



General Terms and Conditions: Software License (Date: 05/2010)

METAIO software licenses are subject exclusively to these Terms and Conditions. Any conflicting terms and conditions shall be deemed excluded, be it by express or implied agreement. These Terms and Conditions shall apply only to relations with merchants, legal persons under public law and public law funds within the meaning of Sec. 310 BGB [German Civil Code].

1. Software, Delivery and Installation, Participation of the Customer

- 1.1 METAIO shall deliver to the customer a complete copyable copy of the object code of the licensed software (the installation copy).
- 1.2 The customer shall inspect the delivered installation copy, without delay, for its completeness and operability. The customer shall notify METAIO without delay if the delivery is incomplete.
- 1.3 At its own expense, the customer shall procure - and install in good time - additional hardware and software, which may be necessary for use of the licensed software within its IT system or network ("application environment").

2. Evaluation Period

- 2.1 Unless otherwise agreed METAIO shall, initially for a limited evaluation period, grant the customer the non-exclusive, non-assignable right to use the licensed software for evaluation purposes at the terms described below.
- 2.2 The term of the evaluation period shall be 3 weeks following initial installation but in any case no longer than 4 months as of delivery of the software to the customer. The software is equipped with a technical security feature which will prevent continued use after expiry of the evaluation period. In the event the customer does not wish to continue use of the software it shall return the delivered data carriers and any other delivered material to METAIO and delete all copies. Deletion shall be confirmed to METAIO in writing by a legal representative of the customer.

3. License Agreement of unlimited duration

If the customer is interested in a continued use of the software it shall so advise METAIO in writing. Such notification shall be deemed an offer for the conclusion of a license agreement at these Terms and Conditions. METAIO accepts such offer in notifying a password to the customer in writing, which will allow the customer to permanently disable the above described security feature.

4. Rights of use

- 4.1 METAIO shall, upon completion of the evaluation period described in para. 2 above and upon payment of the agreed license fee, grant the customer an, with the exception of para. 4.3, perpetual, non-exclusive and, with the exception of

para. 4.2, non-transferable right to use the licensed software in accordance with the provisions of this Agreement. This shall comprise - subject to any other stipulations of the parties - the installation, loading and operation of the licensed software on an individual customer server and/or an individual customer terminal (in other terms, parallel multiple use is not permitted), as well as the making of necessary backup copies. This shall not comprise other reproductions of the software, such as printing the program code or the documentation. Subject to the provision set out in para. 4.2 the customer shall not be entitled to rent out, lease, or otherwise make available to third parties for commercial use, the licensed software.

- 4.2 Transfer of the licensed software to third parties is admissible only if the customer transfers the software permanently, completely and without retaining any copy, and if the recipient agrees, in writing, to comply with the terms of this Agreement; such transfer shall cause the customer's rights of use to expire. Furthermore, the prior consent of METAIO must be obtained. METAIO will only withhold such consent for justified cause such as e.g. if there is good reason to presume that the recipient will breach the terms of this Agreement or unlawfully modify the licensed software and/or unlawfully produce copies thereof.
- 4.3 The customer's right to use the licensed software becomes extinct, without notice being required, if the customer breaches any of the above terms of the Agreement. In such a case, the customer is obliged, at the discretion of METAIO, to return or destroy the original data carriers, all copies and the documentation. Any such destruction must be confirmed in writing to METAIO.

5. License Fee

The customer shall pay to METAIO a one-time license fee - the exact amount, due date and payment conditions of which are set out in the parties' agreements - for granting the above rights of use. If no such agreements have been made the price list of METAIO applicable at the time shall apply. Payments become due immediately and must be made within 30 days of the date of the invoice.

6. Warranty

- 6.1 METAIO warrants that the licensed software is free from material defects at the time of delivery. Material defects are deviations from the product specification, including in the accompanying documentation, where such deviations significantly impair the value of the software or its fitness for ordinary use as described in the documentation.
- 6.2 The customer shall immediately notify METAIO in writing of any material defect that may occur, specifying how the material defect manifests itself,

what effect it has, under what circumstances it occurs, and how it is to be classified from the customer's point of view. Otherwise METAIO shall not be liable for the material defect.

- 6.3 Provided that METAIO, having received notification of the material defect, has established that a material defect actually exists, it will, at its option remedy such material defect (subsequent improvement or subsequent delivery) within a reasonable period of time. If an attempt to remedy the material defect is not successful within this period of time, and if such an attempt also fails within a further reasonable time limit to be set by the customer, and if, furthermore, METAIO does not provide an interim solution pursuant to para. 6.4, then the customer can reduce (lower) the license fee or cancel the Agreement. Nothing of the aforesaid shall prejudice any claim for damages of the customer. If any notified material defect cannot be ascribed to METAIO, then the customer shall compensate METAIO for the time spent, as well as for the accrued costs (in particular travel expenses), in each case at the applicable rate.
- 6.4 METAIO is entitled to bypass any material defect that may arise with an interim solution if the material defect itself can only be remedied at unreasonable expense, and if the run time and response time of the licensed software are not seriously impaired as a result of the interim solution.
- 6.5 METAIO is not obligated to warrant if modifications have been made to the licensed software contrary to para. 9 - or to the agreed application environment - unless the customer provides evidence that the modifications are in no way connected with the defect that has occurred and that such modifications do not significantly hinder analysis and remedying of the defect.
- 6.6 Claims of defects are statute barred within 12 months following the delivery of the licensed software. This does not apply if the corresponding defect has been maliciously concealed. Acquisition of further rights of use for licensed software already installed does not reset the period of limitation.
- 6.7 Claims for damages are governed by para. 7.

7. Overall Liability

- 7.1 METAIO shall be fully liable for damage caused intentionally or by gross negligence, if a defect has been maliciously concealed, if a specific condition has been guaranteed, for damages based on the Product Liability Act as well as for physical injuries.
- 7.2 METAIO will only be liable for other damage if an obligation has been violated by simple negligence, compliance with which is of particular importance in order to achieve the purpose of the Agreement (major obligation) and if the damage caused hereby is both typical and foreseeable based on the contractually agreed use of the licensed software. In such a case, the liability is restricted to an amount twice that of the license fees paid under the terms of this Agreement.
- 7.3 In the event of initial impossibility of performance METAIO shall be liable only if it had knowledge of the impediment to performance, or if its lack of knowledge is due to gross negligence.

- 7.4 METAIO is only liable for the recovery of data provided that the customer has, appropriate to the level of risk, made regular backup copies, and ensured that the data from such backup copies can be reconstructed at reasonable expense. Any further liability for loss of data is excluded.
- 7.5 The above regulations shall also apply in favor of the employees and vicarious agents of METAIO.
- 7.6 With the exception of claims based on tortious acts the customer's claims for damages, liability for which is limited in accordance with the above provision, become statute barred within one year of the start of the statutory limitation period.

8. Observance of secrecy

- 8.1 Both parties agree that licensed software contains secret knowledge pertinent to METAIO. The customer undertakes to protect from disclosure to any third party the licensed software - including all accompanying documentation, any backup copies made, and all other information of METAIO identified or marked as confidential and which is made accessible to the customer within the context of this contractual relationship. This includes, in particular, all information made accessible which goes beyond the outward appearance of the licensed software and the mere list of its range of functions, as well as the methods and processes used by METAIO.
- 8.2 The obligation of secrecy shall not apply to confidential information which (i) was already publicly known at the time of disclosure, or became public knowledge thereafter (and where non-compliance with the above provisions was not a contributory factor), (ii) is expressly revealed by METAIO on a non-confidential basis, (iii) was already in the lawful possession of the customer prior to the disclosure, or (iv) is subsequently revealed to the customer by a third party without contravening an obligation of secrecy. The burden of proof for the existence of any of the above exceptions shall be borne by the customer.

9. Modifications of the licensed software

- 9.1 Modifications of the licensed software by the customer which go beyond the customization set down in the Agreement and described in the accompanying documents are subject to the following provisions:
 - a) Any modification, processing, decompiling, de-assembling and reassembling or other reworking of the licensed software, as well as any replication by the customer of results achieved by such work, is subject to a prior written approval of METAIO. The rights of the customer in accordance with §§ 69 lit. d) and e) UrhG [German Copyright Act] remain unaffected.
 - b) Should the customer, moreover, wish to change, modify, process or adapt the licensed software, METAIO offers the opportunity to conclude independent contracts.
- 9.2 The rights in all further developments of the licensed software are owned by METAIO provided that they are based exclusively, or mainly, on METAIO developments. Where the customer develops licensed software further and if such developments

are not separable from the licensed software, customer shall grant COMPANY the perpetual, exclusive and unrestricted right of use to the corresponding further developments, free of charge. In the event that such a separation of the further developments is possible, then such right of use shall be non-exclusive. However, in this case, the customer shall not be entitled to disclose licensed software to third parties within the scope of its own use of the further development. The burden of proof in respect of the separation of the further developments shall lie with the customer.

11.8 The parties agree that the regional court of Munich (LG München I) shall have exclusive jurisdiction for any disputes arising out of or in connection with this Agreement. METAIO is entitled to sue the customer at any other legal place of jurisdiction.

10. Audit rights

- 10.1 Upon written request by METAIO, the customer shall, within a period of 15 days following receipt of the request, supply METAIO in writing with all requested information on the type and extent of use, by the customer, of the licensed software at the time, which is necessary to examine whether such use complies with the provisions of this License Agreement.
- 10.2 During the term of this Agreement, METAIO is entitled, at its own expense, to have a member of the tax advising or business consulting professions who is sworn to professional secrecy, or any other independent expert, verify whether there has been compliance with the provisions of this License Agreement. The auditor must be granted access to inspect all documents and files deemed definitive for calculating the extent of use of the licensed software. If such verification reveals any inaccuracies, then the audit fees shall be borne by the customer, otherwise they will be borne by METAIO.

11. Final provisions

- 11.1 Any modification or amendment to this Agreement must be made in writing to become effective. Verbal ancillary agreements are deemed not to exist.
- 11.2 The customer agrees that METAIO may use its name for press releases, product brochures and financial reports and, in so doing, refer to the fact that it is a customer of METAIO.
- 11.3 The customer further agrees to METAIO' establishment of a hyperlink to the customer's corresponding online service within the framework of its own homepage.
- 11.4 Should any provision of this Agreement be, or become, invalid, this will not affect the validity of the remaining provisions of this Agreement. The parties agree to replace any invalid provision with a valid provision, which most closely approximates to the commercial objective of the parties. The same shall apply in the event of a loophole in the Agreement.
- 11.5 Offsetting by the customer is excluded unless the customer's claim is uncontested, ready for decision or defined by final enforceable judgment. The same applies to the customer's rights of retention.
- 11.6 This Agreement is subject exclusively to the substantive law of the Federal Republic of Germany - with the exception of the UN Convention on Contracts for the International Sales of Goods.
- 11.7 The place of performance shall be the corporate seat of METAIO in Munich.