General Terms and Conditions of Duwe-3d AG for the Permanent Use of Plug-Ins of Duwe-3d AG for PolyWorks|Inspector™

Duwe-3d AG (hereinafter: *Duwe*) licenses companies and other commercial business persons (hereinafter: the *Customer*) plug-in software of *Duwe* for PolyWorks|Inspector™ (hereinafter: the *Software*) for permanent use on the basis of the following terms and conditions unless *Duwe* and the *Customer* agree otherwise in writing in the course of the order and the corresponding order acceptance (hereinafter: the *Software License Agreement*).

I. Conclusion of Agreement

1. General terms and conditions of *Customer* are applicable for *Duwe* only if and to the extent explicitly agreed by *Duwe* in writing.

2. Every offer of *Duwe* regarding the licensing of the *Software* is not binding and without obligation.

3. Ancillary and additional arrangements with *Duwe* which are made respectively prior, upon or after formation of a *Software License Agreement* must be made in writing to be valid.

II. Subject-Matter of the Service and Fees

1. Unless otherwise agreed in the *Software License Agreement*, the program will be provided in object code with a pertinent license key and the corresponding documentation. Program, license key and documentation are hereinafter collectively also referred to as *Software*. Subject-matter of the delivery is only the *Software* expressly designated in the offer, in particular the documentation expressly stated therein. Unless agreed otherwise, this documentation will be provided in English and German language.

2. The Customer is permanently granted the non-exclusive rights in the *Software* stated in section III. The *Customer* acknowledges that the ideas and concepts, which are part of the *Software*, are industrial secrets of *Duwe* and *Customer* has to treat them with the same diligence as its own industrial secrets. The *Customer* is not allowed to use those ideas and concepts for other purposes, especially for the purpose of reproduction.

3. Unless otherwise agreed in the *Software License Agreement*, *Duwe* may effect delivery of the *Software* at the option of *Duwe* – to the extent practicable and reasonable for the Customer – in the following ways: either by delivery of an electronic data carrier on which the *Software* is stored, or by e-mail transfer, or by referring the *Customer* to a possibility to download the *Software* from the internet.

4. The *Software* is a plug-in (software module) for the Software PolyWorks|Inspector of InnovMetric Software, Inc. Before using the *Software*, the *Customer* must register the *Software* with *Duwe*. Within this registration, the *Customer* has to indicate the ID number of the PolyWorks|Inspector license under which the *Customer* intends to use the *Software* in accordance with section III. The complete installation or use of the *Software* depends on the prior entry of a license key. The term of the license key will either correspond to the term of use agreed for the program or, to the extent agreed in the *Software License Agreement*, to shorter, recurring periods in order to secure the payment claims of *Duwe*.

5. The *Software* is licensed at the fee stated in the *Software License Agreement*, which is payable by the *Customer* without deduction. The prices stated in the *Software License Agreement* are net amounts which do not include taxes and other duties.

III. Customers rights of use

1. The *Customer* may only use the *Software* at the fee agreed in the *Software License Agreement* and only in conjunction with the PolyWorks|Inspector license of InnovMetric Software, Inc. which was indicated at the registration in accordance with section II paragraph 4; further, the *Customer* may only use the *Software* in the respective applicable version, and for internal use only. All restrictions on use applicable to the PolyWorks® Software products from InnovMetric Software Inc. apply to the *Software* accordingly.

2. Only for archival storage, the *Customer* is allowed to make backup copies. Any other reproduction is not permitted.

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IV. Warranty

1. The *Customer* must notify defects (material and title defects) in accordance with the statutory provisions, in any case including a detailed description of the defect. A material defect only exists if it can be reproduced or if it can be displayed by means of machine-generated issues.

2. For the avoidance of doubt: to the extent that a separate Software Maintenance Agreement is in effect with the *Customer*, *Duwe* shall only remove material and title defects in accordance with the Software Maintenance Agreement unless the *Customer* has expressly clarified when notifying the defect that it is asserting warranty claims against *Duwe*.

3. *Software* which has a material or title defect upon delivery which was properly notified by the *Customer* in accordance with these Terms may at the option of *Duwe* be repaired, replaced, or re-provided. *Duwe* may also fulfill its obligation for secondary performance in case of material defects of the *Software* by providing a new version of the *Software* or by taking circumvention measures, if the compatibility and functionality of the *Software* remain substantially unaffected, respectively, and if this is reasonable for the *Customer* in the individual case. Further claims due to material or title defects, in particular any claims for compensation of expenses or damages, only exist in accordance with the statutory provisions in case of a final failure of such secondary performance and in case Duwe acted with willful intent or negligence.

4. To the extent it is not possible for *Duwe* to remove title defects at appropriate and reasonable conditions pursuant to paragraph 3 or by other suitable means, *Duwe* may rescind this Agreement.

5. Claims of the *Customer* against *Duwe* based on material or title defects will become time-barred within 12 months after delivery of the *Software*. This does not apply if a longer period is provided by mandatory law and in cases of injury to life, body or health, in case of a willful or grossly negligent breach of duty by *Duwe* and in case of fraudulent concealment of a material defect. The statutory provisions regarding suspension, interruption, and restart of the limitation periods remain unaffected.

V. Liability

1. *Duwe* is liable
   - without any fault in case of claims under applicable strict product liability law,
   - in case of fraudulent misrepresentation,
   - in case of willful intent and gross negligence,
   - in case of simple negligence, for damages due to injury of body and health,
   - in case of simple negligence, in case of breach of core duties under the Agreement.

2. The preceding liability also applies in case *Duwe*´s vicarious agents acted willfully or negligently, provided that they are legal representatives or employees of *Duwe*. In case of other vicarious agents, the objective liability of *Duwe* is limited to cases in which these vicarious agents acted with gross negligence or willful intent.

3. *Duwe*´s liability is limited to the typically foreseeable damages. In case of loss of data, the liability is limited to the typical restoration costs which would have arisen in case of regular and risk-adequate production of back-up copies.

4. In all other cases, the liability of *Duwe* is excluded. This also applies to the liability of employees, representatives, and vicarious agents of *Duwe*.

VI. Information Obligations

1. The *Customer* is obligated to notify *Duwe* in writing about the removal of a copy protection or similar protection routine from the program code immediately. The necessary disruption of the program use required for this type of permitted program modification must be described by the *Customer* as detailed as possible, using its best efforts. The description duty includes a detailed description of the disruption symptoms occurred, the estimated cause of disruption and in particular a detailed description of the undertaken program modification.

2. Upon request, the *Customer* will inform *Duwe* whether and to which extent the *Software* is used in accordance with the *Software License Agreement* and whether the obligation pursuant to section VII paragraph 2 is complied with. After prior written notice by *Duwe*, *Duwe* may check compliance with these obligations by the Customer on the *Customer*´s premises. The *Customer* may request formation of a reasonable non-disclosure agreement as a condition precedent to such a control visit. The costs of the control visit will be borne by the *Customer* if a breach of obligation by the *Customer* is determined.

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VII. Retention of Title / Expiration of the Rights of Use

1. Apart from the right to use the *Software* granted, subject to condition subsequent by means of the license key, *Duwe* also retains title in data carriers delivered to the *Customer*, if any, until complete payment.

2. In case of every termination of the Agreement, the *Customer´s* right to continue using the *Software* will expire. Upon request of *Duwe*, the *Customer* is obligated to surrender the original *Software* data carrier as well as all copies made by the *Customer* or, at the option of *Duwe*, to delete or destroy them.

VIII. Notes and information on Third Party Software and Open Source Libraries

The *Software* uses third-party software and open source libraries. You will find a complete list along with the applicable licensing information in the Third Party Notices in the installation directory. By using the *Software* and thus the contained third-party software, you accept their license terms.

IX. Miscellaneous

1. Every *Software License Agreement* with the *Customer*, its conclusion and termination are subject to the laws of Germany, to the extent these General Terms and Conditions for the Permanent Use of Plug-Ins of Duwe-3d AG do not provide otherwise. UN Sales Law (CISG) does not apply. The exclusive venue for disputes from or in connection with these agreements is Kempten (Allgäu, Germany) if the *Customer* is a merchant.

2. Should a provision of the *Software License Agreement* be or become invalid, the validity of this Agreement is not affected, unless the adherence to the Agreement would constitute an unreasonable hardship for one of the parties. The parties will replace the invalid provision with a valid provision which most closely resembles the intention of the parties upon formation of the Agreement.

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