

## General terms and conditions of EasternGraphics GmbH "General GTCs" (status 2010-12-15)

### I. Applicability, additional terms of contract

(1) EasternGraphics GmbH's general terms and conditions of business ("General GTCs") are applicable to all contractual relationships with customers arising from or associated with goods and services supplied by EasternGraphics GmbH ("EGR") and are to be understood as an integral element of the contract insofar as nothing to the contrary has been individually agreed in writing between EGR and the customer. In the version up to date at the relevant time, the "General GTCs" shall apply also to future business relations with the same customer without its being necessary for EGR to indicate their validity to the customer at the time of each individual contract. The customer shall at all times have the right to require EGR to supply him or her with an up-to-date version of the GTCs "General GTCs".

(2) These "General GTCs" are applicable exclusively. Any GTCs of a customer which deviate from, contradict or complement these "General GTCs" shall only be or become an integral element of any contract insofar as EGR has agreed to them expressly and in writing. This requirement of agreement shall apply in all cases and especially when EGR, knowing the customer's GTCs, supplies goods or services to or for a customer without any reservation.

(3) The "General GTCs" shall, where necessary, be complemented by the contractual terms and conditions for transfer or licensing of software ("Software GTCs"), by the contractual terms and conditions for software maintenance ("Maintenance GTCs"), by the contractual terms and conditions for supply of services ("Services GTCs"), by the contractual terms and conditions for rental of software ("Rental GTCs"), by the contractual terms and conditions for software development ("Development GTCs") and/or by the contractual terms and conditions for internet services ("Internet GTCs"). Clause I. (1) of these "General GTCs" shall apply as is appropriate also to the additional GTCs listed in Clause I. (2).

(4) Mention in the following of the validity of legal regulations is given simply for purposes of clarification. Even without any such clarification, the legal regulations shall therefore be applicable insofar as they are not subject to direct modification by the following "General GTCs".

### II. Price quotations, conclusion of contract

(1) Price quotations made by EGR shall be binding if they expressly contain a closing date for their binding nature. In any other situations, price quotations made by EGR are not binding and are subject to alteration. The same shall apply if EGR has provided the customer in advance of conclusion of contract with catalogs, product descriptions or technical documentation (such as user handbooks, computer generated and other calculations).

(2) Each order or commission on the part of the customer shall be construed as the binding offer to enter into a contract insofar as it implies no other offer. EGR's right to accept this offer to enter into a contract shall endure for 4 weeks from its receipt by EGR. Such acceptance may be declared either in writing (e.g. by confirmation of order) or by the supply of the software/licences and/or services to the customer.

(3) The customer is aware that software is subject to constant development. Insofar as such is reasonable for the customer, EGR may therefore supply and/or produce modified or adapted software, or provide other services in deviation from what has been agreed. It shall in particular be seen as reasonable for the customer if such modification in no way impairs the functionality agreed.

### III. Supply, dispatch, transfer of risk

(1) Supply of software programs (by which shall also be understood storage media, user handbooks, other documentation where included) or of other goods shall be made from the registered office of EGR and this shall also be the place of fulfilment. EGR shall have the right to transfer to the customer user handbooks or other documentation in electronic form. There shall be no absolute right to the receipt of a printed version. If the customer should so require, the software programs or other goods shall be sent to a different point of delivery. If no arrangement has been made for collection by the customer or third parties, and the customer has made no other instructions, EGR shall have the right to decide upon the manner of transfer (in particular any freight company, route and packaging).

(2) The risk of the goods being accidentally delayed or impaired is transferred at the point of transfer to the customer. The point of transfer shall be unaffected by whether the customer is late in accepting the goods. Risk of accidental mislaying or impairment shall in cases of forwarding as freight transfer immediately on surrender of the goods to the forwarding agent, the freight company or the person otherwise designated for execution of delivery.

(3) Agreed dates for delivery shall only be understood as binding if they have been confirmed as binding by EGR expressly in writing. Insofar as binding dates of delivery have been agreed, EGR shall not be in arrears unless the customer sends a written reminder.

(4) A precondition of the meeting of delivery dates shall be that the customer provides all information necessary to delivery in due time, and particularly that he or she fulfils the duty of cooperation in the matter. If this precondition is not fulfilled, the date for delivery shall be postponed appropriately. This shall not apply if the delay is the fault of EGR.

(5) If the missing of the date of delivery is caused by act of God, such as war, riot or similar events, including strike, lockout, unpunctual supply by a subcontractor, the date for delivery shall be postponed appropriately.

(6) EGR shall have the right to supply goods or services in part rather than in full. This shall not apply if such partial supply is unreasonable for the customer.

(7) If EGR is in arrears of supply, for each completed week, the customer may, insofar as he can rightfully claim damage arising, demand compensation of 3 % of the net value of the order for the part which could not be put to its intended use because of the delay, but at most compensation of 15 % in all. Under the law, the customer may only withdraw from the contract insofar as the delay to supply is the fault of EGR. It shall be the customer's duty to declare to EGR at the latter's

request whether the former is to withdraw from the contract on account of the delay in supply, or continues to insist on supply.

(8) Insofar as the supply of goods or services proves impossible, the customer shall have the right to demand damages if such infeasibility is the fault of EGR. However, the claim for damages will be limited to 25 % of the net value of that part of the goods to be supplied which could not be put to use on account of the infeasibility. The customer's right to withdraw from the contract shall remain unaffected.

(9) Any claim for damages on the part of the customer in respect of delay to supply of goods or services, on account of infeasibility and/or any claim for damages in replacement of the supply, which exceeds the limits set in Clauses III. (7) and III. (8) shall be excluded in all cases of delay or infeasibility. The limits to liability in Clauses III. (7) and III. (8) shall, however, not apply insofar as there is enforced liability in situations of malice, gross negligence, breach of an substantial contractual duty or damage to life and limb. EGR's liability shall be limited to foreseeable damage typical in the case of such contracts if there has been negligent breach of a substantial contractual duty on EGR's part.

### IV. Conditions of payment and means of payment

(1) Insofar as no fixed prices have been expressly agreed, the price for the relevant goods and/or services shall be in the amount given in the EGR pricelist applicable at the time of the confirmation of order. Prices shall be understood as net ex-registered office of EGR with no deductions and with the addition of the turnover tax legally applicable in the circumstances.

(2) EGR shall have the express right to refuse checks or bills of exchange. Acceptance of such by EGR shall be only for purposes of fulfilment of contract. Any discount charges and expenses shall be the responsibility of the customer and be due immediately.

(3) Details of how to pay shall be taken from the invoice sent to the customer. If the customer is in arrears with payment, EGR may demand interest at 8 % above base rate without the necessity of further proof, in accordance with § 247 of the German Civil Code (BGB).

(4) The defining point for payment and in particular for its timeliness is the receipt of the full sum by EGR.

(5) The customer shall only have a right to offset anything against payment if his or her counterclaims have been legally determined or have been acknowledged in writing by EGR. The customer shall only have the right to withhold any payment if the claim on which he or she bases the withholding relates to the same contractual relationship and has either been legally determined or formally recognized by EGR.

(6) If the customer is in arrears with payment, EGR shall have the right to interrupt provision of services under the same contractual relationship as EGR has accepted in the instance and to regard all open accounts within this relationship as being immediately due. In such a situation, any dates or deadlines set for execution of outstanding supply or delivery shall no longer apply and there shall be no requirement on EGR to indicate this specifically.

### V. Reservation of ownership and rights

(1) Until all payments, including those not yet due, for the current business transaction have been paid, EGR reserves all rights to the products and/or services. This shall apply in particular to rights to intellectual property (such as copyright rights of use of software programs and user handbooks) and to the property in tangible goods (such as storage media, user handbooks, other documentation).

(2) EGR's goods and services may be neither pledged to third parties nor given as security before all payments have been made. The customer shall inform EGR immediately by registered mail if third parties gain access to them, and to what extent.

(3) If the customer is in breach of contract, in particular non-payment of due recompense, EGR shall have the right to withdraw from the contract in accordance with legal provisions and not only to take back from the customer any rights of use which may have been accorded him or her (such as rights of use of software programs) but also to demand return of any tangible goods (such as storage media, user handbooks) which may already have been supplied.

(4) Insofar as the customer is within his or her rights to sell on the goods or services received from EGR in the ordinary course of business, the customer shall already hereby transfer to EGR in the amount of the total invoiced sum including turnover tax invoiced by EGR all settlements which benefit the customer from the selling on of the goods to the customer's customer or third parties. The customer is hereby empowered to continue to collect such payments due after the right to them has been transferred. EGR's entitlement to collect the payments itself shall remain unaffected thereby. EGR agrees, however, not to collect the payment while the customer is meeting his or her payment obligations and is not in arrears with payment and in particular has not filed for insolvency or ceased his or her payments. Should this, however, be the case, EGR may demand that the customer gives EGR details of the payments due (to which the rights have been transferred) and of the debtors, together with all details necessary to the collection of the payments, and passes over the relevant documentation and informs the debtors of the transferred rights. EGR hereby agrees to lift the controls on security to the extent that the realizable value of the securities exceeds the payments to be secured by more than 10 % if the customer so requests. The choice of which securities to free of control lies with EGR.

### VI. Defects, customer's duty of cooperation

(1) The customer shall have a duty immediately to inspect goods and services supplied as to their completeness or any obvious defects, in particular as to obvious short quantities or damage and to complain of these to EGR forthwith, at the latest within two weeks of receiving delivery of the goods or services, in writing, by email or fax. Where defects have not been obvious, or were hidden, the customer shall be

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obliged to complain of these immediately on their discovery to EGR in writing, but at the latest within the period named in Clause IX. Should the customer fail to make the complaints described above, liability for the defect not complained of shall be excluded. The onus of proof that the obligation to complain has been kept and kept punctually, also for the presence of the defect and for the time of its discovery shall lie with the customer.

(2) The customer is reminded of his or her duty to take care that his or her data is backed up daily to current technical standards, in order to avoid damage.

(3) The customer shall fulfil without charge his or her duty of cooperation in the context of the goods or services to be provided by EGR. Included in this duty is in particular that the customer shall transfer all information necessary for EGR's use, such as details of the customer's aims and requirements, without express solicitation and in due time. The customer shall furthermore make available in due time the equipment which may be necessary for the installation or operation of the goods or services. Should any complaint prove unfounded, the customer shall reimburse to EGR all costs arising therefrom.

### VII. Receipt and acceptance of goods and services

(1) EGR may require from the customer a written declaration after each supply of goods or performance of service that the goods or service were correct, complete and free of obvious defect (statement of due fulfilment of contract). The terms of Clause VI. (1) remain unaffected hereby.

(2) EGR shall prove to the customer in a test run beforehand, where this has been expressly agreed, that the essential specifications have been fulfilled.

(3) In the case of goods and services supplied in part, the declaration of acceptance shall not extend to features which can only be tested in connection with goods and services to be supplied later. As soon as goods and services supplied in part are being used productively by the customer, they shall be understood to be accepted.

(4) Goods and services shall be understood to have been accepted after 7 days if the customer makes use of them after their transfer without fulfilling any duty of complaint as detailed above.

### VIII. Liability

(1) EGR's liability or that of a representative or agent of EGR shall be governed by currently applicable law in the case of intent or gross negligence.

(2) EGR's liability shall be governed by the currently applicable law in any instance of breach of a fundamental contractual obligation (known in German as a "Kardinalpflicht") or of harm to life and limb.

(3) EGR's liability shall be limited to foreseeable damage typical in the case of such contracts if there has been breach of a substantial contractual duty on EGR's part.

(4) EGR shall not be liable for loss of data if the harm would not have arisen if data in the customer's sphere of responsibility had been duly backed up. Data shall be construed as duly backed up if the customer can prove that he or she stores it daily in a machine readable form and ensures thereby that the data can be retrieved with reasonable effort. EGR's liability for loss of data, insofar as it is caused neither by intent or gross negligence on the part of EGR, is limited to the typical costs of retrieval which would arise if the data had been duly stored.

(5) The like restriction shall apply to EGR's liability if defects and/or faults have arisen after conditions of use or operation have been changed, after faults in operation, after intervention in the software program such as modification, adaptation, connection to other programs and/or use in breach of contract, unless the customer can prove that defects were already present on transfer of the goods and/or services or have no connection with the aforesaid possible causes.

(6) The extent to which EGR's liability is excluded or limited shall also apply to the personal liability of EGR's employees and shall apply to third parties acting as EGR's agents.

(7) Insofar as claims for compensation are excluded or limited in accordance with the clauses above, the exclusion or limit shall extend also to any compensation in addition to or instead of provision of goods or services, for whatever legal reason, in particular in a situation of competing claims in respect of defect, breach of obligation under the contractual relationship, prohibited action and/or claims for compensation under § 284 of the BGB. For liability in respect of arrears, the terms of Clause III. (7) shall also apply and for liability in respect of infeasibility the terms of Clause III. (8).

(8) Liability under German product liability law (Produkthaftungsgesetz) shall remain intact.

### IX. Limitation

Any claims on the part of the customer to compensation for whatever legal reason shall lapse within one year from the start of the guarantee period or else from the time the claim arose. Should legal provisions set shorter periods of time, the foregoing shall not apply. The statutory period for lapse of claims shall however apply in the following cases:

- cases of claims for defects if EGR has intentionally failed to declare them or has given a guarantee for the specifications;
- cases of claims for harm to life and limb;
- cases of claims for compensation based on intended or grossly negligent breach of obligation;
- cases of claims under the German law on product liability (Produkthaftungsgesetz).

### X. Setting of time limits, lodging of claims for compensation, withdrawal and cancellation

(1) Insofar as the customer has the right in law to require compensation in lieu of goods or services or compensation for costs after he or she has set a reasonable

time limit and this has elapsed, the communication setting the time limit must also specify that the customer will go to law on expiration of the period.

(2) The clause above shall apply in proportion to the extent the customer has the right to withdraw from the contractual relationship with EGR or to cancel it for good reason after a reasonable time limit set by him or her has elapsed fruitlessly.

### XI. Rights of third parties

EGR shall exempt the customer from all claims of third parties against him or herself arising from breach of rights of patent to the software transferred. It shall be a prerequisite to this liability that the customer inform EGR of the claims of third parties immediately they arise, that the customer do not recognize the claimed breach of patent rights and that the customer either leave all dispute, including any out-of-court settlement, to EGR or conduct this in unanimous agreement with EGR. Insofar as the customer is responsible for breach of patent, claims against EGR shall be excluded.

### XII. Secrecy, confidentiality

(1) Insofar as the partners to the contract exchange confidential business or technical information or details are made known to one partner to the contract from the field of the other partner which are normally seen as business secrets, such as customer data, the partners shall agree to treat such information as strictly confidential and neither to make it accessible to third parties without the agreement of the other partner nor to use it in any way outside the confines of the execution of the present contract. Excluded from the mutual obligation of secrecy shall be such information which can be proved a) to be in the public domain or to become so without intervention of a partner to the contract, b) to become known to a partner to the contract from another source which is not under an obligation of secrecy, c) to have to be disclosed by one of the partners for the purposes of law enforcement (in particular before courts, criminal prosecution agents and statutory authorities).

(2) Each party to the contract shall agree to return to the other partner at any time after the appropriate request any confidential information physically handed over or, at the choice of the other partner, to destroy it without retaining copies or notes thereof. A partner's own notes, compilations and evaluations which contain confidential information shall be destroyed forthwith at the request of the other partner; confidential information which has been transferred and/or stored electronically shall be deleted. The deletion or destruction which has been carried out shall be confirmed in writing to the other partner on request.

(3) This confidentiality agreement shall remain valid for a period exceeding the period of validity of the contract by five years.

### XIII. Miscellaneous

(1) The place of fulfilment for any supply and the place of payment shall be Ilmenau, Germany. The place for hearings shall be Erfurt, Germany, insofar as this is legally permissible. The same shall apply in a situation where the customer has no general place for hearings within Germany. EGR shall however also have the right to go to law in the place of the registered office of the customer.

(2) The laws of the Federal Republic of Germany shall apply exclusively. Application of the provisions of the CISG, the United Nations Vienna Convention on Contracts for the International Sale of Goods, is expressly excluded.

(3) Any supplementary agreements or modifications to the contracts and to the "General GTCs" shall be valid only in writing. This shall be true even for waiving of the requirement for the written form. Electronic documents such as email without a qualified electronic signature as defined in the German Digital Signature Act (Signaturgesetz) shall not be construed as fulfilling the requirement for the written form.

(4) If any individual clause should not be legally effective or should lose its legal effect because of later circumstances or if there should be an omission, the legal effect of the remaining clauses shall nonetheless remain intact. In place of the ineffective clauses or to remedy the omission a term or condition shall if and as far as possible apply which is reasonable and approximates most closely to what would have been the wish of the partners if they had thought about the point in question.