

General terms and conditions of the company S. von Dalwig-Nolda Softwareentwicklung

Below „PolarSoft“

1. Field of application

1.1 The following terms and conditions are exclusively binding for all offers, orders, deliveries and services of PolarSoft. Agreements which deviate from these terms will only be effective, if they are agreed in writing with PolarSoft. Other terms and conditions will not be subject matter of contract, also if PolarSoft does not contradict.

2. Conclusion of a contract

2.1 Offers from PolarSoft are subject to change and without obligation. A contract will be settled only if the order confirmation is effected in writing or with the consignment of the goods to the deliverer by PolarSoft within 14 days after receipt of the order. With the conclusion of the contract these subject matters of contract (General terms and conditions) are accepted.

3. Delivery

3.1 Delivery dates will only be binding, if they are formally confirmed by PolarSoft. If a delivery or service delays beyond the date appointed by PolarSoft, rights can only be asserted after expiry of a time limit of at least 2 weeks set by the buyer, unless the orderer can prove that due to exceeding the deadline there is no longer any interest or profit of the order / delivery. Delays, which do not occur due to fault of PolarSoft (sub-supplier delay, strikes, force majeure, etc.) do not entitle the orderer for withdrawal from the order or claim for compensation.

3.2 With release of the goods for dispatch the risk passes to the orderer, also in case of carriage paid.

3.3 PolarSoft can withdraw from the contract due to occurring of force majeure (strike, lockout, carriage blockade etc.) without liability for damages.

4. Payment

4.1 The respectively valid price list applies. If not otherwise agreed, payments have to be effected also in case of part deliveries. The payment conditions, which are stated on the invoice, apply.

4.2 If the orderer is in default, PolarSoft will be entitled to claim for interest for delay of 5% over the base rate of the European Central Bank (EZB). Interests for delay are charged for every started day after passing the payment target, which is indicated on the invoice.

4.3 Counterclaims can only be settled by the orderer if they are undisputed or established legally binding. Right of retentions due to a counterclaim can only be claimed by the orderer, if the pecuniary claim of PolarSoft and the counterclaim of the orderer are based on the same contractual relationship.

5. Reservation of proprietary rights

5.1 The goods remain property of PolarSoft until complete payment of the purchase price. Cession, pledge or chattel mortgage of the goods by way of barter are not allowed to the orderer.

6. Guarantee

6.1 Claims have to be objected to PolarSoft in written by the order immediately, at the latest after 14 days, otherwise they cannot be considered. In case of non duly indication the warranty claim expires, unless the deficiency was not detectable during inspection and within the period. The purchaser has no right for conversion or reduction but only for replacement with proper goods. If the rectification fails, the orderer can claim for reduction of the purchase price or the withdrawal from the contract. After three failed rectification trials a further remedy of defects resp.

replacement delivery is regarded as not unacceptable for the customer and PolarSoft and both or one party can recede from the contract.

6.2 Liability for loss of asset, data, profit, business information, other financial losses or breakdowns is excluded, regardless of their predictability, which arise from the use of the goods / programs, unless the damage has to be traced back to an intentional or grossly negligent contract violation by PolarSoft. The orderer / user is solely responsible for the correct use and for the data backup.

7. Software (computer programs)

7.1 PolarSoft expressly points out, that it is not possible acc. to the state-of-the-art to develop software so, that it works faultlessly under all imaginable conditions. Subject of every guarantee by PolarSoft is software, which is basically usable in the sense of the program description.

7.2 PolarSoft also expressly points out that the software possibly does not meet the requirements of the customer or is not appropriate for a certain appropriate intent or free of faults.

7.3 No guarantee is taken over by PolarSoft for the compatibility of the delivered software with other programs or hardware components.

7.4 The licensing agreements which are enclosed to the corresponding software, are regarded as amendment.

7.5 By opening the package or use of the activation key (registration key) the license agreements of 7.4. are accepted. A subsequent exchange or return is not possible.

8. Online offer on our website

8.1 PolarSoft does not take over any guarantee for the correctness, up-to-dateness, completeness or quality of the provided information. Liability claims, which refer to material or intangible damages, which were caused by the use or disuse of the offered information resp. by the use of faulty and incomplete information are basically excluded, if there is no fault on the part of PolarSoft, which is demonstrably intentional or grossly negligent. All offers are free and unbinding. PolarSoft reserves the right to amend, modify, delete the pages or the complete offer or to stop the publication temporarily or finally without separate announcement.

8.2 In case of direct or indirect links to foreign resp. external websites ("hyperlinks"), which are beyond the responsibility of PolarSoft a liability would exclusively come into effect in the case that PolarSoft has knowledge of the contents and it is technically impossible and unacceptable to avoid the use in case of illegal contents. PolarSoft declares expressly that no illegal contents were noticeable at the moment of linking on the pages to be linked. PolarSoft has no influence on current and future design, authorship or contents of the linked page and dissociates hereby from all contents of the linked pages, which were modified after insertion of the link. This statement applies for all links inserted within the own internet offer as well as for entries made by an outsider on the own pages (guestbooks, discussion forums and mailing lists). The offerer of the page is exclusively liable for illegal, faulty or incomplete contents and especially for damages, which result from the use or disuse of such offered information on the pages, to which was referred, not the one, who refers by links to the corresponding publication.

8.3 PolarSoft is anxious to observe the copyrights of the used graphics and texts in its online offer, to use own graphics and texts or to revert to licensefree graphics and texts. All brand labels and trademarks which are mentioned within the internet offer and are possibly protected by third persons are subject unlimited to the provisions of the corresponding valid trademark legislation in effect and the titles of the corresponding registered proprietor. Solely due to the mention you cannot conclude, that the trademark is not protected by rights of third persons. The copyright for subjects which are published and self established by PolarSoft remains solely at PolarSoft. A duplication or use of such graphics or texts in other electronical or printed publications is not allowed without express approval.

- 8.4 The entry of data within the internet offer, even if these are personal or business data (names, addresses, mail addresses) on the part of the user is effected expressively on voluntary basis. The use of the contact address (impress) by PolarSoft or comparable indications of published contact data as mail addresses, phone and fax numbers as well as email addresses by third persons for sending non required information is not allowed. Legal measures against the senders of so called "spam mails" in case of violation of this forbiddance are expressively reserved.
9. Other regulations
- 9.1 Export license is required for all ordered goods from PolarSoft without expressive indication. The orderer is obliged to inform himself about the effective im-/export regulation of the country/state to be supplied and bears the costs for obtaining the necessary documents.
- 9.2 PolarSoft is entitled to process, save and evaluate the data obtained in connection with the business connection in the sense of the Federal Data Protection Act (BDSG §33). A disposal of the data to companies or third persons is not effected.
- 9.3 The place of fulfillment and agreed court of jurisdiction for all disputes from these general terms and conditions is Cologne (Germany), as far as the orderer is a legal person of the public law, a general merchant or a separate estate under public law or the orderer has no domestic general court of jurisdiction.
- 9.4 Only the German Cival Code and the rules of the German code of commerce applies for the privity between the orderer and PolarSoft. This liability exclusion has to be considered as part of the internet offer, from which was referred to this page. If a part of these contract stipulations is declared as illegal by a court with competent jurisdiction, the corresponding part of the contract remains effectual to the allowed grade or what comes as close as possible to the intended contract purpose. The remaining parts of this contract still are completely valid.
- 9.5 Right of withdrawal distance selling act: The orderer can withdraw from the contract without explanatory statement in written, on a long-lasting data medium or by return of the goods within two weeks after receipt of the goods. To meet the deadline timely mailing shall suffice. The right of withdrawal expires at the latest four months after receipt of the goods. The right of withdrawal will expire for lack of other agreements and irrespective of other legal stipulations for distance selling acts for delivery of software, if the delivered goods are unsealed by the purchaser.