

## General Terms and Conditions for Software Licenses of Axivion GmbH

as of July 2016

### 1. Object of the License

- 1.1 The object of the license shall be the software developed and produced by Axivion GmbH ("Axivion"), plus the pertinent user documentation (program documentation), supplied to the customer on the basis of the *General Terms and Conditions for Deliveries and Services* (GTC) of Axivion. The exact designation of the supplied Software is stated on Axivion's confirmation of the order (hereinafter the "Software"). The Software and the program documentation are available in English only.
- 1.2 Unless otherwise provided in the confirmation of the order, the customer will receive both the Software in object code format for installation by the customer on the customer's system, as well as the documentation as a PDF for online download.
- 1.3 The Software and the program documentation supplied with the same are protected by copyright. Unless otherwise stated in the Software, the program description and/or the program documentation of Axivion, in relation to the customer, all rights in the Software shall be owned exclusively by Axivion. With respect to components or modules from other producers (third-party software) supplied with the Software, in particular Open Source Software, the applicable license terms to which reference is made in the Software, the program description and/or the program documentation of Axivion shall apply.
- 1.4 Pursuant to the order confirmation from Axivion, the customer shall be granted a non-exclusive right to use the Software and the program documentation, which right can be permanent or limited in time (see no. 3.3 and 3.4, below), and which is non-transferable – except in the cases stipulated in no. 2.6 of these *General Terms and Conditions for Software Licenses* (GLT).
- 1.5 The customer shall not be entitled to claim disclosure of the source codes and the development documentation for the Software.

## 2. Scope of the License

2.1 The license entitles the customer to use the Software for operational purposes of the unit specified in the order confirmation from Axivion ("Site") and with the maximum number of technical staff working at the Site ("Technical Team Members"), whereby the customer is permitted to install an unlimited number of copies of the Software identified with the respective electronic key of the Site (see no. 2.5 below) ("Site License"). Technical staff are all Software architects, developers and testers involved in Software projects that are analyzed using the Axivion Software. If the number of Technical Team Members of a Site exceeds the maximum number indicated in the confirmation of the order, the customer shall be obliged to purchase an equivalent extension of the license.

Within the meaning of this provision, use shall mean the loading, displaying, running, transferring, and storing of the Software for purposes of its execution and data processing.

2.2 The customer is entitled to make a backup copy of the Software on a separate data storage media, which copy must be identified with a copy of the original label (including the copyright reference). The backup copy may be used only in the event of impairment or loss of the copy of the Software originally delivered via on-line download or, if applicable, the data storage media supplied by Axivion, or of the copies installed on the authorized computers (see no. 2.1 above). With regard to the use of the backup copy, the customer is likewise subject to these GLT. Additionally, the customer is not entitled to make more or other copies of the Software or the program documentation, or any parts thereof, than stipulated in no. 2.1 and to install the same on its systems without the consent of Axivion.

2.3 Without the consent of Axivion, the customer shall not be entitled to adjust, modify, or otherwise amend the Software, to connect the Software to other programs in a manner other than via the interfaces provided for this purpose, to decompile it to another display format, to remove, circumvent, or modify copy protection mechanisms, elements of the program serving a digital rights management (DRM), security codes, if any, or features serving the identification of the Software, including the electronic key (see no. 2.5 below), or to remove information, as contained in the Software and program documentation, about the authorship, copyrights, or other property rights of Axivion. The provisions of §§ 69 d para. 3 and 69 e UrhG (German Copyright Act) shall remain unaffected.

2.4 Axivion is entitled to control compliance with the forgoing provisions, especially the Site License restrictions (see no. 2.1 above), by technical means and, in the case of breach, to use technical means, including but not limited to a program-lock, to ensure the compliance with to these provisions. The customer agrees that the designation of the authorized Site, the maximum number of authorized Technical Team Members at the Site, as well as the trade name and registered office of the customer are each

embedded in an electronic key that has to be activated to run an installed copy of the Software. The transfer of a key to unauthorized third parties is not allowed.

- 2.5 A change of the designated Site which is authorized to use the Software (see no. 2.1 above) during the term of the license is possible. In the case of a new Site, it shall not have more Technical Team Members (see no. 2.1 above) than indicated as maximum number in the confirmation of the order by Axivion for the previous Site; if necessary, the customer shall purchase an extension of the license. The customer must address its requested change to Axivion, in text form. Axivion then generates a new electronic key with changed data and supplies that key to the customer. The customer is obligated to activate the changed key instead of the previous key.
- 2.6 In the case of a license granted on a permanent basis (Software purchase, see no. 3.3), the customer is entitled to transfer the Software in its entirety, together with the license under these GLT, to a subsequent purchaser, provided the customer does not retain any copies of the Software and the relevant program documentation – or any parts thereof – and refrains from any and all further use of the Software. In the case of a *Site License*, the right to transfer is limited to the transfer of the entire Site License to a single subsequent purchaser; the division and transfer of parts of the Site License to one or more subsequent purchasers is not permitted. The subsequent purchaser must undertake vis-à-vis Axivion to comply with these GLT, in particular the provisions concerning the scope of the license as set forth in this no. 2. The subsequent purchaser's right of use therefore commences only upon receipt by Axivion of a copy of the program certificate and these GLT signed by the subsequent purchaser, whereby the name or trading name of the subsequent purchaser and its business address must be stated in full. In addition, the customer must provide Axivion written assurance that it has deleted or otherwise rendered unusable all remaining copies of the Software and the program documentation. The customer shall bear any costs and expenses incurred by Axivion for the transfer of the license.
- 2.7 In all other respects, the customer is not entitled to use the Software outside the *Site* stipulated in the order confirmation from Axivion, or for purposes other than operating purposes or to permit persons who are not Technical Team Members to use the Software or to assign the Software, in full or in part, temporarily or permanently, to third parties.

### 3. Term of the License

- 3.1 The license shall commence upon provision of the Software to the customer and the first payment of the license fee by the customer.
- 3.2 The term of the license is shown on the confirmation of the order by Axivion. In this respect, the following possibilities exist:

- permanent license (purchase of Software, see no. 3.3 below)
- license for a definite period of time (rental of Software, see no. 3.4 below)

3.3 To the extent not otherwise provided in the confirmation of the order by Axivion, the license is granted permanently, that is, without limitation in time. In this case, the right to give notice of the ordinary termination of the license is excluded for both parties to the contract. Axivion reserves the right of an extraordinary termination pursuant to no. 3.5 below.

3.4 As regards licenses that are granted for a definite period of time, the initial term of the license shall be as stated in the confirmation of the order by Axivion. During the initial term, neither of the parties can give notice of the ordinary termination of the license. After the expiration of the initial term, the license will be automatically renewed for successive one month periods (in the case of monthly payment of license fees) or one year periods (in the case of annual payment of license fees) unless the license is terminated in writing by one of the parties, subject to one week's (in the case of monthly payment of license fees) or three months' notice (in the case of annual payment of license fees), with effect at the end of the initial term or any extension period. A one-time fee paid upon supply of the Software will not be reimbursed after the termination of the license.

3.5 Regardless of the duration of the license granted, Axivion shall be entitled to terminate the license with immediate effect in the event of a culpable breach of the provisions of these GLT by the customer, in particular where the scope of the license pursuant to no. 2 is exceeded, unless the breach and the consequences thereof are immaterial. In the event of such a termination, the customer has no claim to the reimbursement of the fees paid for the license. The rights of Axivion to assert claims for damages shall remain unaffected.

3.6 With the end of the license, the customer's right to use the supplied Software expires. The customer must return to Axivion or destroy any and all, if any, of the supplied original data storage media, backup copies, or other copies of the Software stored on separate data storage media, as well as the program documentation provided, and the customer must irreversibly delete all copies as well as installations of the Software and program documentation that are stored on the customer's systems. The customer must affirm the complete return or destruction and/or deletion vis-à-vis Axivion in writing and, upon request by Axivion, must furnish corresponding evidence in a suitable form.

#### 4. Fees

- 4.1 The fees to be paid for the license depend on the agreed scope of use and shall be as stated in the confirmation of the order by Axivion. Unless otherwise agreed, the fees will be charged as from the date of the first supply of the Software.
- 4.2 To the extent that the license is granted on a permanent basis (see no. 3.3 above) and in the absence of an agreement to the contrary the remuneration consists in a one-time fee payable upon supply of the Software. This one-time fee comprises the performance of maintenance services according to the *General Terms and Conditions for the Maintenance of Software* (GMT) of Axivion for the term of one year. After this term, running maintenance fees have to be paid annually in advance for the further provision of maintenance services by Axivion according to the GMT of Axivion. The amount of such fees will be stated in the order of confirmation from Axivion.
- 4.3 As regards licenses that are granted for a definite period of time (see no. 3.4 above), the fees consist of running monthly or annual license fees and, possibly, a one-time fee payable upon supply of the Software. The running license fees, which include the maintenance of the Software according to Axivion's GMT, must be paid in advance. In the case of annual payment the fee will be billed 30 days in advance of a new contract year. In the case of monthly payment the fee has to be paid by the third working day of each month.
- 4.4 Axivion shall be entitled to adjust the running license fees according to no. 4.3 above subject to two weeks' prior notice with effect as of the beginning of a month (in the case of monthly payment of license fees) or subject to three months' prior notice with effect as of the beginning of a contract year (in the case of annual payment of license fees) in order to compensate increases in costs and/or in the context of the general increase in the license fees for the Axivion Software. If the increase – as the case may be, together with an automatic yearly increase of the fees as stated in the confirmation of the order by Axivion altogether – exceeds 3 % of the average of the fees paid within the last 12 month before the increase, the customer is entitled to terminate the license, in writing, subject to one week's notice with effect as of the beginning of a new month (in the case of monthly payment of license fees) or subject to one month's notice with effect as of the beginning of the new contract year (in the case of annual payment of license fees). Axivion shall notify the customer of these consequences when it announces the increase.

#### 5. Obligation of secrecy and duty to exercise proper care

- 5.1 The customer shall keep in confidence all information pertaining to the Software beyond the mere outer appearance and the functionality of the Software. This especially

applies to information about the methods and procedures employed as well as confidential materials and documents of Axivion concerning the Software.

- 5.2 The customer is obligated to assure the secrecy vis-à-vis third parties through its employees as well, especially to prevent through appropriate precautions the unauthorized access of third parties to the Software and the program documentation.
- 5.3 The customer shall keep the copy of the Software supplied via on-line download, delivered original data storage media, if any, as well as possible backup copies in a place that is secured against unauthorized access of third parties. Furthermore, the customer shall insistently point out the adherence to the agreed obligation of secrecy and the duty to exercise proper care.
- 5.4 The provisions in this no. 5 shall not affect the confidentiality requirements in no. 11 of the General Terms and Conditions of Axivion.

## 6. Other Provisions

- 6.1 These GLT shall also apply to later versions (Updates) and extensions (Upgrades) of the Software that Axivion supplies to the customer during the term of the license, unless otherwise agreed at the time of the supply of the respective later version or extension.
- 6.2 To the extent that these GLT do not contain any separate or deviating provisions, the GTC of Axivion shall additionally apply to the supply and use of the Software.

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