

# TECHNOALPIN

## GENERAL SOFTWARE TERMS AND CONDITIONS

**General Software Terms and Conditions of TechnoAlpin AG with registered headquarters in Italy I-39100 Bolzano (hereinafter: TechnoAlpin or Licensor)**

### PREAMBLE

The software terms and conditions in question, together with TechnoAlpin's general terms and conditions and assembly terms, are always applicable when and insofar as no other individual agreement has been agreed upon in writing between the parties. Individual written agreements shall take precedence over the general terms and conditions. Otherwise the following provisions shall apply:

### 1. SUBJECT OF CONTRACT

#### Software

These software terms and conditions are applicable to legal transactions between companies, namely the delivery of goods and accordingly the provisions of services. Software within the meaning of these terms and conditions are standard computer programs developed or adapted specifically for the user, including documents provided in accordance with point 3.

#### (Usage) Rights of the software

The User has non-transferable and non-exclusive right to use the software subject to contractual specifications and intended purpose. This right is limited to the acquired license. All other rights to the software are reserved to the Licensor. Without the Licensor's prior written consent, the User is therefore in particular not entitled to reproduce, modify or make the software accessible to third parties. The User may not debug, decompile or disassemble the software obtained from TechnoAlpin or otherwise attempt to identify the source code of the software, modify any configuration files, read database content, or decrypt any communications programs and protocols. Database structures provided by TechnoAlpin may also not be passed on to third parties without written consent.

#### Additional services and supplies

Additional services and supplies, such as those listed in the examples below, shall be based on a separate written agreement and shall be charged at the Licensor's applicable list prices:

- Work to duplicate, translate or generate the software as well as services under point 4;
- Data carriers supplied by the Licensor provided that they are not a part of the hardware supplied by the latter;
- The analysis and elimination of disruptions caused by improper handling or errors in the operation or the use of the software or other circumstances for which the Licensor is not responsible;
- Support during the introduction of the software as well as training as long as the agreement does not contain any relevant provisions;
- Improvements, are future enhancements, which simplify operations, shorten hardware occupancy times or broaden specifications or potential applications of the software.

### 2. OBLIGATIONS OF THE USER

The User is responsible for: The selection of the software offered by the Licensor; The transmission of all information required for software development in the case of individual software, before conclusion of the contract; The use of the software in accordance with the present conditions and the contractually established intended use; The protection of all the Licensor's rights (such as commercial rights, copyrights including copyright notice) to the software and the safeguarding of the Licensor's rights about confidentiality of trade and business secrets including through its employees, agents, or third parties; This is also applicable if the software has been modified or is related to other programs. This obligation shall remain in effect even after the termination of the agreement.

### 3. SOFTWARE SPECIFICATION

The Licensor provides the specifications for standard software. He is entitled to change the software specifications for new versions. For individual software contracted by the User, the system specifications between the Licensor and the User must be agreed upon in writing. Software specifications may include for example documentation regarding performance characteristics, special functions, hardware and software requirements, installation requirements, operating conditions and handling (user manual).

### 4. DELIVERY, RISK ASSUMPTION AND ACCEPTANCE

The Licensor provides the User with a software in a machine-readable form and is entitled to deliver the current version at the time of delivery. If no delivery date is agreed, the Licensor shall schedule the delivery and the User shall be informed of the date. The shipping of the software and data carrier is at the User's expense and risk. The Licensor is not liable for any damages to the software caused wholly or partially by the User. If an acceptance has been agreed, the User may freely use the software during the test period. The test period shall start with the delivery of the software and shall last a week unless otherwise agreed upon in writing. The software is considered to be accepted when: the User confirms compliance with the contractual specifications, or does not notify major defects during the test period, or the User uses the software after the test period has expired. If no acceptance has been agreed upon, the legal consequences according to point 6 supersede the acceptance of the delivery date.

### 5. ASSIGNMENT OF CLAIMS

The User may only sell the software with the Licensor's express written consent and while not in default. In the case of the resale of the software, the resulting credit balances shall be automatically assigned to the Licensor (loan assignment).

### 6. WARRANTY AND LIABILITY FOR DEFECTS

The Licensor guarantees conformity of the valid specifications upon delivery of the software provided that the software is used in accordance with the applicable installation requirements and under the applicable conditions of use. The warranty covers error diagnostics, debugging and fault clearance during the warranty obligation. According to point 4 and unless otherwise agreed upon in writing, a warranty period of twelve months is applicable as from the date of acceptance or delivery. Error diagnostics are established based on the User's immediate error message or the Licensor's diagnosis. The User shall report to the Licensor all functional defects immediately and in detail. Defects, i.e. deviations that interfere with the applicable specifications, are eliminated at the Licensor's choice by supplying a new software or through relevant changes to the programs. The prerequisite for any fault clearance is that it concerns a functional damage that is repeatable, that the User installs freely available new versions at best within the warranty period, that the Licensor receives from the User the necessary documents and information in view of debugging and that the Licensor provides access to the hardware and software during normal working times. No warranty is applicable for software that has been modified by the User or a third party without the prior written approval of the Licensor even if the error occurs in a non-modified part of the software. If it is determined during the error diagnostics that there is no warranty claim or that the cause of the error does not lie in the software supplied, the User shall bear all costs arising therefrom. The Licensor does not warrant that the software functions meet the User's requirements, that the User's preferred selection of programs cooperate, that they operate faultlessly and without interruption or that all software errors can be eliminated. Other claims from the title of the defectiveness of the software are excluded. If the User enters into a software maintenance agreement with the Licensor, the latter shall accept responsibility for the maintenance of the error diagnostics (see above), the troubleshooting and the fault clearance (see above). Depending on the agreement, the maintenance is a regular adaptation of the software by the Licensor to the respective technical standards without there having to be any modification to the specifications or the functions; Or the maintenance is an adaptation of the software by the Licensor to changes in the hardware delivered by the latter, including modifications of its operating system; Measures to avoid mistakes.



### 7. COPYRIGHT NOTICE

All names, designations, trademarks, designs, software programs and other documents originating from the Licensor shall be protected by copyright and may only be used or otherwise exploited with the Licensor's prior written consent. The documents enclosed with the quotations must be returned immediately upon the Licensor's request. In the case of software programs, the respective license terms and usage rights apply exclusively to the acquired scope of licensing and are not transferable. Copies may only be made for backup and archival purposes. If the Licensor delivers items which have been developed and designed on the basis of drawings, models, prototypes or other documents provided by the User then the latter shall guarantee that no third-party property rights are violated or impaired. Should third-party rights be violated or a criminal or administrative offense be committed in light of this, the User undertakes to indemnify and hold the Licensor harmless from any third-party claims. All costs incurred in this regard must be borne by the User, and legal costs must be paid in advance by the User.

### 8. LIABILITY

No claims for damages of any kind whatsoever and on any legal basis whatsoever may be made further to Article 6, especially compensation for direct or indirect damage, loss of data, loss of profits and/or savings or consequential losses. If modifications are made by the User or third parties to the parts covered by the warranty within the warranty period without the written consent of the Licensor then the warranty shall be rendered null and void and the Licensor may not be held liable for any warranty claims. Any travel and accommodation expenses incurred by technicians for repair works, the rectification of defects, and the installation and removal of defective parts shall not be borne by the Licensor. The User shall be billed for these costs which shall be due for payment immediately.

### 9. RETURN AND DESTRUCTION OF THE SOFTWARE

Upon termination of the license, all the relevant programs and documents, including any copies which may have been made, must be returned to the Licensor without further request or destroyed. This also applies to software that has been modified or that is related to other programs.

### 10. PLACE OF FULFILLMENT, APPLICABLE LAW, ARBITRATION CLAUSE

The place of fulfilment for all obligations and performances agreed to between the parties is the registered head office of TechnoAlpin in Bolzano. Any controversy that may arise between the parties regarding the interpretation, application and/or execution of this contract shall be brought, pursuant to the arbitration regulations of the Arbitration Court of the Chamber of Commerce, Industry, Craft and Agriculture of Bolzano, before the said Arbitration Court. The Arbitration Board shall be composed of three arbitrators, as foreseen by the regulations of the aforesaid Arbitration Court, and its decision shall be final and binding. For the award of the Arbitration Board, the parties shall expressly refer to articles 26 and following of the afore-mentioned arbitration regulations. All agreements between the parties and their successors shall be subject to Italian law. Regarding any dispute that may arise in the interpretation, application and/or execution of this contract, TechnoAlpin may, having an uncontestable choice, resort to legal proceedings for which the Court of Bolzano shall have exclusive jurisdiction.

### 11. OTHER PROVISIONS

If the User exceeds or violates the rights granted to him according to the points 2 and 9 of these terms and conditions, the Licensor is entitled to request a contractual penalty during usage of up to ten times the yearly user fee and/or a one-off penalty of up to five times the user fee. Additional claims for damages remain unaffected. The Licensor is not responsible in the event that he cannot provide services because of circumstances beyond his control; If this change in circumstance leads to unreasonable hardship, the Licensor is entitled to request compensation from the User. If individual provisions of this agreement are or become ineffective, the validity of the remaining provisions shall remain unaffected. The ineffective provision shall be replaced by an effective provision which corresponds to the intended meaning and purpose and economic spirit of the regulation. Additional agreements and amendments to these terms require the written form in order to be effective.

Bolzano, 05.10.2018

