

Definitions

Seller: nanocode GmbH

Buyer: the party purchasing Products and/or licensing Software from the Seller.

§1 Contract

1. All deliveries and services are subject to these General Terms and Conditions.
2. Any deviating or additional agreements – in particular, conflicting terms and conditions – require written consent from the Seller.
3. All orders and assignments as well as special assurances require written confirmation from the Seller.

§2 Subject matter of the agreement

1. The subject matter of this contract is the licenses for the compiled computer programs and libraries, as specified in the order confirmation, and the associated documentation (hereinafter: Contractual Software), as well as granting the rights of use described in §5.
2. The Seller shall provide the Contractual Software and related documentation to the Buyer on a data carrier or by download or pre-installed on specific hardware.
3. The nature of the Contractual Software is determined in particular (but not exclusively) by the product description in the data sheet, in the quotation, and in the order confirmation; furthermore, it is determined whether and to what extent the Contractual Software is hardware-bound. If available, the information contained in the data sheet and in the quotation must be understood as performance specifications and not as guarantees. A guarantee is only granted if it has been expressly designated as such.
4. The Contractual Software shall correspond to the version tested and accepted by the Buyer. The Buyer is responsible for verifying its performance and compatibility with the Buyer's hardware and operating conditions.

§3 Delivery Dates, Transfer of Risk

1. Delivery dates and deadlines are binding if they have been expressly designated as binding in writing by both the Buyer and the Seller in each individual case. Otherwise, all delivery dates and deadlines are non-binding.
2. In the event of delays, the Seller shall inform the Buyer without undue delay and propose a revised delivery date.
3. If failure to meet a deadline is due to unforeseen obstacles beyond the Seller's control, the deadline shall be extended accordingly.
4. The Seller is also entitled to make partial deliveries. The risk transfers to the Buyer upon handover to the carrier.

§4 Prices

1. Prices are quoted for the Federal Republic of Germany.
2. Unless otherwise agreed in writing, Software is delivered electronically and no shipping costs apply.
3. Prices are exclusive of any taxes, duties, and governmental charges, which shall be borne by the Buyer.
4. Unless otherwise agreed in writing, payments are due within 10 days from the invoice date, net, without any deduction, plus the applicable statutory value-added tax at the time of invoicing. Even in the case of partial deliveries, the full invoice amount for the partial delivery is to be paid within 10 days.

§5 License Grant and Scope

1. The Seller grants the Buyer a non-exclusive, non-transferable (except as expressly permitted below) right to use the Contractual Software, in unmodified object-code form, solely for the agreed contractual purpose and within the technical scope specified in the quotation, order confirmation, or documentation. Unless otherwise agreed in writing, the license is not limited in time.
2. Device / system scope. Where the Contractual Software is designated as hardware-bound or licensed for a specific system, the license is limited to that device or licensed system. If the Buyer changes the hardware, the Buyer shall delete the Contractual Software from the previously used hardware before installation on the new hardware.
3. Reproduction. The Buyer may reproduce the Contractual Software only to the extent necessary for its use, including installation to mass storage and loading into RAM. One backup copy for archiving and disaster recovery is permitted. All copyright notices, trademarks, and other identifiers must be reproduced unchanged. Documentation may not be reproduced except as expressly permitted.
4. Distribution, resale, hosting, and sublicensing. The Buyer shall not distribute, resell, rent, lease, lend, sublicense, or otherwise make the Contractual Software or documentation available to third parties, including by way of hosting, cloud provision, or providing remote access, unless expressly permitted in the quotation and order confirmation.
5. Consultants and subcontractors (permitted access). Notwithstanding the preceding paragraph, the Buyer may grant access to the Contractual Software to its employees and third-party service providers (including consultants and subcontractors) solely for the purposes of installation, operation, maintenance, or integration of the Buyer's products, provided such third parties are bound by written confidentiality and use restrictions at least as protective as those in this Agreement. Any further distribution or sublicensing is prohibited.
6. Reverse engineering. The Buyer shall not decompile, disassemble, or otherwise reverse engineer the Contractual Software, except to the limited extent permitted by mandatory law, and then only after prior written notice to the Seller.
7. Version scope. The license authorizes the use only of the specifically licensed version, unless an update or upgrade is expressly provided by the Seller under a separate agreement or support entitlement.
8. Transfer. Any transfer of the license to a third party requires the prior written consent of the Seller. In the event of an approved transfer, the Buyer shall fully and permanently delete all copies in its possession or control and cease use.
9. Payment condition / provisional use. The right to use the Contractual Software shall pass to the Buyer only upon full payment of the purchase price. Until the payment due date stated in the invoice or order confirmation, the Buyer is granted a temporary, revocable right to use the Contractual Software for internal purposes only. If the Buyer fails to make payment on time, this temporary right shall cease after written notice and a reasonable cure period, and the Seller may block access keys, suspend updates and support services, and deny further use.
10. No implied rights. All rights not expressly granted to Buyer are reserved by Seller.

§6 Warranty

1. At the time of transfer of risk, the delivered Products and licensed Software (together: "Deliverables") shall be free from defects that impair their fitness for the agreed contractual use. Minor deviations that do not affect functionality in any meaningful way shall not constitute a defect, provided that the Deliverables remain reasonably usable for the agreed contractual purpose.
2. For licensed Software, the Seller warrants that it substantially conforms to the functions and performance characteristics specified in the documentation applicable at the time of granting the license. The technical data, specifications, performance descriptions, benchmarks, typical compression ratios, and throughput values in the documentation, data sheet, quotation, or product description describe the expected characteristics of the Software under standard operating conditions. They do not constitute guarantees of a specific result, unless expressly designated in writing as a "guarantee" by the Seller. Performance may vary depending on input data, system configuration, hardware capabilities, and operating conditions.
3. Performance results, including compression ratios, may vary based on data patterns, entropy, data structure, content variability, and preprocessing. The Buyer is responsible for evaluating suitability for its intended use.
4. Benchmarks, examples, and sample data sets are provided solely for illustration and do not create a warranty of similar results on the Buyer's systems.
5. The Seller shall, at its discretion, remedy defects by repair or replacement within a reasonable period after being notified in writing by the Buyer. In the event of replacement delivery, the Buyer shall return the defective item to the Seller.

6. The warranty period is two (2) years from delivery, unless otherwise agreed in writing. Warranty does not cover damage resulting from normal wear and tear, improper installation, unauthorized modifications, improper operation, or maintenance performed by third parties without the Seller's prior written consent.
7. The warranty period is not extended by repair or replacement. The Buyer shall grant the Seller reasonable time and opportunity for defect remediation; refusal releases the Seller from its warranty obligations.
8. If repair or replacement definitively fails, the Buyer may demand a reasonable reduction of the purchase price or, in the case of Software, compensation, or—if no agreement is reached—withdraw from the contract. Rectification shall be deemed to have failed only if the Seller has been granted sufficient opportunity to remedy the defect without achieving the desired success, if rectification is impossible, unreasonably delayed, refused by the Seller, or otherwise unreasonable for the Buyer.
9. If the Buyer is not a consumer, obvious defects that are readily noticeable to an average purchaser must be reported in writing within four (4) weeks from delivery; hidden defects must be reported within four (4) weeks after detection. Failure to comply with these obligations shall be deemed acceptance of the Deliverables with regard to the relevant defect.

§7 Liability

1. Except in cases of intent, gross negligence, or the lack of a guaranteed characteristic, liability beyond the aforementioned warranty obligations is excluded. The Seller does not warrant that the Software will operate uninterrupted, free of errors, or meet all combinations or requirements specified by the Buyer.
2. The Seller's aggregate liability arising out of or in connection with any order shall not exceed the purchase price paid for the relevant order. No action arising out of this Agreement may be brought by the Buyer more than one (1) year after the cause of action has accrued.
3. The Seller shall not be liable for any indirect, incidental, special, punitive, or consequential damages, including without limitation:
 - loss of data,
 - loss of revenue or profit (whether direct or indirect),
 - loss of production or business,
 - depletion of goodwill or reputation,
 - costs for procurement of substitute products,
 - third-party claims against the Buyer,
 - compensation paid by the Buyer to its customer.
4. Nothing in this Agreement shall exclude or limit liability for:
 - death or personal injury caused by negligence,
 - intent or gross negligence,
 - violations of mandatory product liability law,
 - liability that cannot be excluded under applicable mandatory law.
5. If products are constructed or customized according to designs, specifications, or instructions provided by the Buyer, the Buyer shall indemnify and hold the Seller harmless from all claims, liabilities, costs, or damages arising from alleged infringements of intellectual property rights. Reasonable legal costs must be advanced by the Buyer.
6. If the Buyer exports the Deliverables, the Buyer shall comply with all applicable export control regulations and, when exporting goods of U.S. origin, the corresponding U.S. export regulations.

§8 Confidentiality

1. Confidential Information within the meaning of this Agreement refers to all information and documents of the Seller that are marked as confidential or that must be regarded as confidential from the circumstances, in particular information about the Seller's products, including the source code, the documentation and other sensitive documents, operating procedures, business relationships and know-how.
2. The Buyer agrees to keep such Confidential Information strictly and unconditionally confidential and to protect it by appropriate technical and organizational measures.

3. Only such Confidential Information is exempt from the obligation of confidentiality,
 - a which was demonstrably already known to the Buyer at the time of conclusion of the contract or subsequently becomes known by third parties, without this violating any confidentiality agreement, statutory provisions, or official orders;
 - b that is publicly known at the time of conclusion of the contract or is subsequently publicly disclosed, unless this is due to a breach of this contract;
 - c that must be disclosed on the basis of legal obligations or by order of a court or authority. To the extent permitted and possible, the Buyer who is obligated to disclose information shall give the Seller advance notice and an opportunity to respond to disclosure.
4. The Buyer will provide access to Confidential Information only to consultants who are subject to professional secrecy or who have been previously placed under obligations of confidentiality in accordance with this contract. Furthermore, the Buyer shall disclose the Confidential Information only to those employees who have a need to know such for the performance of this contract and shall obligate these employees to maintain confidentiality to the extent permitted by labor law for the period after their departure.
5. The Seller shall treat Confidential Information received from the Buyer with the same degree of care as its own Confidential Information.

§9 Intellectual Property Rights

1. All intellectual property rights in and to the Deliverables, including without limitation software, algorithms, designs, documentation, methods, and know-how, shall remain exclusively with the Seller. No rights are transferred other than the limited license expressly granted under this Agreement.
2. Intellectual property rights in any customer-specific adaptations, configurations, or modifications developed by the Seller shall also remain with the Seller, unless expressly agreed otherwise in writing.
3. This Agreement does not grant the Buyer any ownership rights in the Seller's proprietary technology, nor any rights in customer data.

§10 Final Provisions

1. The Buyer may transfer the rights and obligations arising from this contract only with the written consent of the Seller.
2. Should any provision of these terms be or become invalid, the validity of the remaining provisions shall not be affected. Invalid provisions shall be replaced by valid ones that come as close as possible to the intended purpose.
3. Place of performance and place of jurisdiction is Mannheim, Germany. However, the Seller shall be entitled to bring legal action against the Buyer at any other competent court.