

SOFiSTiK's End-User License Terms

1. Applicable License Terms; Information on the Use of SOFiSTiK Software

1.1. SOFiSTiK AG (“**SOFiSTiK**”) develops and markets specialist software for use in the construction industry. The software product (the “Software”) you acquired is a SOFiSTiK product where SOFiSTiK is the sole Licensor.

1.2. By installing the Software and clicking the relevant button during the installation procedure you agree to the following License Terms of SOFiSTiK. You may view the License Terms before downloading the Software. Please pay attention to the references in the online download area.

1.3. These License Terms constitute the entire Agreement between you and SOFiSTiK with regard to the use of the Software. Any provisions deviating from, or conflicting with, these terms and conditions, in addition to any standard terms and conditions used by the customer, shall not form part of any contract concluded between the customer and SOFiSTiK, unless SOFiSTiK expressly agrees to such terms. In case you obtain the Software via a distributor of SOFiSTiK, Terms and Conditions of the distributor may apply additionally.

1.4. Please be advised that the Software, as a result of incorrect use, may produce erroneous results (e.g. drawings). It is not certain that all operating errors will be identified and adjusted by the Software. Therefore, you should, in any case, verify the results produced by the software, at least in an approximate manner on a random basis.

2. Usage Rights; Copy Protection

2.1. SOFiSTiK grants to you the non-exclusive right to use the Software, in accordance with the following provisions, for the duration agreed on and to the extent of the licenses acquired. No further rights are granted in connection with the supply of the Software. Rights to use the source code of the Software are not being granted.

2.2. In case a single user license is granted to you, you are entitled to use the Software on no more than one item of hardware (client); any further use is not allowed. You shall not allow multiple users to use the Software on a single workstation simultaneously, nor shall you allow remote access of the Software from another computer. In case a network license is granted to you you are entitled to use the Software in the agreed computer network on the network server and on the network computers (clients). The agreed maximum number of workstations agreed must not be exceeded.

2.3. You are entitled to make copies of the Software, to the extent that each copy is necessary for the use of the Software. Necessary copying includes the installation of the Software from the original data storage system on to the mass storage devices being used, as well as the loading of the program into the computer's primary storage.

2.4. The right to use the software shall only become valid once the customer has paid the agreed amount (purchase price) to the seller of the software in full.

2.5. Any use of the Software beyond what has been agreed upon will constitute an infringement of this agreement. SOFiSTiK shall be entitled to terminate the license for cause without notice for a compelling reason if you failure to use the Software in compliance with these License Terms or make the Software available to third parties without authorisation.

2.6. For the purpose of copy protection SOFiSTiK is entitled to provide you with copy protection mechanisms together with the software such as hardware copy protection (hardware key) or adequate software solutions (softlock). The Software only works together with these copy protection mechanisms. The loss of a hardware key and – in case of a softlock - changes in the hardware of the device the Software is running on (e.g. exchange of a hard drive) result in total or partial non-applicability of the Software.

2.7. You shall adopt appropriate measures to prevent unauthorised access to the copy protection mechanisms. Hardware keys shall be kept in a location secure from unauthorised access by third parties. Your employees are to be expressly and clearly informed of the necessity of complying with the contractual terms set out above as well as the provisions of copyright law.

3. Software Rental; Usage Period

3.1. Where the Software has been licensed to you for use on a rental basis, the right to use the Software shall automatically terminate at the end of the agreed usage period. The right to ordinary termination of the License is excluded.

3.2. If agreed among the parties, the right to use the software shall automatically renew for successive usage periods of the same term unless you terminate the use of the Software with effect to the end of the current usage period.

3.3. Trial versions of the Software shall be valid for 30 days starting with activating the Software. The usage period of trial versions cannot be renewed.

3.4. Each party's right to terminate the agreement for cause without notice for a compelling reason remains unaffected.

4. Decompilation and Changes to the Program; Copyright Notices

4.1. The customer shall not translate the program code into other forms of code (decompilation) or employ other methods aimed at revealing the software's code in the various stages of its development (reverse engineering).

4.2. The customer is not entitled to remove or make alterations to copyright notices, serial numbers, or other features which serve to identify the software.

5. No Transfer of the Software

5.1. Where the Software has been licensed to you for use on a rental basis you must not make the software available to a third party, be it on a permanent or a temporary basis. This also applies even if no copies (including any backup copies) of the Software remain with you.

6. Defects of the Software

6.1. For the use of Software, you directly obtained from SOFiSTiK the following provisions regarding defects of the Software apply. In case you obtain the Software via a distributor of SOFiSTiK, the distributor is contractually liable for any defects of the Software; Terms and Conditions of the distributor may apply additionally.

6.2. A material defect shall be deemed to exist if the Software deviates from the agreed quality in a manner that the use of the Software is more than slightly affected. If no specific quality has been agreed a material defect shall be deemed to exist where the Software is not capable for the use expected by you due to the description of the Software or where the Software is not capable for the ordinary use and is of a condition which is customary in software products of similar kind and which you can expect in this type of software.

6.3. The Software is free of defects in title if third parties are unable to assert any rights with regard to the Software or only the same rights granted to you in this license agreement.

6.4. If the Software is revealed to be defective, SOFiSTiK shall upon your notice remedy the defect in due course. SOFiSTiK shall be given opportunity – if required by the circumstances and with regard to the type of software and the type of defect on repeated occasions – to remedy the defect either through the rectification of the fault (repair) or replacement of the Software. SOFiSTiK shall decide at its sole discretion whether to repair or replace the Software. In the event that the Software is replaced, SOFiSTiK shall supply a new, current version of the Software. The current version of the Software is the one available for download from SOFiSTiK's update server on the day on which the replacement is provided to you. In case SOFiSTiK provides you with a reasonable method of avoiding or circumventing the effects of the defect (a workaround), this shall be considered as a rectification of the defect.

6.5. You shall only be entitled to terminate the agreement on the basis of an inability to use the Software pursuant to the agreement, if SOFiSTiK has been given sufficient opportunity to remedy any defect and SOFiSTiK refuses to remedy the defect, or the attempt to remedy the defect is unsuccessful, or if the remedy is unreasonable for you. A remedy through the replacement of the Software shall be unreasonable where there are significant differences between the scope of features possessed by the current version of the Software and those of the defect version and the adoption of the current version would lead to significant disadvantages for you. A difference in the scope of the Software's functions shall not be considered significant if the intended use of the Software is not impaired as a consequence of the difference.

6.6. In the event the Software is provided to you free of charge SOFiSTiK shall only be liable for damages that arise as a result of maliciously concealed material defects of the Software by SOFiSTiK.

7. General Liability

7.1. Unlimited Liability: Fraunhofer shall be fully liable for damages caused intentionally or by gross negligence as well as for damages that arise from injury of life, body or health. SOFiSTiK shall also be liable in accordance with the German Product Liability Act (Produkthaftungsgesetz).

7.2. Otherwise the following limitation of liability shall apply: in the event of slight negligence on the part of SOFiSTiK, SOFiSTiK's liability is limited to cases of infringement of an essential contractual duty, discharge of which makes due implementation of the contract possible in the first place and adherence to which you can regularly expect (cardinal duty). The liability for damages as a result of slight negligent behavior is limited to the amount that was foreseeable and typical of the agreement at the time of conclusion of the agreement. The above limitations of liability shall also apply where SOFiSTiK is vicariously responsible for its employees and agents.

8. Miscellaneous

8.1. If you operate a commercial business within the meaning of Sec. 1 (1) of the German Commercial Code (*Kaufmann im Sinne des Handelsgesetzbuchs*) or a statutory corporation or foundation under public law, the legal venue for all disputes arising from or in connection with these License Terms is Munich/Germany.

8.2. If you operate a commercial business within the meaning of Sec. 1 (1) of the German Commercial Code (*Kaufmann im Sinne des Handelsgesetzbuchs*) or a statutory corporation or foundation under public law, the place of performance for all duties and obligations arising from contracts between you and SOFiSTiK shall be the registered office of SOFiSTiK.

8.3. Agreements between you and SOFiSTiK shall be exclusively governed by German law. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

8.4. If any provision of these End User License Terms is, or later becomes, invalid, the validity of the remaining provisions shall remain unaffected.