

General Terms and Conditions of UTAX DocForms GmbH

1. Subject of Terms and Conditions

The following Terms and Conditions govern the purchase and delivery of standard and customised software products, hardware, accessories and services of all kinds as well as all other business relations with UTAX DocForms GmbH (hereinafter referred to as UTAX DocForms).

2. Standard service

2.1 UTAX DocForms shall sell the products listed in the delivery note to the client. The features and scope of the products are based on the service description (offer/specification sheet) and the information in reference thereto contained in the order confirmation. All agreements with the client must be provided in writing. The order confirmation or purchase agreement defines the content and scope of the order.

2.2 Any standard or customised software that has been delivered may not be resold unless specified otherwise in writing. The purchase price for for-purchase software merely grants the client the right to use that product. The usage rights shall be assigned exclusively to the economic entity of the client (individual, partnership, company, or similar entity) and his assignees. The client may not use the software or user manual for purposes other than his own. If the client or his legal agent makes an unauthorised disclosure or copy of the software, the client shall be obliged to pay a penalty to the amount of the contract value of the delivered standard or customised software for each individual case. The client shall also be liable for the same amount for each individual copy made from his initial copy.

2.3 Upon request, the client must provide UTAX DocForms, without delay, with all the information needed to assert claims against third parties, in particular their names and addresses as well as the type and scope of claims against such parties resulting from unauthorised program licensing.

2.4 The option to receive updated versions of software sold or developed individually in compliance with this agreement shall not be included within the service scope of this agreement.

2.5 UTAX DocForms shall render the following services as agreed within the scope of existing technical and operational means against a fee that is based on the list prices valid at the time of order placement:

- (a) Installation of software
- (b) Implementation support/training
- (c) Hotline support
- (d) Software and hardware maintenance
- (e) Consulting, conceptual design, feature specification
- (f) Delivery and installation of devices

2.6 The technical data and descriptions contained in product or marketing materials shall be included in this agreement only as a result of express written inclusion and shall not constitute a guarantee of features and/or of quality and/or of service life unless expressly guaranteed by UTAX DocForms in writing. This shall also apply to dimension and weight specifications in all illustrations and drawings. These are only approximations unless expressly assured in writing.

3. Prices

3.1 UTAX DocForms expressly reserves the right to make price changes as necessary. UTAX DocForms shall however honour any offer it makes for a period of 4 weeks.

3.2 Our prices are quoted ex works (Dortmund office) exclusive of packaging and the VAT rate applicable on the day of delivery.

3.3 The transport packaging shall be charged separately. If the packaging is returned to us at the client's cost, we shall undertake its disposal. Otherwise the client shall dispose of the packaging at his own cost and in accordance with all relevant packaging regulations.

3.4 Prices may be increased due to general price and cost increases or changes to prior carriage costs, customs duties, taxes and dues, provided that the increase occurred between the conclusion of the agreement and delivery.

3.5 The delivery and installation of devices as well as the instructions provided to the employees of the client shall be charged separately. Charges are calculated based on our currently valid price list and are subject to individual contractual agreements.

4. Responsibilities and obligations of the client

The client shall be obliged to

- (a) pay the agreed purchase price in due time. He shall reimburse UTAX DocForms for costs incurred for every unpaid check or unpaid or returned debit order to the extent he is responsible for the event which incurred the costs;
- (b) immediately notify us of any discrepancies in our order confirmation within 8 days;
- (c) provide UTAX DocForms with written notification of any complaints regarding the software within 14 days of installation;
- (d) provide UTAX DocForms with written notification of any complaints regarding hardware or accessories within 14 days of goods receipt;
- (e) provide written notification of apparent defects or incorrect or incomplete delivery within 14 days of receipt. If the client fails to do so, any related claims regarding defects, performance and/or damage compensation shall be excluded;

- (f) immediately inspect commercially traded goods with respect to Art. 377 HGB (German Commercial Code) and observe the obligation to give notice of defects;
- (g) have all damages certified by the freight carrier upon acceptance of goods;
- (h) provide complete information and access to all technical data on planning and, if applicable, installation;
- (i) immediately return the licensed software including the user manual, data carriers and other documents and delete any digital copies made of such documents in the event the agreement is rescinded. The client shall provide UTAX DocForms with written confirmation that no further copies exist.

If the client's duty to inspect the goods and provide notice of defects is not fulfilled, the delivery item shall be deemed approved in consideration of the defect in question.

All possible warranty or damage claims shall expire if a proper claims assessment is not performed.

5. Payment terms

5.1 Unless specified otherwise in an individual written agreement, invoice amounts shall be due in net cash within 8 days of receiving the goods, software or service and the invoice. Provided direct debit authorisation is given by the client, UTAX DocForms shall debit the invoice amount from the agreed account. A written agreement shall be required for cash discounts.

5.2 If the client is in default of an agreed payment instalment by more than 10 days, regardless of whether due to an unpaid or only partially paid instalment, or if a check or bill is protested, UTAX DocForms shall be entitled to demand the remaining outstanding amount – with 5 percentage points over the base rate after the invoice is issued – and to make any further partial deliveries contingent upon payment of the outstanding amount. UTAX DocForms may also demand a payment guarantee from a major German bank for the remaining outstanding amount prior to delivery. The rights set forth in Articles 768, 770, 771 of the German Civil Code as well as the right to deposit shall be waived in such cases.

5.3 For each item of hardware or accessory delivered, UTAX DocForms shall charge a flat rate for shipping costs and transport insurance. Incidentals shall be charged separately.

5.4 Checks, bills and payment instructions shall only be accepted on the basis of a written agreement. The client shall recognise that service obligation begins once the relevant check, bill or transfer amount is finally credited to UTAX DocForms. Default interest, which can also be demanded until a check, bill or payment instruction is finally credited, shall be charged at 5 percentage points over the applicable base rate.

6. Delivery period

6.1 A delivery deadline, which is to be agreed in writing, shall begin on the date of order confirmation by UTAX DocForms. The deadline shall be deemed complied with if the delivery item is shipped before said deadline expires. The applicability of delivery periods shall be subject to correct and timely self-delivery.

6.2 The delivery deadline shall be extended for as long as it takes for the client to provide UTAX DocForms with all the complete documents required to carry out the order. For UTAX DocForms to observe its delivery obligation, the client must fulfil his obligations in a timely and proper manner.

6.3 The delivery period shall be reasonably extended in the case of actions related to workplace accidents, particularly with regard to strikes or lockouts or other circumstances over which UTAX DocForms has no control, such as mobilisation, war, rebellion and business disruptions, if such obstacles delay the completion or delivery of the delivery item.

6.4 If the client is in default of acceptance or violates other obligations of cooperation, then UTAX DocForms shall be entitled to demand compensation for the resulting damages and any additional expenditures.

6.5 If the shipment or delivery is delayed at the request of the client, UTAX DocForms may demand a storage charge of 2 per cent of the net invoice amount for each month or part thereof from the client following a period of one (1) month after notice of readiness for dispatch has been given.

7. Shipping and risk transfer

7.1 UTAX DocForms shall be entitled to make partial deliveries unless expressly agreed otherwise.

7.2 UTAX DocForms may select the shipping method, shipping route and shipping company at its own discretion provided the client has not given instructions in this regard. Shipping shall be done without guarantee that the most cost-effective transport is used.

7.3 The costs for all shipments and return shipments shall be borne by the client. UTAX DocForms shall insure the shipment if expressly requested and paid for by the client.

7.4 Notwithstanding any contrary information in the order confirmation, delivery shall be effected ex works. The risk is thus passed to the client once the shipment containing the delivery items leaves UTAX DocForms, its warehouse or business premises. This shall also apply if UTAX DocForms' own means of transport is used. If delivery is undertaken by the technicians of UTAX DocForms in accordance with this agreement, then the risk shall pass to the client upon receiving the delivery.

7.5 In the event of default of acceptance, the risk of accidental deterioration or destruction shall pass to the client.

8. Default of acceptance

8.1 If the client is in default of acceptance and fails to comply with a warning notice to that effect, then UTAX DocForms may choose to either terminate the agreement and/or demand compensation for damages.

8.2 If default of acceptance lasts longer than one (1) month, the client must pay 2 per cent of the net invoice without deductions for the storage costs or part thereof.

8.3 UTAX DocForms is entitled to a lump sum payment of 20% of the net invoice amount without deductions if the client is liable for damages instead of performance. This shall not affect the right to claim further damages. The client shall be at liberty to furnish evidence that no damages whatsoever or substantially lower damages have been incurred.

9. Retention of title

9.1 Delivered goods shall remain the property of UTAX DocForms until full payment is received. This shall also apply to the right to use delivered software.

9.2 Full payment in this context shall mean that all claims arising from the delivery agreement, including incidental claims such as currency exchange costs, financing costs, and interest, have been paid. In the event that individual claims or all claims arising from the business relationship are added to an open account and a balance has been calculated and acknowledged, then the retention of title shall apply until the entire amount is paid.

9.3 In this context, goods shall also mean the right to use the delivered software as well as the entirety of hardware, software and other services. If the client is in default of payment or breaches another contractual performance obligation, then UTAX DocForms shall be entitled to reclaim the purchased item. Returning goods for this reason shall not constitute withdrawal from the agreement. If UTAX DocForms seizes the purchase item (if possible) or asserts the right of repossession with regard to the existing retention of title, then a withdrawal from the agreement shall result. UTAX DocForms shall have the right to exploit the reclaimed purchase item. The sales revenue shall be credited against the client's debts minus the exploitation costs.

9.4 In the event of seizure or other intervention by a third party, the client must immediately notify UTAX DocForms thereof in writing. If the third party is unable to compensate UTAX DocForms for the judicial and extrajudicial costs of necessary legal representation and/or legal action pursuant to Art. 771 of the German Code of Civil Procedure, the client shall be liable for the loss incurred to UTAX DocForms.

9.5 If the commercial resale of the software is permitted, the client shall be entitled to resell the purchase item in the regular course of business. However, the client hereby relinquishes all claims to the final invoice amount inclusive of VAT which accrue to him from the resale against his buyer or a third party. UTAX DocForms shall accept the assignment. Upon request, the client shall further be obliged to disclose information on the end buyer, the sale price and all other information necessary for claim collection.

9.6 The client shall remain authorised to collect this claim even after it has been assigned. The authority of UTAX DocForms to collect the claim on its own shall remain unaffected thereby. UTAX DocForms shall however refrain from collecting the claim if the client is in compliance with his payment obligations regarding the collected revenues, is not in default of payment and, above all, has not filed for bankruptcy (insolvency, settlement, collective bankruptcy proceedings) or has been ordered to suspend payment.

9.7 If requested by the other party to the agreement, UTAX DocForms shall be obliged to release the securities it is owed to the extent that the value of the existing securities held by UTAX DocForms exceeds the claim to be secured by more than 20 per cent. UTAX DocForms shall be responsible for selecting the securities to be released.

9.8 The client shall waive the defence that he has agreed to a prohibition of assignment of claims with the third-party buyer. The client may not agree to a prohibition of assignment of claims with third-party buyers for UTAX DocForms goods.

10. Warranty

10.1 UTAX DocForms only initial warranty obligation shall be the right to subsequent performance within a reasonable time period. Subsequent performance shall include either subsequent improvement or replacement delivery. In the event subsequent performance fails, the client may rescind the agreement or reduce the price and claim damage compensation insofar as UTAX DocForms is responsible for the defect. UTAX DocForms shall have two attempts at subsequent performance to remedy defects.

10.2 In the case of improper installation, the client may demand subsequent performance from UTAX DocForms within a reasonable time period. If the subsequent performance fails, the client may rescind the agreement on the basis of improper installation or reduce the price and claim damage compensation insofar as UTAX DocForms is responsible for the defect.

10.3 After two failed attempts, the remedy of defects shall be considered unsuccessful unless some other solution presents itself due to the type of item or defect or other circumstances. A reasonable time period shall be given for each attempt.

10.4 The warranty rights specified in Items 10.1 and 10.2 shall be granted to the client with respect to UTAX DocForms for a period of one (1) year after the respective service is performed.

10.5 UTAX DocForms shall not be liable for damages caused by unsuitable or improper use, failure to follow application instructions or incorrect or negligent handling. This shall apply in particular to the installation for which the client himself is responsible unless otherwise agreed in writing on the basis of our price list.

10.6 Unauthorised reworking and improper handling shall result in the loss of all warranty claims unless the client is able to prove that the defect cannot be attributed to such measures. Improper handling shall also be given if, for example, the device number is no longer legible, subsequent changes have been made to the hardware or software without the consent of UTAX DocForms, or unauthorised repair work has been performed.

11. Default

If UTAX DocForms is in default of an obligatory service, liability shall be determined pursuant to Section 12. The client shall be entitled to withdraw from the agreement only if UTAX DocForms fails to comply with a reasonable deadline as set by the client, which must be at least 2 weeks. Withdrawal from the agreement shall also be excluded in cases where the breach of duty is negligible.

12. Liability limitations

12.1 UTAX DocForms shall not be liable for the compatibility of its software on hardware that is not supplied by UTAX DocForms. However, the client may return the software within 10 days if non-compatibility is determined.

12.2 UTAX DocForms shall be liable for all damages that can be attributed to intent or gross negligence or the absence of guaranteed features. The assurance of special features is only valid if provided in writing. If a special feature of the software is assured in individual cases, the liability arising from this assurance shall not extend to consequential damages caused by a defect that is not included in this assurance.

12.3 In the case of breach of contract, default or impossibility, UTAX DocForms shall not be held liable for damages that have been caused by only slight negligence on the part of UTAX DocForms, its employees or its agents.

12.4 If UTAX DocForms is in default of service, then liability shall be excluded if the damages would have occurred regardless if the service had been performed in due time.

12.5 If UTAX DocForms is in default of service due to slight negligence, if service by UTAX DocForms has become impossible or if UTAX DocForms has breached an essential duty, then UTAX DocForms shall be liable for the resulting material or financial damages that are foreseeable and typical for this type of agreement and whose occurrence could be reasonably expected upon conclusion of this agreement to a maximum amount of 4 times the agreed price.

12.6 The client shall be obliged to back up his data on a daily basis. Before installation work begins, the client must provide UTAX DocForms with written confirmation that all current data has been properly backed up. If a software or hardware defect causes data loss, UTAX DocForms shall be liable for the resulting damages but only to the extent of the restoration costs that would have been incurred had the client had made backup copies of the data.

13. Exclusion of set-off rights

The client shall not be entitled to set off his own claims or ongoing fees of any kind against the claims of UTAX DocForms unless they are established as legally binding or recognised by UTAX DocForms.

Claims against UTAX DocForms may only be ceded with the express consent of UTAX DocForms, which must be sought on a case by case basis.

14. Additional repairs

14.1 Necessary repairs that fall outside the warranty shall be charged separately. The current price list shall apply in such cases. The costs for the repairs, shipping and packaging shall be borne by the client. The terms for shipping and risk transfer shall apply accordingly.

14.2 UTAX DocForms reserves the right to have the repairs done by another company. Such repairs shall be charged based on the price list of UTAX DocForms.

14.3 If a cost estimate is requested, the costs incurred for such an estimate – based on the UTAX DocForms price list – shall be reimbursed even if no repair order is issued afterwards.

14.4 Compensation for work shall be due upon delivery. Delivery shall only be performed against payment of the repair invoice.

15. Property rights

Software shall be delivered exclusively based on the current usage and licensing agreements of UTAX DocForms or the relevant regulations of the manufacturer of the delivered standard software. All present and future copyrights or industrial property rights to all programs from UTAX DocForms and any program sections derived therefrom or documents created in this context shall remain the property of UTAX DocForms unless otherwise agreed in writing.

16. Data protection

The client shall authorise UTAX DocForms to store and process all data obtained in the course of their business relationship. UTAX DocForms shall be exempted from all data protection restrictions insofar and to the extent that the client has the authority to do so (exemption in terms of Articles 1, 4 et seq. of the German Data Protection Act).

17. Termination and acting as an agent

17.1 If UTAX DocForms withdraws from the agreement or if the order is not carried out for reasons attributable to the client, UTAX DocForms can demand a lump sum compensation of 20 per cent of the net invoice amount for expenses and lost profit. In such cases the client shall be allowed to demonstrate to UTAX DocForms that damages or profit losses have not been incurred whatsoever or to a much smaller degree than the lump sum demanded. UTAX DocForms reserves the right to assert verifiable claims for additional damages.

17.2 For clients that place orders from UTAX DocForms on behalf or on the account of third parties, both the client and the third party shall be liable to UTAX DocForms as co-debtors to the fullest extent.

18. Place of performance

If there are no stipulations to the contrary, and if permitted by law, the place of performance shall be Dortmund, Germany.

19. Place of jurisdiction

The place of jurisdiction for both parties shall be Dortmund, Germany. The Law of the Federal Republic of Germany shall apply exclusively.

20. Final provisions

20.1 These Terms and Conditions shall apply exclusively. Express written confirmation by UTAX DocForms is required for it to recognise any conditions of the client that are in conflict with or deviate from the sales terms of UTAX DocForms. These above conditions shall also apply if



UTAX DocForms delivers goods to the client without reservation and in full knowledge that the conditions of the client are in conflict with or deviate from the sales terms above.

These General Terms and Conditions shall also apply to all future business with the other party to this agreement.

20.2 Oral agreements must be confirmed in writing in order to be valid. This written requirement may only be waived by a written agreement.

20.3 For the purpose of these provisions, 'client' is any buyer of the products and services of UTAX DocForms regardless of legal basis.

20.4 The client shall immediately inform UTAX DocForms if his residence or place of business changes or the legal structure, liabilities and representation of his company changes.

20.5 In the event that individual provisions of this agreement are or become invalid, then the validity of the remaining provisions shall not be affected thereby. The invalid provision shall be reformulated or replaced by another provision so as to achieve the intended purpose of the original provision.