

General Terms of Contract for ASOM 365 for business clients

Unless otherwise specified in compulsory International or European regulations applicable to a contractual relationship, German law is exclusively applicable to this agreement and all legal and contractual relationships derived from it. The license agreement is valid for all aspects that have not been explicitly defined otherwise in the offer.

Attention! The German version of this agreement is the only legally valid variant. This translation has been provided for your convenience, but cannot be guaranteed to convey the full letter of the German law.

1. Object of agreement

The object of this agreement is a license to use the software ASOM (Analysis, Synthesis and Optimization of Multi-bar linkages) in the current as well as any future versions, including updates and upgrades for the full duration of the license term. This software is a conceptual software that has been specifically developed to conceptually support the kinematic design of multi-bar linkages. The software including all of its components and manuals is only provided via download. Its features, essentially, match the description in the enclosed documentation.

ASOM (hereinafter: "the software") is a product of the info-key GmbH & Co. KG (hereinafter: „info-key“), which owns all rights with regards to the software and reserves all explicit and implicit rights granted by German and European software law. This license agreement does not limit those rights.

Thus info-key is a licensor and as such grants the business client (hereinafter: "licensee") the right to use the software within the limits of this agreement.

2. Grant of license

The agreement between the licensee and info-key will take effect once the licensee has received order confirmation from info-key. The licensee accepts the exclusive validity of this license agreement and under this condition is granted the right to install and use the software under a nonexclusive, nontransferable license. Terms set by the licensee which stand in conflict to or diverge from this agreement are void.

The licensee will appoint contact persons for download, installation and administration of the software ASOM and convey their contact information to info-key. The license is granted to any person who works at the places of business of the licensee. The software must not be sold, lent, handed over to or otherwise used by any third party (e.g. companies, universities, institutions, service providers etc.), though.

For additional support services by info-key, particularly with regards to system preparation, installation, demonstration, orientation, workshops and any further consultations, the licensee will be charged according to expended time and effort. The communication between both parties (by e-mail, telephone, etc.) will by default not be secured by encryption. If the licensee requires extra communication security by encryption, this has to be stipulated explicitly in written form.

After this agreement takes effect, the licensee will receive a license file that is bound to parts of the hard- and software of the computer on which the software or – in the case of network licenses – the license server will be installed. This license file is provided under the same terms and conditions as the software itself. If the license file needs to be created anew, e.g. because the hardware of the licensed computer has changed, before the end of the current license term, the licensee may be charged an additional fee for this service.

Every license is meant for the use on one single computer at any given time. Any attempt to use one license concurrently on multiple computers (including virtual machines) by technical means is prohibited and may have consequences under criminal or civil law.

2.1. Single license

Every license file contains only one license which has been bound to one computer through a license ID (hostID). The use of the same license file on multiple computers is not permitted.

2.2. Network license

One license file can contain multiple licenses which are bound to one server through a license ID (hostID). It is the licensee's responsibility to set up a license server to administer those licenses within his network. Network licenses can be used at all company locations within the respective country, if no differing terms have been agreed upon in writing.

3. Restriction of use

The right of use is explicitly tied to the term of this agreement. Once the agreement expires, so does the right to use the software.

The licensee is not allowed to use the software to (1) develop software applications. Furthermore, the licensee may not (2) offer any kind of service in connection with the software, including, but not limited to, consultation, workshops, training, support, outsourcing, service companies, customization or development for third parties concerning the software, regardless of the way in which such services are offered or conducted.

The licensee is aware that info-key is the author as well as the owner of the software. Granting a license for its use does not constitute in any way a sale of any rights to the software. info-key retains ownership and copyright as well as other rights to the intellectual property pertaining to the software and all modifications, improvements or derivative works relating to the ASOM software, as well as any documents the licensee has been provided with during the ordering process.

The licensee is not authorized to correct errors, defects or other operational anomalies. Furthermore, the licensee is not allowed to modify, adapt, reverse engineer, decompile, disassemble or otherwise translate the software or any part thereof. The licensee has no claim on any patents, copies, trade secrets, trademarks or other rights that are part of the range of features of the software. The licensee is advised to treat the software confidentially and take all necessary and appropriate steps to prevent any unauthorized copying of the software.

4. License periods and cancellation

The fixed term of this license agreement is one year, then it expires automatically. Different license terms are possible, but must be set in writing as part of the quotation.

Both contractual parties may cancel the license agreement extraordinarily, given that the other party has neglected to fulfill at least one of their duties and has failed, even after having been informed in writing, to make amends. In particular, if the licensee has not made a due payment, info-key reserves the right to terminate the contract extraordinarily and with immediate effect. Consequently, info-key will no longer be bound by this agreement. Rights of use, registration and any support services connected to the license no longer apply. The licensee undertakes to delete the software and all associated components (e.g. digital manual) and to destroy all safety backups (including printouts of any documents) as well as to confirm doing so to info-key in writing.

5. Terms of payment

For the whole term of the agreement, the licensee will be charged an annual fee (or an annually recurring fee, if the contract term is longer than one year). Payment is always due in advance, i.e. in the month before the begin of the term of license (or the next year of usage for longer contract terms), the latest possible date being the third business day of the first month of usage.

To this end the licensee will transfer the license fee after receiving an invoice by info-key. Any payments the licensee makes to info-key have to be made directly to the account of the info-key GmbH & Co. KG.

All prices are net prices and are quoted without value added tax (VAT). A trade discount will not be given. In the case of international sales, the licensee is responsible for paying all thereby incurred taxes, duties or other associated fees.

For contract terms longer than one year, info-key reserves the right to adjust the annual license fee after one year of fixed pricing. The licensee will be informed of any upcoming adjustment in writing at least 3 months before the end of the current year of usage in written form by way of a new, optional, contract proposal.

6. Warranty and liability limitation

info-key does not warrant that the functionalities of the software will meet the licensee's demands or make the licensee achieve their objective. Moreover, info-key does not warrant that the software or certain parts thereof will work without interruption or failure.

The licensee is responsible for data protection and protection against computer viruses and other undesired content according to the current state of technology and it is also the licensee's responsibility to make sure that results generated with the help of the software match the licensee's quality and safety requirements for its products and services.

With complex software like ASOM the possibility of errors occurring cannot be completely eliminated. The licensee is urged to test the basic functionality of the software on the licensee's hardware and to report any detected faults immediately. If there are any obvious faults in any part of the software, info-key is - under exclusion of any further warranty claims - obligated to correct these faults or offer a functioning replacement. In this context, more than one attempt at correction is permissible. Faults in the core functionality of the software are to be corrected by info-key within a reasonable amount of time. Otherwise the licensee is warranted the right to an appropriate reduction of the license fee in the month in question up to a maximum of the full license fee. The licensee is not entitled to any further claims.

info-key may not be held liable for the correct selection, installation, deployment, application or use of the software or any parts thereof, as well as for any results that can be generated with the software. This especially applies to the use of unsuitable hardware, software modifications or usage of the software without the necessary technical expertise. Also, info-key may not be held liable for damages resulting indirectly from the use of this software. The licensee waives all claims towards info-key resulting from indirect, accompanying and subsequent damage that is in any way connected with services provided by info-key, as long as this is legally permissible.

No one party can be made jointly and severally liable with another party. No party represents another party. The liabilities info-key assumes because of damages towards the licensee cannot be higher than the sum of payments made in the preceding 12 months for the use of the software. The licensee explicitly and irrevocably waives in full any claims from lost gains, interruption of business and loss of data, that are in any way connected with the software or services provided by info-key, even if info-key was made aware of the possibility of such damages. No representative or employee of info-key is authorized to provide the licensee with any warranties in these regards.

7. Final provisions

Any conditions that were possibly previously agreed upon between both contractual parties, whether they be in written, verbal, or any other form, will be replaced by this agreement. Should any part of this agreement have no legal validity, the validity of the other provisions will remain unaffected thereby. Amendments to this agreement may be added later, but they have to be in written form and need to be signed by info-key to become legally valid. Notwithstanding this, info-key reserves the right to adapt this agreement to comply with current jurisdiction with any update to the software. By utilizing an update, the licensee implicitly declares his approval of any changes made to the agreement at the time of that update. The current terms of contract can also be viewed and downloaded online at <https://info-key.de/about-us/imprint/license-agreement/>.

If the licensee is a registered trader, Wuppertal is agreed upon as place of jurisdiction and performance for any conflicts that result from business relations with info-key.

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