

License Agreement

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License Agreement

entered into between

Namirial GmbH - (hereinafter referred to as Namirial)
Seilerstätte 16/Tür 14
A-1010 Wien, Austria

and

_____ - (hereinafter referred to as licensee)

Preamble

Licensee intends to use products developed or licensed by Namirial and to integrate these products if necessary into authorized used software by the licensee (= software solutions) via standard interfaces.

With this License Agreement the Parties to this Contract agree on granting a license for the use of the products and their integration if necessary by licensee.

The Parties to this Contract agree that server certificates or hardware which are necessary for running the Namirial software must be procured by the licensee at its own expense. Thereby the licensee has to use such suppliers and products that are approved by Namirial.

1) Products

Namirial supplies the following products (= software, hardware if any) to the licensee based on the current product catalog and including documentation and 3rd Level Support as described in **Appendix B**. Any equipment ordered to record handwritten signatures is supplied and invoiced by the Italian parent company Namirial Spa.

The biometric acquisition of electronic signatures and the necessary recording devices are closely related, which is why the required signature pads and monitors are obtained from the licensee exclusively via Namirial.

2) Licensee's entitlements and obligations

Namirial grants to licensee the following, non-exclusive, non-assignable rights, for the term of the Contract:

Right to integrate: The right to integrate the products in its software solutions via standard interfaces. Every use beyond this and/or deviant use is prohibited.

The grant of rights subject to this Contract does particularly not include the right to edit, modify, decompile or otherwise change the products or to allow third parties to edit, modify, decompile or otherwise change the products.

The use of the products by calls out of third parties' software solutions is prohibited.

Right to use: The right to use the products, ordered by the licensee in writing, for licensee's internal business purposes as per licensing-certificate extending to the bought number of licenses subject to the terms and conditions specified in this Contract.

Right to back up: The right to create copies of the product for backup and archiving purposes. Licensee is not entitled to grant third parties access to said copies.

Promotion: Namirial's entitlement to be mentioned as customer and using the logo on Namirial's homepage.

The licensing definitions (**Appendix A**) are expressly acknowledged by licensee.

Right of ownership, copyright and other industrial property rights remain with Namirial and Namirial's licensors. This applies in kind to products developed or licensed by Namirial in the course of rendering services and placed at licensee's disposal within the scope of this Contract.

Licensee is not permitted to remove or modify marks or copyright notices referring to industrial property rights owned by Namirial or any third party. Licensee is not entitled to place the programs or results of provision of services at the disposal of a third party or parties.

Licensee warrants to protect the products subject to this contract against misuse of any kind. Should a third party or third parties infringe upon Namirial or Namirial's licensors copyrights, licensee shall inform Namirial of the infringement without delay.

Should Namirial infringe upon third party copy rights, Namirial will indemnify and hold harmless licensee from and against third party claims in this respect.

3) Prices

Namirial will disclose the current prices for its products to licensee. All prices are stated in **Appendix B**.

Both Parties agree that the prices specified in Appendix B are subject to change. Should Namirial deem it necessary to change prices within the term of this Contract for instance on account of increases in wages or other costs, Namirial will advise licensee of the new price list upon the lines of Appendix B at least three (3) months before its validity.

Products remain the property of Namirial until paid for in full.

Deliveries from Namirial are made at the licensee's own risk and expense. All risks shall be transferred when the delivery items are handed over to the carrier.

Namirial's invoices are due without deductions within 14 days after receipt. Bank charges if any to be borne by licensee. In case of delayed payment, Namirial is entitled to demand payment of default interest in the amount of the 3-months-Euribor plus 3 per cent p.a. or a higher amount substantiated by Namirial.

Licensee accepts that for license auditing purposes Namirial or its agent is entitled to request access to licensee systems on which Namirial software is installed within five workingdays and is permitted to analyze use directly on these systems. Namirial warrants to keep data collected in this way confidential and to use said data for the purposes of license auditing only, unless said data are necessary to substantiate Namirial's claims.

4) Export restrictions

Licensee's attention is drawn to the fact that import or export restrictions may apply to the products in various countries. Licensee accepts that it is its responsibility to comply with all applicable import or export prohibitions, and other legal constraints applicable within this context, and that Namirial is not liable for this in any way whatsoever. Licensee will indemnify and hold harmless Namirial from against any and all claims resulting from failure to comply.

In this context, licensee bears sole responsibility for seeking necessary approval.

5) Integration assistance and support

Licensee will be provided with the products by Namirial after signing this Contract and subsequently promptly after completion of a new version.

Subject to conclusion of a Maintenance Agreement by licensee, Namirial will provide 3rd Level Support to licensee as described in **Appendix C** "Maintenance Contract".

Maintenance is available only for the total number of licenses of a product and not for single licenses of one and the same product.

Both Parties agree that Namirial is entitled to appoint a third party to provide the services or part thereof in compliance with the provisions of the maintenance contract. In this case licensee will submit queries to the third party named by Namirial after date of written notification.

Both Parties agree that Namirial will not provide 1st and/or 2nd level support to licensee.

Licensee shall forward log files to Namirial on request and set up a remote access facility to its systems to enable Namirial to provide 3rd level support; licensee shall activate said remote access facility as needed. If the licensee is unable or unwilling to implement said remote access facility so that a visit by a Namirial technician to the licensee's premises becomes necessary, licensee will be billed by Namirial for and shall bear all costs incurred pursuant to the price list in Appendix B; if it has been a Namirial bug only the travel expenses are to reimburse.

6) Warranty

The latest versions of all products will be provided in all cases. Namirial warrants that the software as delivered is suitable for the functions listed in the corresponding program documentation and release notes, but does not give any warranties above and beyond this. The warranty period is twelve (12) months.

Licensee is solely responsible for the choice of product, and for the suitability of the product for the intended application. Licensee is solely responsible for the installation and proper use of the product. Namirial cannot warrant that its products are compatible to any hardware or software other than that approved by Namirial.

Licensee accepts the fact that products may be unavailable or become unusable due to force majeure, operating system crashes, software errors arising for technical reasons, errors in the telecommunications infrastructure, virus attacks, Denial-of-Service attacks, acts by third parties or other reasons beyond the control of Namirial. For these reasons, Namirial is unable to accept any liability or responsibility for the availability of its products.

The warranty is voided in case of improper use of the products and in case of unauthorized modification of the configuration. If third party software is running on servers together with Namirial software, Namirial is entitled to request the deactivation of this third party software and to prove the defect without the third party software again.

In the event that warranty claims are enforced with respect to hardware, the respective manufacturer's warranty conditions apply; the relevant parts shall be returned at own expense and risk, packed appropriately for transportation.

7) Liability

Under the terms of the current Contract Namirial accepts liability only for damage caused by a malfunction of the products compared to the corresponding program documentation and release notes. Claims for damages by licensee for any reason whatsoever, but specifically for delays, non-performance, default in performance of contract, default on conclusion of contract, defects, consequential damage, unlawful act are debarred, except in substantiated cases of intent or gross negligence by Namirial or its agents.

Namirial's liability for each damage claim is restricted to the amount paid by licensee for the product responsible for causing the damage. A damage claim is defined as the totality of claims for damage by all claimants resulting from the same act or the totality of claims by the same claimant with respect to various acts in legal or economic context, or the totality of a single claim issuing from one or multiple acts.

This limit does not apply to injury to persons or to damage caused by intent, however, claimant must substantiate this more serious level of default.

These clauses apply analogously to hardware.

8) Confidentiality and data protection

Licensee warrants to keep confidential any and all information disclosed to it in the scope of founding and performing this contract – irrespective of the kind (also prices, discounts and other commercial conditions) and form of said information – both during the term of and after termination of the contract relationship, and not to exploit this information for its own purposes or for the purposes of a third party or parties. This non-disclosure and confidentiality condition must demonstrably be imposed on all persons with access to this information on account of their responsibilities.

The Parties are individually responsible for ensuring that their existing data processing equipment and records comply with the Data Protection Act and other applicable laws. This applies in particular wherever data or records are collected, processed, modified, transferred and deleted.

The Parties mutually warrant not to infringe on data protection provisions within the performance of their obligations under this Contract. The Parties warrant to indemnify and hold harmless each other in case of default in this matter.

9) Term of contract

This License Agreement is concluded for sine die. Licensee however accepts the fact that a product once acquired cannot be disposable open-ended.

This License Agreement can be terminated by both Parties to the Contract with immediate effect for good cause. Particularly the following constitute good cause which entitles the other party to termination:

- licensee fails to pay past due invoices within appointed reasonable deadline after notice that invoices are past due;
- continuing breach of contract by one Party despite notice to cease and desist served by the other party.

As of effective termination date of Contract, licensee shall cease and desist from using the products.

In case of termination of this Contract licensee warrants to perform the following within two (2) weeks of effective termination date

- to execute complete deinstallation of products,
- to surrender all data and information and all materials provided to it, no matter whether in printed form or on storage media, to Namirial in a readable form,
- to demonstrably delete all information remaining and stored on its hardware.

With respect to the obligation to return, licensee waives its right of retention to copies or other duplicates, electronic images and the like.

Namirial is entitled to appoint a court certified expert from the IT branch, who is sworn to secrecy in writing, to verify compliance with conditions of termination/mutual annulment by licensee. Surveyor's costs to be borne by Namirial; costs to be borne by licensee if the surveyor states that licensee is in breach of conditions of termination/mutual annulment. Surveyor's costs on premature termination of contract for good reason are to be borne by the Party that caused the termination of the contractual relationship.

10) Final clauses

10.1) Written form

This Contract with its Appendixes, forming an integrating part thereof, represents the entirety of the agreement between the Parties to the Contract. Terms and conditions in any purchase orders that are not included in or that conflict with this Contract are null and void.

No modification and no amendment to this Contract will be effective unless assented to in writing by the parties to the Contract. The Parties to this Contract expressly and irrevocably declare that any future waiver of the requirement for written form will not be effective unless assented to in writing.

For the purposes of concluding, performing and terminating this Contract the parties agree on the use of either advanced electronic signatures or digital handwritten biometric signatures as equivalent with written form.

10.2) Offsetting prohibited

Neither party to the Contract is permitted to retain payments on account of unacknowledged claims against the counterparty, or to offset debts against such claims.

10.3) Non-Competition clause

Licensee warrants not to recruit staff from Namirial-Group throughout the term of this Contract and for a period of six (6) months after termination of this Contract. This warranty applies to all persons under contract – irrespective of the legal form – to Namirial-Group.

Namirial warrants not to recruit staff from licensee as well.

Should one Party be in breach of this clause, it shall pay to the other party liquidated damages in the amount of recruited staff's last six monthly gross salaries per breach, irrespective of blame.

10.4) Salvatory clause

Should any part of this Contract prove invalid as a whole or in part for any reason, or should any part lose its validity at a later date, the rest of this Contract shall remain unaffected and valid. In this case, both parties agree to replace the invalid clause with a corresponding text, which is valid and equivalent to the intended meaning. This Contract shall otherwise be construed to, governed and interpreted by law. In case of a loophole in this Contract, both parties agree to insert a text, which is valid and equivalent to the intended meaning.

10.5) Governing law and court of jurisdiction

This Contract is subject to the laws of the Republic of Austria, valid in form and fact, and expressly excludes the Law on the Conflict of Laws and UN Law on the International Sale of Goods. The place of jurisdiction for all disputes arising from or related to this Contract shall be the court of jurisdiction in rem of Linz/Danube. Namirial reserves the right to assert claims at the court of jurisdiction competent for the party of contract's offices/residence.

10.6) Notices

Any required or permitted notices hereunder must be given in writing by letter, facsimile or email at the address of each party set forth below:

For Namirial: Haiderstraße 23, A-4052 Ansfelden, Austria
Fax: +43 (0) 7229 / 88 0 60 – 720
Email: office@xyzmo.com

For licensee: _____
Fax: _____
Email: _____

10.7) Force majeure

Each Party shall not be liable for any failure to perform its obligations where such failure is as a result of Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, labour dispute, strike, lockout, or interruption or failure of electricity, transportation, telecommunication or data transmission lines, changes of the law coming into force after the conclusion of the Contract and affecting the subject services; and the other party will have no right to terminate this Contract in such circumstances.

10.8) Miscellaneous

The headings above the individual articles in this Contract are provided for orientation only. They are of no legal significance.

Should the Appendixes to this contract contradict the Contract itself, the provisions of the Contract shall prevail over the provisions of the Appendix in question.

The non-exercise of any right under this Contract by one Party shall not constitute a waiver of any right hereunder or of its assertion within the scope of any applicable statutes of limitations.

Licensee shall bear the cost of any duties (such as legal duties) payable concluding and performing this Contract. Should claims be made against Namirial in this respect, Licensee warrants to indemnify and hold harmless Namirial. Each Party to this Contract shall bear the cost of legal representation itself.

The Parties to this Contract agree that the Contract was entered into without failure of intent being involved, that performance and consideration are reasonable, and that they will not contest this Contract on account of laesio enormis.

Ansfelden, _____

Namirial GmbH

Licensee