End-User License Agreement
Trial Version
For proprietary code (not free/open source)

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In annex : specific terms (optional) and Service Level Agreement
End-User License Agreement
General Terms and Conditions (GTC)

Definitions

All undefined, capitalized words in the present document are defined in the Service Level Agreement (SLA).

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By exception to the above rules, Licensor shall be entitled to terminate the maintenance (Service Level Agreement) where an imperative regulation limits the right to export such products in the Country of Licensee.

1.4 - Installation
Installation of the Software Product is Licensee’s sole responsibility and shall be accomplished in accordance with the installation guidelines supplied by the Licensor.

Should the installation fail, the Licensee shall inform Licensor local representation immediately. Licensor local representation and Licensee will communicate and act in good faith to find quickly an efficient remedy. If no remedy is found within a reasonable timeframe, the Licensor shall commit to enter discussions in good faith with the Licensee so as to find a solution acceptable for both Parties.

2 - Hardware

2.1 - Principle of no transfer to different hardware
The Software Product can be installed on any hardware and the location can be changed by the Licensee. But as for the location of the files or system that allow the use - may it be a dongle mounted to a hardware or licenses files stored on some hardware (local computer or server) - a transfer of those license files or dongle to another hardware may only be authorized to Licensees that are entitled to support and maintenance (due
to the payment of maintenance fees for PUL or due to the renewal of yearly licenses), on an identical hardware and software configuration, and only in the case where the transfer is necessitated by the obsolescence or failure of the hardware.

Licensee shall provide evidence of such failure or obsolescence and Licensor shall be entitled to a reasonable fee for said transfer, which fee is set out in Licensor’s price list.

2.2 - Changes in system (hardware and software) configuration

Licensee acknowledges having been informed of the required minimum configuration for use of the Software Product. Licensor neither claims nor guaranties the adequacy of the Software Product with any other configuration.

2.3 - Obligations of Licensee consecutive to an authorized transfer

In any case of replacement of the hardware as provided in 2.1., Licensee is required to ensure the deletion or destruction of any Software Product installed on the preceding hardware or on other computer devices which are to be either discarded or no longer used with the Software Product; said Software Products must be definitively erased from or destroyed with said hardware.

3 - Interoperability

3.1 - Interoperability: use within the European Union

Should Licensee use the Software Product within the European Union, the following dispositions apply:

Should Licensee wish to have the Software Product interoperate with a Third Party Product, Licensee will first inform Licensor or Licensor local representation of its intent.

Licensor may then decide to either communicate the required interface information or make a commercial proposal to pursue any development in order to achieve interoperability; the latter includes improvement of the Software Product or writing of an intermediate program.

If Licensee rejects Licensor’s commercial proposal, Licensor will then, without requesting further justification, provide Licensee with the required interface information under the strict conditions of a Non-Disclosure Agreement prepared by Licensor and signed prior to any communication, for the sole purpose of achieving the desired interoperability.

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All fees related to the new version shall depend on the origin of the modifications:

- if requested by Licensee, Licensee shall pay the fees for specific developments performed and associated maintenance;
- if originating from Licensor’s development roadmap, Licensee shall only pay the fees for renewal of its licenses so as to obtain the new release.

3.2 - Interoperability: use outside the European Union

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The purpose of processing Licensee’s employees’ personal data are:

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9.3 - Severability

If one or more provisions of the present agreement should be deemed invalid, all other provisions shall remain in force except where a legal ruling states that the nullity of a provision invalidates all other provisions. Moreover, the Parties shall then make all reasonable efforts to replace said provision by a provision complying with the applicable regulation and respecting as closely as possible the intent of the invalid original provision.

9.4 - Contractual documents

All Software Product Licenses are governed by the present EULA including General Terms, Specific Terms (if any), and the Service Level Agreement’s terms hereby included as part of the present License. Licensor reserves the right to modify and adapt the present terms and conditions at any time.

The end user license is granted solely according to the present General Terms and Conditions. The general Purchase Terms and Conditions of Licensee are expressly rejected. Licensor is not bound by any other agreement or general conditions and further rejects any and all amendments to and modifications of the present license, unless agreed upon in writing in an agreement duly executed by Licensor’s authorized representatives.

9.5 - Order of precedence

The contractual documents below are listed in descending order of precedence:

1. The Specific Terms of the present EULA
2. The General Terms of the present EULA
3. The SLA’s terms corresponding to the ordered level of services contained therein
4. The offer made to Licensee
5. Licensee’s order.
10 - Jurisdiction

The venue shall be the court of the district in which the Software Product is used. The Licensee’s local law (i.e., the law where the Software Product is used), shall govern the present agreement both for its interpretation and its enforcement.

In witness whereof, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives.

Made in duplicate.

For Licensee: 

For ESI ITI GmbH,

Licensor local representation:

(Include here the references of distributor, if ESI ITI GmbH is not directly granting the license)

By: ...

By: ...

Title: ...

Title: ...

Date: ...

Date: ...