

Terms and Conditions of WETO AG

§ 1

Area of applicability

1. Weto shall conclude contracts concerning licensing, delivery, and maintenance of software products and the provision of additional services exclusively on the basis of these terms and conditions.
2. These terms and conditions shall also serve as the basis for all future services and deliveries, even if inclusion of these terms and conditions is not expressly agreed therein.

Conflicting terms and conditions of customers are herewith expressly contradicted. Customer's conflicting terms and conditions shall be considered as non-binding unless expressly recognized as binding in writing by Weto.

§ 2

Brochure information / Autonomy of specific contracts

1. The information in brochures, catalogues, applications, price lists, advertising material, directories, or the information, drawings, illustrations, technical data, weights, measures, and performance descriptions in the documents associated with the quotation are only descriptions and contain no assurance of characteristics or guarantees of condition and durability. Assurance of characteristics and acceptance of a guarantee of condition and durability shall require an express written agreement. The same shall also apply to price information, familiarization times, or information concerning release of supplements or upgrades.
2. Independent of the time and the form of the agreement, agreements concerning the rights of the customer to the software (license contract), the maintenance and service of the software (maintenance contract), familiarization with the use of the licensed software, and other services, shall, in each case, be legally independent and separate contracts concerning mutual rights and obligations, legal consequences, and guarantees.

§ 3

Software license

1. Weto grants the customer the exclusive and personal right, transferable only with Weto's agreement, to use the licensed software that is described in more detail in the license contracts under the following conditions.
2. Licensed software shall be understood to mean compiler programs, program generators, test aids, service programs, low-level software, and user software. Weto shall supply application documentation, with the licensed software appropriate for operation. The licensed software and the application documentation shall be uniformly designated below as programs.
3. The adaptations or upgrades of the programs in accordance with company-specific needs and requirements of the customer shall not be considered as object of the software license. These adaptations or upgrades shall be executed on the base of a contract that will be concluded separately, in which the specific type, scope, and content of the adaptations or upgrades to be made to the programs will be regulated.
4. The programs shall be provided to the customer in object code. Provision of technical program documentation, particularly of source code, is not required and is not an object of this contract.

§ 4

Delivery and delivery delay

1. The programs shall be provided to the customer on suitable data media. The customer shall properly install and start up the programs at the installation site using trained personnel, as described in the application documentation. Weto shall be available per telephone to respond to questions and to provide information.

2. The transfer of the programs to the customer signifies transfer of the risk to the customer. Timely acceptance is a primary contractual obligation on the part of the customer.
3. Partial deliveries shall be permitted and can be invoiced separately, unless such partial deliveries are economically unusable.
4. Compliance with an anticipated delivery date as specified by Weto presupposes clarification of all technical questions from the customer.
5. Weto shall be in arrears if the anticipated, and thus non-binding delivery date, has been culpably exceeded by more than 8 weeks, and the customer subsequently requests Weto to make delivery within an appropriate period. If this situation arises, the customer shall have the right, if the delay continues, to withdraw from the contract, by notifying Weto in writing. Moreover, the customer shall only be authorized to claim for damages due to delay in delivery to the amount of the foreseeable damage, if said damage is based on gross negligence or wilful violation of an obligation on the part of Weto, its vicarious agents or its legal representatives; in all other respects liability for damage shall be limited to the amount of remuneration owed by the customer to Weto for the respective programs or parts thereof that are affected by the delay in delivery. The disclaimer of liability cited above or the limitation of liability shall not apply to damages due to culpable risk to life, body, or health based on a negligent violation of its obligations on the part of Weto or an intentional or negligent violation of their obligations on the part of a legal representative or vicarious agent of Weto.
6. For rental contracts or licence agreement as well as maintenance and service contracts, the delivery date shall also be the date the contract takes effect.

§ 5 Extent of use

1. The customer shall be authorized to use programs licensed by Weto, including the program documentation at the installation site designated in the respective license agreement for the declared performance limit, LPAR, or computer unit. In the event that use of the licensed programs, including program documentation, deviates from the extent of use described above, a separate license fee shall be charged by Weto based on the new license contract. The customer shall not be authorized to grant sublicenses, to use the programs at other installation sites or for other operating systems, to duplicate the programs, or to distribute documentation to third parties. Third parties are hereby understood to include affiliated group companies, branch offices at other locations, etc. Such extended utilization, particularly multiple use, shall require a separate written agreement with Weto.
2. The customer shall not use any type of process to restore the source code or parts thereof from the binary software, or to obtain knowledge about constitution or creation of the software, or of hardware or firmware implementations of the software. A right to inspect documents of Weto in this regard does not exist.
3. The licensed programs shall not be copied or duplicated, unless such copying or duplication shall be necessary for the contractual use or for archiving and backup purposes. Customer shall destroy provided documentation, including any duplicates made, when no longer using the software and without a specific request, unless the customer is legally required to keep the documentation.
4. The right of use granted for one specific, in organizational, legal, and actual terms separable computer unit shall also apply provisionally for use on a different computer unit, if such other identified use is necessary due to a fault induced failure of the specified computer unit.

§6 Remuneration/payment terms/payment in arrears

1. The remuneration to be paid is based on the respective license contracts, maintenance contracts, contracts for work, service contracts, or other contracts.
2. Payments shall be due without deductions upon receipt of invoice, and can only be discharged to Weto directly or to a bank account specified by Weto.

3. If the parties agree to regular recurring monthly payments, the monthly payment shall be due on the first of each month in advance payable to a bank account specified by Weto.

4. If the customer is in arrears with payment then Weto shall be authorized to demand interest for late payments to the amount of 5% above the respective base interest rate, but at least 8% p.a. If Weto substantiates a charge with a higher interest rate, or if the customer substantiates a lesser charge, then the interest for late payments shall be assessed at a higher or lower rate accordingly.

5. Payments via bill of exchange or check shall be executed subject to being honoured. Fulfilment shall occur only on the date that funds are available to Weto to the amount of the cashing sum minus the expenses incurred.

6. The customer shall only have the right to set-off if the customer's counter-claims have become final and conclusive, are uncontested, or are acknowledged by WETO. The customer can only assert a right to withhold payment if such a right derives from the contract concluded by the parties.

7. The program upgrades, i.e. only the object code from Weto, shall remain the property of the party offering the contract for the first three years after conclusion of the software maintenance and service contract, and must be returned to the party offering the contract if the software maintenance and service contract is cancelled within this period. After a contract term of 3 years the program upgrades, i.e. only the object code of Weto, shall become the property of the customer. The copyrights, technical documentation, source code, and all other rights shall always remain the property of Weto.

8. In all other aspects the programs, i.e. only the object code of Weto, including dongle, shall remain the property of Weto until payment is made in full, and must be returned to Weto immediately if payment is not made in full. The copyrights, technical documentation, source code, and all other rights shall always remain the property of Weto.

§ 7

Program Protection

1. Weto reserves the property and all other rights, particularly the copyrights to the programs, without prejudice to the rights of use granted in this contract. This shall apply regardless of the change to the programs or connection with other programs made by the customer or third parties. § 6 paragraph 7 shall remain hereby unaffected.

2. In the event of third-party intervention to the programs, the customer shall refer to the property right of Weto and shall inform Weto without delay in writing. The customer shall bear all costs of an intervention procedure or other defensive measures in conjunction with such third-party intervention.

3. The customer expressly acknowledges the protectability of the programs in accordance with copyright, and acknowledges that the programs contain confidential information and business secrets of Weto to which the customer only has the rights granted in this contract.

4. The customer shall be required to maintain the proprietary notes, such as copyright notices and other reservations of rights, unchanged as well as to transfer such notices and legal reservations in unchanged form in all complete or partial copies of the programs produced by the customer.

5. The customer shall be prohibited from creating the customer's own source code for the licensed programs, or from compiling or translating the programs in any other computer language or natural language, or from attempting to do this, or from providing assistance for such an action.

6. The customer shall take suitable measures to fulfil their obligations arising from this license contract relative to the use, copying, modification, and protection of the programs by issuing appropriate instructions to its employees, or to other persons to whom access to the programs or to any documents that describe or reveal these programs is granted.

7. The customer shall treat with confidentiality all information about the programs as well as the methods and processes used. The

customer shall undertake to protect the licensed programs from the knowledge or use of third parties, and not to directly or indirectly use any parts or essential processes or ideas from the licensed programs for creation of its own software. The customer may change the programs in readable form or connect the programs with other software exclusively for operation on its own data processing units and machines. No changes shall be made to the programs without the express prior written consent of Weto. Even as a component of such adaptations the programs shall remain subject to these terms and conditions.

8. The customer shall neither grant sublicenses nor forward the software to third parties, not even by making the customer's own system available to third parties, or when external data is processed or stored for third parties. Exceptions to this provision are employees and persons commissioned by the customer, as well as third parties who, by signing a separate agreement with Weto, have acknowledged the provisions of this license contract, including these terms and conditions, as binding for themselves, and their employees and commissioned persons, to the extent required for exercise of the transferred right of use.

9. Weto shall indemnify the customer against all claims arising from a violation of a commercial property right or copyright that is derived from programs used contractually and will assume legally imposed costs and damage compensation costs if the customer has notified Weto of such claims without delay, and if all defensive measures and settlement negotiations are reserved for Weto. If such claims have been established legally or are expected to become legally binding, Weto shall be authorized to change or replace the licensed programs at Weto's expense. Should this measure or the effecting of a right of use not be possible with reasonable expense, then each of the contracting parties shall have the right to cancel the affected portion of the programs without notice. In this case the provisions in § 9 paragraph 9 shall apply. 9.

§ 8

Program maintenance

1. Weto shall exclusively maintain the latest released program version of the programs specified in the license contracts.
2. Maintenance shall include the ongoing improvement of the programs in their organizational structure and program execution, as well as provision of the latest version of the documentation.
Improved program versions shall be developed by Weto as needed at specified time intervals and offered to the customer. Weto shall inform the customer periodically of the available program version.
3. Changes made to specific program commands shall be communicated to the customer orally or in writing if the customer is capable of executing corresponding program changes on his own.
4. The customer shall accept a new program version unless said acceptance is associated with unreasonable disadvantages. An unreasonable disadvantage shall apply for example if: An implementation of the user software is not technically possible.
5. If the customer does not accept a new program version, although it has been offered to him, then the customer shall be responsible for possible added expense incurred by Weto correcting an error or adapting a program at the customer's request.

§ 9

Warranty

1. The contracting parties agree that it is not possible to develop programs so that they are free of error under all application conditions.
2. Weto shall guarantee that the programs fulfil the agreed functions and that they are suitable for the customary use, or the use as specified in the respective contract between the parties. The prerequisite in this regard shall be the contractually specified use on the part of the customer. Weto does not guarantee that the programs meet the special requirements of the customer.
3. Weto guarantees that the programs at license begin are free of third-party copyrights, that revoke or lessen the contractually specified use.
4. The technical data, specifications and performance descriptions of the application documentation shall not constitute any

assurances or guarantees, unless they have been expressly confirmed by Weto to constitute such assurances or guarantees.

5. To maintain the customer's claims of defects, the customer shall be obligated, if errors are detected in the programs at license begin, to reserve his rights in writing in this regard, or to report the defects to Weto without delay, at the latest however within a period of 8 days from the date the defect was detected.

6. All customer claims based on defect liability shall be excluded if the customer or third party is responsible for the defect. Weto's liability for claims of defects shall particularly be excluded if the customer or a third party makes unauthorized changes or extensions to programs or portions thereof or does not comply with the operating instructions, the instructions in the application documentation, or other operating instructions, or if the defect is based in improper operation by the customer or third party. Moreover the claim for defects shall particularly be excluded for errors, malfunctions, or damage that are based on improper use, hardware error, or operating system error, non-compliance with data backup guidelines, or other processes that lie outside Weto's sphere of responsibility, or if the customer denies Weto the possibility of investigating the cause of the reported error or defect. The same shall apply to the software licensed for use that is operated on a computer system that does not have the minimum hardware configuration and software configuration, as specified in the software product description.

7. If a occurs for which Weto is responsible, Weto shall be authorized to provide supplementary performance, multiple times if necessary. Instead of correcting the defect Weto shall be authorized at its sole discretion to offer the customer the use of a new version of the program. If the customer does not accept the use of a newer program version, unless in a situation as defined in § 8 paragraph 4, then Weto shall not be obliged to correct the defect.

8. Weto offers no warranty whatsoever for external software.

9. If Weto is not prepared or not in a situation to provide subsequent performance without cause, or particularly if resolution of defect extends beyond reasonable periods for reasons for which Weto is responsible or if the supplementary performance fails or is unacceptable to the customer, the customer shall not be authorized to correct the defect himself and demand compensation of the necessary expenses.

10. Unless otherwise agreed below, more extensive customer claims, particularly claims for damage compensation due to defects - regardless of the legal grounds - shall be excluded. Consequently Weto shall not be liable for direct damages that have not occurred to the programs themselves; in particular Weto shall not be liable for lost profit or other property damage suffered by customer. Weto shall be liable for restoring data only if Weto has negligently or intentionally caused the destruction of said data, and the customer has ensured that this data can be reconstructed with reasonable effort from data material that is held ready in machine readable form.

11. The disclaimer of liability cited above shall not apply to damages due to culpable risk to life, body, or health based on a negligent violation of its obligations on the part of Weto or an intentional or negligent violation of their obligations on the part of a legal representative or vicarious agent of Weto. Moreover, the disclaimer of liability cited above shall not apply if Weto is strictly liable in the case of intentional or gross negligence, or in the case of non-fulfilment of guaranteed conditions. The above disclaimer of liability shall not apply to other damages caused by Weto's grossly negligent violation of an obligation or on an intentional or grossly negligent violation of an obligation on the part of a legal representative or vicarious agent of Weto. In the event of liability for other damage Weto's indemnity obligation shall be limited to the remuneration paid by the customer to Weto for the respective programs or parts thereof.

§ 10 Total liability

1. Unless otherwise agreed below, all more extensive claims for damage against Weto, its vicarious agents, if such claims are not conclusively regulated in these terms and conditions, particularly such claims arising from a violation of obligations arising from the contractual obligations, from violation of obligations in contract negotiations, and unauthorised action, from lost profit, and other property damage, shall be excluded unless said damage is based on gross negligence or intentional violation of its obligation on the part of Weto, its vicarious agents, or its legal representatives. The general exclusion of liability shall not apply to damage that has

been caused by culpable violation of a primary contractual obligation in a manner that places the purpose of the contract in jeopardy.

2. Liability for loss of data is excluded expressly.

3. Weto's indemnity obligation shall be limited in each case of liability to the amount of remuneration paid by the customer to Weto.

4. The disclaimer of liability cited above or the limitation of liability shall not apply to customer claims in accordance with §§ 1,4 of the German Product Liability Law (Produkthaftungsgesetz), and for damages due to risk to life, body, or health based on a negligent violation of obligations on the part of Weto, or an intentional or negligent violation of obligations on the part of a legal representative or vicarious agent of Weto.

5. Planning calculations, roof calculations, and wood calculations.

WETO assumes no guarantee or warranty relative to calculations for pre-construction plans, roof trusses, timber frame structures, half-timbered structures, or equivalent items that have been executed on behalf of the customer. All entries shall be checked by the customer for correctness prior to project execution.

§ 11

License term

1. The license is granted for an unspecified term and can be cancelled by Weto for a valid cause. A valid cause is present, particularly if

- The customer does not fulfil existing or future obligations based on this contract in spite of a written warning from Weto;
- Legal or other official insolvency procedures are initiated against the assets of the customer, or if the application to open the insolvency procedure is rejected due to a lack of assets, or if the insolvency procedure is revoked due to a lack of assets, indeed regardless of the legal effect of such a decision;
- Measures to enforce execution are initiated or if the customer issues checks or bills of exchange that are not covered by sufficient funds;
- The customer makes an oath of disclosure, or if the customer or his legal representative is ordered to be detained to make such an oath;
- The customer declares bankruptcy;
- The customer is in arrears with payments.

2. Cancellation shall be in written form.

3. When cancellation becomes effective the customer shall be obliged to return to Weto at no charge, the original as well as all copies and partial copies of the programs, all changed and processed versions, and all other documents that contain confidential information from Weto. If the programs have been recorded on the customer's machine readable data media, the customer shall be obliged to completely delete the recorded data and to provide written notification of the deletion to Weto. A claim to complete or partial reimbursement of the paid remuneration does not exist. After the license contract is terminated the customer is also required not disclose any features and details of the licensed programs as well as any information contained in the documents to third parties.

§ 12

Non-disclosure

The contracting parties are required to not disclose any information that is designated as confidential, or due to other circumstances is clearly recognized as business or trade secrets, that becomes accessible to the contracting parties in connection with the respective contracts, for an unspecified term - and neither to record such information, nor to forward it to third parties, nor to utilize such information in any manner unless necessary to achieve the purpose of the contract.

§ 13

Final provisions

1. Weto's rights and obligations arising from the respective contracts can be transferred to third parties without the consent of the customer. In this case Weto shall ensure proper fulfilment of all contractual obligations relative to the customer.
2. Oral agreements and changes or supplements to this contract have not been made.
3. The place of fulfilment for all claims arising from the respective contracts shall be the competent court in the business location of Weto.
4. The exclusive place of jurisdiction for all disputes arising from the respective contracts shall be the competent court in the business location of Weto, if the customer is a merchant. The same place of jurisdiction shall apply if the customer does not have a general place of jurisdiction in Germany, or if the customer transfers his business location or residence or usual place of residence outside of Germany, or if customer's business location or usual place of residence is not known at the time legal proceedings are instituted.
5. The law of the Federal Republic of Germany shall apply to all legal relationships between Weto and the customer. The Vienna United Nations Convention on Contracts for the International Sale of Goods shall not apply.
6. The customer's rights and obligations arising from the contracts concluded with Weto can only be transferred and assigned to third parties with Weto's consent.
7. If the above provisions are not legally effective or non-executable, or if said provisions should later lose their legal effect or executability, the validity of the other provisions shall remain unaffected thereby. In place of the non-effective or non-executable provisions, or if there are possible loopholes, an appropriate regulation shall apply that most nearly approaches the intent of the parties insofar as legally possible, or most nearly approaches what the parties would have intended if they had considered the point when concluding the contract or when subsequently including a provision.