

**General Terms and Conditions of EasternGraphics Benelux B.V. for the Transfer of Software ("Software GTCs")  
(version May 1<sup>st</sup> 2007)**

**I. Area of validity**

The following General Terms and Conditions for the Transfer of Software (hereinafter referred to as "Software GTCs") of EasternGraphics Benelux B.V. (hereinafter referred to as "EGR") are applicable for all contractual relations with customers concerning the transfer of software programs and form an intrinsic and inalienable component of all such contracts, unless otherwise expressly agreed individually in writing between EGR and the customer. These Software GTCs supplement the General GTCs of EGR, which also form an intrinsic and inalienable component of all contracts.

**II. Services of EGR**

(1) EGR will transfer the software program(s) described more specifically in the tender or the confirmation of order to the customer in machine-readable object code. According to the available possibilities and/or the wishes and requirements of the customer, the transfer of the software program(s) will take place via either data carriers or remote data transfer (e.g. download from the Internet).

(2) The software program(s) to be transferred to the customer are described in more detail in the corresponding user handbook(s) and other relevant documentation, which specify the functions and performance that can be achieved through the proper use of the software ("performance specification"). The relevant performance specification is exclusively valid for the definition of agreed qualities of the transferred software and the use of the software in accordance with the agreed conditions. Public disclosures, promotional articles or advertisements will not constitute a description of the qualities of transferred software.

(3) The services performed by EGR during the course of the transfer of software do not include the delivery of new versions of the software program(s), the installation of software, the adaptation of software programs for the individual requirements of the customer, training and other consultancy services and services of work over and above the transfer of the software to the customer. In particular, EGR will not support the customer in the event that the customer wishes to combine the transferred software with other pieces of software via the interfaces contained within the software. EGR will only create this combination of items of software and/or perform any of the other aforementioned services on the basis of a separate agreement and in return for additional remuneration.

**III. Cooperation of the customer**

(1) The confirmation of order issued by EGR and/or the relevant documentation for the software program will contain details on the hardware and software environments required for the proper and defect-free operation of the transferred software program(s) (minimum frequency of the processor, minimum free memory space, operating system requirements etc.). The customer will be responsible for the punctual provision of suitable hardware and software. In the event that the required hardware and/or software environment is not available and if the transferred software can not be used for solely this reason, the customer alone will be responsible for this.

(2) Before putting this software into operation, the customer will be obliged to test all functions of the transferred software program(s) under the customer's specific hardware and software environment. Furthermore, the customer will also be obliged to inspect all data carriers, user handbooks and other documentation for errors upon transferral. In the event that the customer discovers defects, he will be obliged to report all such defects to EGR immediately in writing, by fax or by e-mail.

(3) The customer will be obliged to put appropriate precautions in place to prevent unauthorised access to the transferred software and all relevant documentation. Furthermore, the customer will also be obliged to store the originally delivered data carriers in a location that is protected against unauthorised access by third parties.

(4) The breach of the aforementioned obligations of the customer to cooperate with EGR will constitute an infringement of an essential contractual condition.

**IV. Granting of rights**

(1) EGR herewith grants the customer the temporally unrestricted, non-exclusive and non-transferable right to use the transferred software in accordance with the conditions of these Software GTCs. This usufructuary right will be granted under the reservation that all remuneration is received in full.

(2) The customer will be entitled to install and use the software on/at the number of workstations specified in the tender and/or the confirmation of order. The customer will be entitled to use the software on any item of hardware available to him. In the event that the customer changes his hardware, he will be obliged to delete the transferred software from his old hardware. The simultaneous installation, availability or use of the software on more than one piece of hardware will not be permissible.

(3) The customer will be entitled to replicate the software if the replication of the software is necessary for its proper use. This also includes the installation of the software from original data carriers on the mass storage unit of the hardware used by the customer, as well as the loading of the software on main memory. Furthermore, the customer will also be entitled to make one back-up copy, which must be expressly marked as such. This copy may only be used for archiving purposes and may not be passed on to third parties. The simultaneous use of the original and the back-up copy will not be permitted. Further replication of the software will not be permitted. This also includes replication through the issue of the program codes. Only one print-out or one copy may be made of the user handbook and/or other documentation. All further replication of the software and/or the user handbook and/or other documentation will only be permissible with the express prior consent of EGR.

(4) The customer will be entitled to pass on/sell the software once to a third party. However, the customer will only be permitted to pass on/sell the software through passing on/selling the original data carrier together with all copies he has made of the software (alternatively he may destroy or delete all copies) to the third party recipient/purchaser under the express reservation that this third party recipient/purchaser expressly accepts in writing these Software GTCs as binding Software GTCs

and that the customer informs EGR of the passing on/sale of the software and submits the written acceptance of these GTCs of the third party recipient to EGR.

(5) The above regulation will also apply if the customer merely transfers the use of the software to a third party for a temporary period. However, the customer will not be permitted to lease out software or parts of the software for commercial purposes.

**V. Restriction of usufructuary rights, overuse**

(1) The customer will not be entitled to carry out any changes to the program codes, even if he deems this necessary for the elimination of defects. EGR will enable the elimination of defects, even after the limitation of claims arising from defects, via the completion of a software maintenance contract.

(2) The customer will not be permitted to translate the transferred program codes into other code formats (decompiling), nor will he be permitted to otherwise rework the various production stages of the software (reverse engineering). The entitlement to carry out translations of the code formats for the creation of interoperability of an independently acquired computer program will not be affected according to the Dutch law.

(3) All information gained during the performance of the activities set out in sub-section (2) above may not be used for any other purposes as those specified therein, nor may any such information be passed on for use by third parties. Furthermore, it will also not be permitted to use any such information for the creation or marketing of a program with essentially similar function or format or for any other activities that infringe copyright law.

(4) The customer will not be permitted to remove, change or render illegible any of the notes on ownership or copyright, stickers, labels or other identification tags of EGR from the software, the user handbook and/or any other related documentation.

(5) The commercial use of the software on behalf of third parties through "application service providing (ASP)" will not be permitted. Furthermore, any use of the software that exceeds the scope of permitted use specified herein, in particular the simultaneous use of the software at more than the agreed number of workplaces as specified in the tender and/or the confirmation of order, will constitute use of the software in breach of the agreed contractual conditions. The customer will be obliged to inform EGR of any such case immediately. The customer will be obliged to pay EGR an appropriate amount of compensation, which will be based on the applicable price lists of EGR, for the period of the unauthorised overuse of the software by the customer. The amount of compensation will be based on a four-year linear depreciation. In the event that the customer fails to inform EGR of any such overuse of the software, he will be obliged to pay a contractual penalty in the amount of five-times the price for the actual amount of use in accordance with the applicable price lists of EGR.

**VI. Use of technical protective mechanisms**

(1) EGR herewith expressly reserves the right to deliver the software with inbuilt technical protective mechanism (copy protection), e.g. in the form of a dongle or software key.

(2) In the event that EGR delivers software with a dongle and if this dongle has a malfunction, the customer will be entitled to return the defective dongle to EGR and request a replacement dongle. If this occurs within the limitation period for claims arising from defects in accordance with sub-section VII. (2), the replacement dongle will be delivered free of charge. After the expiry of the limitation period for claims arising from defects, there will be a charge for the replacement delivery of € 50.00 plus the legally applicable amount of VAT. In the event of the theft or the loss of a dongle, the customer will have no claim to a replacement delivery.

(3) The by-passing or removal of technical protective measures is an infringement of the rights of EGR and under certain conditions will be liable to criminal charges.

**VII. Liability for defects**

(1) In the event of defects to the transferred software, the rights of the customer will be governed by the applicable provisions of the law, unless otherwise regulated in the following.

(2) The limitation period for claims arising from defects to the transferred software will be one year. This one-year limitation period will begin upon the transfer of the software to the customer. However, the legally specified limitation periods will apply if EGR has fraudulently concealed or failed to disclose such defects or if EGR has expressly offered a guarantee for certain qualities of the software. The guarantee of qualities will only be valid if recorded in writing.

(3) EGR herewith guarantees that the software corresponds to its performance specifications when used properly in accordance with the contract and does not contain any defects that significantly affect its suitability for the contractually agreed use. Insignificant deviations from the performance specifications will not be deemed as defects. The customer is aware that, on the basis of the current status of technology, software of this complexity can not be developed absolutely free of all defects.

(4) The customer will be obliged to report any defects immediately to EGR in writing, by e-mail or by fax and specify and describe how these defects manifest themselves, the effect of these defects and under which circumstances these defects take effect. Claims arising from defects will only exist if the defect reported can be replicated or can be demonstrated through machine-produced data.

(5) EGR will be obliged to eliminate all defects properly reported by the customer by way of subsequent fulfilment of obligations, subsequent improvement or subsequent delivery. EGR will be free to choose the method to be used for the elimination of defects during the subsequent fulfilment of obligations. The right of EGR to refuse the selected method for the subsequent fulfilment of contractual obligations in accordance with the statutory regulations will not be affected. Insofar as reasonable for the customer, EGR will be entitled to eliminate defects reported by the customer through the delivery of a new version of the software (e.g. "update", maintenance release/patch"), which no longer contains the reported defect or eliminates the defect or to develop an alternative solution.

(6) In the event that attempts to subsequently eliminate defects are not successful within the specified period, the customer will be obliged to grant EGR an additional period of grace for the elimination of defects, insofar as it is reasonable for the customer to do this and unless EGR finally refuses to subsequently eliminate defects. In this case the customer will be entitled to withdraw from the contract or demand the reduction of the purchase price after the expiry of the aforementioned additional period of grace and, in the event that EGR is at fault, demand compensation instead of performance or the reimbursement of expenses incurred. Once the additional period of grace has expired without success, the customer will be obliged to declare within an appropriate period whether he still requires the subsequent fulfilment of contractual obligations or whether he intends to enforce the claims to compensation specified above. The customer will not have a right to withdraw from the contract in the event of insignificant defects. Upon the declaration of withdrawal from the contract or a demand for the reduction of the purchase price, the customer will renounce all claims to the delivery of defect-free software.

(7) EGR will not be liable for defects if software errors arise after the amendment of the conditions of use or operation, in the event of installation or operating errors, insofar as these are not the result of errors in the user handbook, or interference with software programmes, such as changes, adjustments, combination with other programmes, and/or in the event of the use of software in breach of the contractually agreed use, unless the customer can prove that the software errors that arise already existed at the time of the transfer of possession of the software or that the errors that arise have no direct causal connection with the aforementioned occurrences.

(8) EGR will not be liable for the correctness of any data of the manufacturer or customer pertaining to delivered software or any possible errors arising from such data.

(9) In the event that it comes to light that a defect reported by the customer does not in fact exist or is brought about as a result of other factors unconnected with the software supplied by EGR, EGR will be entitled to invoice the customer for all costs arising as a result of analyses and other processing work on the basis of the currently valid price lists of EGR.

(10) In the event of a justified withdrawal from the contract, EGR will be entitled to demand an appropriate amount of compensation for the customer's use of the software in the past up until the time at which withdrawal from the contract was declared. This compensation for use of the software will be calculated on the basis of a four-year total period of software use, whereby an appropriate deduction will be made for the defects influencing the software, which led to the withdrawal from the contract.

#### **VIII. Validity of the General GTCs**

The contractual conditions set out in the General GTCs of EGR, e.g. the conditions concerning the completion of contracts, delivery, remuneration and payment, reservation of rights and reservation of ownership, liability, limitation of claims, place of jurisdiction etc., will apply accordingly for all contractual relations with the customer concerning the transfer of software programs.