

LICENSE AGREEMENT of Symflower-Local

USER-NODE LOCKED LICENSE

Version: 1/2021

Scope

The following license conditions shall form an integral part of all contracts concluded with SYMFLOWER GmbH (hereinafter referred to as "SYMFLOWER") concerning the use of the software Symflower developed by SYMFLOWER (hereinafter referred to as "Software"). These license conditions shall also be valid if they are not expressly included in each case or in the conclusion of new contracts. SYMFLOWER and the customer agree as follows:

1. Permission of use (license) and prohibition of use

- 1.1.** SYMFLOWER holds all property rights, copyrights and intellectual property rights to the Software. Provided that the customer complies with the following provisions, SYMFLOWER grants the customer a non-exclusive, non-transferable, non-sublicensable, limited right to use the Software by a single user of a specific hardware device in unchanged form for the agreed duration, for the agreed number of users and for the purpose agreed upon herein, according to the following provisions (permission of use).
- 1.2.** The granted permission of use is bound to a specific hardware device and shall not include the transfer, disclosure or use of the source code. Any modification of the Software or the source code by the customer shall be strictly prohibited.
- 1.3.** The Software may only be used by the single activated user on that specific device. It is not authorised for use in virtualized environments or terminal servers or for continuous integration.
- 1.4.** The customer shall not be entitled to copy, reproduce, edit, modify, make available to third parties, publish or install the Software on hardware other than the named specific hardware device.
- 1.5.** The customer shall not be entitled to reverse engineer, decompile or disassemble the Software, unless and only to the extent that applicable law, notwithstanding this restriction, expressly and compulsorily permits this.
- 1.6.** Unless a separate agreement is made, no further rights to the Software are transferred to the customer. In particular, the customer shall not acquire any rights whatsoever to the product, in particular no trademarks, patents or other intellectual property rights.
- 1.7.** All documents provided to the customer by SYMFLOWER, in particular the documentation to the Software, must neither be copied nor distributed in any way, whether for payment or free of charge.
- 1.8.** The customer shall be prohibited from removing notices and information regarding copyrights, trademark rights, patent rights and other intellectual property rights regarding the Software.
- 1.9.** The customer shall ensure that the activated users for the use of the Software also comply with these restrictions and shall be liable to SYMFLOWER for violations of these

restrictions by activated users or third parties whom the customer and/or an activated user has enabled to use the Software in breach of these license conditions.

- 1.10. The customer shall further ensure that the specific hardware device on which the Software is installed has to the satisfaction of SYMFLOWER adequate connection to the internet for the data exchanged between SYMFLOWER and customer.
- 1.11. The customer undertakes not to use any technical equipment, software or other data which could lead to an impairment of the Software.
- 1.12. If the Software is to be used for other purposes, these are to be agreed separately in writing by the parties. The right of use expires immediately upon termination of the contract or upon failure to pay the license fee in accordance with this contract.
- 1.13. In case of a violation of a prohibition of use, SYMFLOWER shall be entitled to prohibit the use of the Software or block the access to the Software.
- 1.14. SYMFLOWER may review the customer's compliance with the provisions agreed in this contract regarding the use of the Software at any time. The customer shall support SYMFLOWER to a reasonable extent and shall in particular make available all necessary information and documents.
- 1.15. The permission of use granted hereunder (and the limitations agreed in this regard) shall also include future software updates that supplement and/or replace the original, unless such updates are governed by a separate license.

2. Provision of Software

- 2.1. To enable the use of the Software, SYMFLOWER will provide the Software and the customer will install the Software on the specific hardware device provided by the customer. Any installation of the Software by the customer or by third parties is prohibited, unless agreed upon with SYMFLOWER in writing.

3. E-mail support and updates

- 3.1. After a successful installation SYMFLOWER undertakes system maintenance and technical support for the Software in the form of e-mail support. There are no guaranteed reaction times.
- 3.2. Support regarding end users (developers), as well as system maintenance and technical support for customer's specific hardware device including database software and operating software, on which the software is installed, may be agreed upon separately with SYMFLOWER.
- 3.3. SYMFLOWER is prepared to provide the customer with future updates to the Software, which supplement and / or replace the original Software, as standard updates without additional payment for the duration of the contract, unless such updates contain other software, the use of which is to be agreed upon separately by means of a further license. Furthermore, SYMFLOWER is prepared to realize special requests of the customer, for which separate agreements have to be made. However, the customer shall under no circumstances derive any claims to the Software or acquire any rights to the Software exceeding the rights granted under this agreement. SYMFLOWER shall remain the sole owner of the Software as well as of all future developments of the Software and shall therefore be entitled to make such work products available to third parties.

4. Warranty

If the customer detects a defect in the Software, the customer shall report this to SYMFLOWER immediately in the form specified by SYMFLOWER. The customer shall also state how the defect manifests itself, which effects it has and under which circumstances it occurs. The defect and its occurrence shall be described in such detail that an examination of the defect is feasible, and the exclusion of an operating error is possible. SYMFLOWER shall then begin with the analysis and elimination of the reproducible defect in the Software or with the naming of a circumvention measure for temporary bridging of the defect. If the defect is caused by circumstances for which the customer or third parties are responsible, the customer shall be obliged to pay for the services rendered by SYMFLOWER according to the agreed hourly rates of SYMFLOWER, in accordance with SYMFLOWER's general terms and conditions.

5. Liability

SYMFLOWER shall only be liable to the customer for damages, irrespective of the legal basis, in accordance with the following provisions:

- 5.1.** SYMFLOWER shall only be liable for gross negligence or intent. Liability for slight or plain gross negligence shall be excluded. This does not apply to personal injury. Any liability shall be limited to the value of the order. The reversal of the burden of proof according to Sec 1298 ABGB (Austrian Civil Code) shall be excluded.
- 5.2.** SYMFLOWER shall not be liable for lost profits, loss of interest, loss of turnover, financial losses, lack of savings and damage to recorded data. Furthermore, SYMFLOWER shall neither be liable towards third parties and other indirectly injured parties, nor for (consequential) damages. Accordingly, SYMFLOWER shall not be liable for damages to the customer's end devices. Furthermore, SYMFLOWER shall not be liable for missing savings or lost data.
- 5.3.** Claims for damages of the customer due to delay or impossibility of performance of SYMFLOWER shall be limited to the value of that part of the performance, which cannot be used as contractually provided due to the delay or impossibility.
- 5.4.** SYMFLOWER shall not be liable for circumstances within the sphere of the customer. Accordingly, SYMFLOWER shall not be liable for damages and defects caused by changes to the software, changes to the necessary system settings or application errors. SYMFLOWER shall not be liable for delays which cannot be avoided even with careful management, especially circumstances of force majeure, technical disturbances or labor disputes. This regulation also applies if such circumstances occur at suppliers or vicarious agents of SYMFLOWER.
- 5.5.** As far as contracts concluded with SYMFLOWER deal in part or in whole with access to SYMFLOWER's servers by the customer or third parties via the internet or other remote data transmission, an uninterrupted accessibility and availability of SYMFLOWER's servers shall not be contractually owed. In this respect SYMFLOWER shall only owe reasonable and appropriate efforts and precautions according to the state of the art of science and technology to ensure uninterrupted accessibility and availability of the servers. Circumstances beyond SYMFLOWER's sphere of influence, such as the

availability and proper functioning of transmission paths in the internet and in public networks, are in no case subject to contractual agreements or assurances.

- 5.6.** If liability cannot be excluded due to legal regulations, the liability for each event causing damage shall be limited to EUR 100,000.

6. Remuneration

The parties agree that SYMFLOWER shall receive the following remuneration from the customer for the installation of the Software, the granted permission of use and the agreed services:

6.1. License fee

- 6.1.1.** The use of the Software by the first two authorised users per specific hardware device is without any payment obligation.
- 6.1.2.** For each additional authorised user per specific hardware device, SYMFLOWER shall receive an annual or monthly license fee for the license granted to the customer, starting from the provision of the Software for the entire term of this agreement, according to the price list of SYMFLOWER (as amended) depending on the number of activated users per specific hardware device.
- 6.1.3.** Each license fee is due in advance on the 1st of the respective calendar month in which this agreement was concluded and is payable without deductions.
- 6.1.4.** SYMFLOWER invoices in Euro and accepts payments exclusively in Euro. For payments in other currencies, SYMFLOWER's prior, separate and written consent is required in each case. All prices are exclusive of VAT.
- 6.1.5.** The amount of the license fee shall be value protected. The value is protected according to the consumer price index 2015 (Statistik Austria). At the time of signing the contract, the starting point is the published figure for the last calendar month (this index value = 100). Any increase in the index figure of this consumer price index or a successor index replacing it shall result in a corresponding increase in the amount of the indexed amounts. The adjustment shall be effective for those amounts due after the date of the respective increase. In case the index figure is no longer published and no successor index is published, the value protection must be calculated in such a way that it corresponds to the reduction in purchasing power.

7. Term of contract, duration of use and termination

- 7.1.** The permission to use the Software is granted upon its installation by SYMFLOWER or upon transmission of the access details and is granted to the customer for the duration of this agreement.

- 7.2.** SYMFLOWER unilaterally waives its ordinary termination right. The customer shall have the right to terminate this agreement by giving six months' notice, in each case with effect from the end of the agreed term of the agreement, by sending a written notice (termination notice) to SYMFLOWER by registered mail (observing the notice period).
- 7.3.** If the customer does not terminate this agreement in due time before the end of the agreed term, the agreement shall be automatically renewed for an additional year or month depending on the chosen license duration.
- 7.4.** SYMFLOWER may terminate this agreement for cause at any time, after expiry of a grace period of 14 days,
- a) if the customer exceeds the rights of use granted under this agreement;
 - b) if a payment to be made by the customer in connection with this agreement is more than 60 days late;
 - c) if the customer – for whatever reason – is no longer able to fulfil this agreement; or
 - d) if the customer, despite a warning and the setting of a reasonable grace period to restore a situation compliant with this agreement, violates other obligations under this agreement.
- 7.5.** The customer may terminate this agreement for cause at any time, after expiry of a grace period of 30 days,
- a) if SYMFLOWER fails to eliminate technical defects and/or program errors in the Software in spite of a reasonable grace period and this has led to total failures for more than 14 consecutive days (force majeure and other reasons beyond SYMFLOWER's control are excluded from this);
 - b) if SYMFLOWER – for any reason whatsoever – is no longer able to fulfil the contract in question despite having been granted an additional period of 60 days; or
 - c) if SYMFLOWER, despite having been warned and granted a reasonable grace period to restore a situation compliant with this agreement, violates any other important obligation of this contract.

8. Consequences of termination of this agreement

After the termination of this agreement – for whatever reason – the following regulations shall enter into force:

- 8.1.** The customer shall immediately cease all use of the Software after the end of this agreement. Except for those cases in which a further use of the Software is agreed upon in writing, the customer shall (i) completely uninstall the Software from the hardware available to the customer and destroy all backup copies, or (ii) allow SYMFLOWER to uninstall and destroy the Software, if requested by SYMFLOWER. In case the customer has concluded a cloud contract with SYMFLOWER, SYMFLOWER will block the customer's access details upon termination of this agreement.
- 8.2.** Upon request, the customer shall (i) provide SYMFLOWER with all necessary information to prove compliance with the deinstallation and destruction of the Software free of charge and (ii) enable SYMFLOWER or an auditor commissioned by SYMFLOWER to carry out checks, including inspections.
- 8.3.** In case of violations and/or further use of the Software, the parties agree on a contractual penalty irrespective of fault in the amount of three times the last agreed annual license

fee, per license used for each additional year or part thereof, after termination of this agreement between the parties. The customer shall, at its own expense, return any documents provided to SYMFLOWER without delay and without retaining any copies.

- 8.4. The provisions of article 1.4., the provisions in this article regarding "Consequences of termination of this agreement" and the provisions of article 10 "Final provisions" shall continue to apply after termination of this agreement.

9. Protective right

- 9.1. The customer shall protect the Software from unauthorized access by third parties. In doing so, the customer will apply at least the same standard of care it uses to protect its own affairs and shall be liable to SYMFLOWER for any damage caused by the customer or its agents.
- 9.2. The customer shall immediately inform SYMFLOWER about any possible infringements of SYMFLOWER's rights to the Software as soon as the customer becomes aware of them. In order to fulfil this obligation, the customer shall disclose to SYMFLOWER all information known to the customer in writing.

10. Final provisions

- 10.1. **Notices:** Notices in accordance with this license agreement or notices required by law must be sent to the addresses listed at the beginning of this agreement. Any change of these addresses must be notified to the other contractual partner expressly and in writing and shall only become effective two weeks after the notification is sent to the other contractual partner at the address valid at that time.
- 10.2. **Severability:** Should any provision of this license agreement be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected. Any such provision shall be deemed replaced by a valid or enforceable provision that most closely approximates the intended legal or economic purpose behind the invalid or unenforceable provision.
- 10.3. **Governing Law:** This license agreement shall be governed by Austrian law, whereby the applicability of the choice of law rules shall be precluded.
- 10.4. **Jurisdiction:** Any and all disputes arising out of or in connection with this license agreement shall be subject to the exclusive jurisdiction of the court on subject matter jurisdiction for Linz, Austria.
- 10.5. **Place of performance** is Linz, Austria.
- 10.6. In addition, the general terms and conditions of SYMFLOWER (as amended), shall apply. In case of contradictions between the general terms and conditions of SYMFLOWER and this license agreement, this license agreement takes precedence over the general terms and conditions.