

General Terms and Conditions of Kroll Ontrack Software and Hardware Products

Please read through the following provisions carefully before operating Kroll Ontrack software or hardware.

I. Software products

1. Conclusion of a licensing agreement

Through opening a sealed software package or – in particular if software is downloaded – through usage of the software, you confirm that you have read this licensing agreement, understood it and that you are in agreement with the licensing conditions. This constitutes the conclusion of a licensing agreement. If you are not in agreement with the licensing terms you may not use the software and, in the event that a data carrier has been purchased, the complete software package must be returned to the seller and any copies thereof destroyed. You will then be reimbursed for the purchase price.

2. Granting a software licence

This software is the intellectual property of Kroll Ontrack Incorporation or their suppliers. You are acquiring the licence to use the software. You may make a copy of the software solely for the purpose of security or archiving, or transfer the software to a single hard drive if the original is being kept as a copy for the purpose of security or archiving. The user manual and other documents enclosed with the software may not be copied.

3. Copyright

This licence agreement entitles you to use a copy of the Kroll Ontrack Incorporation software product acquired on a single computer. The software is "in use" on a computer if it has been loaded onto the main memory (RAM) or saved to the non-volatile memory (hard drive, CD-Rom, or another data-carrier) of this computer. A copy of the software is not "in use" if it is installed on a network server solely for the purpose of internal circulation to other computers, provided that you have a separate licence for each computer on which the software is used.

You may not lease, lend or grant sub-licences for this software. You may, however, permanently transfer rights from this licence agreement to another party provided that you transfer all copies of the software and all enclosed documentation, and the third party states that it consents to the terms of this agreement. You are not entitled to reverse engineer, decompile or disassemble the software.

4. Warranty period / Liability limitations for consequential damage

The warranty period for commercial customers is 1 year commencing on receipt of the software. The statutory warranty period applies for consumers.

Kroll Ontrack is liable without restriction for intent, gross negligence and malicious intent, and in the case of injury to life, body or health and for infringement of essential contractual duties. Otherwise, Kroll Ontrack is liable for negligent breaches of contract insofar as the occurrence of the damage was foreseeable, up to a maximum, however, of fivefold of the purchase price.

5. Export regulations of the USA

The software and its associated documents are subject to the Administration Act of the United States of America, the provisions of which prohibit the export of certain installations and technical data including software into certain countries. There under it is forbidden to export software to the following countries: Cuba, Iran, North Korea, Sudan and Syria. Through conclusion of the licence agreement you agree that you will not export the software and its associated documentation to the above countries.

II. Hardware products

1. Application of general terms and conditions

These terms and conditions apply to all of our sales of hardware products. General terms and conditions of the customer which deviate from these shall not apply.

2. Information on health risks in the operating instructions

Read the operating instructions carefully, in particular the information on health risks if the product is not used in accordance with the operating instructions.

3. Warranty rights

For commercial customers Kroll Ontrack is entitled to decide whether repair or substitution shall be made in the event of a defect. The statutory warranty rights apply for consumers.

4. Reservation of title

We reserve title to all goods delivered by us until all claims to payment arising from the supply agreement have been settled in full.

If the customer defaults on payment we are entitled to take back the reserved goods. Rescission from the contract is not required herefor. The return of the goods to us does not represent rescission of the contract.

The customer is entitled to resell in the course of due business.

The customer hereby assigns its claims arising from resale to us for the eventuality that the goods are resold. We accept such assignment. The customer is authorised to collect assigned claims until we revoke such authorisation. After revocation the customer is obliged to disclose to us all information required to collect the claim and to inform the third party of the assignment.

We are under an obligation to re-assign such claims on request to the extent that the assigned claim exceeds 120 % of the claim so secured.

5. Warranty period / Liability limitations for consequential damage

The warranty period for commercial customers is 1 year commencing on handover of the product. The statutory warranty period applies for consumers.

Kroll Ontrack is liable without restriction for intent, gross negligence and malicious intent, and in the case of injury to life, body or health and for infringement of essential contractual duties. Otherwise, Kroll Ontrack is liable for negligent breaches of contract insofar as the damage was foreseeable, up to a maximum, however, of fivefold of the purchase price.

6. Place of jurisdiction / Applicable Law / Severability

Place of jurisdiction for businessmen, legal persons under public law or under special public funds is Böblingen.

This agreement shall be subject to the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be ruled out.

If individual provisions of the Agreement should be invalid, this shall not affect the validity of the other provisions.

As of November 2008