

For software made available free of charge

Please read the following General Terms and Conditions of Use for software made available free of charge (General Terms and Conditions of Use) carefully before downloading this software. Before downloading the software, you must agree to the validity of these General Terms and Conditions of Use. You shall not be permitted to download the software should you not agree to the validity of these General Terms and Conditions of Use.

§ 1

Object of the contract

Where PILZ should make software available free of charge without obligation at its own discretion, the current General Terms and Conditions of Use for this software shall apply. As part of this donation agreement, PILZ shall grant the customer the right to make use of the software as described in Sec. 5 to 7 of these General Terms and Conditions of Use.

Where software is handed over by PILZ together with the software of other manufacturers ("third-party software"), in addition to these General Terms and Conditions of Use (licence conditions) of the other manufacturer shall also apply to the right to use such third-party software granted to the customer. PILZ shall refer explicitly to these licence conditions of the other manufacturer in the relevant product description.

§ 2

General/scope

(1) These General Terms and Conditions of Use are freely accessible at any time on the Internet at www.pilz.com/de-INT/termsandconditions and may be stored in reproducible form and printed out by the customer.

(2) Any conditions imposed by the customer are hereby explicitly rejected.

(3) The General Terms and Conditions of Use of PILZ shall only apply if the customer is an entrepreneur (Section 14 of the German Civil Code [BGB]), a legal person under public law or a public fund.

§ 3

Formation of contract

(1) In order to download the software, the customer must first register on the PILZ homepage at www.pilz.com/eshop/pilz/register.do. Following registration, the customer agrees to these General Terms and Conditions of Use and can then download the requested software free of charge.

(2) There are no supplementary verbal agreements at the time of formation of the contract. Individual agreements (including ancillary agreements, amendments and additions to these General Terms and Conditions of Use) expressly reached between the customer and PILZ in the individual case shall always take precedence over these General Terms and Conditions of Use to the extent that they came

about after conclusion of the contract. A written contract or – in its absence – written confirmation from PILZ to the customer shall be decisive with regard to the content of such individual agreements.

(3) The telecommunications costs incurred for the download shall be borne by the customer, even if the software is downloaded several times.

§ 4

Scope of performance and obligations of the customer

(1) The software is handed over to the customer by PILZ in its present state ("AS IS"). PILZ shall under no circumstances be under any obligation to the customer or to third parties to continue to develop the software, to make it available for downloading or in any other form, to support or maintain it and/or to offer it free of charge or against payment. Where PILZ provides user documentation, online assistance or other support services, this takes place on a purely voluntary basis, without the customer having any claim to the above.

(2) The properties and functionality of the software and of any third-party software to be delivered shall be as indicated in the PILZ product description at the time of downloading the software. The information contained in the product description by PILZ shall be regarded as a performance specification and not as a warranty. A warranty shall only be granted if it has been explicitly designated as such. Warranties are only issued in writing by PILZ management.

(3) Where the customer makes use of the software with the aid of a configuration not specified in the product description, he shall do so at his own risk; any liability by PILZ in terms of Section 10 of these General Terms and Conditions of Use is hereby excluded under any circumstances.

(4) The customer shall be responsible for selecting the software, for the tests to establish the suitability of the software for particular purposes, as well as for data backup. Only specialist, trained personnel may use the software and select and apply the data. PILZ software serves as an aid and does not relieve the user of the responsibility to make decisions. If in doubt, expert advice from PILZ should additionally be sought.

(5) The customer shall make appropriate provisions in accordance with the current technological state of the art for a scenario in which the software does not work correctly, whether in full or in part, as well as suitable safety measures to prevent external intervention, especially with regard to computer viruses or other phenomena that could pose a risk to individual data or the entire database

§ 5

Licence and protective rights

(1) In accordance with Sec. 5 - 7 of these General Terms and Conditions of Use, PILZ shall grant the customer for an unlimited period

the simple, non-exclusive, revocable, gratuitous, non-sublicensable right of use to the object code of the software for his exclusive use in accordance with the product description and only for his own purposes. This applies until it is revoked.

(2) The customer has no claim to the disclosure of the software source code compiled by PILZ.

(3) To the extent that rights are not expressly granted to the customer in these General Terms and Conditions of Use, all rights to the software and the documentation, including all copies made by the customer – in particular copyright, the rights to inventions, data, samples, models, drafts and expertise as well as other technical protective rights – shall remain exclusively with PILZ or a manufacturer of third-party software. The same applies to any editing of the software by the customer.

(4) The customer may under no circumstances remove or change any alphanumeric identifiers, copyright remarks, trademarks, other identification, serial numbers or other marks used for software identification or render these illegible in any way; if the customer is entitled to make copies, the above shall be copied unamended.

§ 6

Reproduction rights

(1) The customer may duplicate the supplied software if such duplication is essential for the use of the software. The customer may also make a duplicate copy for backup purposes.

(2) The customer may only make other reproductions of the software, including output of the program code on a printer and photocopying of the documentation, if PILZ has given the customer prior written authorisation to do so.

§ 7

Decompilation and modification of the software by the customer

(1) The customer shall fundamentally not decompile software into the source code or transfer the software into other forms or other programming languages, use such means to recreate the various production stages of the software ("reverse engineering"), edit or rework the software as well as copy it beyond the scope as defined in Section 6 of these General Terms and Conditions of Use.

(2) One exception is that the customer may analyse the software supplied and modify it only to the extent that is absolutely essential for establishing interoperability with an independently created computer program, satisfying the following conditions:

- All analytical or processing actions shall be carried out only by the customer, his employees or a third party expressly authorised by the customer.
- The information required for establishing interoperability is not accessible without decompilation to the customer or to a third party

For software made available free of charge

appointed by him, nor has it been made available to the customer even though the customer has requested Pilz to supply it, and he has set Pilz an appropriate extension for its supply.

- The analytical and processing actions of the customer shall be limited to those parts of the software that are necessary for establishing interoperability.

(3) The customer shall not use the information obtained through the actions pursuant to Sec. 7.2 of these General Terms and Conditions of Use for purposes other than for establishing the interoperability of the independently created program, and above all not for the development, creation or marketing of a program with essentially similar features, nor for other actions that breach copyright. He shall in particular not disclose such information to third parties except to the extent that the disclosure of the information is necessary for establishing the interoperability of the independently created program.

(4) To the extent that the customer is unable to or does not wish to perform the aforementioned exceptional activities himself or have them performed by his own employees, before commissioning third parties he shall give Pilz the opportunity to carry out the desired work to establish interoperability within an appropriate period of time and for an appropriate fee.

§ 8

Installation and export

(1) Installation by the customer is to take place in accordance with a procedure described in the user documentation, where this has been made available to the customer by PILZ, or one of the procedures described on this homepage.

(2) The customer is responsible for conducting all processes in respect of export and import of the software and shall bear all costs incurred for these processes. PILZ shall assist the customer with these processes. The software may be subject to (re-)export restrictions, e.g. of the United States of America or the European Union. The customer shall observe such stipulations if the items are resold or otherwise exported.

§ 9

No warranty

(1) Where PILZ provides the customer with information regarding known program errors, troubleshooting measures, restrictions and fault prevention measures, this takes place on a voluntary basis without any obligation on the part of PILZ. Customers will find this voluntary support at support@pilz.com.

(2) PILZ shall not issue any guarantee that the software functions will fulfil the specific requirements of the customer or that such functions will be compatible with components in the specific PILZ product configuration of the customer.

(3) The customer shall not be entitled to any warranty claims in the event of any material defects or defects of title with regard to the software.

(4) If the customer should discover errors in the software, PILZ requests to be informed of this, so that they can be rectified by PILZ if possible. The customer shall not have a right to such rectification by PILZ based on such information.

§ 10

Liability

(1) Unless otherwise agreed in these provisions, all compensation claims of the customer for losses of any kind, including for reimbursement of expenses and indirect losses such as loss of profit, are hereby excluded. This applies in particular to claims for all breaches of obligations resulting from the contractual relationship or from tort. The exclusion of liability shall also apply if PILZ has used subcontractors or vicarious agents.

(2) In derogation of Section 10.1 of these General Terms and Conditions of Use, PILZ shall be liable, whatever the legal basis, only – and this applies even if PILZ has used managerial staff or subcontractors and vicarious agents – if

- (a) there is gross negligence or intent on the part of PILZ;
- (b) PILZ has intentionally concealed a flaw or has issued a guarantee for the quality of the software; as well as if
- (c) PILZ has culpably caused injury to life, limb or health.

(3) In the event of liability on the part of PILZ, any possible negligence on the part of the customer shall be taken into account if the customer has culpably failed to take the precautions described in Section 4.5 of these General Terms and Conditions of Use.

(4) Moreover, the liability restriction in Section 4.3 of these General Terms and Conditions of Use shall apply.

(5) The exclusion of liability shall not be applicable in respect of claims under the German Product Liability Act. These provisions shall not entail a change in the burden of proof to the disadvantage of the customer.

§ 11

Right of retention/offset

(1) The retention of payments due to any customer claims against PILZ is hereby excluded, unless this right of retention is based on undisputed or legally validated claims of the customer.

(2) The customer shall not offset his own claims against PILZ's claims unless such claims are undisputed or have been legally validated.

§ 12

Final clauses

(1) The customer is hereby informed that Pilz will collect, store and process the customer's data to the extent that is necessary to complete the contract and on the basis of data protection regulations, and that if necessary this data will be passed on to third parties.

(2) The laws of the Federal Republic of Germany apply, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated 11/04/1980 (UN Sales Convention).

(3) The place of performance for the obligations under this contractual relationship shall be the registered office of PILZ in Ostfildern.

(4) If the customer is a businessman, a legal person under public law or a public fund, the exclusive place of jurisdiction for all disputes arising from this contract shall be PILZ's place of business. The same shall apply if the customer has no general place of jurisdiction in Germany, or if a domicile or habitual place of residence is not known at the time the action is brought. The plaintiff shall also be entitled to file a claim at the registered office of the defendant.

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