

Terms and Conditions of Purchase of Software of Linx Printing Technologies

Rev: 2023_IV

Article 1 – Applicability

These Terms and Conditions of Software apply in relation to the acquisition or licensing of software and hardware with integrated software. They also apply to updates, upgrades and other modifications.

Article 2 – Open Source Software

- (1) The Contract Products may only contain open source software, if Linx has explicitly agreed in writing.
- (2) The Supplier must comply with all obligations regarding open source software. It must provide Linx with all the information Linx requires to lawfully use the open source software within the scope of applicable rights of use.
- (3) In particular, open source software is any software that is (a) disseminated at licensing conditions that are recognised by organisations such as the *Open Source Initiative* or the *Free Software Foundation*, (b) may only be licensed to other parties on the condition that certain information is also disclosed (such as licensing terms, source code information) or certain requirements are met (such as copyleft software) or (c) is available free of charge and without restriction.

Article 3 – General service obligations, quality, and organization of service provision

- (1) Unless otherwise agreed between the parties, documentation and instructions must be provided in English.
- (2) Software is certified to the extent necessary and it has to be state of the art. The software was checked in advance by the Supplier for freedom from viruses, trojans and other malware. The Supplier guarantees that the check has not revealed any evidence of such malware. The software does not contain any copy or usage locks.
- (3) The Supplier will instruct and support Linx insofar as this is necessary to carry out a test and trial operation or to use the software. If this is contractually agreed, software is to be handed over to Linx ready for use and to be assigned. The Supplier will install, configure and integrate the software to ensure operational readiness. Subsequently, Linx carries out an approval test. The release takes place in accordance with the legal regulations of acceptance and the following provisions, unless expressly regulated otherwise:
- (4) Defects in the software identified during the approval test can be differentiated according to the following error classes:
 - a. *Defect class 1*: The defect means that the software or an important part of it cannot be used by Linx,
 - b. *Defect class 2*: The defect causes significant restrictions on use for important functions, or
 - c. *Defect class 3*: other defect.
- (5) Linx is only obliged to declare approval if the software has been installed, configured and integrated completely and in accordance with the contract. Linx has a test period of at least ten (10) working days from receipt of the software.
- (6) Software is to be delivered at the agreed place of performance at the agreed date in a ready-to-use state in the object code or made available for download at Linx' option.
- (7) If the subject of the contract is the provision of software as a service, Linx must be granted a possibility of use in the agreed manner at the agreed time. Agreed dates and deadlines are binding unless otherwise agreed.
- (8) If the parties do not agree otherwise, Linx is granted unlimited rights to use the software.

Article 4 – Rights of use

- (1) The Supplier grants Linx and the companies affiliated with Linx with delivery or provision of the software a non-exclusive, irrevocable, transferable right to use the software in terms of time, space and content without limitation, unless otherwise agreed. This also applies to patches, updates, upgrades and new versions of the software provided by the Supplier as well as the associated documentation.
- (2) Linx is entitled to reproduce the software at least as far as is necessary for the intended use and to use the software by and for companies affiliated with Linx. Linx is entitled to make copies of the software for backup purposes.
- (3) In the case of temporary leasing of software, the aforementioned rights apply for the duration of the contract. If

the Supplier provides software as a service, Linx is entitled to the above extent to access the software by means of telecommunications for the duration of the contract and to use or have the functionalities associated with the software used.

- (4) Even after the end of the right of use, Linx is entitled to keep and use a copy of the software and the associated documentation for testing and archiving purposes.

Article 5 – Changes to the software

- (1) If the Supplier changes software that Linx uses, the supplier must immediately notify Linx of these changes in writing.
- (2) Linx is not obliged to accept the installation of updates, upgrades or new versions of the software by the Supplier if this is unreasonable for Linx, in particular due to the expenses caused by Linx or due to technical conversion risks.
- (3) Linx is entitled to refuse to install updates, upgrades or new versions of the software if they do not essentially have the same functionality and compatibility as the part of the software to be replaced.
- (4) Linx is entitled to edit software or have it edited in order to adapt the software to changed technical and legal requirements. Processing by third parties that are not connected to Linx require the consent of the Supplier; the Supplier shall give its consent, unless Supplier itself offers the necessary processing for a reasonable remuneration. Usage rights of Linx remain unaffected.
- (5) The Supplier ensures the ongoing development of the software and provides Linx with updates, upgrades and new versions of the software. It undertakes to provide Linx with an update, upgrade or a new version of the software at regular intervals, but at least once per calendar half-year.
- (6) The Supplier is obliged to adapt the software to changed legal provisions if the software cannot be used or can only be used to a limited extent under changed legal provisions.

Article 6 – Remuneration

- (1) Agreed remuneration applies for the duration of the contract. An automatic increase in remuneration or a unilateral increase in remuneration by the Supplier is not permitted.
- (2) All services according to numbers 2 to 5 of these Terms and Conditions of Purchase for Software are included in the agreed remuneration and are not remunerated separately. The remuneration is to be broken down in the service description according to the individual programs. The remuneration also includes the costs for data media and shipping.
- (3) If the obligation to pay begins or ends in the course of a calendar month, the remuneration per calendar day is one thirtieth of the monthly remuneration.

Article 7 – Warranty and liability

- (1) For the rights and claims of Linx in the event of material and legal defects in the service and other breaches of duty by the Supplier, the statutory provisions apply without restriction.
- (2) As a short-term measure, the provision of a replacement or workaround solution can be provided to temporarily remedy or circumvent the effects of a defect. However, this is not a definitive remedy.
- (3) The Supplier must immediately remedy defects within the warranty period - and in the case of temporary leasing of software and the provision of software as a service during the contract term - taking into account the interests of Linx.
- (4) If third parties assert claims against Linx due to the violation of industrial property rights and/or copyrights (collectively "**Third Party Rights**") through the use of the software and the use thereof is impaired or prohibited, the Supplier shall be liable as follows:
 - a. At his own choice and at its expense, the Supplier will either procure the necessary usage rights or change or replace the software in such a way that it no longer violates the Third Party Rights, but corresponds to the contractually owed software. If this is impossible for the Supplier, at Linx' request it must take back the software for a refund of the remuneration paid minus an amount that takes into account the time of use.
 - b. In addition, the Supplier has to release Linx from all claims by third parties and alleged claims by third parties due to the violation of the rights of third parties.
- (5) Requirements for the liability of the Supplier are:
 - a. Linx notifies the Supplier of third party claims,

- b. Linx does not recognize the alleged violation of the rights of third parties, and
 - c. Linx leaves any dispute, including any extrajudicial provisions, to the Supplier or only participates in these disputes in agreement with the Supplier.
- (6) Linx' costs and legal costs of Linx incurred due to the legal defense against Third Party Rights' claims shall be borne by the Supplier.
 - (7) As far as Linx is solely responsible for the infringement of property rights, claims against the Supplier are excluded.

Article 8 – Product liability

- (1) Insofar as the Supplier is responsible for damage due to product liability, it is obliged to release Linx from any claims for damages by third parties.
- (2) In addition, the Supplier is obliged to reimburse Linx for all costs and expenses incurred by Linx in this connection, in particular in connection with product recalls. As far as possible and reasonable, Linx will inform the Supplier of the type and scope of product recalls.
- (3) Further legal claims remain unaffected.

Article 9 – Foreign trade

- (1) The Supplier is obliged to observe all foreign trade regulations applicable in connection with the delivery of software and in particular to obtain all permits required under export law on its own responsibility and at its own expense and to provide Linx with all the necessary information.
- (2) If the Supplier obtains the software in whole or in part from third parties, it is obliged to ensure that it comes from safe sources and that it has been exported, imported and provided in compliance with and adhering to all applicable export regulations of the country of manufacture / dispatch.

Article 10 – Manufacturer's guarantees

- (1) The Supplier is obliged to pass on any manufacturer's guarantees to Linx. The Supplier shall provide Linx with the relevant declarations and supporting documents immediately and without being asked.
- (2) Linx is entitled to make warranty claims directly against the manufacturer. At Linx' request, the Supplier is obliged to assert corresponding claims against the manufacturer.

Article 11 – Miscellaneous

- (1) The Supplier is obliged to correct software errors within the times and deadlines agreed in a service level agreement. Warranty claims by Linx remain unaffected by the conclusion of a service level agreement, unless the parties have expressly agreed otherwise.
- (2) If the Supplier provides software as a service, it must ensure the availabilities agreed in a service level agreement. If no such availabilities have been agreed, the software must be made available at any time and without interruption.
- (3) At Linx' request, the supplier shall take over the maintenance of the software for software to which Linx has an unlimited right of use, against payment of a customary fee, in accordance with a more detailed standard agreement to be concluded between the parties.
- (4) If Linx no longer has an executable version of the software due to an accidental deletion or similar events, the Supplier shall provide replacement at Linx' request free of charge.
- (5) With the transfer of data or other information by Linx to the Supplier within the scope of using software as a service, there is no granting of a usage right for the Supplier or third parties. In the absence of an express written agreement between the parties, data from Linx may only be processed and used in the territory of the Federal Republic of Germany when using software as service.
- (6) If the Supplier provides software as a service, the Supplier is obliged, upon Linx' request, to release any data stored by Linx in a conventional electronic format, at Linx' option, without separate payment.