

# General License and Terms of Use Floating License Additive Designer®

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## 1. Scope of application

The object of the following licensing conditions is the transfer of rights of use to the Additive.Designer® software. Additive.Designer® was developed by SLM Solutions Software GmbH and is sublicensed by the provider, SLM Solutions Group AG, within the scope of this agreement.

By the inclusion of these General License and Terms of Use, the user agrees to the following conditions. These General License and Terms of Use shall apply exclusively. Any deviating agreements shall be subject to the explicit written approval by the provider. In particular, any contradictory terms of the user and/or third parties shall only be valid, if the provider has explicitly confirmed their application in written form.

These General License and Terms of Use shall apply to any future follow-up orders of contractual software or any other future orders related to these, unless otherwise agreed upon.

## 2. Provision of the contractual software

### 2.1. Provision

The object of this contract is the permanent transfer of the Additive.Designer® computer program in object code including the associated user documentation ("contract software") and the granting of the rights of use described in Section 3. in the form of a floating license.

The provider provides the customer with the downloadable version of the contract software including the associated user documentation and installation instructions. The provider provides the customer with the contract software and the user documentation for download via a personalized link to a download portal. For the log-in to the protected area of the portal, the seller shall provide the customer with the user name and the associated password ("access data") at the agreed time. The software is protected by a license key, which the customer receives exclusively for the use of the software as specified in these General License and Terms of Use and the user documentation.

### 2.2. Description of the functionality and features of the contractual software

The performance as well as all further specific features of the contractual software are exclusively determined by the user documentation enclosed with the contractual software. The information contained therein is to be understood as performance descriptions and not as guarantees. A guarantee is only granted if it has been expressly designated as such.

### **2.3. Scope of licensing and use**

The Floating License entitles the user to install the software on multiple computers, whereby each Floating License may only be used by one user at a time.

The user is not permitted to modify or to reverse engineer or to decompile the contractual software and its components. The user is not permitted to disassemble the contractual software or to use any components thereof for his own or other software. Under no circumstances shall the customer have the right to rent or otherwise sub-license the acquired contract software, to publicly reproduce or make available it by wire or wireless means or to make it available to third parties against payment or free of charge, e.g. by way of Application Service Providing or as "Software as a Service".

## **3. Rights of use**

### **3.1. Permissible use**

Upon full payment of the purchase price, the customer receives a non-exclusive, unlimited right to use the contract software for the purposes of his business operations to the extent granted in this General License and Terms of Use Additive Designer®. All data carriers and the user documentation provided shall be subject to retention of title prior to full payment of the purchase price. The contract software may only be used simultaneously by a maximum of the number of natural persons corresponding to the licenses acquired by the customer.

The permissible use includes the installation of the contract software, loading into the working memory and the intended use by the customer. The General License and Use Conditions Additive.Designer® determine the type and scope of use. Under no circumstances shall the customer have the right to rent or otherwise sub-license the acquired contract software, to reproduce it publicly or make it accessible by wire or wireless, or to make it available to third parties against payment or free of charge, e.g. by way of Application Service Providing or as "Software as a Service". Section 4 remains unaffected.

The customer is entitled to make a backup copy if this is necessary to secure future use. The customer shall visibly affix the note "Backup Copy" as well as a copyright note of the manufacturer to the backup copy made.

If the customer uses the contract software to an extent which exceeds the acquired rights of use qualitatively (with regard to the type of permitted use) or quantitatively (with regard to the number of acquired licenses), he will immediately acquire the rights of use necessary for the permitted use. If he fails to do so, the provider will assert the rights to which he is entitled.

Copyright notices, serial numbers and other features serving to identify the program may not be removed or modified from the contract software.

All intellectual property rights subsisting in Polygonica and MachineWorks software libraries belong to MachineWorks Limited.

### **3.2. Release from liability**

In the event of any claims raised and/or expected by third parties due to an infringement of third-party copyrights, patent rights and/or other property rights, the provider shall be permitted to obtain and/or modify and/or exchange at their own expense the rights and/or authorizations necessary for the use, as long as the performance of the systems and/or the contractual software will not be limited or restricted.

The provider shall release the user from all claims according to the conditions of this section 3.2 and section 8, and limited to the amount as stated in section 8 or to any individual limitations of liability, raised against him by third parties in connection with the correct and intended use of the contractual software due to an infringement of copyrights, patent rights or other property rights caused by the provider

- that the user shall inform the provider without delay of any charges of infringement which are made,
- the user must not acknowledge any such claims without written consent of the provider, and
- the user shall permit the provider to conduct all negotiations and judicial proceedings legally allowed and shall provide the provider with all necessary support.

The user commits himself to release the provider and/or their development partners from any claims resulting from misuse of this license, infringements of copyrights and patent rights or other property rights, and which are reducible to the fact that the contractual software or parts thereof have either been used with devices and/or contractual software not provided by the provider or whose combined use has not been permitted, or that the contractual software or parts thereof have been misused.

## **4. Delivery, installation and user documentation**

### **4.1. Delivery and installation**

After the conclusion of the contract, the provider shall provide the user with one item of the latest version of the licensed product generally offered by the provider in object code on an appropriate data carrier or as download. The provider reserves the right to adapt or have adapted the specifications of the licensed product e. g. to technological developments, legislative changes or future market requirements.

Delivery shall be made within the individually agreed time limit.

On principle, a standard version of the contractual software to be delivered shall be installed. The standard software shall only be extended or adapted, if a corresponding specification as stated in section 5. has been issued in written form in the order. The installation shall be carried out either in coordination with the user or by the user himself. For this purpose, the user shall name in written form a contact person immediately after the conclusion of the contract. Installation and configuration services are generally not part of provider's scope of services owed under this agreement.

The user shall deliver all documentation to the provider immediately after the conclusion of the contract so that the provider can see the current configuration of the hardware/operating system platform installed at the user's site. Should the provider determine that the configuration has to be modified, this modification has to be carried out before the installation of the contractual software and at the user's cost and risk. The user is obliged to provide all participation services necessary for the implementation of the contractual software. This includes in particular access to the hardware as well as the free provision of test data and computing time according to the requirements of the provider, and the provision of a competent employee for the execution of tests and the verification of modifications.

## **4.2. User documentation**

The operating user documentation is intended for the user to learn program operation and to answer questions arising from program operation. The operating user documentation shall remain the property of the provider and may only be utilized for the intended use.

## **5. Software extension and adaptation**

### **5.1. Requirements for software extensions and adaptations**

The provider shall extend and adapt or have a third party extend and adapt the delivered contractual software, provided a corresponding arrangement has been agreed upon by the parties. If the user wishes extensions or adaptations, the following shall apply:

- The user will inform the supplier on time about the demands on the contractual software. The information shall be provided in writing and in a suitable description.
- The user shall provide the provider with all information necessary for the generation of the contractual software. The information shall be provided in writing and in clearly structured form, upon request of the provider also verbally.
- The provider will create a performance specification at their own discretion – if necessary against an individually agreed reasonable fee.
- If the user notices that the requirement analyses, specifications, or other performance specifications do not meet the requirements actually demanded by the user, the user shall inform the provider immediately in writing and provide alternative suggestions.
- The parties shall then agree by mutual consent on either a supplement or modification of the requirements.
- The user shall provide all necessary participation services free of charge.

A contract shall be concluded only if the parties can reach a consensus about the software extension or adaptation, respectively.

If the provider notices that data or information provided by the user are faulty, incomplete, or unsuitable for the execution of the order, the provider will inform the user immediately in writing. The user shall decide immediately about any changes resulting from this notification, insofar as they concern the creation process of the software. On request, each party shall inform the other party about a competent contact who shall be authorized to make decisions concerning the generation of the software.

## **6. Training**

If requested and ordered by the user, the provider will provide trainings in order to furnish the user with the knowledge and information necessary to use the delivered software on user level. Participants must have basic knowledge in personal computing.

Unless agreed otherwise in writing, the trainings shall be held either in the classrooms of the user or of the provider. If the training takes place at the user's site, the user is obliged to provide the technical equipment necessary for the training free of charge.

Unless otherwise agreed in the contract, user trainings are subject to charges. These costs must be reimbursed by the user. The user shall compensate the provider all costs with respect to accommodations or other necessary expenses upon provision of evidence. Traveling costs are reimbursed by the user upon provision of evidence and invoice.

## **7. Warranty**

The provider warrants the agreed quality and that the customer may use the contract software without infringement of the rights of third parties. There shall be no warranty for material defects insofar as defects are based on the fact that the contract software is used in a hardware and software environment or does not meet the requirements specified in the offer and user documentation. Furthermore, a warranty for material defects does not exist for changes and modifications which the customer has made to the software without being entitled to do so by law, by contract or on the basis of the prior written consent of the provider. The warranty shall also lapse if and to the extent that the notified defect is attributable to changes or additions to the product or its improper handling by the customer and/or third parties. In this case, the provider shall be reimbursed for the costs of analysis measures and removal attempts. The same applies to changes or additions to the hardware and/or system software. If parts of the contractual software changed either by the user or third parties or other software not purchased from the provider is used that impair the functionality of the system, the provider shall not be liable for resulting damages. Provider will immediately notify the manufacturer of any notifications of defects received from the customer.

The customer must inspect the contract software immediately upon receipt for obvious defects and inform the provider immediately if any, otherwise a warranty for these defects is excluded. The same shall apply if such a defect becomes apparent at a later date. § 377 German Commercial Code (HGB) applies.

The Provider shall be liable for ensuring that the software complies with the specifications listed by the provider in the associated documentation and has been created with due care and expertise. Nevertheless, the current state of the art does not allow the complete exclusion of errors in the software. The provider does not guarantee that the software provided meets the special requirements of the customer.

In the event of a material defect, the provider shall initially be entitled to subsequent performance, i.e. at its own discretion to remedy the defect ("subsequent improvement") or to make a replacement delivery. Within the scope of the replacement delivery, the customer shall, if necessary, adopt a new version of the software, unless this leads to unreasonable impairments. In the event of defects in title, the provider shall, at its option, provide the Customer with a legally flawless option to use the contract Software or modify it in such a way that no rights of third parties are infringed.

The provider is entitled to provide the warranty on the customer's premises. The provider shall also satisfy its obligation to rectify defects by providing updates with an automatic installation routine for download via the corresponding download portal and by making them available to the customer via the associated service desk portal for solving any installation problems that may arise.

The customer's right to reduce the purchase price or to withdraw from the contract at his discretion in the event of two failed attempts to repair or replace the goods remains unaffected. A right of withdrawal does not exist in the case of insignificant defects. If the customer claims damages or compensation for futile expenses, the seller shall be liable according to Section 8.

In case a maintenance and servicing contract exists between the parties, the period for remedying defects shall be determined by the times stipulated in this maintenance contract.

## **8. Restrictions of liability and limitation**

The provider shall be liable without limitation

- in case of intent or gross negligence,
- for injury to life, limb or health,
- in accordance with the provisions of the Product Liability Act and
- to the extent of a guarantee assumed by the provider.

In the event of a slightly negligent breach of an obligation, the fulfilment of which is essential for the proper performance of the contract, the breach of which endangers the achievement of the purpose of the contract or the compliance with which the contractual partner regularly relies (cardinal obligation), the provider's liability shall be limited in amount to the damage which is foreseeable and typical according to the nature of the transaction in question.

Any further liability of the provider does not exist. In particular, there shall be no further claims, in particular for compensation for damages that have not occurred to the subject matter of the contract itself. This shall not apply to a legal or material defect fraudulently concealed by the provider or in the event of a guarantee of quality being assumed.

The above limitation of liability shall also apply to the personal liability of the provider's employees, representatives and bodies.

## **9. Data protection, security measures, audit law**

### **9.1. Data protection**

Both parties shall comply with the legal data protection regulations. To the extent necessary in the context of maintenance, both parties shall conclude a binding agreement concerning order-related data processing.

The customer shall secure the contract software and, if applicable, the access data for online access against access by unauthorized third parties by means of appropriate measures. In particular, all copies of the contract software and the access data must be kept in a protected place.

### **9.2. Data backup**

The user shall verify immediately after the installation, the correction of faults, maintenance or further operations on the IT system conducted by the provider the functionality of the data backup. The user shall document the result in writing. The user shall ensure that a reliable, timely and comprehensive data routine guarantees data security.

### **9.3. Audit**

At the provider's request, the customer shall enable the provider to check the proper use of the contract software, in particular whether the customer uses the program qualitatively and quantitatively within the scope of the licenses acquired by him. To this end, the customer shall provide the provider with information, grant access to relevant documents and records and enable the provider or an auditing firm designated by the provider and acceptable to the customer to examine the hardware and software environment used. The provider may carry out the audit at the customer's premises during the customer's regular business hours or have it carried out by third parties bound to secrecy. The provider shall ensure that the customer's business operations are disturbed as little as possible by its on-site activities. If the inspection reveals that the acquired number of licenses has been exceeded by more than 5% (five percent) or that the licenses have been used in any other way not in accordance with the contract, the customer shall bear the costs of the inspection, otherwise the provider shall bear the costs.

## **10. Miscellaneous**

### **10.1. Assignment and offset**

The customer may only assign claims against the provider to third parties with the written consent of the provider.

The customer may only offset undisputed or legally established claims.

### **10.2. Export and import restrictions**

The parties are aware that the contract software may be subject to export and import restrictions. In particular, there may be licensing obligations or the use of the software or associated technologies abroad may be subject to restrictions. The customer shall comply with the applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America as well as all other relevant regulations. The provider's performance of the contract is subject to the provision that there are no obstacles to performance due to national and international regulations of export and import law or any other statutory regulations.

### **10.3. Written form**

Apart from the present, there are no additional agreements. Any amendments and supplements must be made in writing. This also applies to the amendment or cancellation of this clause. Electronic documents in text form shall also fulfil the written form requirement.

### **10.4. Choice of law, Place of Performance and Court of Jurisdiction**

The entire business relations of the provider with their users are exclusively subject to the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not be applied.

The place of performance in respect of deliveries and services is the location contractually agreed upon as address of performance, in case of doubt the place of performance shall be Lübeck. The place of performance for payments is the location stated in the invoice. The place of jurisdiction for both parties is Lübeck, Germany. However, the provider shall be entitled, at their own discretion, to make claims at the place of jurisdiction of their partner. If the contract partner of the provider is not a merchant or a public law entity or a special fund under public law, then the legal regulations shall apply.

### **10.5. Severability clause**

Should one or more provisions of this General License and Terms of Use be or become void or ineffective for whatever reason, this shall not affect the validity or effectiveness of the remaining provisions. The void or ineffective provision shall be deemed to be replaced by the provision which comes closest to the intention of the parties, taking into account all legal and economic aspects, or which comes closest to what the parties would have agreed according to the spirit and purpose of this contract if they had taken this point into account at the time of conclusion of this contract.