

Software-Licence Agreement for Software Products by HUENGSBERG AG

Please read this software licence agreement (“**Agreement**”) carefully before you acquire, install on your computer, have it installed by HUENGSBERG AG and use the software. By installing the software you specifically agree to the following licence agreements. In case you don’t agree to the license agreements the software can be returned within 30 days from the date of shipment (date of the delivery note). In case the delivery has been carried out via download, it is sufficient to place an informal objection and to confirm the permanent deletion of the software in written form. Subsequently you get a total refund of the purchase price of the software. Additional services (for example installation services) are excluded from the right to return. With the return of the software the right to use it expires. These terms of contract apply exclusively. HUENGSBERG AG does not accept any trading conditions of the customer which contradict these terms of contract. Herewith the inclusion of the customer’s own terms and conditions is explicitly contradicted.

1. Subject of the Contract

HUENGSBERG AG (“**Licencer**“) grants the customer (“**Licencee**“) the temporary and non-exclusive right to use the purchased software according to the conditions of this contract; incidentally all rights of the software and the documentation remain with HUENGSBERG AG or its licensors.

2. Rights of Use

For the grant of the licence the following terms shall apply:

2.1 The licencee receives a basic, non-exclusive and non-sublicensable right of use of the software and the associated documentation for own use, as provided in the contract, with complete and unreserved payment of the license fee. The granting of the right of use is valid from the date of shipment and is limited as follows,:

- to the expiring date of the software maintenance contract for eng**DAX.XLATE**
- to 5 years for further software

The period of use can be prolonged as per paragraph 2.2 of these terms of contract. A software-licence applies for only one location; for the installation or usage at several locations (e.g. terminal server) the purchase of additional licences is mandatory. The licencee is authorized to use the software according to the acquired licences:

Single-User License:

The single-user license grants the licencee the right of installation and usage of the software on a single user-computer as well as for one single user. It is not permitted to use the single-user license within a network or another interconnection of computers, in case a simultaneous multi-usage of the software within the network is enabled.

Multi-User License:

With the purchase of a multi-user license the right of use applies for the agreed number of client licenses. Depending on the licensing model of the software the client-licenses apply for the simultaneous access (“floating licence”) or for certain users (“fixed licence”). A usage of the software that exceeds the agreed upon scope of use is not permitted.

2.2 In case the licencee has a valid software maintenance contract with the licencer, to maintain the software as covered in the contract, at the time the 5 years using period expires, he keeps the right of use of the software for the duration of the maintenance contract as long as he is not behind schedule with the payment of the maintenance fee. The licencee is furthermore authorised to continue the use of the software, covered by the contract, after termination of the software maintenance contract for the period which relates to the terminated maintenance contract, however for 5 years at most. For the software eng**DAX.XLATE** the right of use expires at the end of the calendar year when the software maintenance contract expires, too. In case of the purchase of a software update another usage period of 5 years starts for the software as covered in the contract with the limits in the right of use as quoted in paragraph 2.1.

- 2.3 The licensee is entitled to produce a duplicate of the software as far as this is necessary for the usage of the software. Part of the necessary duplications is the installation of the software from the original data carrier to the hard disk of the used hardware, as well as the loading of the software into the working memory is. The licensee is allowed to produce one copy of the software for the purpose of data storage on a permanent data carrier. Backups of the software must be explicitly marked as such. A duplication of the user manual and other documentation is not permitted.
- 2.4 The software must be installed in the environment of an operating system approved by HUENGSBERG AG complying the recommended hardware requirements.
- 2.5 The licensee is not entitled to retranslate (disassemble, decompile) the software or to apply other ways of redevelopment ("Reverse Engineering"). In case the licensee needs information which is essential for the establishing of interoperability of the software with other independently created computer programs, the licensor reserves the right to refuse information concerning this matter. Thereof unaffected are modifications or adjustments which are already permitted according to the product information or the delivered information.
- 2.6 The licensee is not entitled to conduct modifications or interferences at the software or to have them conducted by a third party, not even to remove bugs. This term does not apply in case HUNGSBERG AG has declined to make these modifications. HUENGSBERG AG takes over these modifications only against an adequate consideration, e.g. in the frame of a software maintenance contract.
- 2.7 The licensee is not entitled to lease the software as a whole or in parts, to issue own licenses or to use the software as Application Service Provider (ASP) or in Clearing-Centre.
- 2.8 In case the software has been licenced as upgrade or update, the licensee is authorized only to replace it by former versions. All other terms of this contract apply in this case as well. The licensee acknowledges that with the purchase of an update or an upgrade no further licence is granted. That is he is not authorised to use the upgrade or the update in addition to the software to be replaced nor is he allowed to convey the software to be replaced to a third party.

3. Transferring or Selling of the Software

- 3.1 The licensee is entitled to assign the complete software including the associated documentation to a third party by means of a taking over the contract. Therefore the third party has to assume the existing contractual relationship with the licensor. The licensor will withhold his agreement to the contract assumption only in case of unreasonable hardship. By taking over the contract the former licensee has to cease the use of the software immediately and delete or destroy all copies.

The transfer of rights of use will not become effective until the licensee has notified HUENGSBERG AG of the transfer, HUENGSBERG AG has given its consent and the third party has been registered as licensee at HUENGSBERG AG. The former licensee has to hand the software-licence contract to the buyer as well as he is obliged to inform him about the expiring date of the software.

- 3.2 Excluded from the transferring and selling is software which was explicitly offered for the use in education (schools, universities or comparable institutions) and software which was in use for testing purposes and presentations only.
- 3.3 The export of software including the corresponding data and documentation may underlie the obligation to obtain a permit. The licensee is committed to obtain the necessary export-permission on his own responsibility and to perform deliveries according to the requirements of this permission.
- 3.4 Any other form of passing on of the software (subleasing or leasing, e.g.) to a third party without the prior consent of the licensor is not permitted.

4. Warranty

- 4.1 The licensor guarantees the maintaining of the quality of the software according to the product's specifications as contracted, during the contract period as well as he warrants that the rights of a third party do not conflict the use of the software as agreed upon in the contract. The licensor will correct occurring defects of quality and title of the software in appropriate period of time.
- 4.2 The correction of deficiencies is carried out at licensee's option either by amendment of the software or by replacement.
- 4.3 In case of any deficiencies the licensee is committed to notify in writing the licensor promptly after their detection. At any defects of quality, the time when the defect occurred and further circumstances must be reported.

- 4.4 Subject of the warranty is the software exclusively in the version delivered by HUENGSBERG. The rights of the licensee concerning the appearance of deficiencies do not apply in case the licensee or a third party has modified the software without the prior notification of the licensor, unless the licensee can prove that the occurring deficiencies are not due to these modifications and that there won't be any unacceptable effects on analysis and remediation of the defect for the licensor. Software bugs due to an incorrect installation or configuration by the licensee are just as little subject of the warranty as bugs of the operating system of the licensee or of a third party product.
- 4.5 The licensor is entitled but not obliged to provide enhanced versions (upgrades) or modifications (updates) of the software. The licensor may charge such updates or upgrades.
- 4.6 The licensee is responsible for the regular backup and maintenance of his individual data. The licensee has to provide the saved data to the licensor in case this is necessary for the debugging of a deficiency and furthermore he has to support the licensor in the debugging of a deficiency in a reasonable manner.

5. Liability of HUENGSBERG AG

- 5.1 The licensor's liability is unlimited only
 - in case of malice or gross negligence
 - in case of damages arising out of death, injury to body or health
 - according to the terms of the Product Liability Law
 - within the scope of a guarantee taken over by the licensor
- 5.2. In case of slight negligence of a duty, whose fulfilment is essential to attain the intent of the contract, the licensor's liability is limited to damage, which is predictable and typical for the manner of deals in question. Essential duties are duties whose fulfilment actually permits the duly realisation of the contract and in whose fulfilment the customer can trust.
- 5.3 A further liability of the licensor does not exist. In particular a liability of the licensor for initial deficiencies irrespective of the culpability does not exist.
- 5.4 The foresaid limitation of liability applies for the personal liability of employees, representatives and entities of the licensor as well.
- 5.5 In case of a minor data loss the licensor is liable only for damage which could have occurred even with properly and regularly executed backups consistent with the importance of the data; this limitation does not apply in case a backup has failed or has been constricted due to circumstances the licensor is responsible for.
- 5.6 The limitation period of entitlement of damages against the licensor is one (1) year starting from the date of the beginning of the limitation by law.
- 5.7 In case the software is used against the terms of contract the liability of the licensor is excluded.

6. Extraordinary Right to Cancel

- 6.1 HUENGSBERG AG is entitled to withdraw from the license contract for good cause in case of severe neglect of the intellectual property rights on the software by the licensee. In case of cancellation all rights of use of the licensee expire. The software has to be returned and all software copies have to be destroyed. Further rights of HUENGSBERG AG to an extraordinary notice of cancellation stay hereof untouched.
- 6.2 Cancellation from the licensee for reasons of non-granting of a usage as contracted, is permitted according to §543 paragraph 2 clause 1 No. 1 German Civil Code only in case the licensor has been granted adequate chance for the remedy of defects and it failed. A total failure can be assumed only in case a remedy could not be carried out or the licensor denied it or delayed it in an unacceptable way or the licensee has well-founded doubts concerning a successful solution or a remedy is unacceptable for the licensee due to further reasons.
- 6.3 Cancellation must be in writing.

7. Use of Customer Data / Nondisclosure

HUENGSBERG AG will handle the customer data, cohesively acquainted with the business connection, according to the appropriate legal data security regulations. Licencer and licensee commit themselves to handle confidentially all mutual data and information which they obtain directly or indirectly in the line of compliance of this contract. The parties particularly assure to neither forward these information or data to a third party nor to make it available in other form to a third party and to make adequate arrangements to avoid an access of a third party to these information and data. Information and data on this note are particularly:

- Professional know-how as well as business and company secrets,
- Data of information-technical systems,
- Other non-public information that a party will obtain within the framework of cooperation.

The nondisclosure responsibilities according to this contract do not exist in case and as far as the relevant information demonstrably:

- is generally known,
- becomes generally known with none of the parties to blame
- was legitimately obtained or has been obtained by a third party, or
- is already available for both parties.

8. Final Provisions

8.1 Verbal agreements are not made. Changes and appendices to this contract shall be made in written.

8.2 The law of the Federal Republic of Germany is applicable excluding the United Nations Convention on Contracts for the International Sale of Goods.

8.3 If the licensee is a merchant or his registered office or his residence is abroad, the place of jurisdiction is the registered office of HUENGSBERG AG.

HUENGSBERG AG is authorized as well to sue the licensee at his general place of jurisdiction.

8.4 In case some of the regulations are or become ineffective, the effectiveness of the remaining regulations will not be affected.