

# EULA

## End user license agreement for software

### 1. Subject matter, delivery and installation

- 1.1. The following end user license agreement (“EULA”) applies to any contractual relationship whose subject matter comprises providing any kind of software (“Software”) by Elatec (“we”, “us” or “our”) to any customer (“Licensee”). We will deliver the Software in accordance with the product description in the documentation and with any applicable agreement, terms and conditions, purchase order, or the like. The product description in the printed or electronically available documentation, as the case may be, conclusively defines the functional qualities of the Software. In particular, Licensee cannot imply any duty from any other published description or advertisement for the Software except to the extent we have expressly confirmed that other quality in writing.
- 1.2. Unless otherwise agreed, the Licensee will be provided with one (1) copy of the relevant version of the Software that is current at the time of delivery.
- 1.3. We will deliver the Software in the form of an executable object code, at our election, by supplying the Software to the Licensee on a CD-ROM, USB flash drive, embedded in a corresponding hardware of us delivered to the Licensee or other data media to the agreed delivery address (“Physical Delivery”), or by making it available for download through the download service on our website (“Electronic Delivery”). For the purpose of ascertaining whether delivery is timely, delivery of a Physical Delivery is deemed effected at the time we pass the CD-ROM, USB flash drive, hardware with the Software embedded or other data media to the forwarding agent, and an Electronic Delivery is deemed effected at the time we make the Software available for download and inform the Licensee accordingly, and risk passes at the time of such Physical Delivery or Electronic Delivery.
- 1.4. The Software shall be installed and put in operation by the Licensee, unless otherwise agreed in writing. Notwithstanding the aforesaid, we can, at our election, install the Software and put the Software in operation by ourselves.

### 2. License Grant

- 2.1. We grant the Licensee a single, non-exclusive right to use the Software, including the documentation, for internal business purposes, subject to the provisions of this sec. 2. Where Licensee purchases the Software, the License grant is unlimited in time; where Licensee rents the Software the License grant shall be limited to the period of time stipulated in the applicable agreement, terms and conditions, purchase order, or the like. All other rights to the Software and documentation, in particular rights to the ownership, copyright and trademark rights, remain with us.
- 2.2. The License grant to the Software shall be limited to the use of the Software for the purposes of using our goods and services to the extent such use is explicitly permitted according to the documentation of the respective Software. Any use beyond the purposes set out in the documentation is prohibited, in particular the use together with goods and services not provided by us.
- 2.3. With respect to Software (i) that is delivered embedded in corresponding products of ours (e.g. RFID reader), or (ii) that is designed for the use on such products, the Licensee is only entitled to use the Software exclusively on our products. The Licensee must not use the Software on products which are not created, designed, distributed or licensed by us or which are not otherwise on the market with our approval.
- 2.4. The Licensee is entitled to copy the Software only to the extent this is necessary for the purpose of the contractual relationship with us. The Licensee is permitted to create back up copies in accordance with best information technology practice to the extent this is necessary for ensuring the permitted use of the Software. The Licensee may not change or remove our copyright and authorship notices.

- 2.5. The Licensee is not permitted to translate, modify, arrange or otherwise alter the Software unless the aforementioned acts are subject to sec. 69d (1) German Copyright Act (UrhG). Prior to undertake the aforementioned acts for the purpose of error correcting, the Licensee will notify us in writing on the error and grant us two attempts to correct the error.
- 2.6. Prior to decompiling the Software, the Licensee must give written notice requiring us within a reasonable period of time to provide the information and documentation necessary to produce interoperability. The Licensee is entitled to decompile the Software only to the extent permitted in sec. 69e UrhG, but only after we have failed to comply with such notice within the reasonable time period. Before involving a third party (e. g. pursuant to sec. 69e No. 1 and 2 UrhG), the Licensee must obtain for our benefit the third party's written undertaking to comply with the provisions of this EULA.

### **3. Verification**

- 3.1. The Licensee is obliged to constantly control and verify that the Licensee uses the Software in full compliance with the provisions of this EULA. The Licensee will immediately inform us, is the Licensee becomes aware of a use of the Software, which is not covered by this EULA, in particular the creation a higher number of copies of the Software than permitted by us to the Licensee.
- 3.2. Upon justified suspicion of a breach of this EULA, but in any case once annually, we shall be entitled to audit the Licensee's use of the Software. We will conduct the audit solely through an independent third party that is bound to confidentiality and that will inform us only about identified breaches of this EULA. Any such audit will be conducted during the Licensee regular business hours and announced by us sufficiently in advance, but at least ten (10) business days.
- 3.3. We will bear the costs of the audit. However, if the Audit were to show an underpayment of licensee fees of five (5) per cent or more, the Licensee shall bear the costs of the audit.  
Both parties will undertake all necessary measures to ensure that the audit will be conducted with any applicable data protection law.

### **4. Passing on of the Software**

- 4.1. The Licensee may pass on the Software to one third party as one unit only, and provided that the Licensee entirely ceases and desists from its own use. The Licensee must hand over to the designated new user of the Software ("New Licensee") all copies of the Software, including any existing backup copies and all related documents, particularly the documentation, and ensure that there are no copies or components of the Software left with the Licensee, for instance by irretrievably destroying such copies or components of the Software.
- 4.2. Any temporary passing on of the use of the Software in part or in whole, including but without limitation the rental and lease of the Software, is not permitted.
- 4.3. The communication of the Software to the public, by wire or wireless means, in particular but without limitation the making available to the public of the Software within the meaning of sec. 19a UrhG, is not permitted.

### **5. Termination**

- 5.1. Upon termination of this EULA, e.g. due to rescission, expiry of the agreed time period or termination, the Licensee shall immediately cease the use of the Software.
- 5.2. Upon our request, the Licensee shall either return the Software, including any and all documentation, or fully and irretrievably delete and destroy the Software form any devices the Software is stored on. This does not apply to the extent the Licensee is required to keep copies of the Software due to legal retention obligations. In such case, the Licensee shall fulfill the aforesaid obligations in regards to such copies immediately after the expiry of the applicable retention period.
- 5.3. Licensee shall without undue delay certify in writing to us that the Licensee has dully fulfilled the aforesaid obligations.