

Software Terms of Use (Foreign)

1. Subject

- 1.1 The following terms (the "Terms of Use") apply to the transfer of software by [Ewag AG] ("we" or "us") for our customers ("you").
- 1.2 You will receive the software from us – generally already installed on a Site Control Box – as a tool to provide you with services related to the machines we have acquired. The provision of these services is not the subject of these Terms of Use. The services are subject to the relevant terms of service, which we have agreed or will agree with you in this respect (the "Terms of Service (Domestic)").
- 1.3 These Terms of Use do not apply to the purchase, delivery or other provision of our machines. These are subject to the relevant terms of delivery, which we have agreed or will agree with you in this respect (the "Terms of Delivery (Domestic)").
- 1.4 The specification of the transferred software (the "contract software") results from the respective contracts concluded between you and us on a case-by-case basis (the "orders"). These orders may also be part of a service order for the provision of services and/or a contract for the purchase of machines. For further specification of the contract software provided, the orders may refer to our product information sheets or other service specifications (the "Service Specifications") and/or our price lists (the "Price Lists"), which in this case become the subject of the respective orders.
- 1.5 Insofar as the contract software contains third-party software components (the "third-party software"), these Terms of Use also apply to the provision of this third-party software.
- 1.6 These Terms of Use form a component of all orders concluded between you and us for the provision of software. Your deviating terms and conditions do not become part of the contract of the orders, even by way of order acceptance.
- 1.7 These Terms of Use shall not apply if we have expressly reached a separate, deviating agreement with you. The regulations of the respective orders are subject to the regulations of these Terms of Use.
- 1.8 Should these Terms of Use change, we will send you the amended Terms of Use as part of the next offer to complete a new order following the change. For existing orders, these Terms of Use shall continue to apply, unless we agree with you to the validity of the amended Terms of Use.

2. Granting rights of use

- 2.1 Upon delivery and activation of the contractual software, we will provide you with the non-exclusive, time-limited and – subject to the provision of clause 2.9 – non-transferable right to use the contract software in accordance with the contract and its documentation for the intended use within your company.
- 2.2 The documentation for the contract software with the module you are using can be found in your login area. The documentation also indicates the intended use of the contract software.
- 2.3 You are – subject to the provision of clause 2.9 – not entitled to pass on the contractual software to third parties or to grant third parties rights of use to the contract software. In addition, you are not entitled to make the Contract Software available to third parties in any other way. These third parties do not include your employees and other persons you employ for contractual use of the Contract Software.
- 2.4 The right of use is limited to the object code of the Contract Software. We are not obliged to transfer the source code for the Contract Software to you.
- 2.5 We are also not obliged to provide you with updates, upgrades or new versions of the Contract Software. Insofar as we provide you with updates, upgrades or new versions of the Contract Software in individual cases, the rights of use granted under these Terms of Use apply equally to those updates, upgrades and new versions.
- 2.6 Any decompiling, disassembly or similar process for obtaining the editable source code of the Contract Software is not permitted.
- 2.7 Any duplication of the Contract Software and the documentation beyond its intended use, even in part, requires our prior consent. This does not apply to the making of a backup copy, provided that you provide it with the corresponding copyright notices of the original. In the case of a sale or other permanent transfer of complete machines according to clause 2.10, you will destroy the backup copy.
- 2.8 Any editing or modification of the Contract Software is not permitted.
- 2.9 Notwithstanding the above provisions, you are entitled to transfer the rights to the Contract Software to the purchaser of the machines in the event of resale or other permanent transfer of the machines (including the Site Control Box) to a third party. In this case, your own rights to use the Contract Software shall end automatically. This right is subject to the purchaser acknowledging to us the validity of these Terms of Use in writing by concluding a software license agreement subject to a fee.

3. Copyright and exploitation rights

- 3.1 The Contract Software and the documentation are protected by copyright for us or in the case of Third-Party Software, for the manufacturer in question from whom we have acquired a license.
 - 3.2 All copyrights and exploitation rights to the Contract Software remain with us or the manufacturer of the Third-Party Software contained in the Contract Software, unless we have expressly granted you rights to use the Contract Software under these Terms of Use.
 - 3.3 You will observe the copyright and exploitation rights and, in particular, will not delete or change the copyright notices.
- ### 4. Provision of Site Control Box / login
- 4.1 The Contract Software is shipped installed on the Site Control Box. The Site Control Box is provided to you free of charge for the duration of the right of use.
 - 4.2 For the use of the Contract Software, you will receive a username and password from us, which you can use to log in in the login area before using the Contract Software. When logging in for the first time, you will need to change your password. Subsequently, the Contract Software will be activated by us.
 - 4.3 You are solely responsible for the safekeeping and safe handling of the username and password by your employees. The access data must be kept secret and protected against access by unauthorized third parties. In the case of the slightest suspicion that third parties have gained knowledge of the access data or may obtain it in the foreseeable future, we must be notified immediately. You must ensure that your employees that use the Contract Software with your access data are aware of and comply with these terms and conditions. All actions (including illegal actions) of your employees will be attributed to you.

5. Term

- 5.1 The rights of use according to clause 2 are granted for one year from delivery of the Contract Software. The rights of use shall then automatically be extended for a further year if they have not been terminated in writing to the other party by one of the parties with a period of notice of three months to the end of the year of use.
- 5.2 In case of resale or any other permanent transfer via the machine, your rights of use for the Contract Software shall automatically be terminated.
- 5.3 In addition, we may terminate your rights of use if you breach these terms and conditions. In this case, we reserve the right to assert claims for damages.
- 5.4 In the event of termination of your rights of use, the Site Control Box remains in your possession. However, in this case, your rights to use the Contract Software shall automatically be terminated. Any backup copies of the Contract Software must be deleted immediately.

6. Claims for defects

- 6.1 After the software has been transferred, we are liable for any defects in our work for the entire term of the rights of use granted to you. You are obligated to notify us immediately and in writing of any defect you detect.
- 6.2 Unless explicitly stated otherwise below, our warranty is limited to the obligation to rectify the defect of the Contract Software at the location under the contract. You are entitled to any further claims without prejudice to any claims pursuant to clause 15. If multiple attempts to rectify a defect have not eliminated it, you are entitled to a reduction after expiry of an appropriate extension period without success. If, in spite of reduction, the Contract Software is demonstrably without interest to you, you can withdraw from the individual inadequately performed order upon written notification. Claims for defects are excluded if a defect is insignificant or caused by a circumstance for which we are not responsible, in particular for usual/natural wear and tear, unsuitable and inappropriate use, incorrect or negligent handling, unsuitable foundation, chemical, electrochemical or electrical influence, or failure to comply with the installation or environmental conditions stipulated by us.

7. Liability / exclusion of liability

- 7.1 We are liable for damages for whatever legal reasons exclusively
 - in the case of willful intent,
 - in the case of gross negligence by the owners/organs or executive employees,
 - in the case of culpable injury to life, limb or health,
 - in the case of defects that we have fraudulently concealed,
 - within the scope of a guarantee promise,
 - to the extent that liability exists for personal injury or damage to privately used items under the Product Liability Act (Produkthaftungsgesetz).
- 7.2 In the case of culpable violation of essential contractual obligations, we are also liable in the event of gross negligence on the part of non-executive employees and in the case of slight negligence, in the latter

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case limited to contract-typical, reasonably foreseeable damage, but at the most for all damages within a calendar year to the amount of the fee you have paid under the relevant service order, for which the Contract Software has been used, in the respective calendar year. Further claims are excluded.

8. Remuneration

- 8.1. The transfer of the Contract Software under these Terms of Use is free of charge for you.
- 8.2. Your obligation to pay the service fee under the Terms of Service (Domestic) remains unaffected.

9. Confidentiality

- 9.1. All of the data received from you as part of the order in question and other information of yours pertaining to production secrets, relevant product-related data etc. will only be used by us within the scope of the services defined in the order in question.
- 9.2. You agree that we may provide you with technical improvement suggestions for the machine as well as new products if we discover that there is a need for improvement to the machine or that a different product appears more suitable for the purpose of your production.

10. General provisions

- 10.1. You may assign demands or other claims under the order only with our prior written consent, insofar as your counterclaim is not undisputed or legally established.
- 10.2. The Terms of Use are subject to Swiss law, to the exclusion of international private law and the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction is Zurich. However, we are also entitled to assert our claims at your general place of jurisdiction
- 10.3. If the Terms of Use above contain requirements for written form, transmission via email is sufficient to maintain them.
- 10.4. Unless otherwise agreed between us, these Terms of Use supersede any and all agreements between us and contracts for the transfer of software within the meaning of these Terms of Use.