



HELINKS GENERAL SINGLE USER LICENSE CONDITIONS

BY DOWNLOADING AND/OR INSTALLING THE SOFTWARE, BY OPENING THE SOFTWARE PACKAGE OR BY USING OR CONTINUING TO USE THE SOFTWARE (AS THE CASE MAY BE) YOU AGREE TO BE SUBJECT TO AND BOUND BY THE TERMS OF THIS LICENSE AGREEMENT BETWEEN YOU, THE LICENSEE AND HELINKS, IF YOU DO NOT AGREE TO THESE TERMS. YOU SHOULD NOT DOWNLOAD AND/OR INSTALL THE SOFTWARE OR IMMEDIATELY RETURN THE UNOPENED PACKAGE AND ALL OTHER MATERIALS IN THE PACKAGE (INCLUDING PRINTED MATERIALS AND FILES AND THE REST OF THE PACKAGE) TO THE AUTHORIZED DEALER OR HELINKS FOR A FULL REFUND OF THE LICENSE FEE YOU PAID.

1. DEFINITIONS

Whenever used in this Agreement the following terms and expressions shall, to the extent the context does not require otherwise, have the following meaning:

"Agreement" means this HELINKS General Single User License Conditions, applicable between HELINKS and Licensee.

"Effective Date" means the earlier of (i) the date when Licensee has purchased the License from HELINKS, an affiliate of HELINKS or are seller/agent of HELINKS, as the case may be in consideration of the License Fee and (ii) the date when Licensee has broken the seal of the Product package and/or downloaded/installed the Product.

"License" means the license granted by HELINKS pursuant to Section 2.

"Licensee" means the legal entity acquiring the License from the authorized dealer of the Product (HELINKS, an affiliate of HELINKS or are seller/agent of HELINKS, as the case may be) and which is granted the License by HELINKS under the terms of this Agreement.

"License Fee" means the compensation to be paid by Licensee to HELINKS, an affiliate of HELINKS or a reseller/agent of HELINKS, as the case may be, in consideration of the delivery of the Product and the grant of the License.

"Maintenance Arrangement" means as set out in Section 3.2.

"Product" means the software, i.e. the computer program in machine-readable object code form (including documentation and any accessories) which is referred to in the software package or on the website from which it has been downloaded, including any patches, bug fixes, upgrades, enhancements and new versions of the Product which are included in the License pursuant to the terms hereof.

"Product Documentation" means HELINKS' standard form of operating manuals, in physical or electronic form, supplied by HELINKS' for aiding the use of the Product (either supplied together with the Product or available on the HELINKS website).

"Term" means the period from the Effective Date through the period set forth in the HELINKS order and as set forth in the key code for each license, unless the license is earlier terminated as provided in this Agreement.

"Third Party Product" means a computer program or any other component included in the Product which HELINKS has not

developed, but to which HELINKS has been granted a right from a third party to use as part of, or together with, the Product.

"HELINKS" means HELINKS LLC, Reg. no. CHE-113.318.759, a company duly incorporated and organized under the laws of Switzerland and having its principal office at Chollerstrasse 3, 6300 Zug, Switzerland and/or its subsidiaries and affiliates.

"User" means the single (1) physical person designated by the Licensee as the person having the right to use the Product under the License under the terms of this Agreement.

2. ACCEPTANCE OF LICENSE TERMS

By breaking the seal of the Product package or by downloading and/or installing the Product (as the case may be), the Licensee agrees to and accepts the terms of the License (as set forth in this Agreement) under which Licensee benefits from a non-exclusive right to use the Product in accordance with the terms set out in this Agreement.

3. LICENSE TERMS

3.1

HELINKS hereby grants to Licensee a non-exclusive, non-transferrable right to Licensee to use the Product in object code form only during the Term for its internal business purposes only, subject to the terms and conditions hereof. The Product may only be used by the User and not by other employees, agents or consultants of Licensee. Licensee may install and use the Product on a maximum of one single work station computer and may not install the Product on a server which may be accessed by multiple users through a network. Notwithstanding installation of the Product on more than one (1) work station/computer, and for the avoidance of doubt, the Product is restricted to use only by the user, unless otherwise agreed in writing between HELINKS and Licensee.

3.2

The License includes a right to use any patches and bug fixes which HELINKS, at its sole discretion. May from time to time elect to release free of charge generally to all of its customers. Further, the License includes a right to use upgrades, enhancements and new versions of the Product that HELINKS may develop and deliver (provided, however, that HELINKS is under no obligation to do so under this Agreement) during the Term, provided, that Licensee has either (i) made a separate subscription, or (ii) entered into a maintenance and support agreement that expressly entitles the Licensee to receive such upgrades, enhancements and new versions of the Product from HELINKS (the arrangements described in item (i) and (ii) in this Section 3.2 are jointly referred to as a "Maintenance

Arrangement"). After upgrade, the Licensee may no longer use the software that formed the basis for its upgrade eligibility.

3.3

Licensee hereby acknowledges that it is licensed to use the Product for its internal use only and that the License may never be used or relied upon by other corporations, associations, government authorities and/or legal entities. Licensee may not sub-license, rent out or lend the Product, or utilize the Product for purposes of operating a service bureau or otherwise permit anyone other than the Licensee/the User, either directly or indirectly, for payment or otherwise to make use of or otherwise dispose of the Product without written approval of HELINKS.

3.4

Licensee may not (nor allow anyone else to do so) use, copy or otherwise transfer or use the Product, wholly or partly, otherwise than as specified in this Agreement unless specific usage conditions have been agreed between HELINKS and the Licensee in the purchase contract of the product

4. DURATION OF LICENSE

The License shall commence on the effective date and shall, subject to Licensee's continued compliance with the terms of this Agreement, continue during the Term, unless earlier terminated as provided in this Agreement. The License shall terminate immediately upon the earlier of (i) the expiration of the Term and (ii) termination of this Agreement, howsoever occasioned. Licensee acknowledges that the Product may automatically cease operating upon the expiration of the Term. HELINKS shall have no liability for turning off the Software upon expiration of the Term via the Product key.

5. PROPRIETARY RIGHTS

Licensee is aware of and accepts that the Product is and shall remain the property of HELINKS, or its licensor(s), and that nothing herein shall be construed as transferring any rights whatsoever in the Product from HELINKS to Licensee, except as expressly set out herein.

6. WARRANTY

6.1

To the extent the Term is longer than 90 days, HELINKS warrants that the Product has been tested and will function generally in accordance with the Product Documentation during a 1 year warranty period following the Effective Date. Failure to so function shall mean a material failure or malfunction capable of being replicated by HELINKS upon Licensee's specifications and which prevents use of the Product as specified in the Product Documentation although the Product is used by Licensee in full compliance with the Product Documentation or as otherwise directed by HELINKS and only with such other software or hardware as has been approved by HELINKS for use with the Product. Notwithstanding the foregoing, HELINKS has no obligation whatsoever for errors in the Product caused by or related to any Third Party Products.

6.2

The warranty above in Section 6.1 shall only apply if:

- (a) the Product is used under normal conditions and in accordance with the Product Documentation:
- (b) Licensee without undue delay has given HELINKS notice of any errors, defect, non-conformities or deviations of the Product and has provided a warranty fault report to HELINKS presenting a specification of the error, promptly after the error has been discovered by Licensee:

(c) any error, defect, non-conformity or deviation of the Product was not caused by inter-working equipment not supplied under this Agreement:

(d) any error, defect, non-conformity or deviation of the Product was not caused by Licensee's use of the Product together with equipment, other than prescribed by HELINKS, and by which the function of the Product is affected: and

(e) Licensee has given HELINKS every opportunity to remedy such error, defect non-conformity and deviation.

6.3

HELINKS warrants that it is the owner or holder of licenses, of all intellectual property rights relating to the Product and has the full power and right to license the Product to Licensee.

6.4 T

The express warranties set forth in Section 6.1 and 6.3 above are the only warranties made to Licensee and are provided in lieu of any other express warranties or similar obligations (if any) created by any advertising, documentation, packaging, or other communications. Except for the warranties contained in Section 6.1 and 6.3 above, and to the maximum extent permitted by applicable law. HELINKS provides the Product and support services (if any) AS IS AND WITH ALL FAULTS, and hereby disclaims all other warranties and conditions, whether express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of reliability or availability, of accuracy or completeness of responses, of results, of workman like effort, of lack of viruses, and of lack or negligence. all with regard to the Product, and the provision of or failure to provide support or other services, information, software, and related content through the Product or otherwise arising out of the use or the Product.

7. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

7.1

HELINKS agrees to indemnify and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, and expenses arising as a result of or in connection with HELINKS's breach of the warranty in Section 6.3 provided that HELINKS is given complete control of such claim. Licensee does not prejudice HELINKS' defense of such claim, that Licensee gives HELINKS all reasonable assistance with such claim at the cost of HELINKS and that the claim does not arise as a result of Licensee's use of the Product in combination with any equipment not supplied or approved in writing by HELINKS or the use of the Product in conflict with this Agreement.

8. LIABILITY OF LICENSEE.

Licensee shall be responsible for its activities related to the use of the Product. Licensee undertakes to indemnify and hold HELINKS harmless from any liability for HELINKS inflicted upon HELINKS, resulting from any unauthorized use of the Product or the copies thereof by Licensee or by a third party who has obtained, lawfully or unlawfully, the Product or copies thereof from Licensee, including, but not limited to claims from third parties, damages, lost profits and additional license fees for HELINKS or other costs, including reasonable attorney's fees.

9. LIABILITY OF HELINKS

Notwithstanding anything set out elsewhere in this Agreement, the following shall apply with regard to HELINKS' liability under this Agreement:

- (a) HELINKS' entire liability and Licensee's exclusive remedy for any breach of the warranties contained in Section 6 or any other breach of this Agreement or for any other liability relating to the Product shall be, at HELINKS' option, subject to applicable law: (i) to repair, replace or modify the Product; or (ii) in the case of a breach of Section 6.3, to obtain a license from the infringed party, permitting the continued use of the Product. In the event HELINKS considers, at its sole discretion, that none of the above alternatives is possible at a reasonable cost to HELINKS, then Licensee shall be obliged to stop using the Product (whereupon the Agreement shall be considered as terminated with immediate effect) and the Licensee will in such case as full and final compensation obtain a pro-rata refund of the price paid for the Product license, based upon amortization of the License Fee on a straight-line basis over two (2) years from the Effective Date.
- (b) HELINKS shall not be liable for any indirect, consequential, special or punitive damages arising from the provision of services hereunder such as commercial loss, loss of orders, any commercial disturbance, loss of profits, loss of data or third party claims, even or HELINKS has been advised of the possibility of such damages. Further, the liability of HELINKS for any and all causes with respect to the Product, breach of contract, warranty or otherwise, shall in aggregate not exceed the License Fee, unless such liability has been caused by any grossly negligent act or omission or willful misconduct of HELINKS.
- (c) The parties acknowledge that the limitations and exclusions of liability are reasonable in the context of this Agreement and, in particular, recognize that the License Fee has been agreed on the basis of the limitations and exclusions of liability set out herein.

10. FORCE MAJEURE

HELINKS shall not be liable for any delay in performing its obligations hereunder if such delay is caused by circumstances beyond its reasonable control. The performance of HELINKS obligations shall be suspended during the period that the said circumstances persist and HELINKS shall be granted an extension of time for performance equal to the period of the delay.

11. CONFIDENTIALITY

11.1 Licensee undertakes to treat as confidential and keep secret all information contained or embodied in the Product and the Product Documentation (hereinafter collectively referred to as the "information") provided that this Section shall not extend to any information which was rightfully in the possession of Licensee without confidentiality obligations prior to the commencement of the negotiations leading to this Agreement or which is already public knowledge or becomes so at a future date, without fault of Licensee (otherwise than as a result of a breach of this Section).

11.2 Licensee shall not without the prior written consent of HELINKS divulge any part of the Information to any person except to (i) Licensee's employees and third party consultants on a strict need to know basis, (ii) Licensee's auditors and any other persons or bodies having a right, duty or obligation to know the business of Licensee and then only in pursuance of such right, duty or obligation, and (iii) any person who is from time to time appointed by Licensee to maintain any equipment on which the Product is being used (in accordance with the

terms of the License) and then only to the extent necessary to enable such person properly to maintain such equipment.

11.3 Licensee undertakes to ensure that the persons and bodies mentioned in Section 11.2 are made aware prior to the disclosure of any part of the Information that the same is confidential and that they owe a duty of confidence to HELINKS.

12. ALTERATIONS

Licensee undertakes not to alter, modify, decompile. Reverse engineer the whole or any part of the Product in any way whatever, except and only in those jurisdictions where reverse engineering may be expressly permitted under mandatory law (and only to the extent so permitted), nor permit the whole or any part of the Product to be combined with or become incorporated in any other programs other than as set out in the Product Documentation.

13. TERMINATION AND EFFECTS OF TERMINATION

13.1

HELINKS may terminate this Agreement with immediate effect if the Licensee commits any material breach of the terms and conditions of this Agreement.

13.2

In addition to the foregoing, HELINKS may also terminate the Agreement, wholly or partly, with immediate effect without cause, provided however, that the Licensee in such case shall receive a pro-rata refund of the price paid for the Product, based upon amortization of the License Fee on a straight-line basis over two (2) years from the Effective Date.

13.3

Forthwith upon the termination of this Agreement, Licensee shall, if requested by HELINKS, cause the Product to be returned to HELINKS or destroy the Product and shall certify in writing to HELINKS that the same has been done.

13.4

Any termination of the License or this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination, including Sections 5, 9, 11, 12 and 13 through 18

14. ASSIGNMENT

Licensee shall not be entitled to assign, sub-license or otherwise transfer its rights and obligations under this Agreement, whether in whole or in part without the prior written consent of HELINKS. HELINKS is entitled to assign this Agreement and all of its rights and obligations hereunder to any company which is from time to time a holding company or a subsidiary of HELINKS or a subsidiary of any such holding company. Further, in the event of a transfer of HELINKS' business relating to the Product is transferred to a third party (the Acquirer"). HELINKS may, simultaneously and together with such transfer and without the consent of Licensee, assign its rights and obligations under this Agreement to the Acquirer.

15. WAIVER

The failure of either party hereto to insist upon the strict adherence to any term of this Agreement on any occasion shall not be considered as a waiver of any right hereunder nor shall it deprive that party of the right to insist upon the strict adherence to that term or any other term of this Agreement at some other time.

16. AGREEMENT, EXCLUSION OF WARRANTIES

This Agreement supersedes any and all other agreements, oral or written, between the parties hereto with respect to the subject matter hereof. Unless otherwise expressly set out in this Agreement, all liability for representations and warranties (whether written or oral) made prior to the date hereof are hereby excluded (except for fraudulent representations) and all implied warranties are to the maximum extent permitted by law hereby excluded.

17. GOVERNING LAW

This Agreement shall be governed by, and construed and enforced in accordance with the substantive laws of Switzerland, without regard to its principles of conflicts of laws or the United Nations Convention on the International Sale of Goods.

Both parties hereby consent to the exclusive jurisdiction of the courts of Zug/Switzerland and expressly waive objections or defense based upon lack of personal jurisdiction or venue.

18. IRREPARABLE HARM AND INJUNCTIVE RELIEF

Licensee acknowledges that its use or disclosure of the Product or the threat to make such use or disclosure in a manner inconsistent with this Agreement, will cause HELINKS extensive and irreparable harm, and hereby consents that HELINKS shall have the right, at any court of competent jurisdiction in any location where the Product is being used by Licensee, to injunctive relief to prevent the unauthorized use or disclosure.