

## **Special conditions for the provision of standard software of the MWAY DIGITAL GmbH (Special Conditions for Software Licenses)**

### **§ Section 1 Scope of application**

1) MWAY DIGITAL shall permanently provide the customer with the standard software ("Software") listed in the individual contract exclusively in accordance with the present Special Terms and Conditions for the Provision of Standard Software ("Special Conditions for Software Licenses"). These Special Conditions shall also apply to other work results and documents, especially if they are standard. In addition and supplementary the General Terms and Conditions (AGB) apply. For standard work results provided by MWAY DIGITAL to the customer, the present work results shall also apply Special conditions.

2. in the absence of any other agreement, software is supplied in the version current at the time of delivery.

3) For third party software and data of third parties, which MWAY DIGITAL provides, the license and data protection terms and conditions apply.

Terms of use of the third party manufacturer. In principle, the customer only receives the rights to the third-party software that are use together with the software are necessary. Do the license and usage conditions of the third party manufacturer contain gaps, alternatively, the rules of use in these Special Terms and Conditions for Software Licenses shall apply accordingly.

4) MWAY DIGITAL provides open source products on the basis of special open source license conditions for Order,

which are agreed separately and in particular deviating regulations for rights of use, liability and warranty contained. In the absence of expressly agreed upon open source license conditions of MWAY DIGITAL the respective License conditions under which the open source software is made available to the general public.

### **§ 2 Delivery and transfer of risk**

1. the delivery of the software (computer program and documentation) is effected by MWAY DIGITAL to the Customer provides the software on data carriers (physical dispatch) or makes it available for retrieval in a network and notifies the client of this (electronic delivery).

2. the client receives the software in machine code (executable version). A claim for the transfer of the Source codes do not exist.

### **§ 3 Rights of use of the client**

1. the client shall receive a simple payment of the agreed remuneration subject to a condition precedent upon payment of the Right to use the software. He may only use the software to the extent stipulated in the contract. The The right of use is limited to the software mentioned in the contract, even if the client is technically connected to other can access software components. The customer receives the right of use for the contract type license/purchase agreement or contract for work and services is generally for an unlimited period. Here applies:

1.1 MWAY DIGITAL grants the customer a non-exclusive, unlimited in time and on a designated system limited right to use the Software within his company for his own purposes and, as set out in these Special Terms and Conditions, to for software licenses and described in the respective individual contract/license agreement. He may incorporate the software into the memory and to the hard disks of the contractually specified type and number of computers within the defined network ("designated system") and use it there. In doing so, he is entitled to use the software within the to reproduce the documentation and use it in accordance with the contract.

1.2 In the case of test installations, the customer's rights of use shall be limited to such actions that the Determination of the condition of the software and its suitability for the operation of the client. In particular Editing, decompiling, productive operation of the software or the preparation for productive operation inadmissible.

1.3 The rental, transfer or use by and for third parties, timeshare use, use within the scope of online services (ASP) and the computer centre or outsourcing operation, any other paid or free use of the software for third parties or sublicensing of the software (granting of rights of use to third parties without abandoning their own license) require the prior written consent of MWAY DIGITAL.

1.4 The client may carry out data backups in accordance with the rules of technology and may use the necessary Create backup copies of the software. A backup copy on a movable data carrier shall be and to mark them with the copyright notice of the original data carrier. The client may Do not change or remove copyright notices or other features serving to identify the program.

1.5 The customer may only make changes, extensions, and reworking of the software to the maximum amount of the costs incurred by MWAY DIGITAL and otherwise only to the extent and in the cases provided for by the Copyright law allowed. Before decompiling for the purpose of achieving interoperability of the software requires the customer informs MWAY DIGITAL in writing within an appropriate period of time, the necessary information and to provide documentation. Only after the fruitless expiry of the deadline shall the client be entitled, within the legal limits, to decompilation.



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1.6 Prior to the involvement of third parties in the actions of use listed in this paragraph, the customer shall provide MWAY DIGITAL a written declaration of the third party that the third party will immediately inform MWAY DIGITAL to the rules laid down in these Special Conditions.

2. if the customer receives software, e.g. within the scope of rectification or maintenance, the previously provided software replaced, his powers according to § 3 and § 4 expire with regard to the previously provided and now replaced software as soon as he uses the new software productively. If MWAY DIGITAL changes or enhances the software on behalf of the customer, the customer has the same rights of use as for the standard software of MWAY DIGITAL and in particular no right to sublicense to third parties.

3. any use of the software that goes beyond the provisions of these Special Conditions or the relevant contract, requires the written consent of MWAY DIGITAL. If the use takes place without this agreement, then MWAY DIGITAL shall pay the remuneration for further use according to the current price lists in Check.

We reserve the right to claim damages. The client is obliged to make any changes that affect his right of use or the compensation concerns (e.g. threatening sublicensing) to notify MWAY DIGITAL in advance in writing.

#### **§ 4 Passing on**

1. the customer may not use software which he has acquired for unlimited use (including the software which may be later

licenses or software acquired within the scope of maintenance), a third party only uniformly (in the case of multi-user licenses only undivided) and under complete and final abandonment of the own use of the software. The temporary or partial transfer of use to third parties or the transfer of use to several third parties is prohibited. This applies to also in the case of corporate restructuring and legal succession.

2. the passing on of the software undivided as a whole requires the written agreement of MWAY DIGITAL. MWAY DIGITAL will give its consent, if the customer submits a written declaration of the new user, in which to MWAY DIGITAL to comply with the terms of use and transfer agreed for the software as well as secrecy rules, and if the customer assures MWAY DIGITAL in writing that he has passed on all original software copies to the third party and has deleted or will delete all other copies made, provided not required for compelling and comprehensible reasons (e.g. in the context of archiving). in no case may the software can be used productively by the customer after passing it on. The client shall hand over the new user the Data medium and documentation in the original. On request of MWAY DIGITAL the customer will declare in writing that he no longer has MWAY DIGITAL software. MWAY DIGITAL can refuse the agreement, if the use of software by the new user contradicts their legitimate and comprehensible interests (e.g. passing on the software to a competitor).

#### **§ 5 Obligations of the client**

The customer shall take reasonable measures to protect the software from unauthorized access by third parties. On the client's obligation to cooperate is referred to (§ 5 AGB).

#### **§ Section 6 Licence fee**

MWAY DIGITAL shall provide the software to the customer against payment of the fees specified in the individual contract or in the license agreement.

mentioned license fees. Otherwise, § 7AGB shall apply.

#### **§ 7 Defects of quality and title**

The conditions in § 9 AGB apply to material defects and defects of title. For software, which has been developed by the customer via the MWAY DIGITAL does not provide any warranty. For a parameterization of the Software (customizing), which was carried out by MWAY DIGITAL and then changed by the customer, MWAY DIGITAL also does not provide any warranty, unless the customer proves that the change was not necessary for the reported defect. is not causal.

#### **§ 8 Liability**

For the liability § 10 T&C applies.

#### **§ 9 System measurement**

1. insofar as the basis for calculating the licence price on the basis of system objects (e.g. users, mobile devices...) takes place, the customer grants MWAY DIGITAL the right to system measurement. The customer creates the necessary Prerequisites for MWAY DIGITAL to have unrestricted access to the surveying system for the duration of the system survey system via remote electronic access.

2. MWAY DIGITAL is entitled to carry out a system survey every six months. The system measurement is carried out by MWAY DIGITAL with 10 working days notice. The client can only postpone the date of the system survey for important reasons.



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reason and only if he/she specifies an alternative date, which must be given within 20 working days of the announcement of the system measurement.

3 MWAY DIGITAL shall inform the customer immediately about the result of the system measurement. If the system measurement, MWAY DIGITAL is entitled to charge the difference based on the price list of MWAY DIGITAL immediately. Other claims remain unaffected.

#### **§ 10 Right of revocation**

MWAY DIGITAL grants the rights of use granted to the customer under the condition precedent of the full settlement of all claims. MWAY DIGITAL can refuse the granting of rights of use from important Revoked reason. An important reason is given in particular if the client is charged with a considerable amount and for a period of more than one month, these Special Terms and Conditions for Software Licenses shall apply to all or violates the obligation of secrecy according to § 11 of the AGB and this conduct is also based on written Warning with threat of revocation, in case of danger in delay even without this, does not immediately omit. In case of revocation the Customer shall return the software and other work results in the original and, if applicable, in a copy and delete stored programs. He will on request of MWAY DIGITAL the publication and deletion in writing. insure.

#### **§ 11 Termination of the right of use**

In all cases of termination of his right of use (e.g. by withdrawal), the customer shall relinquish all deliveries and copies of the software and deletes stored software, unless he is legally obliged to keep it for a longer period of time or the client has a legitimate interest in further possession (e.g. justification of or defence against claims). He assures MWAY DIGITAL of the settlement in writing.

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