

Standard terms and conditions
for
FORMAT Software Service GmbH
(hereinafter referred to as: FORMAT)

Section 1 Scope of application

- (1)** The following General Terms and Conditions (GTC) apply to all business relationships between FORMAT and its Clients. This also applies even if FORMAT is aware of contradictory or deviating General Terms and Conditions of a Client, and if it still provides deliveries or services without reservation.
- (2)** Contractual conditions of the Client will not apply to these business relationships, unless they are expressly recognised in writing by FORMAT in exceptional cases. The validity of said conditions is also hereby rejected for the future as well. Silence on the part of FORMAT regarding the validity of the contractual conditions of the customer may not be taken as agreement.
- (3)** Brochures, descriptions and images of the services of FORMAT are non-binding, unless they are expressly included in the contractual relationship. We reserve the right to change such materials.
- (4)** The services offered by FORMAT are expressly not targeted at consumers as defined by sec. 13 BGB (German Civil Code). Therefore, FORMAT does not enter into contracts with consumers.

Section 2 Conclusion and initiation of contract

- (1)** Agreements between FORMAT and its Clients shall require the written form to be valid. Once a Client transmits an order, the agreement comes into being once a written order confirmation is provided by FORMAT. If the order confirmation is made electronically, an e-mail with an electronic signature shall also be sufficient for the written form. Reference is made to the provisions of Sec. 11 para. 1.
- (2)** All offers prepared by FORMAT are subject to change and non-binding unless specified otherwise in the respective offer.

Section 3 Delivery terms and deadlines

Delivery terms and deadlines are non-binding, unless expressly agreed otherwise. Insofar as FORMAT exceeds a binding and agreed deadline for a delivery by more than four weeks,

the Client may set a grace period of four weeks for FORMAT, beginning when FORMAT receives notification that the grace period has been set. After this grace period expires unsuccessfully, the Client may withdraw from the agreement through registered letter or an electronic message with a qualified electronic signature.

Section 4 Prices, payment terms, adjustments and cancellation provision

(1) Subject to other expressly deviating agreements, the prices named in the written order confirmation by FORMAT in accordance with Sec. 2 para. 1 are valid from the shipping location plus packaging, freight and shipping costs.

(2) Furthermore, the prices valid upon conclusion of contract are valid for services provided by FORMAT, unless other expressly deviating agreements exist, in particular for licensing fees, obligatory fees and hourly rates for services.

(3) FORMAT reserves the right to adjust the prices and fees due to cost increases (e.g. increased personnel expenses as a result of increased statutory and technical requirements, higher licensing fees charged by third parties for software, increased procurement costs). In applying such adjustments, FORMAT will also give due consideration to possible cost reductions and will present the changes to the Client in a transparent fashion, although it is not obliged to disclose its calculation. The Client may terminate the affected contract at an earlier date if the adjustment increases the current price by more than 5% (net). FORMAT will announce such price adjustments in a timely manner so that the Client may terminate the contract before the effective date of the adjustment in compliance with the contractually agreed notice period. The price adjustment becomes binding if the Client does not exercise this right of termination in compliance with the deadlines.

(4) The prices provided by FORMAT are net prices in EURO, plus VAT at the current legally valid rate.

(5) Software prices do not include services and possible adjustments to the hardware or other software. These and similar services must be ordered separately by the Client and must be paid for in accordance with the current prices valid upon the conclusion of the contract, unless other expressly deviating regulations exist.

(6) All invoices from FORMAT must be paid within ten days of the invoice date and without any discounts, if not otherwise agreed.

(7) The Client may cancel training or consulting services at no cost up to four weeks before the agreed date. After that date, the cancellation fees for services that are cancelled up to two weeks before the agreed date will be 50% of the agreed fee, and 75% of the agreed fee for cancellations up to one week before the agreed date. The full fee will be charged if services are cancelled after this date. The Client is responsible for the full amount of already incurred costs and expenses for travel to the training or consulting location.

Section 5 Legal consequences of breaches of obligation, Client's co-operative obligations

(1) In the case of substantial deviations from the contractually owed service (warranty case), FORMAT is entitled to either carry out repairs or to provide a substitute delivery, and it is obligated to do so if the repairs are not associated with unreasonable effort or cost. If FORMAT does not successfully eliminate substantial deviations from the performance description within a reasonable time period, provide a substitute delivery or bypass the deviations in such a way that reasonable contractual use of the program is possible for the Client, the Client can demand a reduction in the licensing fee or may withdraw from the contract.

(2) The defect claims pursuant to para. 1 do not include defects which are caused by the Client's deviation from contractual use and performance described in the given usage guidelines.

(3) The Client must promptly review computer programs delivered to it by FORMAT GmbH for proper functioning, in particular with regard to the correctness of the work results to be achieved using said programs. The Client will continue to monitor results successively and regularly during the usage period of the program, at minimum on a sample basis. The Client must provide FORMAT with verifiable documentation regarding the occurrence and type of deviations from the performance description as soon as such deviations are discovered.

(4) FORMAT assumes unlimited liability for damages incurred by the Client (liability case) that are caused by FORMAT, its employees, legal representatives or other vicarious agents with intent or gross negligence.

- (5) FORMAT also assumes liability for the Client's injuries to life, body or health that are the responsibility of FORMAT, its employees, legal representatives or other vicarious agents.
- (6) FORMAT also assumes liability vis-a-vis the Client for cases of mandatory product liability.
- (7) In the event FORMAT breaches essential contractual obligations (e.g. deliveries of contractual software to the Client, or the contractual provision of agreed services), it also assumes liability for ordinary negligence, although such liability shall be limited to the Client's typical and foreseeable property damages and financial losses. Liability is hereby excluded for the Client's loss of profits for non-occurring savings, indirect damages and damages which are caused by the application environment created by the Client or third parties or the Client's breach of the obligations from the above para. 3. This also applies if the data processing programs delivered by FORMAT and the data inventories contained within them are not used in the unaltered original version delivered by FORMAT, or if they are used in service conditions different from those specified in the associated performance description, unless the Client proves that this is not the cause of damage.
- (8) Liability for loss of data is limited to the typical recovery effort which would occur with the regular and appropriate creation of backup copies.
- (9) FORMAT is not liable for damage based on incorrect data, parameters or variables provided by third parties (such as customs authorities) and whose incorrectness is not obvious.

Section 6 Consulting and organisational services

- (1) Customs- and foreign trade-related consulting services or analytical and project consulting services rendered by FORMAT do not constitute legally binding services. They are considered recommendations based on existing expertise and existing professional experience. The decision to accept these recommendations rests solely with the Client.

(2) Complaints about the services pursuant to para. 1 must be made by the Client in writing within four weeks after the announcement or transfer of the service, or after discovery in the case of hidden defects. Complaints must be presented in a comprehensible form and must be supported by explanatory documents. For the remainder, Sec. 5 para. 3 sentence 3 applies accordingly.

Section 7 Acceptance of systems and programming services

(1) Where FORMAT installs standard software at the Client or renders customised programming services for the Client, the latter either accepts the service in writing or submits a comprehensible list of defects to FORMAT no later than four weeks after the installation. The service will be deemed accepted if the Client does not take any action during this time period. Deviations by the service or the contractual system from the performance description that have only a negligible effect on usability do not entitle the Client to refuse acceptance. FORMAT will immediately rectify any defects that are its responsibility if the Client submits a comprehensive list of defects. FORMAT will immediately issue a response with regard to defects that are not its responsibility. The Client must assist FORMAT with the remedial measures to the best of its ability.

(2) FORMAT provides no guarantee that the software transferred by it will fulfil specific requirements of the Client or will be suitable for any particular purpose, insofar as this has not been expressly agreed.

(3) The Client alone bears sole responsibility for using the programs correctly, in particular for the security of the data processed by the programs in question.

Section 8 Rights reserved

FORMAT reserves the copyright and other commercial protective rights to performance objects such as software, documentations, circuit diagrams, designs, drafts, descriptions, plans, concepts and similar documents. These documents may not be made available to third parties, copied, distributed or edited without FORMAT's written consent.

Section 9 Confidentiality

- (1)** The Parties hereby undertake to use all company secrets and other information pertaining to the other respective Party of which they become aware in the course of their collaboration (hereinafter referred to as: "information") only for the purpose of their collaboration and, in particular, to not disclose said information to third parties or make it accessible to them.
- (2)** Information in the sense of para. 1 includes, in particular, data on development, research, planning and manufacturing; samples, parts, drawings and calculations; information related to business operations, technical considerations and calculations; personal data; and knowledge in any format (including that provided by written, oral, electronic or other manner of transmission).
- (3)** Information not falling under the provisions of para. 1 includes:
- a) information which was already demonstrably known to the other Party in question at the time it was disclosed by the other Party;
 - b) information which was already public knowledge at the time it was disclosed by the other Party;
 - c) information that becomes public knowledge after disclosure by the other Party, without this being the fault of the contractual partner;
 - d) information which is part of the general current knowledge on state-of-the-art technology.
- (4)** The Parties will also impose the obligations resulting from para. 1 on their employees and, in the context of this business relationship, on any third parties engaged by them.
- (5)** If not otherwise expressly agreed, this confidentiality obligation will end three years after the end of the contractual relationship between the Parties.
- (6)** The Parties will be liable towards one another in case of violations of their confidentiality obligations to compensate for any damages caused by said violations. Each party reserves the right to prove that these damages would have occurred even without said violation.

(7) The Parties hereby undertake to pay a contractual penalty amounting to 10,000.00 euros to the other contractual Party if they culpably violate their confidentiality obligations. The Parties reserve the right to assert claims for damages under para. 6. The contract penalty will be applied against potential damage compensation claims.

(8) The validity of the German Act on the Protection of Business Secrets (GeschGehG) remains unaffected.

Section 10 Data privacy

(1) The Client is hereby informed that FORMAT saves and processes personal data to the extent required to fulfil the contractual relationship. Said data is, furthermore, only transmitted to third parties to the extent that FORMAT GmbH is legally obligated to do so.

(2) The Parties commit to inform the persons who are involved in the processing of personal data at their company of the relevant provisions of the data protection legislation, and they will also commit the same in terms of Art. 5 para. 1 GDPR (General Data Protection Regulation) and Art. 28 para. 3 b GDPR.

Section 11 Export provisions

(1) The Client is advised that FORMAT's products and services may be subject to German, European and international export provisions that contain a ban or restriction on the export of these services to certain countries or the transfer of the same to certain persons or institutions. The Client warrants that these provisions will be diligently observed.

(2) If the Client breaches the obligation from para. 1, FORMAT shall be entitled, after obtaining knowledge of this breach, to terminate the relevant contract or even the entire contractual relationship with the Client by way of an extraordinary termination. Possible compensation claims by FORMAT for damages resulting from the Client's legal breach are expressly reserved.

(3) Para. 1 and 2 apply accordingly if the Client uses FORMAT's products and services to provide products or services that in turn are exported or transferred to third parties in breach of the provisions noted in para. 1.

Section 12 Assignment of rights

The contractual Parties are not entitled to assign to third parties individual or the entire rights from the business relationships between FORMAT and its Clients without prior written approval of the other Party.

Section 13 Written form, choice of law, place of jurisdiction and place of fulfilment

(1) In the absence of a contrary provision, all notifications, declarations and terminations, along with amendments, additions and the cancellation of business relationships and the written form requirement must be issued in writing according to sec. 126 BGB or in an electronic form according to sec. 126a BGB. Deviations from this in individual contracts take precedence over this regulation.

(2) The law of the Federal Republic of Germany applies exclusively to business relationships between FORMAT and its Clients. The application of the Vienna United Nations Convention on Contracts for the International Sale of Goods is hereby excluded.

(3) Darmstadt is hereby agreed as the place of jurisdiction for all legal disputes arising from these business relationships.

(4) The place of fulfilment for all liabilities from these business relationships is Dreieich am Main

Section 14 Changes to the GTC

(1) Changes to these GTC will be published by FORMAT on its website in a timely manner: www.formatsoftware.de.

(2) Clients of FORMAT will be informed in writing or by e-mail of amendments in accordance with para. 1 or individual form agreements of FORMAT (such as the software licensing agreement, the software maintenance agreement or the agreement regarding ASP application service providing). Amendments shall be deemed accepted if the Client does not object to them in writing within four weeks after notification or after receipt of the e-mail.

- (3) The provisions of paras. 1 and 2 apply accordingly in cases of Sec. 4 para. 3.

Section 15 Final provisions

- (1) If FORMAT deviates from individual determinations within these General Terms and Conditions in individual cases for reasons of goodwill or for similar reasons in favour of the Client, this shall not represent a renunciation of FORMAT's legal position from said determination, nor may the Client derive any rights for equivalent or similar cases from said deviation.
- (2) If individual provisions of these General Terms and Conditions are or become invalid or infeasible, this shall not affect the validity of the remaining Terms and Conditions.

(Last updated: May 2022)