



# JST LICENSING AGREEMENTS FOR THE USAGE OF SOFTWARE

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## 1. Object of the Agreement

- a) **Important:** This Software Licensing Agreement encompasses a legally-binding document between the Licensee (either as a natural or a juridical person) and Jungmann Systemtechnik GmbH & Co. KG (hereafter, "JST"), thus the Licensor. The Licensee must carefully read this Agreement before the software is installed and used. Through this Agreement, the usage right is transferred to the software in the following scope; the license granted shall not be considered to be a sale.
- b) Moreover, this Licensing Agreement contains warranty information and liability exclusions. By installing, copying or using the software, the Licensee hereby unconditionally acknowledges these Contractual Terms and Conditions. Otherwise, the utilisation thereof – thus any usage and installation there – shall be forbidden.
- c) This Licensing Agreement affects exclusively software and components which are provided by JST regardless of whether other software programmes have been mentioned or described in this document.
- This software and its components serve the purpose of JST providing the Licensee with the contractually-agreed services and may be used exclusively for this purpose.
- d) Regardless of the number of media which are provided to the Licensee, he may use only the medium which is suitable for the server or the computer on which the software is supposed to be installed.
- e) The Licensee shall grant JST – at any time subject to the provision of reasonable advance notice – the right to verify the fulfilment of all terms and conditions of this Licensing Agreement.

## 2. Definitions

The "Software" refers to the software programme developed by JST and/or provided by JST and its updates/upgrades as well as all related documents, media, printed materials and online and/or electronic documentation.

## 3. Reproduction Rights and Licensing Restrictions

- a) JST shall grant the Licensee a restricted, non-exclusive license.
- b) The Software may be used exclusively for the contractually-agreed purpose. The Licensee shall ensure that no third-party rights, e.g. of its equipment suppliers, are restricted by the JST Software and shall indemnify JST in this regard from any third-party claims.



- c) The Licensee shall be obliged to destroy the Software if he is requested to do so by JST because he has not fulfilled the provisions of this Licensing Agreement. However, all other rights of both Parties and all other provisions of this Licensing Agreement shall, as before, also be valid even after the Licensing Agreement ends.
- d) The Software may be reproduced so often and installed on the Licensee's computers as has been prescribed in the contractual documents. Installation in this sense refers to any action which is suitable for using the Software contractually. The Software's user does not have to be mentioned by name. It may encompass various persons. The Licensee shall be responsible in this regard. Any sublicensing to third parties shall be excluded.
- e) However, at no time may the number of simultaneous users, who use the Software under this license, be more than one or the number for which the Licensee has acquired licenses from JST for the simultaneous usage of this Software.

## 4. Temporary Transfer of Usage Rights

- a) The right to usage of the Software, which has been granted under this license, may be temporarily transferred in accordance with the following paragraph, but nonetheless not the license itself.
- b) If the Licensee temporarily transfers his right to usage the Software to third parties (e.g. to a service provider who is working contractually for the Licensee), then the Licensee shall assume the responsibility for the license-compliant usage of the Software by the third party. The third party, through the usage of the Software, shall be automatically subject to all terms and conditions of this Licensing Agreement. A free-of-charge transfer of the usage right to third parties shall then be permitted exclusively if this third party renders a contractual service for the Licensee which is in a direct correlation to the usage of this Software and the contractual usage of the relevant JST product.
- c) The Licensee shall be forbidden from leasing out the Software, providing it upon a free-of-charge basis or awarding a sub-license for it.

## 5. Permanent Transfer of All Rights

- a) The permanent transfer of all rights which are derived from this Licensing Agreement shall be possible only within the parameters of a sale or a transfer of the JST product including the relevant Software. In this regard, it shall be required that the original Licensee retains no copies of the Software and the recipient accepts the provisions of this Licensing Agreement.
- b) Upon any type of transfer of possession of the product which includes the Software, the license of the transferring party shall automatically be extinguished and shall be transferred to the new owner. The



new owner of the Software shall hereby accept, through its usage in any form, all rights and obligations of this Licensing Agreement.

- c) If the Software encompasses an update/upgrade, the Licensee must also surrender all prior versions of the Software to which the update/upgrade is applicable. Test versions or versions of the Software which are not made available for resale may neither be sold nor transferred.

## 6. Ban on Reverse Engineering

The Licensee shall not be entitled to reverse engineer the Software product or portions thereof, alter, combine, adjust, translate, decompile or disassemble or otherwise place them in a format which is readable to humans.

## 7. Updates/Upgrades

If this copy of the Software encompasses an update/upgrade of a previous version, this shall be provided upon the basis of a license exchange. Through the installation and usage of such a copy of the Software, the Licensee hereby declares his agreement that the prior End User Licensing Agreement shall automatically be replaced by this one and hereby waives its defence to the usage of the previous version of the Software.

## 8. Release Candidates/Preliminary Versions

- a) If the Software received by the Licensee should encompass a beta, demonstration, testing or evaluation software (collectively referred to as "Test Software"), then JST shall provide no warranty whatsoever. The Licensee hereby agrees that any usage of this Test Software shall be done at his own risk and he alone must be responsible for any potentially-occurring damages, e.g. data losses, loss of wealth, lost profits, business disruptions as well as any other capital losses or personal injuries. Any liability upon JST's part for the Test Software and for any damages arising from or in conjunction with the usage of the Test Software shall be comprehensively excluded unless JST has caused damages based upon intentional wrongdoing or gross negligence, has culpably caused loss of life, physical injury or damage to health, has maliciously concealed a defect or has provided a warranty.
- b) The Licensee may derive no rights whatsoever from the license through the usage of the Test Software; in particular not demand a continued development of the Software, a reimbursement of the expenditures which he incurs for the test, the evaluation or any other usage of the Software.

## 9. Intellectual Property Rights

This license shall grant the Licensee a restricted right to use the Software. JST reserves all ownership rights – including all rights to the intellectual property, to the Software – both as an independent work



product as well as also as a work product which serves as the basis for the applications which the Licensee develops as well as all copies thereof. All rights not expressly granted in this Licensing Agreement – including all national and international copyrights – shall be retained by JST. The Licensee shall be obliged to not remove or alter manufacturer's data – particularly copyright labelling – without JST's prior express approval to do so. All other rights to the Software and the documentation – including the copies – shall be retained by JST.

## 10. Confidentiality Obligation

- a) The Licensee shall be obliged to maintain secrecy regarding all know-how which he obtains from any type of usage of the Software and not to pass it on to unauthorised third parties.
- b) Each functional description of the Software – particularly also its source codes, the know-how, how the structure of the modules of the Software can be recognised or enabled – shall be impermissible.
- c) The aforementioned obligations shall also remain valid even after the Agreement ends.

## 11. Obligations to Examine and Report Defects

- a) The Licensee shall examine the Software that has been supplied – including the documentation – promptly, particularly with regards to the completeness of the data carriers and manuals as well as the functionality of the fundamental programme functions. Any defects, which are hereby identifiable (obvious defects), must be immediately reported to JST against documentation. The Licensee must also endeavour to provide a notification of defects which contains a highly-detailed description of the defects insofar as this is possible.
- b) Any defects which are not identifiable during the aforementioned proper examination must be promptly reported by merchants upon their discovery in accordance with § 377 German Commercial Code subject to the fulfilment of the aforementioned requirements for the notifications of defects.

## 12. Limited Warranty

- a) The Software from JST shall be considered to be devoid of material defects if it displays the agreed quality features upon the transfer of risk; this shall also be valid if minor defects are discovered. JST shall not guarantee that the Software is devoid of defects or functions in a disruption-free manner. Moreover, JST does not warranty collision-free operation with other hardware or software. JST has checked the Software for the customary malware, but nonetheless can guarantee no lack of viruses for viruses which cannot be discovered by customary virus scanners. Insofar as the usage of the Software enables access to the Licensee's IT infrastructures, exclusively the Licensee shall be responsible for the fulfilment of all security aspects – particularly access security.



- b) Incorrect usage instructions/mounting instructions/installation instructions shall trigger no claims for material defects. Any restriction of the functionality of the Software, which results from hardware defects, environmental conditions, incorrect operation, and the like shall constitute no defect. Any warranty for the correctness of the advertising slogans from sub-suppliers/preliminary material suppliers shall not be provided by JST. JST shall provide no warranty that the Software will fulfil all of the Licensee's requirements.
- c) The Software has not been conceived, intended or licensed for usage in hazardous environments which require fail-safe control mechanisms. This shall be valid including and without exception – particularly in the following areas: The design, construction, maintenance or operation of nuclear plants, air traffic or flight communication systems, air traffic control systems as well as life support or weapon systems as well as in the segments in which a disruption or a flawed function could result in deaths, personal injury or grave damage to objects or the environment. The Software may possibly include support for programmes which have been written in .NET.
- The .NET technology has not been developed or manufactured for usage or resale as an online control software in a dangerous environment in which disruption-free operation is required. JST hereby refuses to provide any express or tacit warranty for the suitability of this Software or portions of this Software for the aforementioned or similar purposes.
- d) The aforementioned Points (a) – (c) shall likewise be valid for the usage of updates/upgrades of the Software.
- e) Any justified claims for material defects shall be satisfied through subsequent performance. As JST so chooses, the subsequent performance shall be rendered either through a rectification of the defects or the supplying of a flawless Software. The services rendered shall be restricted to services to be rendered on the Licensee's premises whereby JST shall be entitled to demand that the product be sent to JST's premises. If the attempts at subsequent performance are unsuccessful twice, then the Licensee may withdraw from the Agreement or reduce the licensing price. Any further claims shall be excluded.
- f) Subject to any deviating special agreements, any claims for defects shall become statute-barred 24 months after the Software has been supplied. For any repaired Software, the statute of limitations period shall begin to run anew, but nonetheless end by no later than 36 months after the original statute of limitations period begins to run.

## 13. Liability

JST's liability from or in conjunction with this Agreement for any consequential damages – particularly any production disruptions incurred by the customer or any lost profits – shall be excluded and otherwise restricted per year to the annual net fee. The aforementioned liability restrictions shall, as a whole, then not be valid insofar as JST has committed intentional wrongdoing or gross negligence, culpably caused loss of life, physical injury or damage to health, has maliciously concealed a defect or provided a warranty.



## 14. Final Provisions

- a) If one or more provisions of this Licensing Agreement should be discovered to be invalid, then the validity of the provisions as a whole shall not be affected. The invalid provision shall be replaced by a new valid provision which, insofar as this is possible, fulfils the same legal and commercial purpose.
- b) This Licensing Agreement contains all understandings concluded between JST and the Licensee with regards to the contractual object and shall exclude all prior or simultaneous ancillary understandings concluded between the Parties, representatives of the Parties or their employees. The Licensee is in agreement that any change in or supplementation of these provisions in written or oral form, which are provided to him with regards to the licensed Software, shall be considered to be invalid.
- c) Any brand names, trade names, product names and logos of JST and third parties contained in this Software may possibly be brand names or registered trademarks of the respective rights holders. The manipulation of brand names, trademarks, product names, logos and all other symbols or names that are protected under trademark or copyright law in the Software shall be forbidden. This Licensing Agreement shall not entitle the Licensee to use the aforementioned objects.

## 15. Legal Venue

The exclusive legal venue for all disputes arising from the licensing relationship shall be Buxtehude. German law shall be valid.

## 16. Protective Clause

The provisions of this Agreement shall be valid. Any business terms and conditions of the user shall not become the contractual object.

## 17. Declaration of Intent

The Licensee confirms that he has read this Agreement and agrees to be bound to these conditions. Any other type of agreement, which was concluded in advance orally or in writing, shall thus be dissolved and replaced by this Agreement.