License and Software Conditions
Software Goopax
Version 1.0, Date of Issue: 30. 09. 2014

A.   General terms and conditions

1.   Scope of use and license conditions

1.1.   These general terms and conditions of licensing and use (hereinafter referred to as "GTC", "license" or "conditions") are valid for the entire licensing and use of the software "Goopax" as well as the integrated application documentation (hereinafter referred to as "**Software**"), developed by Mr. Ingo Josopait, Am Flöth 53, D-30629 Hannover as license supplier (hereinafter referred to as "**LS**") by the customer or license holder (hereinafter referred to as "**LH**").

1.2.   These license conditions apply exclusively; counter-confirmations or general terms and conditions of the LH are contradicted. This also applies if the submission or acceptance of the tender by the LH are made with reference to priority application of own GTC or if the LS carries out the delivery/service unconditionally in knowledge of contradictory or deviating from these terms and conditions of the LH.

1.3.   Applicable is always the current version of these conditions and terms of use which is in force at the time as to the date of the license acquisition.

1.4.   The LS does not conclude contracts with consumers (§ 13 BGB – German Civil Code). The contractual partners of contracts based on these conditions are exclusively traders or entrepreneurs (§ 14 BGB). The LH confirms with the conclusion of the contract with the LS that he acts as entrepreneur within the meaning of § 14 BGB, so he acts in exercising of his commercial or independent professional activity.

1.5.   The terms of use are anytime accessible on the website www.goopax.com. To carry out the installation process, the acceptance of these terms of use is additionally required. At the latest by actively clicking the respective button in the installation process the LH declares to agree with the terms of use.

2.   Scope of use, license key, penalty

2.1.   The software may be installed and used only within the scope of the agreed volume.

2.2.   The software is supplied in the form of a library (library).

2.3.   The LS grants only developer licenses. By purchasing a license the LH will receive a license key. By using this license key, the LH is able to use the software within the agreed scope. Only the user referred to in the license file may use the software. Additional users must purchase a separate license before.

2.4.   In addition to the name of the LH further information related to the volume of the granted license are eventually included in the license key. This information is signed and may not be altered by the LH.

2.5.   The LH acquires only a simple, non-transferable right to use the software exclusively for the herein regulated purpose. In case the LH acquires the software without a time limit (software purchase), the license is without a time limit. In case the LH acquires a temporary license (software rent), so the right of use is limited to the duration of the license granted.

2.7.   A data center service for third parties or as well making available the software temporarily (such as application service providing) for third parties, are only allowed with the prior written consent of LS and are associated with additional charges. The commercial subletting is forbidden.

2.8.   The right of use is subject to timely and full payment of the agreed license costs.

2.9.   The LH has the right to transfer the binary files of the software (not the license file, this is subject to the transfer regulations in sections B. and C. below), if and to the extent necessary in order to pass newly generated programs by means of the software. To this purpose he is allowed to perform or to allow appropriate reproductions.

2.10. When using the software in his own responsibility, the LH has to comply fully with the statutory regulations, in particular with those of the copyright.

2.11. The LH has to pay to the LS for each culpable breach of the herein regulated volume usage of the software a contractual penalty to be determined in the individual case by the LS according to his reasonable discretion, which can in case of a dispute be reviewed for appropriateness by the competent county or district court at least however, EUR 10,000.

3.   Volume of services, characteristics

3.1.   The service of the LS is only to enable the use of the software to the LH within the agreed volume.

3.2.   For the quality of the software, the specification of services is decisively relevant, valid at the time of the conclusion of the contract and made available to the LH prior to the conclusion of the contract, which is also described in the application documentation once more. The LS excludes any further quality of the software. Such an obligation the LH cannot deduce, especially not from presentations of software in public statements or in the advertising of the LS, or his employees or distribution partners, unless the LS has expressly confirmed those further qualities in writing.

4.   Remuneration, price list

4.1.   The LH is charged in return for the service the agreed charge.

4.2.   Otherwise, each additional action respectively service of the LS other than the services specified in the offer and the basis for the offer has to be reimbursed separately.

4.3.   Valid is the pricelist of the LS as in force at the time of conclusion of the contract and which is available or can be requested any time.

4.4.   All the quoted prices are net prices, as long as they are not explicitly marked as wholesale prices and they are plus statutory taxes.

5.   Payment, due date

5.1.   All amounts are - unless agreed otherwise – payable immediately upon receipt and to be paid on each occasion the full amount without deduction

5.2.   A permanent license key will be handed over to the LH only after receipt of the invoice amount. Before that date the LS may provide a temporary license key.

5.3.   Any ruin of the software not within the obligation of the LS after the transfer of risk to the LH leave the payment obligation of the LH unaffected.

6.   Source / decompilation

6.1.   The LH receives no rights to the source code of the software and no right to inspection.

6.2.   The LH may not decompile, disassemble or reverse engineer (reverse engineering) the software, unless there is an exception according to § 69e of the Copyright Law or it is expressly permitted in this license agreement.

7.   Copyright

7.1.   The parties agree upon that the sole intellectual property right and the existence of copyrights concerning the source code of the software and the associated trade mark rights belong exclusively to the LS.

7.2.   The LH is not permitted to alter or remove any copyright notices, labels and / or control numbers or other signs of the LS.

8.   Title retention.

All deliveries and services are subject to retention. The delivered goods remain the property of the LS until complete payment of the purchase price (with payment by check or discharge of bill of exchange) and all other claims of the LS against the LH resulting from the ongoing business relationship.

9.   Inspection and obligation to give notice of defects

9.1.   The LH accepts the obligation to inspect and notify defects pursuant to § 377 HGB (German Commercial Code) in relation with all deliveries and services of the LS. The LH therefore shall inspect the software immediately after receipt for defects and completeness and shall promptly notify the defects to the LS in writing.

9.2   If the LH fails to provide immediate notice of the defects, the delivered software shall be deemed approved, unless the defect was not recognizable with the inspection. Hidden defects that are discovered later must be reported within 14 days of notification; otherwise the goods shall be deemed to be accepted also in spite of these defects. The notice of defects must be made in writing and the defect complained about must be exactly described.

10. Liability

10.1. Damage claims outside the statutory warranty claims can be asserted by the LH only in case of intentional or gross negligence. This disclaimer does not apply to injury to life, limb or health and in the case of breach of elementary contract rules.

10.2. The liability of the LS is limited in amount to the damages typically foreseeable at conclusion of the contract, except in case for intent, gross negligence and damages resulting from injury to life, limb or health.

10.3. The liability of the LS under the Product Liability Act and other mandatory statutory regulations remains unaffected.

10.4. Claims for damages against the LS are excluded if the damage would not have occurred if LH within his responsibility had properly made the data backup. When the software is supplied, this applies only, if the LS informed the LH about the possibility of data backup. Apart from that the liability for data loss is limited, except in cases of intent or gross negligence, to the typical cost of restoration, which would have occurred when producing backup copies regularly and according to the existing hazardous situation.

10.5. The LS is not liable for damages or losses of data supplied by viruses. Liability for damages is particularly excluded if the LH would have been able to prevent the losses by making a daily data and program backup.

11. Confidentiality

11.1. The contracting parties undertake to treat all knowledge of confidential information and trade secrets ("trade secrets") of the other party acquired in the course of the contract negotiations confidential without time limit and use them only for the purpose of performing this contract.

11.2. The LH will make the software accessible to employees and other third only when and if allowed in order to be able to exercise their granted usage authority. He will all persons to whom he grants access to the software, instruct on the rights of the LS to the software and the duty to their confidentiality, provided that the persons concerned are not committed to maintain confidentiality for whatever legal reasons at least to the extent mentioned previously.

11.3. The obligations mentioned before shall not apply to business secrets, which (a) were at the time of transmission by the contract partner already apparent or known to the other party; (b) have become apparent after its transmission by the contract partner and the other party cannot be blamed for; (c) have been made available after their transmission by the contract partner of the other party by a third party in a unlawful manner and with no respect to confidentiality or utilization; (d) which have been created by the party independently without using the trade secrets of the contract partner; (e) which must be published in accordance with the law, official order or court decision - provided that the publication party informs the other party of this immediately and supported him in the defense of such orders or decisions; or (f) to the extent the contract partner is allowed to the use or disclosure of trade secrets due to mandatory statutory regulations or in accordance with the contract.

12. Changes to the terms and conditions

The LS reserves the right to change these conditions. As part of a continuing obligation (software rental) the LH has to be explicitly informed about the changes and the – emphasized – changed passages. If the LH does not signalize within six (6) weeks after the information about the revision that he does not accept the new version, this is considered as tacit consent and the contractual relationship shall continue in the changed version from this date onward. Otherwise the contract will be continued under the unchanged version of these conditions. The LS agrees to emphasize together with the information especially the meaning of his action.

13. Assignment, offsetting

13.1. The LH is not entitled to assign or transfer his rights and obligations under this agreement without the prior consent of the LS.

13.2. Offsetting with counterclaims of the LH is only permitted if these counterclaims are not contradicted or are legally established by the LS.

14. Applicable law

Only the law of the Federal Republic of Germany shall apply under exclusion of international regulations, such as the CISG (UN Convention on Contracts for the International Sale of Goods)**.**

15. Severability clause

In case that one of the conditions contained herein is or becomes invalid or if there should be a loophole, the validity of the remaining conditions shall not be affected.

16. Performance and jurisdiction

Place of fulfilment for all services arising from this contract shall be the registered office of the LS. Place of jurisdiction for all claims, including legal proceeding concerning bills of exchange, checks and documents is also the registered office of the LS.

17. Language version

In case these conditions exist in different language versions, the German version is legally binding.

B.	**Special conditions for software purchase (time license)**

In case of a temporary lease of the software (software purchase) following conditions shall be applied in deviation from or as a supplement to the general conditions under A:

18. Contract object

18.1. The LH acquires from LS, the software according to the rules of commercial law.

18.2. The source code (source code) of the software is not part of the purchase contract.

19. Transfer

19.1. The LH is allowed to leave the personalized key issued to him to a third party only as a unit and he must entirely und definitively stop the own use of the software and only with the prior corresponding message to the LS, making note of the third party. The temporary or partial transfer of usage to third parties is always prohibited, regardless of whether the contractual items are left in tangible or intangible form.

19.2. The transfer of the software requires in all cases the written consent of the LS. He reserves to himself the granting of the approval in individual cases. The agreement is by no means granted, if not at least (a) the LH insures the LS in writing that he has passed to the third party all the original copies of the contract items and deleted all self-copies, and (b) the third party gives in writing his full consent to the LS to opt without limit into the terms and conditions of usage and transfer.

20. Material defects; defect of title; other faulty performance; prescription

20.1. The LS guarantees according to the rules of sales law to be responsible for the agreed quality of the software and that the use of the contractual items within the scope of the contract do not conflict the rights of third parties. The guaranty of freedom of the contractual items of any third-party rights is only valid in the country of destination, where the software is to be used agreed upon between the parties. Without the express agreement the warranty is valid in the country where the registered office of the LH is located.

20.2. In case of material defects the LS firstly safeguards supplementary performance. For this purpose the LS leaves according to his choice to the LH a new software status free of defects, or he remedies defects. As remedy of defects shall also be considered if the LS shows to the LH reasonable ways how to avoid the effects of the deficiency.

20.3. For defect of title the LS warrants initially by supplementary performance. To this purpose he gives according to his choice to the LH a legally admissible option to use either the software or modified equivalent software.

20.4. In case the LS provides performance in error search or troubleshooting, without being obliged to do so, he may demand remuneration in return in accordance with his usual rates. This applies especially if a defect is not detectable or not attributable to the LS. Also to be refunded to the LS is his additional effort caused by the fact that the LH did not properly perform his obligation to cooperate.

20.5. The limitation period for all warranty claims against the LS is one year and begins with the delivery or availability (as well as notification of the LH thereof) of the software; The same deadline applies to other claims, of whatever kind.

20.6. For intent or gross negligence of the LS, fraudulent concealment of the defect, for injury of person or title in the sense of § 438 para.1 no. 1 BGB, as well as for guarantees (§ 444 BGB), the statutory limitation periods are valid, also for claims under the Product Liability Act.

21.   End of the right of use

In all cases of termination of his rights of use the LH immediately returns the software and deletes all the copies.

C.	**Special conditions for software rental (temporary license)**

In the case of the temporary transfer of the software (software rental) shall apply under A.in addition to or in variation from the general terms and conditions the following conditions:

22.   Contract object software rent

22.1. The LS rents the software to the LH for the agreed duration, as can be seen from the corresponding quotation or order. A provision of updates to the software is - except for the purpose of correction of defects- only on the basis of a separate agreement.

22.2. The software shall be supplied for the contractual use in accordance with the respective offer or contract. The functional scope of the program, the hardware and software operating conditions as well as and the required system environment can be found on the website of the LS or emerge from the corresponding quotation or order.

23.   Rental charge

23.1. The rental charge can be seen in the accompanying offer or contract or the current price list of the LS. It includes the charge for the transfer and use of the software as well as for maintenance and repair.

23.2. The rent is payable yearly at the time of the beginning of the contract year for the whole contract year. The LH must give upon request of the LS a direct debit authorization. Costs and expenses in case of missing possibility to debit from the account are charged to the LH.

23.3. The LS is entitled to adjust the rent with a written notice six months before the contract end at the beginning of a new contract year. In case of an increase of more than 10% the LH is entitled to terminate the contract within a time limit of three month before the increase becomes applicable.

24. Contract duration, termination of the rental contract

24.1. The rental contract begins with the conclusion of the contract and has a term of 12 months. It is automatically extended for another 12 month, if it is not terminated by one of the parties to the respective end of the term with a notice period of six weeks. In case of an extension of the rent contract the LH receives a new license key with extended runtime. In this case, programs already created by LH must be recompiled.

24.2. The right of each party to extraordinary termination for good cause remains   unaffected.

20.3. For defects of title the LS in first case warrants by subsequent performance. To this purpose he gives at his discretion the LH a legally permissible option to use either the software or on modified equivalent software.

24.4. After termination of the rent period, both to create new programs as well as and running already compiled programs is no longer possible.

24.5. The LH has the option to convert a temporary license to a perpetual license (software purchase) if he pays the difference stated in the price list. Already paid rental fees are cleared.

25. Disclosure obligations – duty of care and duty of collaborate of the LH

25.1. The LH is obliged to report defects of the software immediately. He will take account of the advice of the LS for problem analysis within reasonable efforts and he will forward to the LS all information known to him in order to eliminate the defects.

25.2. The LH is obliged to inform the LS about a change of the computer.

25.3. The LH will adjust during the rental period his IT system according to the current status of technology to the extent necessary for the use of a new or updated version of the program. The LS is not responsible for all beyond his control appearing circumstances that restrict the use of the software or make it impossible, such as the requirement for the import of new versions and updates of the operating system, the driver, the database or other, for the necessary third-party software to use the software. The hardware- and software environment therefore has to be adapted to the current status of technology by own responsibility of the LH and at his own cost. The LS will as far as appropriate and possible support the LH. In particular, the LS will inform the LH sufficiently about and prior to the need for a change of his system environment and of the necessary steps.

26. Rights of the LH in case of defects

20.1. The LS will fix defects of the licensed software inclusive the application documentation if and in so far he is obliged to do so by the warranty regulations.

26.2. The remedying of defects takes place at the discretion of the LS by free repair or replacement.

26.3. A contract termination of the LH according to § 543 BGB art. 2, sentence no.1 because of failure of the contractual use is only admissible if given to the LS a reasonable opportunity to remedy the defect and this has failed. A failure of the elimination of the defects can only be assumed if this is impossible, if it is refused by the LS or delayed to an unreasonable extent, if there is reasonable doubt as to the prospects of success or if there is any other reason that it is unreasonable for the LH.

26.4. Rights of the LH because of defects are excluded if he without the consent of LS makes changes to the rented property or let them make by others, unless the LH proves that the changes have no unacceptable effects for the analysis and correction of the defects by the LS. The rights of the LH concerning defects remain unaffected unless the LH is authorized to make changes in particular in the frame of exercising the law § 536 BGB para.2 and these changes are executed professionally and are clearly documented.

27. Limitations of liability

27.1. The liability of the LS independent of the fault generator according to § 536 para.1, 1st old BGB for defects that already exist at the time of concluding the contract is excluded.

27.2. The preceding regulations shall also apply mutatis mutandis to the liability of the LS with view to compensation for wasted expenditure.

28. Return

Any use of the software after termination of the contract is not permitted.