

General Terms and Conditions for the Use of Computer Software

I. Introduction

1. These "General Terms and Conditions for the Use of Computer Software" (hereinafter referred to as "Terms and Conditions") of RTE Akustik + Prüftechnik GmbH (hereinafter referred to as "RTE") shall complement the "General Terms and Conditions for the Delivery of Test Systems" each as amended at the time of offer, quotation or contract conclusion.
2. The present Terms and Conditions shall apply exclusively to the provision of standard software which is provided for use in relation with the delivery of any hardware delivery item (hereinafter referred to as "Software").

I. Definition of terms

1. Computer Software shall be the Software contained in the delivery item. It shall include "Test Software" of RTE and/or "Sublicensed Software".
2. RTE shall possess the industrial property rights (e.g., patents, copyrights) as well as the proprietary rights for the Test Software.
3. For Sublicensed Software, a third party shall be the owner of the corresponding industrial property rights for which RTE shall grant a non-exclusive right of use to the ordering party with permission from the holder of the industrial property rights.

II. Ordering party's rights of use

Test Software

1. The ordering party shall be granted a non-exclusive right to use the Software delivered including its documentation. Such Software shall be permitted for use on the delivery item intended for such purpose.
2. Any use of the Software on more than one system or on any other hardware delivery item shall be prohibited unless with RTE's written consent.
3. The ordering party shall not be entitled to modify, reverse engineer, translate or extract any part of the Software unless exclusively in the cases as provided for in Section 69 e of the German Copyright Act and unless within the scope of the general intended use of the delivery item.
4. The ordering party may transfer the right of use to any future owner or hirer of the delivery item.
5. RTE shall reserve the industrial property rights in RTE's Software even in the event that such Software or any part thereof has been created especially for the ordering party.
6. RTE shall not be obligated to surrender any source code.
7. The ordering party shall agree not to remove or change without RTE's express prior written consent any manufacturer information including but not limited to any copyright notice and any other identifier of any data storage media.

Sublicensed Software

8. Subject to any restriction as agreed by and between RTE and the holder of the industrial property rights, the ordering party shall acquire the non-exclusive right to use the sublicensed software only for using the delivery item.
9. The ordering party may transfer the right of use to any future owner or hirer of the delivery item.

III. Industrial property rights

1. RTE shall indemnify the ordering party against any third-party claim based on the use of the Software by the ordering party if and where any such claim is based on the infringement of any copyright or industrial property right existing at the time of delivery and if any infringement of such industrial property rights is under RTE's control.
2. RTE shall, nonetheless, not be liable for any claim with regard to any infringement based on
 - a. any use by the ordering party in any way other than as agreed or at any place other than as agreed;
 - b. any modification of the computer software by the ordering party.
3. The costs for defending against any claim referred to in item 1 hereof shall be borne to a reasonable extent by RTE. It shall indemnify the ordering party for any amount the ordering party is obligated to pay on the basis of any settlement approved by RTE or any final and binding decision.
4. RTE shall, nonetheless, not be liable unless the ordering party has given immediate written notice to RTE and has allowed RTE freedom in handling claims either in or out of court.
5. If there is any infringement of an industrial property right and if the conditions as indicated in item 4 hereof are met, RTE shall, at its option and within a reasonable period, either:
 - a. ensure the right of further use by the ordering party;
 - b. change the Software so as to ensure that there is no further infringement of any industrial property; or
 - c. replace the Software by another program with an equivalent functional scope that does not present any infringement of industrial property rights.
6. If RTE fails to remedy the infringement as described in the items hereinabove, the corresponding provisions shall apply as set forth in the "General Terms and Conditions for the Delivery of Test Systems".

IV. Software errors

1. The ordering party shall be aware and shall acknowledge that it is not possible, in principle, to warrant that Computer Software is free from any defect.
2. The sections included in the "General Terms and Conditions for the Delivery of Test Systems" shall apply mutatis mutandis to any liability for material defects.

V. Software updates

1. Unless as expressly agreed otherwise in writing, RTE shall have no obligation to provide any updated version of the Computer Software or perform any other Software service to the ordering party.

VI. Software licensing

1. No award of any sub-license by the ordering party shall be admissible.