

## I General terms

### 1 Parties to the agreement

The parties to the agreement are Deutsche Telekom AG (hereinafter referred to as Deutsche Telekom), Friedrich-Ebert-Allee 140, 53113 Bonn, Germany (Local Court of Bonn HRB 6794) and the customer.

### 2 Subject matter of the agreement

2.1 The subject matter of the agreement is specified in these General Terms and Conditions (Terms) and the relevant Service Specifications. These set forth the terms governing the purchase of software for download which is distributed via the online portal [www.softwareload.co.uk](http://www.softwareload.co.uk).

2.2 Any other general terms and conditions or licensing terms which are incorporated by the software manufacturer are not valid and are replaced by these Softwareload Terms.

2.3 The possibility of using shareware (software which may usually be copied, without modifications, at will and which following a test period can continue to be used after registration which is subject to charge) and freeware (software made available for use free of charge by its author) made available via Softwareload is excluded from these Terms. The respective licensing terms of the software manufacturer apply for such software.

### 3 Registration

Registration is required in order to purchase software via Softwareload. Registration is free of charge.

### 4 Softwareload user account

4.1 On completing registration, the customer receives their own Softwareload user account for an unlimited period of time.

4.2 This authorises the customer to use and manage Softwareload services. Additional agreements must be concluded in order to purchase individual Softwareload offerings.

4.3 The customer can terminate their user account at any time by selecting the "My data" tab within the "My Softwareload" area and then clicking on the "Delete user account" button. The user account is deleted when the confirmation message has been agreed with "ok". Once a user account has been deleted, the customer can no longer access the backup copy kept by Deutsche Telekom pursuant to Item II 3.3.

4.4 If the customer does not use Softwareload and their user account for a period of two years, the user account will automatically be deleted by Deutsche Telekom. The customer will be informed of the deletion four weeks in advance by email.

4.5 The customer may not transfer their Softwareload user account to a third party unless with the prior written consent of Deutsche Telekom.

### 5 Statements on condition

The provision of performance data or any other description of the software, even if reference is made to DIN and/or any other standards, does not imply any guarantee being given by Deutsche Telekom regarding the condition of the Software.

### 6 The customer's obligations and responsibilities

6.1 The customer has, in particular, the following duties:

a) Personal access data (such as user IDs and passwords) and the licence keys provided by Deutsche Telekom which are required for use may not, with the exception of the provision of Item II 5, be disclosed to third parties and must be stored in a secure place so as to protect them from and against third-party access. In addition and for security purposes, personal access data should be changed prior to the first use and following that at regular intervals. The customer shall change access data suspected of having been disclosed to unauthorised parties without undue delay. Such data must be encoded if stored on a PC, USB flash drive or CD-ROM.

b) Deutsche Telekom and its vicarious agents [*Erfüllungsgehilfen*] are to be indemnified against all claims by third parties that are based on the illegal use of Softwareload services and related services rendered by the customer or rendered with their consent, or which arise, in particular, from litigation involving data protection, copyright,

or other laws in conjunction with the use of Softwareload services. The customer is obliged to notify Deutsche Telekom without undue delay if they are or should be aware that such violation is imminent.

c) Deutsche Telekom must be informed without undue delay of any defects in or damage to software purchased via Softwareload.

6.2 Deutsche Telekom is entitled to suspend the Softwareload user account or individual Softwareload services at the customer's expense in the event of serious breaches of the customer's obligations or reasonable and significant suspicion thereof. In the case of Softwareload subscriptions, the customer is still required to pay the monthly charges.

### 7 Terms of payment

7.1 The prices to be paid for the use of Softwareload services are charged according to the method of payment selected by the customer.

7.2 The price for the purchase of the software is stated in the respective online notice on the Softwareload portal.

7.3 The customer must also pay the prices arising from the authorised or unauthorised use of Softwareload services by third parties if and to the extent that the customer is responsible for such authorised or unauthorised use.

### 8 Set-off and retention

The customer is only entitled to offset if their counterclaims have become *res judicata* or are undisputed by Deutsche Telekom. Moreover, the customer may exercise a right of retention only to the extent that such counterclaim is based on the same contractual relationship.

### 9 Default

9.1 If the customer defaults on payment and the amount is not insignificant, Deutsche Telekom is entitled to suspend the Softwareload services at the customer's expense.

9.2 Deutsche Telekom reserves the right to assert any other claims arising from a default in payment.

### 10 Reservation of ownership

Deutsche Telekom reserves ownership of the software supplied to the customer as a download until the purchase price owed has been paid in full.

If Deutsche Telekom asserts reservation of ownership, the customer's right to further use the software will lapse. All copies of the program made by the customer must be handed over or deleted.

### 11 Liability of Deutsche Telekom

11.1 In the case of intent or gross negligence as well as in the absence of a guaranteed quality, Deutsche Telekom will be liable without limitation for all damage attributable thereto.

11.2 In case of slight negligence [*leichte Fahrlässigkeit*], Deutsche Telekom will be liable without limitation in the event of injury to life, limb or health. If Deutsche Telekom is in default with its service due to slight negligence, if Deutsche Telekom's service has become impossible to provide or if Deutsche Telekom has breached a material obligation, liability for damage to property or pecuniary loss attributable thereto will be limited to such damages which are assumed to be typical for such an agreement and foreseeable. A material obligation is an obligation the fulfilment of which enables the proper execution of the agreement in the first place, the breach of which endangers the fulfilment of the purpose of the agreement and the fulfilment of which the customer may generally rely on.

11.3 Deutsche Telekom's liability without fault to pay damages (Sec. 536a of the German Commercial Code [*Bürgerliches Gesetzbuch - BGB*]) for defects which existed when the agreement was concluded is excluded. Items 11.1 and 11.2 remain unaffected thereby.

11.4 In the event of data loss, in case of slight negligence Deutsche Telekom will only be liable subject to the conditions and within the scope of Item 11.2 if the customer has made suitable backups of their data at intervals adequate for the respective

- application in order that these data may be restored with reasonable effort.
- 11.5 Liability for all other damage is excluded, in particular for loss of data or hardware faults caused by the incompatibility of the components available on the customer's PC system with the hardware and software which is new or to be modified, and for system failures which can arise due to existing misconfigurations or older, interfering drivers which have not been completely de-installed. The foregoing shall not affect liability under the provisions of the German Product Liability Act [*Produkthaftungsgesetz- ProdHaftG*].

## 12 Other provisions

- 12.1 The laws of the Federal Republic of Germany apply to the exclusion of the application of the United Nations Convention on Contracts for the International Sale of Goods and the conflicts of law rules.
- 12.2 In the event of a deviation between the German and the English version of the General Terms and Conditions, the German version shall take precedence over the English version.

## II Special provisions for software for download

### 1 Services provided by Deutsche Telekom

On the Softwareload portal Deutsche Telekom provides the customer with software to be purchased as a download.

### 2 Conclusion of the agreement

Unless otherwise stipulated by a separate arrangement, the agreement on the purchase of the respective software will be deemed established upon receipt of the order confirmation, or upon provision of the service by Deutsche Telekom at the latest.

### 3 Rights of use

- 3.1 Deutsche Telekom grants the customer a non-exclusive right to use the software which cannot be sublicensed and is unlimited as regards territory and - unless otherwise stipulated in the online notice for the respective software - is perpetual.
- 3.2 For installation purposes, the customer may reproduce the software from the Internet page of Deutsche Telekom onto the hard drive (or any other mass storage medium) of the terminal used and, for the purpose of loading the program, onto the random access memory (RAM).
- 3.3 Deutsche Telekom stores a copy of the software (including the relevant licence key) for the customer on the Deutsche Telekom servers for backup purposes for a period of one year after the download (hereinafter referred to as Backup Copy). For installation purposes the customer may copy the Backup Copy from the Deutsche Telekom Internet page onto the hard drive (or another mass storage medium) of the terminal and for the purpose of loading the program, the customer may copy it into the random access memory (RAM) if the exact copy of the software which was downloaded earlier has been damaged, inadvertently deleted or otherwise destroyed, lost or can no longer be used for some other reason, the software has not been made available to third parties and this is necessary to be able to use the software. At the end of the one-year period and if the user account is deleted, the customer is entitled to make a copy for backup purposes.
- 3.4 The commercial use of the software is prohibited, in particular other copying, distribution and sale. This prohibition does not cover passing on to a third party if this meets the requirements of Item II 5.

- 3.5 The customer may not use the software on several terminals at the same time. If the customer wishes to use the software on another terminal, with the exception of software designated as being for mobile terminals such as mobile phones, smartphones or PDAs, they must first delete the software from the old terminal before installing it on that other terminal. Software for mobile terminals is linked to the terminal number of the terminal for which the software was purchased that was entered when downloading. It is not possible to install the software on another terminal.

## 4 Program modifications

- 4.1 Retranslating the program code provided into other types of code (decompiling) and other forms of reconstructing the various manufacturing steps of the software (reverse engineering) are only permitted to the extent that they are carried out in order to obtain information required to ensure the interoperability of a program created independently and if this information cannot be obtained in any other way.
- 4.2 Any modification of the program in order to eliminate errors or extend the scope of functions is prohibited.
- 4.3 Copyright notices, references to any other intellectual property rights or serial numbers and other features that serve to identify the software may under no circumstances be removed or modified.

## 5 Passing on to third parties

- 5.1 The customer may pass on to third parties the software and all licence keys required for the use of the software, with the exception of software designated as being for mobile terminals, if
- a) the customer deletes from their terminals the software (including any and all Backup Copies) and the licence keys required for use of the software,
  - b) and the purchaser undertakes towards Deutsche Telekom to adhere to these Terms prior to the passing on. The declaration of undertaking can be sent to Deutsche Telekom by post, email or fax. To this end, the customer will refer the purchaser to these Terms before passing on the software.
- 5.2 After the software has been passed on to a third party, the customer's right to use the program will lapse.

## III Special provisions for downloading Microsoft software

### 1 Services provided by Deutsche Telekom

On the Softwareload portal, Deutsche Telekom provides the customer with licence keys and a link for the download of Microsoft software from the Microsoft portal.

### 2 Conclusion of the agreement

Unless otherwise stipulated by a separate arrangement, the agreement on the purchase of the licence key will be deemed established upon receipt of the order confirmation, or upon provision of the service by Deutsche Telekom at the latest.

### 3 Rights of use

Deutsche Telekom does not grant the customer any rights of use in the software with the purchase of the licence key. The necessary rights of use in the software are granted in a separate agreement to be concluded with the software manufacturer. This agreement between the manufacturer and the customer is usually concluded by the customer accepting the licence agreement or the general terms and conditions of the software manufacturer during the software installation process.