

Terms and conditions of licence and use for software of Convothem Elektrogeräte GmbH

(Last updated: January 2015)

The following terms and conditions of licence and use for software ("Terms of Use") shall apply to software, software modules, applications (apps) and other downloads (hereinafter together referred to as "Software") which you (hereinafter also referred to as "User") download to, install or use on devices of Convothem Elektrogeräte GmbH or your own terminal devices (such as PCs, tablets, mobile terminal devices etc.). They shall not apply to pre-installed Software which allows a proper operation of the device (e.g. control software of the combi steamer) or updates, upgrades and new releases which are supplied to this end. These Terms of Use shall only apply to Software which is available in the download centre on our website free of charge and not to Software which is provided by a third party in connection with the use of devices of Convothem Elektrogeräte GmbH. These Terms of Use specify the details of the contractual relationship between Convothem and the User with respect to the use of Software. In addition to that, the User shall observe the information in the user manual of the respective device.

1. General

1.1. Convothem Elektrogeräte GmbH, Talstraße 35, 81436 Eglfing, Germany, (hereinafter referred to as "Convothem") offers Software via the download centre on its website myconvothem.de which can be downloaded to, installed or used on devices of Convothem or the User's own terminal devices (e.g. PCs, tablets, mobile terminal devices etc.) free of charge. This free provision of Software for use does not constitute a sale of the Software. Except for the right to use the Software, the User does not acquire any rights in the Software itself.

1.2. The following Terms of Use shall apply exclusively. We do not acknowledge any contradicting terms and conditions of use, licence terms or general terms and conditions of the User, unless we explicitly approved of their application in writing.

1.3. The creation, maintenance and installation of the Software is not owed.

2. Right of use

2.1. The installation of the Software by the User constitutes the conclusion of a contract between Convothem and the User on the free use of the Software pursuant to these Terms of Use.

2.2. Convothem grants the User a non-exclusive and non-sub-licensable right to use the Software without restrictions as to time and place.

2.3. The right to use the Software is limited to the use of the Software on devices of Convothem.

2.4. The User may duplicate the Software for the purpose of installing the Software on the hard drive (or another mass memory) of the used computer and loading the program into the random access memory. Moreover, the User is entitled to make a backup copy of the Software.

2.5. The right to edit the Software is limited to maintaining or restoring the agreed Software functionality.

2.6. The commercial use of the Software is only permitted to the extent this is in line with the approved use of the Software. A commercial use of the Software beyond this scope is not permitted, in particular no other reproduction, distribution and sale (for other purposes than a backup copy). The User may in particular not sell, give away as a present, lend or lease the Software to third parties or make it publicly available.

2.7. The licensee will not be granted any further rights of use in the Software.

3. Duties to cooperate

3.1. It is the sole responsibility of the User to make sure that the infrastructure which is necessary for the operation of the Software is available. It is, in particular, in the sole responsibility of the User to make sure that there is a working Internet access and/or LAN/WLAN network where applicable for the use of the Software. Convothem does not

offer any Internet services and is not responsible for any disturbances, transmission errors or any lack of availability of the Internet - or other network services.

3.2. For an unlimited use of certain functions of the Software, it is necessary for the User to register and open a user account. This registration is voluntary.

3.3. If the Software is operated on a device which connects to the Internet via the mobile phone network, the respective mobile network operator may charge a fee which the User has to bear alone. Convothem does not assume any liability for any data transfers triggered by the Software or any associated costs.

3.4. The User is informed that the cooking profiles available with the Software may not be completely installed on the device as a result of disturbances of the network, transmission errors or malfunctions of the User's computer. Before using the Software, the User shall check whether the Software has been successfully installed on the device.

3.5. The control by the Software does not replace the User's duty to personally monitor the device and control the food so produced. The recipes provided by the Software are non-binding suggestions and have to be adjusted by the User to fit with the ingredients used during each preparation process. In particular the cooking time may vary depending on the quantity and condition of the ingredients used.

3.6. The User is informed that he/she must use a device which is fully working, adequate and in line with the details specified in the technical documents of the respective Software. The User will be provided with such technical information in due time, i.e. before the installation of the Software.

4 Software updates, restrictions on use

4.1. The installation of updates for the devices (e.g. system software, steering software) is a mandatory requirement to ensure that the User can use the latest version of the Software and can make use of the latest functionalities. Convothem points out that the functionalities cannot be used or can only be used to a limited extent if the updates are not installed.

4.2. Convothem may at any time, for technical reasons, maintenance or other measures to improve the Software quality suspend or block the access to its services and the provision of the Software, temporarily or, where this is justified in individual cases, permanently, taking into account the User's interests.

5. Program modifications

5.1. A reverse translation of the program code into other code types (de-compiling) as well as other kinds of reverse development of the various production stages of the Software (reverse engineering) shall not be permitted.

5.2. Removal of any copy protection or similar protective routines shall not be permitted.

5.3. Program changes for the purposes of troubleshooting or the expansion of the scope of functionality shall not be permitted.

5.4. Sec. 69d and Sec. 69e of the German Copyright Act (*Urhebergesetz, UrhG*) shall remain unaffected.

5.5. Copyright mentions, identification markings of other industrial property rights or serial numbers and any other features that serve to identify the Software or hardware must in no case be removed or altered.

6. Statements as to quality

6.1. Convothem does not assume any warranty for the Software being free from defects as to quality and title. This shall also apply in particular to the infringement of third-party rights, representations or the merchantability, suitability for a particular purpose as well as the absence of viruses. Convothem does in particular not warrant that the Software runs without interruptions and errors or that it meets the requirements of the User.

6.2. The recipes provided by the Software are non-binding recipe suggestions. Convothem does not provide any warranty or guarantee with respect to the quality of certain final products. The quality of the products made with the help of the Software basically depends on the quality of the ingredients used.

6.3. Convotherm does not warrant that the Software is compatible with any third-party software.

7. Liability

7.1. As Convotherm provides the Software free of charge, Convotherm shall only be liable for intent and gross negligence (Sec. 599 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*)). In all other cases, a liability of Convotherm shall be excluded. Clause 7.2 shall remain unaffected.

7.2. The limitations of liability pursuant to clause 7 shall not apply where we fraudulently concealed a defect or guaranteed the quality of the Software. The same shall apply to claims pursuant to the German Product Liability Act (*Produkthaftungsgesetz, ProdHaftG*).

8. No responsibility for third-party software

8.1. Convotherm shall not be responsible for the availability, content and functionality of any third-party software. This shall also apply to Software to which Convotherm refers by means of hyperlinks or other references.

8.2. The User uses such third-party software expressly at his own risk. In particular, Convotherm does not assume any liability for damages which were caused by the use of any third-party software by the end user.

8.3. Clause 7 shall remain unaffected.

9. Termination of this contract

9.1. This contract on the free provision of the Software for use is concluded for an indefinite period of time.

9.2. Clause 4.2 shall remain unaffected.

9.3. In case of a termination of this contract and in the cases mentioned in clause 4.2, Convotherm is entitled to revoke the granting of the rights of use, to stop the use of the Software and to suspend any support by updates and/or upgrades. Any backup copies which were made have to be destroyed and/or Software installed on the respective hardware has to be deleted. The User shall provide written proof of the destruction and deletion upon first request of Convotherm.

10. Final Provisions

10.1. If individual provisions of these Terms of Use are or become invalid or void, this shall not affect the validity of the remaining provisions of these Terms of Use.

10.2. Side agreements to this contract shall only be valid if they have been agreed in writing. This shall also apply to any amendment to this requirement of written form.

10.3. The laws of the Federal Republic of Germany shall apply exclusively.

10.4. The exclusive place of jurisdiction for any and all disputes with entrepreneurs directly or indirectly resulting from this contract shall be Eglfing. Convotherm shall nevertheless have the right to file an action at the general place of jurisdiction of the User.