid.
 - (3) Recompilation and program alterations by the user.
 - (a) The retranslating of the sold program code into other code forms (recompilation) as well as other types of redevelopment of the different manufacturing steps of the software (reverse engineering) including program modifications are only permitted if the customer unsuccessfully tried to obtain the specifications from the supplier prior to this.
 - (b) The removal of copy protections or other protection routines is only permitted if this protection mechanism directly affects or handicaps the trouble-free operation of the program. The responsibility of providing evidence of the protection mechanism's affecting or handicapping trouble-free usage lies with the customer. The customer has to inform the supplier in a detailed written account of any program modification as well as the malfunction symptoms.
 - (c) The corresponding actions according to paragraph (b) may only be handed over to commercially operating third parties that are in potential competition with the holder of rights if the holder of rights has refused to carry out the desired program alterations for a reasonable fee. The holder of rights has to be given adequate time for checking the acceptance of the order and must be informed of the name of the third party.
 - (d) As far as aforementioned actions are carried out for commercial purposes, they are only permitted within the limitations of law. The customer has to request the required information for creation, maintenance or functioning of an independently created interoperable program from the rights holder. The customer has to request the address from the customer.
 - (e) Under no circumstances is it permitted to remove or alter

copyright notices, serial numbers or other marks that can be used for program identification.

- (4) Resale and subletting
- (a) The customer is entitled to sell or give away the software including the user manual and other accompanying material to third parties, provided that the acquiring third party declares his compliance with a continuation of the contract conditions on hand to him. In the case of further distribution, the customer must hand over all copies of the program, including backup copies, to the new customer or destroy the copies that were not handed over. The right of the old customer to use the program becomes void as a result of the distribution. He is obliged to fulfil his information requirements according to § 10 of this document.
- (b) The customer is entitled to hand over the software including the user manual and other accompanying material for time to third parties, provided this is not for rental or leasing purposes and if the third party declares its consent with the continuation of the contract conditions on hand to him, the handing over party must hand over all copies of the program, including backup copies, or destroy the copies that were not handed over. The handing over party has no right for his own use of the program from the time of handing over to third parties. Rental or leasing sublettings are prohibited.
- (c) The customer may not hand the software over to third parties if there is reasonable suspicion that the third party will violate the contract conditions, especially making unauthorised copies. This also applies to the customers employees.
- (5) Penalty sum, special cancellation and further prosecution
 - (a) A penalty sum of three times the sale price is payable if the customer culpably violates the obligation to use the software within the regulations set by this contract. The customer retains the right to prove a lower loss.
 - (b) In the event of breach of duty in accordance with the previous paragraphs the holder of rights is furthermore entitled to terminate the agreement without notice with immediate effect. Software copies still with the customer must be returned to the rights holder for which reimbursement will ensue less the penalty sum mentioned above. All expenses for transportation have to be born by the customer.
 - (c) The pursue of further claims, for instance in accordance with the Copyright Act, as well as especially of other compensation claims remains reserved.

§ 5 Warranty

- (1) The correct operation of the delivered software is only ensured if the software is delivered in a system environment that meets the standards at the date of delivery. The warranty explicitly does not cover that the software will run in all system environments.
- (2) Shortcomings in the software are initially remedied by the manufacturer's repairs. The manufacturer reserves the right for a total of three repair attempts. In case all attempts should fail, the customer is entitled to choose between abatement or rescission of contract. In case of minor lacks of conformity, especially in case of minor shortcomings, the customer is not entitled to rescission of contract.
- (3) The customer is obliged to notify the manufacturer in writing of obvious shortcomings within two weeks of delivery of the goods; otherwise any claim for warranty is excluded. A sending in due time is sufficient for

observing the time limit.

- (4) If the customer chooses, due to rights or product shortcomings, to recede from the contract after failed repair attempts, he has no additional claim for compensation resulting from this shortcoming. If the customer chooses indemnity after failed repair attempts, then this is limited to the difference between purchase price and actual value of the defective product. This will not apply if the manufacturer deceitfully caused the violation of contract. A failure of the repair attempts can only be assumed if the supplier has sufficient attempts for repair without achieving the desired success, if repair is impossible, refused or unacceptably delayed by the manufacturer, if there is reasonable doubt with regard to the chances of success or if there are other areas of unreasonableness.
- (5) The warranty period is 24 months from the date of purchase if the customer is a contractor. This will not apply if the customer did not notify the manufacturer any shortcoming in due time (subsection 3 of this clause).
- (6) Only the product description of the manufacturer is regarded as agreed upon with regard to the quality/performance of the product. Public statements or advertising on behalf of the manufacturer form no contractual quality statement of the software.
- (7) If the customer receives a defective installation instruction the manufacturer is only obliged to provide an installation instruction that is free from defects. This will only apply if the defective installation instruction prevents proper installation.
- (8) The customer is obliged to check for available updates on the manufacturer's internet web site on a periodical basis before entering a claim.
- (9) The manufacturer does not grant the customer any guarantees in the strict interpretation of law.
- (10) The customer's warranty rights become void if the cause for a shortcoming lies in the customer's or a third party's altering, improper usage or repair attempt of the product(s) without prior consent of the manufacturer or if the products were not installed, operated and maintained according to the manufacturer's guidelines.

§ 6 Liability

- (1) The manufacturer is not liable for the recovery of data unless the manufacturer caused the destruction of data in a grossly negligent manner or indeed wilfully and unless the licensee ensured this data could be reconstructed with reasonable effort from data material provided in machine-readable form.
- (2) In case of passive negligence, the manufacturer infosystems will only be liable for wilful negligence of cardinal obligations. In this case indemnity is limited to the contractual and foreseeable damage.
- (3) The exclusion or the limitation of the liability of the manufacturer is also applicable to the personal liability of her satellites, employees, representatives and agents.
- (4) The aforementioned liability limitations are not applicable to customer claims resulting from product liability. The liability limitations are furthermore not applicable to physical harm and health or for loss of life to the customer which are chargeable to the manufacturer.
- (5) Compensation claims by the customer are subject to a limitation of one year from date of purchase of the program. This will not apply if the manufacturer can be accused of gross negligence and in the event of physical harm and health or for loss of life to the customer which are chargeable to the manufacturer.

Safety notice:

The manufacturer stresses that the software is not designed for applications that may endanger other persons by incorrect function of the software or control of connected devices. In such applications additional safety precautions operating independently of the software, must be taken in order to prevent the endangering of persons.

intentions. The same applies if there is a gap in the regulations of this contract. Instead of the invalid or impracticable regulations or for filling this gap a suitable regulation should become valid that comes, if legally possible, as close as possible to the intentions of the parties or would have intended had they thought about this paragraph when entering into the contract or during a later inclusion of a regulation.

§ 7 Written form

All agreements that include an alteration, supplement or putting into concrete terms of these contract terms, as well as special assurances and agreements are to be noted down in writing. In case they are declared by the manufacturer's representatives or assistants they are only binding if the manufacturer states his consent to this in writing.

§ 8 Indication and notice confirmation

The customer is aware of the application of these contract conditions by the manufacturer. He has the opportunity to take note of its content with reasonable effort.

§ 9 Information obligations

- (1) In the event of a resale of the software the customer is obliged to inform the manufacturer in writing of the name and the complete address of the buyer.
- (2) Insofar as the sold software was specifically adapted to the customers hardware and had a purchase price of more than 2.500,- €, the customer is also obliged to notify the manufacturer in writing about a change of hardware. The same applies if the customer intends to use the corresponding software within a network.
- (3) The customer is obliged to inform the manufacturer, regardless of the value of the sold software, in writing about the removal of a copy protection or a similar protection routine from the program code. The disturbance of the program required for such an allowed program alteration must be described by the customer as precisely as possible. Such a description must include a detailed description of the disturbance symptoms, the assumed cause of the disturbance as well as a detailed description of the carried out program alterations.

§ 10 Jurisdiction

The parties agree, with regard to all legal relations that result from this contract, to apply the law of the Federal Republic of Germany excluding the UN buyers law.

§ 11 Place of court, general conditions

- (1) Kiel (Germany) is the agreed place of court for all legal issues that result from disagreements about the winding up of this contract if the customer is businessman in the sense of the German Handelsgesetzbuch (commercial law legislation), artificial person of public right or under public law.
- (2) If single clauses of this contract are or become legally invalid then this clause is to be replaced by a clause that is as close as possible to the intended commercial

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