

# WABCOWÜERTH

## Terms of use of W.EASY software and add-on modules

### Preamble

WABCOWÜERTH Workshop Service GmbH (hereinafter called "WWWS") grants the Customer (hereinafter also referred to collectively as the "contracting parties" or individually as the "contracting party") use of their software products on the basis of the present agreement.

Various services are also offered to the Customer. The WWWS software and data files are supplied to the Customer either on a data carrier or pre-installed on hardware also purchased from WWWS.

### § 1 Object of the agreement and granting of rights

(1) The object of these terms of use is the transfer of the W.EASY software reserved by the Customer (consisting of the available and the reserved modules), by lease of the software in the version current at the time of transfer, in the form of object code, including the related user documentation and the appropriate contractual rights of use, which are granted as described hereunder. The agreed composition of the contract software shall be finally as defined in the documentation.

(2) Subject to full payment of the software licensing fee, the Customer shall be granted non-exclusive, time-limited, and non-sublicensable right of use of the contract software. The software may be used simultaneously by a number of natural persons not to exceed the number of licenses purchased by the Customer. Permitted use includes installation of the software, loading into computer main memory, and the intended use of the software by the Customer. Under no circumstances shall the Customer be entitled to sub-license the acquired software or otherwise distribute it, make it available to the public, or make the software or any backup copy available to third parties either free of charge or for payment, e.g. through Application Service Providing or "software as a service".

(3) Should the Customer use the software to an extent that goes beyond the acquired rights of use, either qualitatively (by the type of use authorised) or quantitatively (by the number of licenses acquired), he shall immediately purchase the user rights required for authorised use. Should he fail to do so, WWWS shall exercise their rights accordingly.

(4) The Customer shall not be entitled, without the approval of WWWS, to transfer or cede on a long-term basis a copy of the contract software to a third party by transferring the data carrier and documentation.

### § 2 Prices and due dates

The fee for the granting of time-limited rights of use is indicated in the currently valid price list. All prices are net prices plus the respective legal rate of value-added tax.

### § 3 Warranty and maintenance

(1) WWWS guarantees the agreed composition of the software and the software maintenance, and that the Customer can use the software on the terms of this contract without infringing third-party rights. The warranty shall not cover defects resulting from use of the software in a hardware and software environment that does not meet the system requirements specified on the data sheet, and particularly if the software is installed by the Customer on the Customer's previously existing hardware. The Customer is obliged to give WWWS notification of any software defects immediately after such defects are discovered.

In the event of material defects, such notification shall include an indication of the time when the defect occurred and details of the circumstances.

(2) WWWS shall be entitled to provide the warranty either at the Customer's premises or by remote access. WWWS shall meet its obligation to provide supplementary performance by making updates available for download through an automatic installation routine on its homepage, and by offering the Customer telephone support to help solve any installation problems that may arise.

(3) Moreover, the Customer shall be entitled to obtain updates for the W.EASY software and the reserved modules. The software updates obtained as described below are subject to the granting of rights as described in § 1.

(4) At regular intervals, the Customer shall independently activate the download of software updates, by using a button in the W.EASY software to download the update software through the internet. If a firewall or similar security features are used or applied through a company network, the Customer must ensure unhindered access to the internet. WWWS shall not be required to give express notification of the availability of new updates. Continuous updating of the contract software is an essential requirement for utilisation of the technical support services, since these always relate to the latest version of the contract software.

#### **§ 4 Duration and termination**

(1) Unless otherwise agreed, the contract is concluded for a period of 12 months. It may be terminated by either contracting party by giving notice three (3) months from the end of each 12-month period. If notice of termination is not given by one of the contracting parties to the other contracting party by this time, the contract period shall be extended by a further 12-month period.

(2) If there is good cause, the contract may also be terminated in writing by either contracting party, without observing the period of notice. One good cause that would especially entitle WWWS to give notice of termination would be where the Customer infringes the user rights of WWWS by using the software beyond the scope authorised by this contract, and, after being given warning by WWWS, fails to desist from such use within a reasonable period of time.

(3) In the event of notice of termination, the Customer shall no longer receive software updates.

(4) However, the Customer may continue using the W.EASY software modules listed below in the versions current at the time of termination of the contract:

- W.EASY multi-brand diagnostics modules
- WABCO system diagnosis modules

Further software updates may then only be obtained through a new contract.

#### **§ 5 Principles for handling WWWS software**

(1) The contract software has been specially designed for use on the hardware provided by WWWS and has been tested for correct functionality only in combination with this hardware. If the contract software, at the Customer's request, is not supplied pre-installed on hardware supplied by WWWS, use of the contract software generally requires the hardware and software environment described on the System Requirements data sheet. In addition, an internet connection is required for activation of the software update. In general, installation of the contract software by the Customer on the Customer's own hardware is undertaken at the Customer's own risk. In the event that the Customer does not meet the minimum requirements described in the current version of the System Requirements data sheet,

WWWS expressly excludes any warranty for full functionality of the contract software, or for any hardware and software conflicts that may arise as a result of installation by the Customer. In such cases, the Customer shall be referred to the customer service of his hardware or software manufacturer; and no support can be provided by WWWS customer service for the Customer's own hardware or software.

(2) WWWS shall surrender a copy of the contract software programs pre-installed in digital form on a hardware environment, along with a version of the related documentation either in the form of an electronic document or made available for downloading from the internet. In order to use the related contract software, on-line activation is required over the internet. To meet this requirement, the Customer must therefore also have internet access and enable use of the contract software if there is a firewall or other security measures in place.

(3) Copyright notices, serial numbers and any other features used to identify the program may not be altered or removed from the contract software.

(4) Decompiling is permitted only within the terms of § 69e of the German Copyright Act (UrhG). Reverse engineering or other manipulations, or any attempts at these by the Customer are expressly forbidden, and represent good cause for WWWS to declare extraordinary termination without notice and/or bring claims for infringement of copyright.

## **§ 6 Liability**

(1) WWWS shall be liable within the extent of the law as follows:

- in cases of wilful intent or gross negligence,
- for damage to life, limb or health,
- in accordance with the provisions of the Product Liability Act and
- on the terms of the warranty expressly provided by WWWS.

(2) In the event of a breach of obligation due to slight negligence, where the said obligation is essential for fulfilling the purpose of the contract, WWWS's liability shall be limited to the amount of damages which would normally and typically occur with the type of transaction in question.

(3) Any liability on the part of WWWS beyond that defined in § 8 (1) and (2) is excluded.

(4) The aforementioned limitation of liability shall also apply to the personal liability of WWWS employees, representatives and bodies.

(5) Strict liability on the part of WWWS for initial defects in the software is excluded.

## **§ 7 Security measures, right to carry out audits**

(1) The Customer shall take suitable measures to protect the contract software, and the on-line access data if applicable, from access by unauthorised third parties. In particular, all copies of the contract software and access data must be kept in a safe place.

(2) On request, the Customer shall allow WWWS to verify correct use of contract software, and especially whether the Customer is using the program both qualitatively and quantitatively within the scope allowed by the acquired user rights. For this purpose, the Customer shall provide WWWS with information, allow access to relevant documents and files, and enable them to inspect the hardware and software environment used. WWWS may carry out their audit at the Customer's premises during his regular business hours, or may have it carried out by third parties who are bound by professional secrecy. WWWS shall ensure that the Customer's business operations are disturbed as little as possible during their activities at his premises. Audit procedures require prior notice in writing four (4) weeks in advance.

## **§ 8 Miscellaneous, amendments to the contract, data protection**

(1) Unless specified otherwise in these license conditions, the general terms and conditions of WWWS shall apply. In case of doubt, the present terms and conditions shall have priority over the general terms and conditions.

(2) In general, changes and amendments to the contract must be in written form, unless such amendments are made by electronic means through a WWWS online platform to which the Customer has access.

(3) The Customer agrees that his personal information and data may be used exclusively for sending information about WWWS products and for anonymous evaluation of the functionality of the contract software. Forwarding personal data to third parties, in particular for advertising purposes, is expressly excluded.

(4) The customer consents to the use of anonymised log files for the purpose of further product development or new product development. WWWS shall also be entitled to forward such files to their partners for the same purposes.

(5) The Customer shall be notified of any changes to these license conditions either in writing or electronically. The Customer may give notice of extraordinary termination within six weeks of receipt of this notification. If notice is not received within the six week period, then the new license conditions shall be considered as having been accepted.

(6) Should individual conditions in this contract prove to be unworkable, the validity of the remaining conditions shall remain unaffected.

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