

TECHSAGE ApS TERMS OF SALE AND DELIVERY

November 2006

1. GENERAL

- 1.1 The following terms of agreement (hereinafter referred to as "Agreement") for **TechSage ApS, Company reg. no. 28 31 00 05** (hereinafter referred to as "Seller") shall apply to every sale of hardware, including spare parts and replacement parts and other accessories to hardware (hereinafter referred to as "HARDWARE"), to every sale of printing paper, inks, etc. (hereinafter referred to as "CONSUMABLES") and to every grant of right of use of software, typefaces and software updates or sale of software via TechSage ApS or via www.spinflow.dk (hereinafter referred to as the "SOFTWARE") and to technical services provided by the Seller in relation to the HARDWARE, SOFTWARE or CONSUMABLES or otherwise provided by Seller to Buyer (hereinafter referred to as TECHNICAL SERVICES) if they are not modified or excluded by written agreement of Seller and Buyer. The HARDWARE, CONSUMABLES and SOFTWARE are also referred to as "PRODUCTS".
- 1.2 Buyer's special terms or specific requirements in relation to the PRODUCTS shall not bind Seller in any fashion unless Seller has accepted such special terms or specific requirements in writing.

2. TITLE AND COPYRIGHT

- 2.1 The HARDWARE remains the property of Seller until Seller has received payment in full of the purchase price including interest and costs under the Agreement. Buyer agrees to insure the PRODUCTS against all risks of loss or damage until Seller receives the full purchase price.
- 2.2 The copyright and all other intellectual property rights regarding the SOFTWARE or HARDWARE shall remain the property of Seller. Buyer shall be under an obligation not to remove any information on Seller's copyright or other rights in the PRODUCT in whatever form given with or attached by Seller to the PRODUCT.
- 2.3 Buyer shall have no pledge or lien on the property of Seller.

3. RIGHT OF USE

- 3.1 Seller grants Buyer only a non-exclusive right to use the SOFTWARE subject to the terms and conditions of this Agreement.
- 3.2 Without the prior written consent of Seller, Buyer is not entitled to sell, let out or transfer by way of security the SOFTWARE or part thereof or place the SOFTWARE directly or indirectly at the disposal of a third party in any way whatsoever, or in any way whatsoever reproduce or redistribute the SOFTWARE. Buyer will not make copies of the SOFTWARE. Buyer is however allowed making a back-up copy insofar as it is necessary for the use of that SOFTWARE.
- 3.3 Buyer may only use the SOFTWARE for internal business purposes on the designated computer system.

4. CHANGES IN SOFTWARE OR HARDWARE

- 4.1 Buyer may not without the written consent of Seller make any changes or modifications including error corrections to the HARDWARE or SOFTWARE.
- 4.2 Seller will be discharged from any further obligations and liability, which exist under this Agreement if Buyer without the prior written consent of Seller has made any changes or modifications in relation to any PRODUCTS supplied.

5. PRICE

- 5.1 All prices are listed ex. VAT. All prices are listed non-committing until Seller has sent a written order confirmation. Prices are always listed without VAT and other public charges - import/export fees including, but not limited to, transportation costs and handling fees. Price does not include installation and/or training.
- 5.2 The prices quoted are based on current price lists and are subject to changes without notice.

- 5.3 The prices quoted are unless otherwise specified in writing EX WORKS (Incoterms 1990) with the modification that Seller, for the account of Buyer, if agreed upon will arrange transportation and insurance to Buyer's business address. In case of damage the insurance amount will be paid directly to Seller.
For prices quoted CIF or CFR and when freight, insurance or other costs are to be prepaid by Seller, reservations are made with respect to increases of freight rates, insurance premiums and other such cost which are to be prepaid for the account of Buyer.
- 5.4 The prices include Sellers standard export packing. If special packing is requested or required, Buyer will be charged for the extra packaging expenses.
- 5.5 All costs of certificates of origin, legalisation, consular invoices and the like are for the account of Buyer.
- 5.6 SOFTWARE bought via www.spinflow.dk is downloadable by the Buyer directly from the web-site after the payment transaction has been completed.

6. DELIVERY TIME

- 6.1 The delivery time is stated at Sellers best estimation and merely approximate. Delays in the delivery do not entitle Buyer to rescind or to claim damages. Should Seller fail to deliver the PRODUCTS within the delivery period, Buyer shall be entitled to demand delivery and appoint a final, reasonable time-limit at least 14 days by notice in writing and when doing so, state that Buyer intends to terminate the contract in respect of the delayed part of the delivery in case the delivery does not take place within this delivery period.
- 6.2 The delivery time is in all cases conditional upon Buyer having fulfilled the conditions, formalities, and requirements that may be agreed upon or which are necessary for Seller's fulfillment of the Agreement.
- 6.3 Buyer shall be responsible for complying with all export and re-export restrictions and regulations contained in the EU Council Regulation (EC 3381/94).
- 6.4 Regarding SOFTWARE bought via www.spinflow.dk cf. Clause 5.6.

7. MANUALS AND SUPPORT

- 7.1 Buyer shall make himself familiar with the manuals supplied by Seller on the internet or in other written material for the SOFTWARE and HARDWARE and after delivery of the SOFTWARE and/or HARDWARE Buyer shall observe all instructions and directions given in the manuals as well as information put forward by the seller on www.spinflow.dk.
- 7.2 For SOFTWARE bought via www.spinflow.dk the buyer has the possibility through following email address - SpinflowPortal@ncdc.pl - to send relevant questions regarding the SOFTWARE to the Seller. The Seller is under no obligation to answer such question and the Seller is in no possible way liable for answers and support given via email from the Seller to the Buyer.
- 7.2 Buyer shall not be entitled to hold Seller responsible in any way if the directions and instructions in the manuals, for example as to operation, use and maintenance, have not been observed unless Buyer proves that the failure to observe such directions and instructions have had no material effect on the matter in question.
- 7.3 Buyer shall ensure that no third party or unauthorised person has access to the manuals mentioned or information about the SOFTWARE.

8. DEFECTS - HARDWARE AND CONSUMABLES

- 8.1 Seller warrants that the HARDWARE AND CONSUMABLES are free from substantial defects of material and workmanship. Seller will when such defects have been ascertained either repair the HARDWARE AND CONSUMABLES or reimburse Buyer for the defective part either by a corresponding no-charge replacement delivery or by a corresponding credit note after Sellers

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choice, provided any claim based on quality of the HARDWARE AND CONSUMABLES have been made by Buyer to Seller in writing within six (6) months after the date of Sellers invoice to Buyer.

The guarantee period for spare parts is three (3) months.

- 8.2 The guarantee shall not apply if the HARDWARE AND CONSUMABLES have been subject to misuse, negligent treatment, rough handling or accident or if the HARDWARE AND CONSUMABLES are installed or operated in a location not free from excessive dirt, dust, moisture, fumes or extremes of temperature.
- 8.3 After the expiration of the guarantee period Buyer cannot bring a claim against Seller in respect of defects.
- 8.4 All costs in connection with the dismounting and mounting of defective parts as well as all transport, insurance, and import costs in connection with replacement deliveries shall be at the expense of Seller.
- 8.5 Seller assumes no responsibility for damages due to deterioration during periods of storage by Buyer prior to installation and operation.
- 8.6 Seller's HARDWARE AND CONSUMABLES or parts thereof, for which reimbursement is claimed under the above warranty, shall upon request of Seller be returned to Seller in the same condition. All transport and insurance costs for the return of such HARDWARE AND CONSUMABLES shall be for the expense of Buyer.
- 8.7 The guarantee does not cover lamps, tubes, glass plates or other easily wearing parts such as print heads, feeding wheels and the like.
- 8.8 Except as provided above Seller shall not be liable for defects. In particular Seller will not be liable to Buyer for capital loss, trading loss, loss of profit or any other direct or indirect loss suffered in consequence of defects in the HARDWARE AND CONSUMABLES unless this would be the result of Seller's wilful intent or gross negligence.
- 8.9 Seller strongly recommends that a routine be established immediately upon installation of HARDWARE and SOFTWARE for regular full and incremental backup of the SOFTWARE as a precautionary action to prevent loss of data.

9. DEFECTS - SOFTWARE

- 9.1 Seller shall not be liable for defects. In particular Seller will not be liable to Buyer for capital loss, trading loss, loss of profit or any other direct or indirect loss suffered in consequence of defects in the SOFTWARE unless this would be the result of Seller's wilful intent or gross negligence.

10. REFUND POLICY

- 10.1 Seller only accepts return of non-defective HARDWARE AND CONSUMABLES according to individual written agreement. The return of products for full credit is conditioned by the product being delivered to Seller without harm and in the original packaging.
- 10.2 Due to the nature of products sold via www.spinflow.dk returns of SOFTWARE, upgrades, licenses e.g. is not accepted and such SOFTWARE products purchased online are non refundable and are not available for return.

11. DEFAULT NOTICE - USED PRODUCTS

- 11.1 Unless otherwise agreed in writing between Buyer and Seller PRODUCTS are sold as is and inspected without liability for Seller of defects, except fraud and defective title. There is no procedure of notice for used PRODUCTS.

12. DEFAULT NOTICE - CONSUMABLES

- 12.1 Default notice must be stated forthwith when the defect is ascertained or at the latest 8 days

from the receipt of the delivery. The default notice must state what the defect is and Seller shall either replace - at Seller's choice - the defect CONSUMABLES with other CONSUMABLES of the same type and quantity or credit the same value to Buyer. All other claims of compensation cannot be submitted.

13. TERMS OF PAYMENT - PRODUCTS

- 13.1 Unless specifically specified otherwise in order confirmation from Seller, the full amount of the invoice falls due at the latest NET 30 days after date of invoice.
- 13.2 Purchase and download of SOFTWARE via www.spinflow.dk is only feasible against immediate payment.

14. PRODUCT LIABILITY

- 14.1 Seller shall not be liable for any damage to property caused by PRODUCTS whilst in the possession of Buyer. Nor shall Seller be liable for any damage to products manufactured by Buyer, or to products of which Buyers products form a part.
- 14.2 Seller shall in no circumstances bear product liability for capital losses, trading losses, time losses, loss of profit and similar indirect losses.
- 14.3 Unless otherwise provided for by statutory law, Buyer shall indemnify, defend and hold Seller harmless if Seller incurs liability towards any third party for such damage to property as described in the preceding paragraphs.
- 14.4 If Buyer becomes aware of damage caused by the supply of the PRODUCTS or that a third party alleges such damage has occurred or that there is a serious risk the damage will be caused by such supply, Buyer shall be obliged to inform Seller without undue delay of such damage, allegation or risk. Buyer shall not be exempted thereby from taking such steps as are necessary to prevent or mitigate the damage.
- 14.5 The Seller gives no warranties and assumes no liability for PRODUCTS delivered by the Seller which have been manufactured by or purchased from any third party exceeding the liabilities of such third party towards the Seller
- 14.6 Buyer will hold Seller harmless of any third parties' claims, which exceeds the liability stated in this clause 14, and which is related to the business relationship between Buyer and Seller. The limitation of Sellers liability in the first paragraph of this Clause shall not apply where Seller has been guilty of Gross Negligence or wilful intent.

15. GENERAL TERMS OF PAYMENT

- 15.1 Payment shall be made on the agreed date to the address of Seller stated on the invoice. Payments must be made to Seller in cash and without any deduction. All costs or fees incurred in connection with the payment shall be for the customer's account.
- 15.2 Interest shall incur on any outstanding due payments with an accruing interest rate of 2 % per calendar month on any due payments including interests costs.
- 15.3 If Seller has accepted a fixed time of credit and payment is not made within due time interest as a penalty shall be charged from the date the payment was due on the sum outstanding for the time being, including interest accrued due and other costs, at a rate of 2% per calendar month.
- 15.5 Without the prior written consent of Seller, Buyer may not set-off any counterclaims against the PRICE or withhold the PRICE.
- 15.6 Buyer shall pay all collection costs (including reasonable attorney fees and expenses).
- 15.7 Regarding SOFTWARE bought via www.spinflow.dk cf. Clause 13.2.

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16. VIOLATION OF RIGHTS

- 16.1 To the best of Sellers knowledge the PRODUCTS do not contravene the rights of any third party but Seller gives no warranty in this respect.
- 16.2 If a third party claims damages from Buyer on the ground that the PRODUCTS contravene its rights, Buyer shall immediately inform Seller in writing and Seller may be a party to any such action.
- 16.3 If Seller makes itself a party to such action and takes full responsibility Seller shall be obliged to indemnify Buyer for any damages and costs which are ordered against Buyer. However, Seller shall only be liable to contribute to an amount equal to the agreed price of the goods supplied by Seller to Buyer, which are the subject of the action.

17. WAIVER OF LIABILITY

- 17.1 Seller shall not be liable for any delay or failure to fulfil its obligations under the Agreement caused by circumstances beyond its control, which hinder or delay the production or delivery of the goods supplied or which make fulfilment of Seller's obligations unreasonably burdensome to Seller. Such circumstances include but are not limited to strikes, work stoppages, blockades, lock-outs, late or incorrect deliveries or programming from sub-suppliers, material increases in the price of DKK of deliveries from sub-suppliers, delay in the supply or delivery of raw materials or other materials or delay resulting from the supply of defective goods, fire, natural events, breakdown of the internet, computer-/mail systems, shortage of means of transportation, transport accidents, war, import/export restrictions, extremes of weather uncharacteristic of the place and time of year in question, the prevention or delay of delivery by public order and other interruptions or suspensions of operations.
- 17.2 The Seller gives no warranties and assumes no liability for PRODUCTS delivered by the Seller, which have been manufactured by or purchased from any third party exceeding the liabilities of such third party towards the Seller.
- 17.3 In order to claim the benefit of force majeure or other circumstances beyond Seller's control Seller must first inform Buyer of the nature of the force majeure circumstance or other circumstances beyond Seller's control and of the expected length of delay. Seller shall in all cases be under a duty to mitigate the effect of the delay.
- 17.4 It is emphasized that the Seller cannot be held liable in the event that the delivered software is not compatible with or in any other manner cannot interact with or function together with the Buyer's other software and/or hardware.

18. BREACH OF AGREEMENT

- 18.1 Seller may revoke the right of use of PRODUCTS without notice if Buyer is in breach of one or more of the conditions under this Agreement and Buyer fails to remedy the breach after it has been brought to his attention by Seller with the request to remedy it within a certain period specified by Seller.
- 18.2 If the right of use is revoked by Seller in accordance with Clause 18.1 above Buyer shall immediately cease all use of the PRODUCTS and shall be obliged to return the PRODUCTS and any copies of SOFTWARE in whole or part thereof as well as manuals and other material as well as copies thereof.
- 18.3 Buyer shall not be entitled to exercise any lien or other right that may have arisen on anything set out in Clause 18.2.

19. JURISDICTION AND LAW

- 19.1 Any dispute arising from these general terms of sale, including questions of product liability, shall be settled by the Maritime and Commercial Court of Copenhagen, Denmark, and the subsequent court of appeal. In the event an individual written agreement has been made between the parties appointing a different jurisdiction such jurisdiction shall also apply with respect to disputes arising from those general terms of sale.
- 19.2 Notwithstanding Clause 19.1 above Seller shall be entitled to bring an action against Buyer before the ordinary courts of law if the action concerns the collection of a pecuniary debt arising from deliveries to Buyer.
- 19.3 The Agreement, including these terms of sale and delivery, and any dispute arising from it, shall be governed by and construed according to Danish law, but the United Nations Conventions on the International Sale of Goods (CISG) is specifically excluded from application of this Agreement.

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