

§ 1 General

- 1.1 These General Terms and Conditions apply to all software products delivered by the **Mician GmbH** against payment.
- 1.2 Our performances and offers are carried out exclusively according to these business conditions which apply also to all future business without expressly restating them.
- 1.3 Amendment to these business conditions will be announced to the licensees in writing. They are considered as approved if the licensee does not object in writing. **Mician GmbH** is going to draw the licensees' attention to this particular point. Any objection needs to be explained by the licensee in writing to **Mician GmbH** within six weeks after announcement of the amendment.
- 1.4 Digitally signed documents as well as notices posted at our home page www.mician.com are accepted as legally binding written communications.
- 1.5 These General Terms and Conditions for Software are governed by the laws of the Federal Republic of Germany.
- 1.6 As far as the licensee is a merchant according to the code of commercial law, a legal person of the public law or a legal person under public law for separate property, the place of performance for all our services is Bremen/Germany. The place of jurisdiction, although **Mician GmbH's** choice of a legal place of jurisdiction remains untouched.
- 1.7 In the event of invalidity of any provision of the General Terms and Conditions for Software, such invalidity shall not affect the validity of the remaining terms and conditions.

§ 2 Conclusion of contract

- 2.1 Details of our performance program contained in brochures, advertisements and similar - also regarding price quotations - can be subject to alteration and are not binding.
- 2.2 We commit ourselves to offers worked out especially by us as indicated in the offer. Offer and order are only accepted with the receipt of a corresponding written declaration of acceptance by the other contracting party.
- 2.3 The designations and descriptions of the performances stipulated at the time of the conclusion of contract represent the technical state at that time.

§ 3 Usage

- 3.1 **Mician GmbH** assures that it is the rightful owner of the acquired program. This program as well as the associated documentation are protected by copyright.
- 3.2 **Mician GmbH** gives the licensee the right with the acquisition of the program to use the program under the conditions of use as indicated here. A further usage or exploitation is excluded.
- 3.3 The licensee has the right to use the acquired program only on one computer simultaneously. Use of the software is every permanent or temporary, complete or partial multiplication of the software through copying, installation, running or displaying for the purpose of program execution and the processing of data contained in the program by a computer. The licensee also is authorized to execute the stated actions for the purposes of observation, inspection as well as testing of the program.
- 3.4 The program code may be changed or worked upon only as far as this is necessary in accordance with the agreed use, to connect the program with other programs and to correct errors. Any company names, trademarks, copyright remarks and other remarks about right reservations contained in the modified program may not be changed and are to be carried over into modified copies of the program.
- 3.5 Provided that the source code for the program is not disclosed, retranslation of the program code (decompilation) is only permitted under the statutory restrictions as per § 69e copyright law. Further far reaching retranslations are excluded.
- 3.6 The licensee is authorized to produce a backup copy of the program, if and as far as this is required to safeguard the future use of the program. Copying and duplication beyond the aforementioned use is inadmissible and will be considered as an act of piracy.

§ 4 Transfer of license

- 4.1 The licensee is only entitled to pass the program on to a successive user, provided that a copy of the purchase contract and its General Terms and Conditions for Software accompany the program. This right does not extend to copies or partial copies of the program, nor to modified or processed versions or copies and partial copies thereof. The licensee is not authorized to ask for financial compensation for transfer of the program. In the case of violation the licensee is obliged to return the paid compensation to the licensor.
- 4.2 With a transfer of the software the right of use passes on to the successive user who then assumes the role of licensee in the context of these General Terms and Conditions for Software. The right of use for the original licensee ceases at this moment in time.
- 4.3 With the transfer of license the original licensee must delete all copies and partial copies of the program as well as modified or processed copies thereof immediately and completely or to destroy these by other means. This also applies to all backup copies. The original licensee has to confirm the deletion of the licensed works under oath, provided that such a request is made by the **Mician GmbH**.
- 4.4 For the transfer of license by the current user to the successive user the latter assumes the role of the former in the sense of the aforementioned.
- 4.5 The licensee does not have to the right to lend, rent out, lease or pass on in any other way the software (outside of items 4.1 – 4.4) to third parties for use.

§ 5 Other rights

- 5.1 All further-reaching rights in the use and exploitation of the program remain with the licensor. The utilization rights of the licensee for all work results obtained by the use of the program remain untouched.
- 5.2 An Upgrade-/Update version replaces or supplements the original software. The licensee is obliged to apply the Upgrade-/Update software only in accordance with the determinations of these General Terms and Conditions for Software. The obligation to the deletion and destruction as per item 4.3 remains untouched.

§ 6 Prices

- 6.1 All prices are valid plus the respectively valid value added tax.
- 6.2 The prices apply to deliveries ex works. Dispatch and packing costs are billed separately.
- 6.3 When more than four months have elapsed between completion of a contract and the agreed date for its fulfillment or delivery, or the fulfillment date as stipulated by the licensee and accepted by us, then the valid price is that of the moment of delivery or provision of service. If this exceeds the prices agreed at first by more than ten per cent, then the licensee is authorized to repudiate the contract.

§ 7 Payment

- 7.1 Exchange bills and cheques are only accepted for the sake of payment. The costs of discounting and withdrawals must be refunded by the licensee.
- 7.2 If the licensee is a merchant according to the code of commercial law, a legal entity of the public

law or of publicly-legal separate property, our invoice demand may only be offset if the counterdemand is undisputed or legally confirmed.

§ 8 Repudiation

- 8.1 **Mician GmbH** reserves the right for itself to repudiate the contract by written explanation in such case that the details provided by the licensee do not conform with the data attained for proof of identity. This right of repudiation is also valid following ascertainment of identity by **Mician GmbH** itself.
- 8.2 The licensee will be informed by **Mician GmbH** about the reasons for withdrawal to facilitate their remedy.

§ 9 Warranty

- 9.1 There is agreement between the contracting parties that it is not possible to develop computer programs so that they are fault-free for all application conditions. **Mician GmbH** guarantees that the software is useable in accordance with the program description, as valid at the time of delivery to the licensee, and that it shows the assured qualities. An insignificant reduction of use ability is left out of consideration.
- 9.2 **Mician GmbH** ensures that the original program is recorded duly.
- 9.3 Upon receipt of a justifiable customer's complaint there exists primarily the choice to rework the software. If this is not carried out within an adequate period, the licensee may exert his right on lessening or cancellation of contract. Should the program prove not to be useable according to item 9.1. or as faulty according to item 9.4, then a right to return the program and the exchange for a new program of the same title exists within a one year warranty obligation. In case this proves to be unsatisfactory in the above sense, and **Mician GmbH** does not manage to reinstate the usefulness with appropriate effort and within an adequate time period, then the licensee has the choice between the right on reduction of the selling price or return of the purchased works and refund of the selling price.
- 9.4 Incomplete and false performances as well as recognizable deficiencies have to be made known to us in writing immediately after receipt of the software. Hidden faults have to be announced likewise immediately after discovery.
As far as the licensee is a merchant according to the code of commercial law, a legal entity of the public law or public law for separate property, the notification of fault is considered too late in every case when they are delayed more than 30 days after delivery by **Mician GmbH** or, in the case of hidden faults, after their discovery. Reprimands thus delayed are considered as approved for contract fulfillment.
- 9.5 A failing of the improvement or substitute delivery shall be considered only after the licensee has provided the licensor with verifiable documents about the way and appearance of the deviation of the performance specification in written form or as reproducible fault protocol, when despite these documents no improvement is possible, such action is unreasonably delayed, or refused by the licensor, or when unreasonableness arises out of other circumstances. The fault diagnosis and -elimination is carried out in the context of the liability for faulty goods according to the choice at the licensor's works or at the licensee's premises. The licensor has to produce the necessary operating states free of charge. In the absence of a repair or service contract, the licensee pays to the licensor the travel and subsistence costs incurred during dispatch of staff to the site where the licensee's hardware is located.
- 9.6 Further liability claims are excluded.

§ 10 Liability

- 10.1 Every party is liable for damages within its responsibility but altogether only up to the amount of the net order value, as far as no damages to persons or property are involved. Excepted is the liability of the licensor according to item 3.1 of the General Terms and Conditions for Software.
- 10.2 The licensor is liable for damages due to legal deficiencies and performances not produced as stipulated in the contract. The liability is limited to the selling price as well as to such damages, which can be typically expected in the context of a software transfer.
Incidentally the licensor is only liable for firm intention and gross negligence, as long as no deadline is violated which is of particular meaning for the attainment of the contract purpose (cardinal duty).
The licensor's liability as a consequence of breached duty is limited to the value of predictable damages taking a standard course.
A liability after the product liability law for delivered product, but not for rendered services, remains untouched.
- 10.3 The licensee is held to verify and check all results achieved with the software by other known test methods, to test the production process and to subsequently test and verify the products created with the software.
- 10.4 The software covered by this contract enables the user to design and analyze various types of passive waveguide and antenna components. Licensor has not verified whether or not any of the aforementioned components or higher level structures comprised of the aforementioned components are under patent protection by third parties. It is the user's sole responsibility to exercise due diligence and research whether or not any of the components or structures to be designed or analyzed using the software covered by this contract are under patent protection, in order to avert infringement of third party intellectual property rights. Licensor will not be held liable for any patent infringements committed by the end user as a result of the end user's design, production, offer or distribution of patent protected components or structures created using the software covered by this contract. This Disclaimer refers in particular to infringements of Third Party Intellectual Property Rights.
- 10.5 In case the licensee has contributed to the incurrance of damages by culpable behaviour, particularly by breach of the duty of care, the principles of mutual contributory negligence shall determine to which extent **Mician GmbH** and the licensee have to share the burden of the damage.
- 10.6 The licensee has to immediately inform in writing about possible damages or losses, which entitle him to compensation demands.
- 10.7 **Mician GmbH** is only then liable for the loss of data and their restoration if such a loss was not avoidable by adequate data saving measures on the part of the licensee.

§ 11 Export

- 11.1 The exportation of soft- and hardware from a state or the import to a state as well as the use of this technology in a state may be subject to application, authorization, or it can be completely forbidden. It is the obligation of the licensee to fulfil such obligations. The import of this technology into the Federal Republic of Germany is not subject to any control at present.
- 11.2 Exportation by **Mician GmbH** is made under the condition of the approval of the responsible authority on the day of the exportation. If an export permit is refused, **Mician GmbH** is authorized to repudiate the contract. A compensation claim due to delay of the exportation for reason of the duration of the approval procedure cannot be made valid.