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8.2 The right of the Licensee to use the Software shall expire automatically without notice if he violates any terms of this Agreement. If there is an insignificant breach of duty, automatic expiry shall only apply (i) after repeated violations of the same or a comparable duty (i.e. at least twice) or (ii) after Licensee has been unsuccessfully requested by Licensor to rectify the non-compliance. When the right of use is terminated, the Licensee shall be to refrain from any use of the Software and shall be obliged to erase, or have erased, all the copies of the Software, including any modified copies. On Licensor's request Licensee shall confirm in writing that he has fulfilled the obligations set out above. Any termination shall not entitle Licensee for any repayment of the fee and shall not relieve Licensee of his obligations regarding secrecy.

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In order to comply with national and international foreign trade regulations/laws, the Parties will support each other and provide all necessary documentation and information, such as relating to the registration of items to be exported in export control lists or to the final destination and end use of the items. Neither party is obliged to perform its obligation under the contract in violation of any statutory or internal export control regulations. Licensor shall have the right at any time to withdraw from the contract, without incurring any liability for either party, if

- » the Licensee, despite request, does not provide either any or sufficient enough information about the final destination and the end use of the items;
- » Licensor obtains knowledge of an unintended end use after tendering or knowledge of any previously unknown person involved in the business and cannot perform the contract due to any export control or intra-group regulations;
- » the items or services are intended for military end use, civil nuclear use or for use in connection with weapons of mass destruction or for missiles capable of delivering such weapons; substantive evidence shall be sufficient to prove this intent; or
- » a possibly illegal or unlicensed export or an infringement of embargo rules cannot be fully ruled out.

The Licensee must represent and warrant that (i) he/she is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) he/she is not listed on any U.S. Government list of prohibited or restricted parties.

11. Force Majeure

Neither party shall be liable for any failure or delay on account of causes which are beyond the reasonable control of such party.

12. General Provisions depending on domicile, place of residence or habitual residence of Licensee

Section A:

» The provisions of this Section A shall apply to Licensees who are **consumers** and who have the place of residence or habitual residence at the time of entering into this Agreement in **Germany**:

A.1 Defects

Licensee shall notify in writing to Licensor obvious defects within 8 days upon downloading the Software, provided that for the purpose of complying with such time period it is sufficient to have dispatched the notification within said period. Defects becoming visible later on shall be notified in writing within 2 (two) months after becoming visible. The defects shall be described as detailed as possible by Licensee.

A.2 Liability

Claims for damages of Licensee against Licensor, irrespective of the legal grounds (e.g. based on infringement of duties arising in connection with the contract or tort), shall be excluded.

This shall not apply to the extent liability is based on:

- Product Liability Act;
- intent or gross negligence on the part of the Licensor or his legal representatives, executives or other persons deployed by Licensor for fulfillment of his duties;
- fraud;
- failure to comply with a guarantee granted;
- negligent injury to life, limb or health; or
- negligent breach of a fundamental condition of contract ("wesentliche Vertragspflichten").

However, claims for damages arising from a breach of a fundamental condition of contract shall be limited to the foreseeable damage which is intrinsic to the contract, provided that no other of the above case applies.

The above provisions shall not imply a change in the burden of proof to the detriment of Licensee.

A.2 Applicable Law

This Agreement and its interpretation shall be governed by substantive German law to the exclusion of the United Nations Convention on contracts for the International Sale of Goods (CISG).

Note: As per Article 6 of the Rome I Regulation the mandatory provisions of the country of the place of residence or habitual residence of the consumer, which is a member country of the European Economic Area (EEA), shall be unaffected, if Licensor (a) pursues its commercial or professional activities in the country where the consumer has his habitual residence, or (b) by any means, directs such activities to that country or to several countries including that country.

A.3 Specific Provision on the Venue

In case place of residence or of habitual residence (as the case may be) of Licensee will change after coming into force of the Agreement to a place outside of Germany, venue for actions against Licensee will be at Licensor's domicile; provided that this will also apply if the place of residence or of habitual residence of Licensee will be unknown at the time of instituting legal proceedings.

Section B:

The provisions of this Section B shall apply to Licensees who are (a) **consumers** and who have the place of residence or habitual residence at the time of entering into this Agreement in **Switzerland** or (b) **not being consumers** domiciled **outside of Germany**:

B.1 Guarantee

Licensee hereby is granted a guarantee by Licensor that the Software will work substantially in line with the product description for 90 (ninety) days as from downloading the Software. Any statutory warranty shall be excluded.

B.2 Liability

Claims for damages of Licensee against Licensor, irrespective of the legal grounds (e.g. based on infringement of duties arising in connection with the contract or tort), shall be excluded.

This shall not apply to the extent liability is based on:

- Product Liability Act;
- intent;
- gross negligence; or
- negligent injury to life, limb or health.

B.3 Applicable Law

This Agreement and its interpretation shall be governed by Swiss law, to the exclusion of the United Nations Convention on contracts for the International Sale of Goods (CISG) and of the conflict of law rules of the international private law.

Section C:

The provisions of this Section C shall apply to Licensees who are **consumers** and who have the place of residence or habitual residence at the time of entering into this Agreement in a member state of the European Union (EU) **except for Germany or in Iceland, Liechtenstein or Norway**:

C.1 Defects

Licensee shall notify in writing to Licensor obvious defects within 8 days upon downloading the Software, provided that for the purpose of complying with such time period it is sufficient to have dispatched the notification within said period. Defects becoming visible later on shall be notified in writing within 2 (two) months after becoming visible. The defects shall be described as detailed as possible by Licensee.

C.2 LIABILITY

CLAIMS FOR DAMAGES OF LICENSEE AGAINST LICENSOR, IRRESPECTIVE OF THE LEGAL GROUNDS (E.G. BASED ON INFRINGEMENT OF DUTIES ARISING IN CONNECTION WITH THE CONTRACT OR TORT), SHALL BE EXCLUDED.

THIS SHALL NOT APPLY TO THE EXTENT LIABILITY IS BASED ON:

- (A) PRODUCT LIABILITY ACT;
- (B) INTENT OR GROSS NEGLIGENCE ON THE PART OF THE LICENSOR OR HIS LEGAL REPRESENTATIVES, EXECUTIVES OR OTHER PERSONS DEPLOYED BY LICENSOR FOR FULFILMENT OF HIS DUTIES;
- (C) FRAUD;
- (D) FAILURE TO COMPLY WITH A GUARANTEE GRANTED;
- (E) NEGLIGENT INJURY TO LIFE, LIMB OR HEALTH; OR
- (F) NEGLIGENT BREACH OF A FUNDAMENTAL CONDITION OF CONTRACT ("WESENTLICHE VERTRAGSPFLICHTEN").

HOWEVER, CLAIMS FOR DAMAGES ARISING FROM A BREACH OF A FUNDAMENTAL CONDITION OF CONTRACT SHALL BE LIMITED TO THE FORESEEABLE DAMAGE WHICH IS INTRINSIC TO THE CONTRACT, PROVIDED THAT NO OTHER OF THE ABOVE CASE APPLIES.

The above provisions shall not imply a change in the burden of proof to the detriment of Licensee.

C.3 APPLICABLE LAW

THIS AGREEMENT AND ITS INTERPRETATION SHALL BE GOVERNED BY GERMAN LAW, TO THE EXCLUSION OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG) AND OF THE CONFLICT OF LAW RULES OF THE INTERNATIONAL PRIVATE LAW.

Note: As per Article 6 of the Rome I Regulation the mandatory provisions (that cannot be derogated from by agreement by virtue of the law of such country which, in the absence of choice, would have been applicable as per Article 6 para 1 of the Rome I Regulation) of the country of the place of residence or habitual residence of the consumer, which is a member country of the European Economic Area (EEA), shall be unaffected, if Licensor (a) pursues its commercial or professional activities in the country where the consumer has his habitual residence, or (b) by any means, directs such activities to that country or to several countries including that country.

Section D:

The provisions of this Section D shall apply to Licensees who are **consumers** and who have the place of residence or habitual residence at the time of entering into this Agreement **neither** in a member state of the **European Union (EU)** nor in **Iceland, Liechtenstein, Norway or Switzerland**:

D.1 Defects

Licensee shall notify in writing to Licensor obvious defects within 8 days upon downloading the Software, provided that for the purpose of complying with such time period it is sufficient to have dispatched the notification within said period. Defects becoming visible later on shall be notified in writing within 2 (two) months after becoming visible. The defects shall be described as detailed as possible by Licensee.

D.2 LIABILITY

CLAIMS FOR DAMAGES OF LICENSEE AGAINST LICENSOR, IRRESPECTIVE OF THE LEGAL GROUNDS (E.G. BASED ON INFRINGEMENT OF DUTIES ARISING IN CONNECTION WITH THE CONTRACT OR TORT), SHALL BE EXCLUDED.

THIS DOES NOT APPLY TO THE EXTENT LIABILITY IS BASED ON:

- (A) PRODUCT LIABILITY ACT;
- (B) INTENT OR GROSS NEGLIGENCE ON THE PART OF THE LICENSOR OR HIS LEGAL REPRESENTATIVES, EXECUTIVES OR OTHER PERSONS DEPLOYED BY LICENSOR FOR FULFILMENT OF HIS DUTIES;
- (C) FRAUD;
- (D) FAILURE TO COMPLY WITH A GUARANTEE GRANTED;
- (E) NEGLIGENT INJURY TO LIFE, LIMB OR HEALTH; OR
- (F) NEGLIGENT BREACH OF A FUNDAMENTAL CONDITION OF CONTRACT ("WESENTLICHE VERTRAGSPFLICHTEN").

HOWEVER, CLAIMS FOR DAMAGES ARISING FROM A BREACH OF A FUNDAMENTAL CONDITION OF CONTRACT SHALL BE LIMITED TO THE FORESEEABLE DAMAGE WHICH IS INTRINSIC TO THE CONTRACT, PROVIDED THAT NO OTHER OF THE ABOVE CASE APPLIES.

The above provisions shall not imply a change in the burden of proof to the detriment of Licensee.

D.3 APPLICABLE LAW

THIS AGREEMENT AND ITS INTERPRETATION SHALL BE GOVERNED BY GERMAN LAW, TO THE EXCLUSION OF (I) THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG), (II) THE CONFLICT OF LAW RULES OF THE INTERNATIONAL PRIVATE LAW AND (III) THE PROVISIONS OF THE GERMAN LAWS ON CONSUMER PROTECTION.

Section E:

The provisions of this Section E shall apply to all Licensees **not** being **consumers** and domiciled in **Germany**:

E.1 Defects

The limitation period for claims for defects shall be 12 months. The period shall commence upon the downloading of the Software. Except in cases of intent, gross negligence or fraud the liability for defects shall be limited to making good the defects by (at Licensor's option) remedying the defect or supply of Software being free of defect.

E.2 LIABILITY

1. Unless otherwise stipulated in this license agreement, licensee claims for damages, for any cause in law whatsoever, in particular for a breach of duties under the obligatory relationship and for tortious acts, are hereby excluded.

2. This shall not apply where liability is provided as follows:

- a) pursuant to product liability laws,
- b) in the event of wrongful intent,
- c) in the event of gross negligence by owners, legal representatives or senior management,
- d) in the event of malice,

- e) in the event of a failure to satisfy a guaranty,
- f) on account of the intentional or negligent injury to life, limb or health, or
- g) on account of the intentional or negligent fundamental breach of contract.

However, any claim for damages for a fundamental breach of contract shall be limited to the foreseeable damage provided in standard contractual provisions, unless any one of the aforementioned circumstances is present.

E.3 APPLICABLE LAW

THIS AGREEMENT AND ITS INTERPRETATION SHALL BE GOVERNED BY SUBSTANTIVE GERMAN LAW TO THE EXCLUSION OF (I) THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG) AND (II) THE CONFLICT OF LAW RULES OF THE INTERNATIONAL PRIVATE LAW.

E.4 ARBITRATION

ALL DISPUTES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ITS VALIDITY SHALL BE FINALLY SETTLED ACCORDING TO THE ARBITRATION RULES OF THE GERMAN INSTITUTION OF ARBITRATION E.V. (DIS) WITHOUT RECOURSE TO THE ORDINARY COURTS OF LAW. PLACE OF THE ARBITRATION PROCEEDING SHALL BE FRANKFURT/MAIN (GERMANY). THE LANGUAGE OF THE ARBITRATION SHALL BE ENGLISH.

13. Miscellaneous

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b) The terms of this Agreement will also govern any upgrades provided by Licensor that replace and/or supplement the original Software, unless such upgrade is accompanied by a separate license terms in which case the terms of that license will govern.

c) Amendments to this Agreement shall require a written agreement between the Parties hereof.

d) If individual conditions of this Agreement are or become void or unenforceable, the effectiveness and enforceability of all the remaining clauses shall not be affected. The invalid or unenforceable provision shall be replaced with a valid and enforceable provision which comes as close as possible to the economic purpose of the invalid or unenforceable one, respectively.

Busch-Jaeger Elektro GmbH
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58513 Lüdenscheid
Tel no: ++49 2351 956 1600

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Source:	http://kernel.org
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OSS component:	BusyBox
Version:	1.15.2
Source:	https://busybox.net/oldnews.html
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OSS component:	FreeType
Version:	2.3.9
Source:	https://www.freetype.org/
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OSS component:	libpng
Version:	1.2.51
Source:	http://www.libpng.org/pub/png/libpng.html
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