General Terms for the Licensing of User Software
Software License

1.   Application oft the Agreement

1.1.   The following terms shall apply exclusively to all software licensing agreements pertaining to the licensing of user software, including documentation, (hereafter software) for an unlimited or limited period, concluded between QuinLogic GmbH, Aachen (hereafter QuinLogic) and its clients.

1.2.   Alterations or additions to these terms shall be effective only if set down in a separate written agreement clearly identified as such and only if made with the prior written agreement of the authorized representatives of QuinLogic.

1.3.   Offers made by QuinLogic shall be binding only if made in written form. Unless otherwise determined in the offer, QuinLogic shall be bound by the terms of an offer for a period of 90 days. The contents of an offer are confidential until an agreement has been concluded.

2.   Goods and Services Provided by the Parties

2.1.   QuinLogic shall deliver to the client the programs listed in the software licensing agreement (1.1) in object code accompanied by the agreed documentation. Insofar as provided for under the terms of the agreement, QuinLogic shall install the software on the client´s equipment and shall perform a function test.

2.2.   QuinLogic shall offer the client a separate maintenance agreement for the software.

2.3.   Any guarantee of a particular attribute must be expressly designated as such in writing.

2.4.   The client shall furnish QuinLogic with all the data, documentation and information concerning the software to be produced and its environment which QuinLogic requires in order to perform its obligations and shall furthermore provide QuinLogic free of charge with the support to be stipulated in a specific contract. The aforesaid information shall in particular include a complete description of functions and processes, together with test data, especially those for the acceptance test. Such descriptions must be made available to QuinLogic in their final form by the agree date. The client is liable for the correctness of the documentation, information and data which he supplies to QuinLogic. In the event that the client shall wish to modify the final version of his documentation, information and data or of his acceptance specifications for a particular function, any such modification shall be legally binding only with the prior written consent of QuinLogic.

3.   Terms of Payment

3.1.   Payments are to be made to QuinLogic´s account, without deductions, within a period of 30 days from the date of invoice. Value added taxes and any other legal imposts shall be added at the rates obtaining at the date of invoicing.

3.2.   Invoices shall be presented after installation of the software on the client´s equipment.

3.3.   Payment due under terms of the agreement may not be set off against contested claims.

4.   Right of Use

4.1.   On payment in full of the contractually agreed sum, the client shall acquire the non-exclusive and non-transferable right to use the software delivered to him on the computer system agreed between the parties.

4.2.   In the event that a malfunction in this computer system shall prevent the use of the software, the user shall for a limited period of time be entitled to use the software on another computer system under the terms and conditions set down in Section 4.

4.3.   Any copy of the software made for use on the computer system (4.1.) must include QuinLogic´s notification of copyright or protection.

4.4. The client may not by dissemination or by any other means whatsoever permit access in whole or in part by any third party to the software, to copies of the software or to the documentation. Agents of the client exercising the client´s behalf shall not be deemed to be third parties in the sense of this provision.

4.5. Modifications to the software may be made only with QuinLogic´s prior written permission. QuinLogic is entitled to make such permission contingent on the client´s providing modified software for QuinLogic´s use.

4.6. All other rights in the software shall remain the sole property of QuinLogic or its licensor. QuinLogic shall continue to be entitled to utilize the concept on which the programs are based and to exploit the said concept as its own discretion, providing that confidentiality shall be preserved in respect to the client´s know-how.

4.7. On termination of his right of use, the client shall return to QuinLogic unasked the software together with all copies thereof.

4.8. Infringement by the client of the conditions governing this right of use of the software shall entitle QuinLogic to terminate the software licensing agreement forthwith, irrespective of its other claims.

4.9. The parties agree that the software is protected by copyright.

5. Acceptance

The client agrees to accept the software as laid down in the terms of the software licensing agreement. If the client fails to meet his obligation to accept the software constituting the object of the contract even though it exhibits no significant defects, the said software shall be deemed to have been accepted with the expiry of a period of two weeks following declaration of fulfillment and delivery.

6. Warranty

6.1. QuinLogic guarantees as set out in the following (6.2. to 6.8.) that the software is free from defects preventing or substantially detracting from the agreed use, provided that it is used appropriately and in accordance with the terms of the agreement.

6.2. QuinLogic shall at its discretion eliminate software faults reproducibly documented by the client or shall notify to the client means of avoiding or temporarily by-passing such faults (hereinafter rectification of faults).

6.3. The period of warranty shall be 6 month, commencing with the delivery of the software. If declaration of acceptance of the software has been agreed (Sect. 5), the period of warranty shall exceptionally commence with the declaration of acceptance by the client. The period of warranty shall not be prolonged as a result of the provision of goods or services by QuinLogic under the terms of its warranty.

6.4. QuinLogic shall fulfill its warranty obligations on workdays from Monday to Fridays between the hours of 8 a.m. and 5 p.m.

6.5. It is a condition of the warranty that no alterations shall have been made to the software and that the client shall without delay have informed the responsible QuinLogic agency in writing of the effects of the fault.

6.6. Rectifications of faults shall be undertaken by the responsible QuinLogic agency and if expressly so agreed shall be carried out at the place of installation of the software. If elimination of any defects is undertaken on the client´s system at the place of installation, the computer equipment of the client shall be placed at QuinLogic´s disposal free of charge during normal business hours. If the elimination of any defects is undertaken at QuinLogic´s premises, the client undertakes to dispatch the data storage media to QuinLogic at his own expense and risk an QuinLogic undertakes to return the aforesaid data storage media to the client at QuinLogic´s expense and risk.

6.7. In the event that QuinLogic shall allow a period set to it for the performance of its warranty obligations to expire without such obligations having been performed, the client shall be entitled to claim a price reduction or the annulment of the software licensing agreement.

6.8. Claims for damages against QuinLogic shall be excluded insofar as there is no enforced liability on the grounds of intent or gross negligence or due to the absence of a guaranteed attribute of the software.

6.9. In the event that QuinLogic shall be able to prove that no liability under warranty exists in the case of a reported fault, the client shall bear the costs for location of the fault and for goods and services provided by QuinLogic under 6.2.

7.   Breaches of Copyright and Protection Rights, Confidently, Assignment of Commissions, Duty of Safekeeping

7.1.   QuinLogic shall indemnify the client against legally binding obligations issuing form a claimed breach of a German copyright or commercial protection right by the software delivered by QuinLogic. This indemnity shall be conditional upon the client´s notifying QuinLogic in writing of all claims made against him and of the ensuing proceedings, upon his authorizing QuinLogic to conduct and settle the legal dispute on its own behalf and upon his providing appropriate support to QuinLogic. QuinLogic´s obligation shall be null and void in the event that the copyright or protection was unknown to and should not necessarily have been known to QuinLogic at the date of conclusion of the agreement.

7.2.   If third parties claim under copyrights or rights of commercial protection, QuinLogic shall at its discretion be entitled either:
-    To procure continuing rights of use in the software for the client, or
-    To exchange or so modify the software that it ceases to infringe the copyright or commercial protection right,

    Or

-    In the event that it shall be impossible for QuinLogic to carry out the above measures under financially appropriate conditions, to repurchase the software at invoice price less an appropriate deduction for any use which may have taken place.

7.3.   QuinLogic bears no liability under Section 7, if the client has caused the breach of copyright or protection right by actions in violation of the agreement.

7.4.   Other claims against QuinLogic are excluded.

7.5.   QuinLogic reserves the right to take action against those infringing copyrights or rights of protection in the software. The client shall inform QuinLogic forthwith of any such infringements of copyright or protection rights. He shall provide appropriate support to QuinLogic in proceedings against those infringing these rights.

7.6.   QuinLogic shall make use of all documentation, information and data belonging to the client which the client has designated as confidential and which are not in the public domain or of which QuinLogic has not acquired knowledge by other means solely for the purpose of the performance of this agreement, and shall treat such documentation, information and data as confidential.

7.7.   QuinLogic is entitled to commission sub-contractors to perform parts of its obligations under this agreement.

7.8.   QuinLogic is entitled to retain the documentation and data which it receives from the client up to the performance of the agreement in its safekeeping until the warranty period has expired. Thereafter, the client may within a period of three month demand the return of the aforesaid documentation and data.

8.   Default, Incapacity

8.1.   If QuinLogic is in default in the performance of its obligations, the client is entitled following expiry of an appropriate period of grace:
-    To demand payment of a lump sum in damages for each full week of default at the rate of 0,5% of the amount shown I the in voice for the service which QuinLogic has failed to provide, with a maximum of 5% of this amount.

    Or

-    To withdraw from the licensing agreement in respect of this service. In the event that the other services to be provided by QuinLogic under the agreement shall no longer be of interest to the client under these circumstances, the client shall be entitled to withdraw from the software licensing agreement in full.

8.2.   In the event that QuinLogic shall be incapable of performing a contractual delivery or service, general legal principles shall apply with the following limitation: If QuinLogic is liable for the said incapacity, the client shall be entitled to claim damages. Any such claim for damages by the client shall notwithstanding be limited to 10% of the value of that part of the goods to be delivered or of the services to be performed which cannot be used appropriately as a result of the said incapacity. Claims for damages by the client which exceed the aforesaid limit of 10% are excluded. The provision shall not apply insofar as there is enforced liability on the grounds of intent or of gross negligence. The client´s entitlement to withdraw from the agreement shall not be affected.

9. **Liability**

9.1. QuinLogic shall be liable in accordance with prevailing law for any injury to persons for which it bears responsibility. In the event of any loss or damage to data or data storage media, the obligation of replacement shall not include costs for the replacements of lost data.
Any further claims, especially in respect of damages resulting from advice and support provided during the introduction into service of the software or from defects in the software, are excluded, providing that there is no enforced liability on the grounds of intent or gross negligence or due to the absence of guaranteed attributes.

9.2. Personal liability of QuinLogic employees acting as QuinLogic´s vicarious agents is excluded.

10. **Retention of Title**

Retentions of title by the client are excluded insofar as they do not arise from the aforesaid software licensing agreement.

11. **Export or Use Abroad**

The software is intended to remain in the country. The export or use of goods or services of QuinLogic in other countries than agreed requires QuinLogic´s prior written permission.

12. **Miscellaneous**

12.1. Claims are not assignable without prior written agreement of the parties.

12.2. The law of the Federal Republic of Germany shall apply.

12.3. The place of performance and jurisdiction for all disputes arising out of or in connection with this agreement is Aachen. Notwithstanding, QuinLogic shall also be entitled to institute actions at the legal place of jurisdiction of the client.

12.4. The parties shall substitute for any invalid provisions of the agreement valid provisions which fulfill the intended purpose as closely as possible. The same shall apply in the event of any omissions in the agreement.