

General Terms and Conditions

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Version:

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Oktober 2025

This English translation of the General Terms and Conditions of emotive GmbH & Co. KG (limited partnership with a limited liability company as general partner) is provided for convenience only. In case of discrepancies, the German version shall prevail.

§ 1 Scope

- 1.1 These General Terms and Conditions ("GTC") apply to all contracts between emotive GmbH & Co. KG ("Provider") and entrepreneurs within the meaning of section 14 of the German Civil Code (BGB) ("Customer").
- 1.2 They govern the provision of software licences (perpetual or time-limited), customer-specific development and integration services, framework agreements, support and maintenance services, as well as training courses.
- 1.3 Deviating, conflicting or supplementary terms and conditions of the Customer shall not form part of the contract unless the Provider expressly agrees to their validity in writing.
- 1.4 This also applies if the Provider does not expressly object to the Customer's terms and conditions in an individual case or performs services without reservation.
- 1.5 Individual agreements and ancillary arrangements take precedence, provided that they have been confirmed in writing.

§ 2 Contract Structure and Role of the Provider

- 2.1 The Provider renders services exclusively in relation to the contractual partner. Unless otherwise agreed, no contractual rights or obligations shall arise in favour of the Customer's end users.
- 2.2 The Provider shall not be liable towards the Customer's end users unless an express agreement to this effect has been made.

§ 3 Perpetual Software Licence (Single Licences)

- 3.1 The Provider grants the Customer software products for permanent use ("Single Licence").
- 3.2 The right of use is simple, non-transferable and unlimited in time.
- 3.3 Delivery is made electronically (by download or activation code).
- 3.4 The Provider remains the owner of all rights; the source code is not provided.
- 3.5 Maintenance and support are to be agreed separately.

§ 4 Subscription Licences

- 4.1 The Provider grants the Customer software products for limited-term use ("Subscription Licences").
- 4.2 The right of use automatically expires at the end of the agreed subscription period.
- 4.3 Upon termination of the contract, the Customer is obliged to delete all installations and discontinue any use of the software.
- 4.4 Unless otherwise agreed, subscription licences include the provision of support, maintenance and new product versions during the contractual term.

§ 5 Software Framework Agreements

- 5.1 When a framework agreement is concluded, the Customer acquires for the duration of the contract a non-transferable right of use for the agreed software products on any number of target systems.
- 5.2 The minimum term for framework agreements is one year.
- 5.3 The contract includes support, maintenance and the provision of new product versions.
- 5.4 The remuneration is based on the average number of licences required as specified in the contract (minimum of ten).
- 5.5 The annual fee amounts to 30% of the rounded list price of the licensed products.
- 5.6 If, in the case of multi-year framework agreements, the actual licence usage within a contractual year exceeds the agreed calculation basis by more than 50%, the Provider may adjust the calculation basis for the following year.
- 5.7 Framework agreements do not renew automatically.
- 5.8 Unless otherwise agreed in the contract, upon conclusion of a new agreement, a reassessment and recalculation of the remuneration shall take place based on the then current number of licences and list prices.

§ 6 Custom software development and integration services

- 6.1 The Provider performs customer-specific development, customisation or integration services on the basis of separate offers and in accordance with the Customer's specifications.
- 6.2 The scope of services is defined in the respective offer or specification document. Any changes or extensions require a written agreement.
- 6.3 Unless expressly agreed otherwise, the provisions of the law on contracts for work and services (sections 631 et seq. of the German Civil Code, BGB) shall apply.
- 6.4 Where services are performed solely on behalf of and based on the Customer's specifications, all rights of use in the work results created within the project shall pass to the Customer upon full payment.
- 6.5 The Provider, however, remains entitled to reuse know-how, procedures, methods and general programming components acquired in the course of the assignment in other projects and to integrate non-confidential concepts or routines into its standard products.
- 6.6 Where services within the project serve to further develop or enhance the Provider's product family or are based on its components, all rights to the underlying source code shall remain with the Provider.
- 6.7 In such cases, the Customer shall receive a simple, perpetual right of use to the project-specific extensions, insofar as they are required for the Customer's purposes.

- 6.8 Acceptance shall take place in accordance with the offer or by implied use of the delivered software.
- 6.9 If no acceptance takes place within 14 days of delivery, the service shall be deemed accepted unless material defects have been reported.
- 6.10 For defects, the statutory provisions of the law on contracts for work and services (sections 631 et seq. BGB) shall apply, unless otherwise agreed.

§ 7 Extensions of the Provider's Products

- 7.1 Where the Provider creates customer-specific adaptations or extensions of its products within a project, the Customer shall acquire a simple, non-transferable right of use.
- 7.2 The Provider shall remain the owner of all work results and may integrate them without restriction into new versions of its products.

§ 8 Support and Maintenance Services

- 8.1 The Provider performs support services (incident handling, technical assistance) and maintenance services (error correction, updates, new product versions) on the basis of a separate agreement.
- 8.2 Response times:
 - Priority A = 4 hours
 - Priority B = 1 working day
 - Priority C = 3 working days
- 8.3 The Customer shall ensure that the persons responsible for using the software and requesting support services possess the necessary knowledge, experience and training.
- 8.4 Support and maintenance services do not replace qualified training or instruction in the use of the software.
- 8.5 Requests resulting from insufficient training or user error shall not be deemed support services within the meaning of this agreement.
- 8.6 If a maintenance or support agreement is resumed after an interruption, the Provider's current list prices at the time of resumption shall apply. For the duration of the interruption, maintenance shall be billed retroactively as if the agreement had continued without interruption.

§ 9 Extended Product and Integration Support

- 9.1 Extended product and integration support includes services that go beyond regular product support. These include in particular:
 - assistance with integrating the software into the Customer's system environment,
 - adaptation of interfaces,
 - analysis and correction of system or integration issues outside the scope of standard support,
 - technical consulting regarding system architecture or tool environments.
- 9.2 Such services are offered and remunerated separately. The applicable offer or current price list shall serve as the basis.

§ 10 Training (In-house / Online)

- 10.1 The Provider conducts training courses exclusively on an individual basis following an order – either on the Customer's premises or online via video conference.
- 10.2 Training dates shall be considered binding upon written

confirmation. Cancellations are free of charge up to 14 calendar days before the start; thereafter, 50% of the agreed fee shall be due, and less than three working days before the start or in case of non-attendance, 100% of the fee shall be payable.

- 10.3 Training materials are protected by copyright.

§ 11 Cloud / SaaS Services

- 11.1 Where the Provider supplies Cloud or SaaS services to the Customer, the provisions of this section shall apply in addition.
- 11.2 The Customer does not obtain ownership of the software but receives a limited right of use via the Internet.
- 11.3 The average availability amounts to 99.5 % per month, excluding maintenance periods and events of force majeure.

§ 12 Data Protection and Information Security

- 12.1 emotive GmbH & Co. KG processes personal data in accordance with the GDPR and the German Federal Data Protection Act (BDSG).
- 12.2 The Provider processes personal data solely for the contractual purposes agreed between the parties.
- 12.3 A separate data processing agreement (DPA) applies.
- 12.4 The Provider implements technical and organisational measures in accordance with Article 32 GDPR.

§ 13 Audit Rights

- 13.1 The Customer is entitled, after prior written notice and during normal business hours, to verify compliance with the agreed data protection and security measures by inspecting appropriate documentation or obtaining information from the Provider.
- 13.2 No further audit right, in particular on-site inspections, exists unless such right is mandatory by law or expressly agreed in a separate contract.
- 13.3 Audits must be announced in writing at least four weeks in advance and may not interfere with the Provider's business operations.
- 13.4 The Customer shall bear the costs of the audit unless a material breach of contract by the Provider is established.

§ 14 Prices and Payment Terms

- 14.1 Prices are quoted net, plus statutory VAT. Invoices are payable within 30 days net from the invoice date unless otherwise agreed.
- 14.2 In the case of subscription licences, SaaS services or framework agreements, the Provider is entitled to suspend access to the software or support while the Customer is in default of payment.
- 14.3 For perpetual single licences, the Customer's right of use remains unaffected; however, the Provider may suspend the provision of further updates, upgrades or support until full payment has been received.
- 14.4 For new contracts or contract renewals, the Provider's current price list at the time of conclusion of the contract shall apply.

§ 15 Liability

- 15.1 The Provider shall be liable without limitation for intent and gross negligence.
- 15.2 In cases of slight negligence, the Provider shall be liable only

for breaches of essential contractual obligations ("cardinal duties"). In such cases, liability is limited to the typically foreseeable damage, but not exceeding the annual remuneration for the relevant contract year.

- 15.3 Liability for indirect damage, loss of profit, production downtime or data loss is excluded unless caused by intent or gross negligence.
- 15.4 Liability for injury to life, body or health, as well as under the Product Liability Act, remains unaffected.
- 15.5 The Customer shall establish appropriate testing and acceptance procedures to ensure that errors in the software do not cause safety-critical or operational disruptions to development, production or sales systems.
- 15.6 The Provider shall not be liable for damages resulting from missing or inadequate testing, integration or acceptance by the Customer.
- 15.7 Where the Provider performs services as a subcontractor or integration partner on behalf of the Customer, its liability shall be limited exclusively to the parts of performance contractually assigned to it.

§ 16 Intellectual Property

- 16.1 All rights to software, concepts and documentation remain with the Provider. The Customer receives only the right of use expressly granted under the contract.

§ 17 Confidentiality

- 17.1 Both parties shall treat confidential information in strict confidence.
- 17.2 emotive GmbH & Co. KG may use the Customer's name for reference purposes unless the Customer objects.

§ 18 Term and Termination

- 18.1 Contracts for subscription licences are concluded for a fixed term and shall, unless otherwise agreed in the contract, automatically renew for one year at a time unless terminated with three months' notice prior to the end of the current term. After termination of the contract, all data and software installations must be deleted.
- 18.2 Contracts for perpetual software licences end upon full delivery and payment.

§ 19 Export Control and Compliance

- 19.1 The Customer undertakes to comply with all applicable export control laws. The Provider may suspend performance if legal restrictions so require.

§ 20 Final Provisions

- 20.1 German law applies, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 20.2 The place of jurisdiction is Stuttgart, Germany.
- 20.3 Amendments must be made in text form.
- 20.4 Should individual provisions of this contract be invalid, the remainder of the contract shall remain valid.