

General Terms and Conditions of usedSoft Deutschland GmbH (hereinafter “usedSoft”) for Software Purchase

§ 1 General Overview

1. The following General Terms and Conditions of Purchase (hereinafter referred to as “Purchase GTCs”) shall apply to every software purchase by usedSoft Deutschland GmbH (hereinafter “usedSoft”), headquartered in D-Dortmund, from a Supplier.
2. In these Purchase GTCs, the term “Supplier” shall apply solely to companies, legal entities under public law, and special funds under public law.

§ 2 Scope of Application

The Purchase GTCs shall apply exclusively; deviating or additional Supplier conditions, as well as the Supplier’s own terms and conditions shall not constitute part of the contract, even if usedSoft does not expressly object to them. Unreserved acceptance of order confirmations or deliveries is not an acknowledgement of the conditions of the Supplier.

§ 3 Terms and Conditions of Delivery; significant Contractual Terms

1. usedSoft accepts the purchase of software licences exclusively under the following terms and conditions:

The Supplier's software licences available for sale fulfill the requirements laid out in jurisprudence (ECJ, Judgement C-128/11, German Federal Supreme Court Judgement, case no. I ZR 129/08) regarding the transfer of software licences. In particular, the Supplier guarantees that it

- has purchased the software licences from the rights holder or from an authorised dealer for the rights holder for the purpose of unlimited usage in the territory of the European Union or the European Economic Community, and has paid for these in full;
- has not duplicated the software pertaining to the software licences being transferred in an impermissible manner; and

- no longer uses the software copies generated/installed for the software licences being transferred and has completely rendered them unusable, including any potential backup copies and original data carriers (jointly “Data Carriers”), provided the latter are not also handed over to usedSoft as evidenced by delivery slip.
2. Furthermore, the Supplier shall declare that these requirements have been met in a separate declaration based on a form provided by usedSoft (“Licence Declaration”).

Moreover, the Supplier shall designate the contractual usage rights (e.g., EULA (end user licence agreement), PUR (product user right) applicable to the software licences being transferred.

3. Furthermore, immediately after receiving payment, the Supplier shall submit a declaration based on a form prepared by usedSoft stating that usedSoft has paid the price in full for the transferred software licences.
4. Submission of the declarations laid out in Sections 2 and 3 (licence declaration, designation of applicable contractual usage rights, payment confirmation), as well as the supply of any potential data carriers pursuant to Section 1, constitute the significant contractual terms. If these declarations and/or data carriers are not in usedSoft's possession within four weeks of purchase confirmation, then usedSoft shall have the right to withdraw from the contract immediately.
5. The Supplier does not have the right to reserve ownership until payment in full has been made. The Supplier warrants that no retention of title exists for the benefit of any third party and that there are also no third-party rights conflicting with the purchase of the software by usedSoft.
6. The corresponding delivery of the software licence shall occur in accordance with the respective underlying order and the delivery date stipulated therein. The Supplier shall inform usedSoft immediately in the event of delays in the delivery schedule. Otherwise, the delivery schedule laid out in orders shall be binding. usedSoft has the right to refuse acceptance of software that is not delivered in compliance with the schedule indicated in an order.

§ 4 Terms of Payment

The prices agreed upon and stated in the respective orders by usedSoft shall apply. The Supplier shall invoice immediately after shipment of the goods and shall indicate order number and article number therein. Value added tax shall be listed separately. usedSoft shall pay the net invoiced sum within 14 days of receipt of the invoice. usedSoft has the right to offset existing receivables from the Supplier.

§ 5 Warranties, Liability, Legal Rights

Warranty and liability are subject to legal provisions.

§ 6 Applicable Law and Legal Venue

The contractual relationship between usedSoft and the Supplier is exclusively governed by German law to the exclusion of the UN Convention on the International Sale of Goods (CISG).

The legal venue for all disputes resulting from contracts between usedSoft Deutschland GmbH and a Supplier shall be Dortmund/Germany (Regional Court District Dortmund) or the court holding jurisdiction over the Supplier's domicile, as elected by usedSoft.

§ 7 Miscellaneous

All agreements and any other supplemental agreements that amend or differ from these provisions must be in written form in order to be valid. This also applies to amendments of the requirement for written form itself.

If any provisions of the contract are or become invalid or unenforceable after the conclusion of the contract, the validity of the remaining provisions of the contract shall remain thereby unaffected. Invalid or unenforceable provisions shall be replaced by valid and enforceable provisions, which come as close as possible to the financial objective that the contractual parties intended to achieve through the invalid or unenforceable provisions. The above provisions shall apply accordingly in the event of gaps or omissions in the contract.