

General Terms and Conditions of DeskCenter® Solutions UK Ltd.

I. General

1. The General Terms and Conditions of DeskCenter Solutions UK Ltd (DeskCenter) hereinafter shall apply to all legal transactions with customers where no end user is involved. All offers, deliveries and performances (including services and counselling) by DeskCenter are exclusively subject to the General Terms and Conditions of DeskCenter. These General Terms and Conditions in the then-valid version shall also apply to all future business relationships between DeskCenter and the customer.
2. The General Terms and Conditions shall be deemed accepted no later than when delivery is taken by the customer. On request, DeskCenter will make available to the customer a copy of the General Terms and Conditions. These can furthermore be read online, downloaded and printed from <http://www.deskcenter.com/navigation/impressum/terms-and-conditions>. Any conflicting General Terms and Conditions of the agreement partner shall not apply even if DeskCenter does not expressly object.

II. Agreement Regulations

1. Conclusion of Agreement

- a) The agreement is concluded when, subsequent to the customer's order, the customer receives the registration code or a full version by a separate letter (also per e-mail). Downloading of the trial version or installation of the trial version of the software does not constitute a contract or payment obligation of the customer.
- b) Any other agreements, affirmations, supplements, amendments or collateral agreements made before or with the order or after the conclusion of the agreement, need to be made in written form in order to become effective. Written confirmation of amendments or supplements shall only be given by authorised representatives of DeskCenter.
- c) If a distribution partner of DeskCenter has contributed to the conclusion of the agreement, DeskCenter® shall not acknowledge customer objections that the customer deduces from an additional contractual relationship with the distribution partner.
- d) Performance dates and deadlines are only binding if they are confirmed in writing by DeskCenter and the customer has timely communicated or made available to DeskCenter® all information and documents necessary for the performance of services, has made any advance payments as agreed, has given authorizations and approvals as well as performed any other contributive actions that may be required. Agreed performance deadlines start with the transmission of the registration codes or full version. In the case of supplementary or extension orders placed at a later date, the deadlines shall be extended accordingly.

DeskCenter commits itself to inform the customer immediately if service provision is delayed or becomes impossible due to circumstances beyond the scope of DeskCenter's influence. If the customer does not adequately meet its obligations of communication and contribution and the contractual performance obligation is delayed thereby, the agreed deadlines shall be automatically extended in an adequate manner, however, no less than by the period of delay.

- e) Unforeseeable and unavoidable events and events that are beyond DeskCenter's scope of control and beyond DeskCenter's responsibility such as force majeure, war, natural disasters or strikes shall dispense DeskCenter from the performance obligation as long as they last. Agreed performance deadlines shall be extended by the duration of the disturbance; the customer shall be adequately notified of the occurrence of such a disturbance. If the end of the disturbance is

unforeseeable or if it lasts longer than one month, either party shall be entitled to rescind the agreement.

The same applies if the aforementioned circumstances affect a contractor, subcontractor or partner of DeskCenter.

If, for the performance of its services, DeskCenter is dependent on contractual items which it neither produces itself nor has in stock at the time the order is placed, DeskCenter shall be entitled to rescind the agreement if DeskCenter is not supplied by its contractor without itself being responsible for the non-delivery or if DeskCenter is unable to procure the goods sold despite reasonable efforts or is able to procure the goods only at a substantially excessive price. DeskCenter shall inform the customer immediately about the non-availability of the performance and refund any counterperformance already rendered.

2. Default in Payment by the Customer

a) Irrespective of the other rights due to it, DeskCenter may reclaim or take back the delivered goods in order to secure its claim if the customer is in default of payment. DeskCenter will pre-inform the customer of this measure and fix an adequate additional period for payment. DeskCenter shall declare to the customer within one month after taking back the goods any further rights that DeskCenter will assert in relation with the customer's default in payment. This period of one month shall not start before DeskCenter has received back all delivered goods in their entirety from the customer. The retention of title shall remain unaffected thereby.

b) DeskCenter can cease the performance of an agreement or of several agreements that are temporally or factually related with each other if the customer defaults in a payment due by it or if there is evidence indicating imminent illiquidity of the customer. In this case, DeskCenter can require concurrent payment or partial payment for delivery even if a contractual obligation of advance performance for DeskCenter has been agreed upon.

DeskCenter is further entitled to demand the provision of adequate securities for claims that are not yet due. If the customer does not provide or only insufficiently provide the required securities, DeskCenter shall be able to retain the performance and assert the claims resulting from the breach of obligation by the customer.

3. Rights of DeskCenter if Customer Defaults in Acceptance

a) If a customer does not accept the contractual performance offered to it, DeskCenter shall be entitled after ineffectual expiry of an adequate period to dispose otherwise of the goods to be delivered. DeskCenter shall not be under an obligation to provide a replacement delivery if the goods sold cannot be procured or only be procured at a substantially excessive price. Under these circumstances the customer's claim for a replacement delivery shall become void after DeskCenter has notified the customer of the impossibility or substantial complication arising therefrom unless the customer agrees to an alternative delivery option.

b) If the customer does not accept the contractual performance offered by DeskCenter and thereby defaults in acceptance, DeskCenter shall be entitled without proof to a claim for compensation of 15% of the agreed price for the performance offered. DeskCenter reserves the right to assert a claim for actually greater damages. The customer shall reserve the right to provide evidence that no damage has been incurred by DeskCenter or that the damage is considerably lower. c. If dispatch is delayed on the customer's request, DeskCenter shall be entitled to invoice to the customer the cost incurred by storage, no less than 0.03% of the invoice amount per day that has begun. This claim shall be due to DeskCenter from the first month after notification of its readiness for dispatch.

4. Verification obligations of the customer

The customer shall check the delivered merchandise for defects, in particular deviations in quantity and other evident defects immediately upon receipt.

Evident defects shall mean such defects that are so obvious that they are noticeable to the average non-expert purchaser requiring no particular attention and no further action. If the customer notices that the delivery deviates from the contractual product, it shall keep the merchandise ready for return delivery in undamaged condition. The customer shall notify DeskCenter in writing of any deviations of quantity, obvious defects and wrong deliveries within five workdays (= workdays are Monday to Friday) after delivery. After this period allotted for the notification of defects, any warranty claims concerning deviations in quantity and obvious defects shall be excluded. The timely dispatch of the notification shall suffice to comply with this period. The customer shall bear the full burden of proving all requirements of the claim, in particular deviations in quantity and obvious defects, the time of ascertainment and the timeliness of dispatch of the notification to DeskCenter. In every case of a notification of defect, DeskCenter shall be entitled to check and inspect the performance or product delivered to which an objection was made. For this purpose the customer shall grant DeskCenter the necessary time and opportunity.

5. Warranty Rights in Purchase Agreements

- a) The warranty obligations shall begin with the delivery of the goods. If the goods are dispatched, the warranty period shall begin with the making available of the goods at the customer's destination, however, no later than two weeks after dispatch of the goods. Unless otherwise agreed, the warranty period shall be one year.
- b) DeskCenter shall first perform the warranty at its discretion, either by rectification of the defect or by a replacement delivery (subsequent performance). To exercise such right of choice, DeskCenter shall be granted a consideration period of no less than 48 hours based on two workdays (= workdays are Monday to Friday), calculated from receipt of the customer's notification at DeskCenter. The customer shall tolerate two attempts of subsequent performance for the same defect. If the subsequent performance fails, the customer shall be entitled to demand a curtailment of the remuneration (reduction) or the withdrawal from the agreement (rescission). However, the right of rescission shall be excluded for minor nonconformities with the agreement (breach of obligations), in particular for only minor deviations in quantity or minor defects. The customer shall support DeskCenter in the rectification of defects within a reasonable scope.
- c) If the customer chooses to rescind the agreement after subsequent performance has failed, it shall not be entitled to any damages from DeskCenter for the defect notified.
- d) If the defects that have occurred are due to circumstances for which DeskCenter is not responsible but that are within the scope of the customer's risks, the obligation of warranty shall be void. This shall apply, e.g., to disturbances due to the utilization of inadequate operating materials or to the nonobservance of installation requirements. Furthermore, the warranty shall be void if the customer has made changes or interventions to the object of purchase unless the customer furnishes evidence in the notification to DeskCenter that the intervention was not the causative fault.
- e) Warranted characteristics shall only be those which have been designated as such. The warranty shall be valid no longer than until expiry of the warranty period. If the warranted characteristics are not or only partially fulfilled, the customer first is entitled to the immediate rectification of defects by DeskCenter. If this rectification is unsuccessful or only partially successful, the customer shall have the right to an adequate price reduction.
- f) If the customer procures updates or upgrades of standard software from third parties (i.e. as online downloads via the Internet), DeskCenter shall not be liable for errors and defects resulting

therefrom. The proof that an error or defect is not based on an update or upgrade procured from third parties shall be incumbent on the customer.

- g) The customer shall immediately notify DeskCenter in writing of errors that occur during contractual use, giving all information that is appropriate for the elimination of the error. h. If DeskCenter has become active due to a notification of defect by the customer without a defect being present, or if DeskCenter has rectified a defect not covered under its warranty obligation, DeskCenter shall be entitled to demand the remuneration for incurred expenses based on the DeskCenter price list that is valid at the time the service was performed.

6. Retention of title

- a) DeskCenter reserves title to the goods supplied until full settlement of all claims DeskCenter is or will be entitled to against the customer at present or in the future in relation with the delivered goods. In case of an outstanding invoice, the reserved title is intended for securing the amount due to DeskCenter.
- b) The selling of products under reservation of title, in particular their combination with objects of third parties, shall only be permitted to the customer in a proper business transaction. The customer shall not be entitled to pledge or transfer by way of security the products under reservation of title or to make any other arrangements that might put the property of DeskCenter at risk.
- c) The customer shall with immediate effect assign the claim arising from the resale to DeskCenter; DeskCenter shall with immediate effect accept this assignment. If the customer sells the products under reservation of title together with or after combining them with other goods, the claim shall be deemed assigned only to an amount of the part that corresponds to the price agreed to between DeskCenter and the customer plus a safety margin of 10% of said price.
- d) In the case of seizures or other acts of intervention to the property under reservation of title or to the assigned claim for payment pursued by third parties, the customer shall be obliged to draw immediate attention to the reservation of title and ownership of DeskCenter as well as to the assignment of the claim. Additionally, the customer shall be obliged to immediately inform DeskCenter by phone of the facts, and on request, to notify DeskCenter additionally in writing. The customer shall further be obliged to notify DeskCenter of the name of the third party (or parties) pursuing the seizure of goods or garnishment or causing other detriments, in such a way that DeskCenter will be able to safeguard its legal interests against the third party. The costs of averting such attachments shall be borne by the customer.
- e) If the realizable value of the securities exceeds the total claims of DeskCenter to be secured by more than 10%, the customer shall be entitled to claim that the exceeding amount be released.

7. Contractual Right of Lien

For the claim arising under this agreement for its performance, DeskCenter has a contractual right of lien over the objects that have come into its possession as a result of this agreement. The right of lien shall also exist for claims arising from work, deliveries and other services performed earlier inasmuch as it is related to the object on which the service is performed.

8. Passing of Risk

- a) The risk of accidental loss of the goods to be delivered shall pass to the customer as soon as they have been delivered to the customer. Delivery shall also be deemed performed if the customer defaults in acceptance.
- b) The risk of accidental loss of the goods to be dispatched shall pass to the customer as soon as a consignment has been handed over to the person performing the transportation or has left the warehouse for dispatch. This shall also apply to the case of carriage paid and if the customer has

desired the dispatch of the merchandise, either expressly or implied, in particular by indicating a delivery address. If the dispatch is delayed on the customer's request, the risk of accidental loss shall pass to the customer upon the notification of readiness for dispatch, DeskCenter being entitled but not obliged to insure the delivery in the name and for the account of the customer.

9. Prices, Payment

- a) If the parties have not agreed upon a specific price, the price shall be determined on the basis of the price list of DeskCenter that is valid at the time of the conclusion of the agreement, plus additional packaging, carriage and transportation insurance costs as well as the statutory value-added tax. The amount of the rates per hour, travel and other incidental expenses shall be based on the valid price list of DeskCenter.
- b) Unless otherwise agreed in individual cases, the following payment conditions shall apply: All prices are exclusive of the applicable statutory value added tax. All invoices of DeskCenter are due for immediate payment without any discount unless DeskCenter sets a time for payment in its invoice. If the customer does not pay within 14 days after receipt of the invoice or within the time for payment stated in the invoice or does not pay within the period allowed for payment that has been contractually agreed upon otherwise, it defaults in payment in accordance with BGB § 286 (2) no. 1 and 2, respectively, without any further reminder; consequently, in accordance with BGB § 288 (2) a penal interest of eight percentage points above the Bundesbank prime rate (base interest rate) shall be due. DeskCenter reserves the right to claim for further damage caused by the default.
- c) If installation, assembly and setup are required to make goods delivered by DeskCenter ready for operation, these services shall be invoiced separately by DeskCenter unless the parties have expressly concluded a contrary agreement. Any and all support services offered by DeskCenter which the customer wants to make use of shall be remunerated separately at cost.
- d) Price increases due to increases of the statutory value-added tax shall be incurred by customer.

III. Liability

1. DeskCenter shall only be liable for grossly negligent or intentional breaches of obligation as well as for customer claims arising from the UK Product Liability Act or for claims arising from injury to life, body or health. DeskCenter shall not assume any liability for lost profit, indirect damage, consequential damage of a defect and claims of third parties, with the exception of claims arising from the infringement of third parties' industrial property rights.
2. Inasmuch as the liability for grossly negligent breaches of obligation cannot be excluded, the liability for damage of DeskCenter shall be limited to the direct damage that is foreseeable and typical of the agreement.
3. Inasmuch the liability towards DeskCenter is limited or excluded, this shall also apply with respect to personal liability for damage of legal representatives, employees, freelancers, other representatives and vicarious agents of DeskCenter.
4. DeskCenter shall not be liable for defects that occur in relation with any change of the system environment performed by the customer or caused otherwise, or any other external influence. It is incumbent on the customer to prove that occurring defects have no causal connection to a change of the system environment or other external influence.

IV. Support Service Agreements

1. Obligations of the Customer

- a) To ensure fast and successful processing of error messages, the customer shall address these to DeskCenter by always specifying its agreement number. To do so, it should use the support form on the website.
- b) Furthermore, the performance of support services shall be conditional upon the customer a) observing DeskCenter's direction and instructions, b) taking reasonable efforts to solve the incident after consultation with DeskCenter, c) providing DeskCenter with information, support, materials and access to resources as far as this is necessary and reasonable, d) installing all service packs and hotfixes immediately and e) procuring, installing or maintaining all resources, telephone lines, communication interfaces and hardware necessary for the utilization of the DeskCenter product.
- c) The customer shall employ sufficiently qualified and trained personnel for the products licensed by it.
- d) The customer shall be obliged to secure personal data prior to the beginning of the support services in such a way that any inadvertent access to it by DeskCenter is not possible during the performance of its support service.
- e) The customer shall notify DeskCenter immediately of program errors, necessary changes and any other circumstances that call for support services.

2. Remuneration

- a) The remuneration for the support service shall be an annual remuneration paid in advance unless otherwise agreed in writing. It shall be based on the offer or the corresponding order confirmation, respectively, or on the current price list.
- b) DeskCenter shall be entitled to adjust the remuneration for support services at the beginning of each new year of the agreement and will notify the customer of this change no later than thirty (30) days before the year of the agreement expires.
- c) If the customer extends the licenses for the products to be supported, the remuneration will be adjusted and extended accordingly for the extended support services.
- d) If the customer does not or only partially take advantage of the support or maintenance services of DeskCenter, it shall not be entitled to any reimbursement of the remuneration for the support services it did not take advantage of.
- e) If a customer does not renew an existing agreement and intends to conclude a support and maintenance agreement again at a later date, it shall be obliged to pay a reestablishment fee as stated in the valid price list.

3. Acceptance and Delivery of Services

- a) A delivery report shall be set up for the acceptance of services performed by DeskCenter. The customer shall confirm with its signature that all services have been performed and delivered in relation with the order and that the order has been completed. If partial services have been agreed upon, this rule shall apply accordingly.
- b) If DeskCenter performs services for the customer after delivery of the project, these services shall be invoiced separately on the basis of the thenvalid price list of DeskCenter unless the customer has concluded a separate relevant agreement with DeskCenter (e.g., in the form of a maintenance and/or hotline agreement).

4. Copyrights

All support services under this agreement shall be performed dependent on and in keeping with the relevant software license. This means in particular that DeskCenter shall be entitled to hold all the copyrights of the services performed.

5. Loss of Data

DeskCenter considers it an absolute necessity for the customer to have a data backup system that is operational at any time. It is incumbent exclusively on the customer to perform and ensure proper data backup unless DeskCenter has committed itself thereto expressly in writing. Any claim for damages of a customer against DeskCenter to compensate the loss of data shall be excluded if the damage had not occurred with proper data backup by the customer.

v. Other

1. Setoff, Retention, Assignment of Rights and Obligations

- a) The customer shall be entitled to set off a claim against DeskCenter only if this claim is undisputed by DeskCenter or has become res judicata. The customer shall not be entitled to claim a right of retention that is based on a different contractual relationship with DeskCenter.
- b) DeskCenter shall be entitled to assign rights and obligations arising from the agreement to a third party. The assignment of obligations to a third party shall become effective without the customer's consent.

2. Applicable Law, Place of Jurisdiction

- a) All agreements concluded shall exclusively be governed by English law, excluding UN purchase law. The language of the agreement is English.
- b) The place of performance and the place of jurisdiction is London.

3. Export of Data Processing Systems

The exportation of data processing systems is subject to special export control regulations. Exportation requires the consent of the authorities in charge.

4. Severability Clause

If any provisions of the aforementioned terms and conditions are or become legally ineffective or if there is any gap in the terms and conditions, the validity of the remaining provisions shall not be affected. Ineffective provisions shall be replaced or the gap be filled by an adequate legal provision that comes closest to the one that has been intended by the user or the parties to the agreement or that would have been intended by the user or the parties to the agreement if these had considered this point.

(April 2014)