SmartInspect License Terms and Conditions

Please read the following provisions carefully.

1. Subject-matter of the conditions

These license terms and conditions of Gurock Software GmbH - hereinafter referred to as Gurock - shall govern the transfer and use of SmartInspect - hereinafter referred to as licensed programs.

The agreement between the Customer and Gurock regarding the software download or the delivery of the licensed programs shall come into force when the Customer, following choice of product, order placement and payment of the license fee, has downloaded the licensed programs involved or received an order confirmation for the delivery of the licensed programs via email or by post.

The downloading operation, and every installation of the licensed programs, signifies implied acceptance of these licensing conditions. The downloading or delivery of the licensed programs and the granting of usage rights to them shall be explicitly tied to compliance with these SmartInspect License Terms and Conditions.

Explicit, written or electronic consent from Customer shall not be necessary in order to effectively agree the applicable validity of these SmartInspect License Terms and Conditions.

2. Industrial property rights and denotations thereof

The licensed programs are the property of Gurock, and protected by copyright laws, industrial property rights, and other national statutory provisions, plus laws and agreements concerning intellectual property.

Gurock reserves all rights, particularly copyrights, patent rights, brand rights and further industrial and other property rights to the licensed programs, the documentation, and changes to and derivations from these. The Customer receives merely a usage right to the licensed programs and documentation, and not ownership.

Identifications, brands, or references denoting industrial property rights or other forms of legal ownership within the licensed programs may be neither removed nor altered. They must be transferred together with the programs on every copy.

3. Usage rights

Gurock grants to the Customer, after registration and payment of the license fee, the non-exclusive right to install, to load and run the licensed programs on a maximum of three computer systems per licensed user. Note that a license must be purchased for each person who uses the licensed programs. A license is thus tied to a particular person.

The Customer shall be entitled to additionally create a back-up copy and customary data back-ups in reasonable numbers.

The Customer shall furthermore be entitled to alter the licensed programs so as to enable them to interact with other software programs.

In the case of an alteration required in order to establish interoperability or for remedying a fault, the licensed programs may be edited.

The Customer shall be entitled to pass on or sell the licensed programs to a third party once in all. In this case, the Customer shall transfer to the purchaser or acquisitor all copies of the licensed programs he has created, or erases them. The licensed programs may be neither rented out, leased, loaned nor transferred in the form of sub-licenses.

Any further utilization of the licensed programs shall require an additional granting of rights by Gurock.

a) Special conditions for the licensed program SmartInspect Professional

In derogation of the arrangements outlined above, files specified in the "Deploy.txt" file and which have been supplied together with the SmartInspect Professional version, may be passed on to end-user customers of the licensee.

The source code supplied together with the SmartInspect libraries may be altered and passed on as object code. It is not permitted to pass on the source code. If the source code is altered and/or edited, all warranties and liability relating to the altered source code and the resultant object code shall lapse, unless the Customer provides evidence that faults are not attributable to this.

It is prohibited to pass on files with programs that possess a function comparable to SmartInspect. Even as object code, the SmartInspect libraries, particularly, together with programs of comparable functionality, must not be passed on to end-user customers. Programs with comparable functionality, for example, are debuggers, monitoring programs, and programs that are used to locate and detect errors in software programs.

b) Special conditions for the test version SmartInspect Professional Trial

This software version is handed over to the Customer solely for testing purposes, for a period of thirty (30) days. It is prohibited to pass on this software package to third parties. This test software is made available under exclusion of any warranty and liability whatsoever.

c) Special conditions for the test version SmartInspect Early Access Program

This software version is handed over to the Customer solely for testing purposes. It is prohibited to pass on this software package to third parties. This test software is made available under exclusion of any warranty and liability whatsoever.

4. Restrictions on use and utilization

The use and utilization of the licensed programs for military, nuclear-engineering, aviation and automotive-engineering purposes are explicitly prohibited. If the licensed programs are to be used directly or indirectly in one of the above-mentioned fields or in other software-controlled or influenced fields where human life or health may be at risk, this shall require a prior explicit agreement with Gurock.

5. Warranty

5.1 The warranty period is 12 months, and shall begin when the licensed programs are downloaded onto the Customer's computer system or when receiving the data carrier upon delivery.

5.2. Software faults are solely reproducible faults, whose causes are to be found in defects in the licensed programs concerned, and in deviations of functionality between the licensed programs supplied and the documentation.

5.3. For defects in the licensed programs, Gurock will initially at its own discretion, provide a warranty either by remedying the defect or by supplying a new software release. Instructions from Gurock for bypassing a software defect shall be construed as sufficient remediation.

5.4. If the attempt at subsequent performance is unsuccessful, the Customer may, at his discretion, demand a reduction in the price (diminution) or cancellation of the agreement (rescission). If the violation of contract is only slight, however, particularly in the case of merely minor defects, the Customer shall not have any right of rescission.

If the licensee chooses to withdraw from the agreement because of a legal or substantive defect following a failed attempt at subsequent performance, he shall not be additionally entitled to claim damages by reason of the defect concerned.

5.5. The agreed qualities of the licensed programs shall in all cases be construed as only those particulars provided in the documentation package for the licensed programs concerned. Public statements, recommendations or advertising from Gurock shall not additionally constitute any contractual qualities regarding the licensed programs involved.

6. Liability

6.1 When using the licensed programs, in order to avoid damage that may be caused to other programs or stored data being used simultaneously, the Customers shall in good time before using/utilizing the licensed programs back up the programs and data involved, and not use programs of this kind in actual operation before he has verified the flawless quality of these programs by a test routine.

Gurock will not accept any liability for ensuring that the licensed programs are suitable for the Customer's requirements and purposes or are interoperable with other programs chosen and used by him.

6.2. Gurock shall be liable, irrespective of the legal grounds involved, only for intent and gross negligence. This shall not apply to loss or damage arising from injury to human life, limb and health, if Gurock is to blame for the breach of duty and other loss or damage arising from an intentional or grossly negligent breach of duty on the part of Gurock.

In the event of culpable violation of significant contractual obligations, Gurock shall be liable with the proviso that the liability concerned shall be limited to the reasonably foreseeable loss or damage typical for such agreements. Gurock shall not be liable in the event of slightly negligent violation of insignificant contractual obligations.

The typically foreseeable scope of loss or damage shall, with due regard for the nature of the licensed programs, in no case exceed the price, excluding value added tax, that the Customer has paid for transfer of the licensed programs.

6.3. If Gurock has with intent to deceive concealed a defect or accepted a guarantee for the quality of the licensed programs, the exclusions of and limitations on liability shall not apply.

6.4. Gurock shall be liable under the German Product Liability Act (Produkthaftungsgesetz).

7. Support

Gurock shall not be obligated to provide maintenance for the licensed programs. Gurock shall, however, at its discretion and at intervals specified by Gurock, supply the customers with updates to the licensed programs as long as the customer's support plan is current.

8. Publicity

Customer grants Gurock the right to include the Customer's organization name and logo as a customer on Gurock's website and other promotional and advertising materials. Within thirty business days after written request, Gurock will remove the Customer's organization name and logo from Gurock's website and will cease to include the Customer's organization name and logo in Gurock's other promotional and advertising materials.

9. Data protection

All data communicated to Gurock will be acquired, stored in memory and processed for purposes of performing the agreement, in compliance with the German Federal Data Protection Act (Bundesdatenschutzgesetz) and the German Teleservice Data Protection Act (Teledienstdatenschutzgesetz). If the Customer following a prior notification has not explicitly consented to a disclosure to third parties, data will not be disclosed to third parties.

10. Choice of law, place of jurisdiction, written form, saving clause

10.1 These conditions are subject to German law. The UN Convention on Contracts for the International Sale of Goods is excluded.

10.2 If the Customer concerned is a merchant within the meaning of the German Commercial Code, a separate property or a juristic person under public law, then Langen, Germany, shall be the sole place of jurisdiction for all disputes arising from these SmartInspect License Terms and Conditions.

10.3. Alterations and supplements to these conditions must be made in writing. This shall also apply for altering this requirement for the written form.

10.4. Should individual provisions of these SmartInspect License Terms and Conditions be or become in whole or in part not legally valid or inoperable, this shall not affect the validity of the other provisions contained in these SmartInspect License Terms and Conditions. The same shall apply in the event that there is an omission in these provisions' coverage.

Right of revocation

If the licensed programs are delivered on data carriers, you can cancel your purchase order within a period of two weeks after receipt of the consignment by returning the data carriers concerned.

If the licensed programs are downloaded, you can revoke your contractual declaration regarding conclusion of the licensing agreement with Gurock within two weeks from concluding such an agreement, without stating reasons, in textual form (e.g. letter, fax, email). The 2-week period, however, shall not begin until these instructions have been received. To comply with the deadline for revocation, it shall be sufficient to send off the revocation or the data carriers in good time. The revocation and the return consignment must be addressed to:

Gurock Software GmbH
Südliche Ringstraße 175
63225 Langen Germany
Registration number: HRB 50785
Amtsgericht Langen (Hessen)

In the case of delivery on data carriers, the right of revocation shall expire as soon as the packaging has been opened.

If the licensed programs have been downloaded, the right of revocation shall expire as soon as the key or download link has been sent to you, and the download operation has begun. The right of revocation shall not apply for entrepreneurs.