



## License Agreement for "PDC" and/or "EDS PowerCon" Software

IMPORTANT: PLEASE READ THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT CAREFULLY BEFORE INSTALLING, ACCESSING, COPYING OR USING ALL OR ANY PORTION OF THE "PDC" and/or EDS PowerCon software. THE SOFTWARE IS LICENSED, NOT SOLD. BY INSTALLING, COPYING OR OTHERWISE USING THE SOFTWARE OR ANY FILES THAT ARE DELIVERED WITH IT, AND ANY AND ALL COPIES AND DERIVATIVE WORKS OF SUCH SOFTWARE, INDIVIDUALLY OR COLLECTIVELY, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT.

This License Agreement LICENSE AGREEMENT for "PDC" and/or EDS PowerCon software (based on e-Design software suite) is a legal agreement between ABB STOTZ-KONTAKT GmbH, Heidelberg, Germany (hereinafter referred to as "LICENSOR") and you, as a business (entity) only (hereinafter referred to as "you" or "LICENSEE") to use the software "PDC" and/or EDS PowerCon (together with its components, updates, new releases, corrections, versions, modifications and derivatives, referred to as the "SOFTWARE") and on the terms and conditions as set out in this LICENSE AGREEMENT. By expressly accepting the terms and conditions of this LICENSE AGREEMENT and/or by installing, copying, downloading, or otherwise using the SOFTWARE, the LICENSEE agrees to be bound by the terms and conditions of this LICENSE AGREEMENT.

If you are not authorized to, or do not agree to the terms and conditions of this LICENSE AGREEMENT, do not install or use the SOFTWARE.

### 1. Subject of the LICENSE AGREEMENT and Definitions; Usage Statistics

1.1. Subject to the terms and conditions of this LICENSE AGREEMENT, LICENSOR agrees to grant a SOFTWARE license to LICENSEE, and LICENSEE agrees to take a license for using the SOFTWARE identified and described in this LICENSE AGREEMENT. The SOFTWARE may be downloaded from specific web sites of LICENSOR or LICENSOR's AFFILIATES.

"AFFILIATE" shall mean any one or more business entities, which in relation to a party is (are) directly or indirectly: (i) owned or controlled by the party, (ii) owning or controlling the party, or (iii) owned or controlled by the business entity owning or controlling the party, at the relevant time. For the purposes of this definition, a business entity shall be deemed to own and/or to control another entity if more than 50% (fifty per cent) of the voting stock of the latter business entity, ordinarily entitled to vote in the election of directors (or, if there is no such stock, more than 50% (fifty per cent) of the ownership of or control in the latter business entity) is held by the owning and/or controlling business entity.

1.2. The SOFTWARE is requiring a copy of the e-Design software suite consisting of various software components. The SOFTWARE is exclusively designed to support the designing of ABB low voltage switch gear assemblies in the frame of an existing copy of e-Design software suite of ABB.

1.3. LICENSOR reserves the right to periodically collect usage statistics that describe the manner and the frequency of use of the SOFTWARE. Such information shall be considered confidential. Such statistics will only be used in aggregated form without regard to a particular user and only for internal purposes of the LICENSOR to gain a deeper insight into the typical use of the SOFTWARE in order to facilitate the SOFTWARE's further development. The LICENSEE shall be solely responsible

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to grant only those persons access to the SOFTWARE that have unambiguously given their consent to the collection, processing or use of such statistics.

## 2. Availability and use of the SOFTWARE; Requirements for use of the SOFTWARE

2.1. Due to different local requirements, the SOFTWARE and/or some of its specific components are not available for all countries.

2.2 Due to different local requirements, the SOFTWARE versions available for one country are not applicable to other countries and shall not be used by LICENSEE in other countries than the country where it has downloaded the SOFTWARE in accordance with Section 3, unless and to the extent explicitly laid down in the user manual of the SOFTWARE, as amended or modified in a relevant release (herein together: "USER MANUAL").

2.3 LICENSEE is aware that the software PDC is designed for use for installations to be used in Germany, Austria and Luxemburg (only).

## 3. SOFTWARE Download; Dependence on E-Design software suite

The SOFTWARE may be downloaded from the LICENSOR's or LICENSOR's AFFILIATE'S web site, the terms and conditions of this LICENSE AGREEMENT shall apply. The Software is free of charge. LICENSEE is aware that the use of the features of the SOFTWARE will require the E-Design software suite, which is available free of charge from web pages by Affiliate of LICENSOR.

## 4. Grant of License

4.1. Subject to the terms and conditions (including but not limited the restrictions set forth in Section 5) of this LICENSE AGREEMENT, LICENSOR grants to LICENSEE a limited, non-exclusive right as laid down herein to use the SOFTWARE for its own internal business purposes and for the duration of this LICENSE AGREEMENT only (hereafter called "LICENSE"). Any other or further use is not permitted.

4.2. The SOFTWARE will be received by LICENSEE in object code form only and, therefore, the LICENSEE shall not have any right to use or access the source code of the SOFTWARE.

4.3. The risk will pass on the LICENSEE upon downloading the respective component of the SOFTWARE.

4.4. The SOFTWARE may only be used (i) by business entities active in the low voltage switchgear business or for training purposes in schools and (ii) only for designing of low voltage switch gear assemblies of LICENSOR and its AFFILIATES.

4.5 LICENSEE shall be entitled to make a single backup copy of the SOFTWARE (solely) for security purposes. Such copy may never be used simultaneously with the SOFTWARE of the original data carrier and is subject to the same restrictions.

4.6. No further right or license is granted by LICENSOR to LICENSEE by this LICENSE AGREEMENT except as expressly set out in this LICENSE AGREEMENT.

## 5. Special Restrictions

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5.1. The LICENSEE shall not (and shall not allow any third party to):

a) transfer the SOFTWARE or any copy thereof to a third party without imposing the restrictions and obligations under this LICENSE AGREEMENT to such third party, or making it otherwise accessible to a third party without prior written permission by LICENSOR;

b) transfer, rent, lease, sale, sublicense, lend or authorize all or any portion of the SOFTWARE to be copied onto another user's computer, except as may be expressly permitted herein.

c) alter, merge, adapt, translate or modify, the SOFTWARE or create any derivative products;

d) decompile, reverse-engineer or disassemble, or otherwise reduce the SOFTWARE without prior written permission by LICENSOR, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation; and/or

e) remove or alter any product identification, proprietary, trademark, copyright or any other notices on any copies of the SOFTWARE.

5.2. LICENSEE must comply with all applicable laws regarding use of the SOFTWARE.

5.3. The LICENSEE shall not decrypt or modify any data transmitted between the installed SOFTWARE and a server, and not use, post, host or distribute macros, cheats, automation software, hacks modification or other programs which would allow modification in the SOFTWARE functioning.

5.4. FOR LICENSEES IN BRAZIL: Unless otherwise specifically required under applicable law, the LICENSEE shall not use any unauthorized third-party software that intercepts or otherwise collects information from or through the SOFTWARE or its related services including, without limitation, any software that reads area of random access memory.

## 6. Rights of Ownership

6.1. The SOFTWARE is protected by copyright laws and international copyright treaties as well as other intellectual property laws and treaties. The SOFTWARE is licensed, not sold.

6.2. All right, title, including but not limited to copyrights, trademarks, patents, trade secrets and other intellectual property rights, and interest in and to the SOFTWARE and any materials contained in the SOFTWARE (e.g. examples of tender documents) and any copies thereof are owned by LICENSOR, unless another copyright holder is mentioned in the respective part of such material in which case a third party licensor owns all right, title, including but not limited to copyrights, trade marks, patents, trade secrets and other intellectual property rights, and interest in and to such THIRD PARTY SOFTWARE (as defined in Section 7) and any materials contained in the THIRD PARTY SOFTWARE (e.g. examples of tender documents) and any copies thereof.

6.3. Except for the limited license rights explicitly provided herein, nothing in this LICENSE AGREEMENT is intended to grant any right to LICENSEE under any software, component, patent, copyright, trademark, trade secret or other intellectual property right.

6.4. The LICENSEE shall be obliged to attach the copyright notice of LICENSOR onto any backup copy and to incorporate it into the copy, respectively. LICENSEE shall refrain from removing or modifying an existing copyright notice or registration number from the SOFTWARE or the USER MANUAL.

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## 7. Third Party Software and Open Source Software

7.1. To the extent that SOFTWARE is provided to the LICENSEE for which the LICENSOR has only derived rights to use or so-called open source software (collectively: "THIRD PARTY SOFTWARE"), the conditions of use of the THIRD PARTY SOFTWARE shall apply with priority. A list of the THIRD PARTY SOFTWARE components and of the respective conditions of use is set out below immediately after this LICENSE AGREEMENT.

7.2. LICENSEE shall indemnify and hold LICENSOR harmless from and against any claims, cost, expenses which LICENSOR might incur arising from LICENSEE's or LICENSEE's successor's use of THIRD PARTY SOFTWARE.

NOTE: Any liability or warranty of the licensing authors of the open source software components shall be excluded.

## 8. Support Services; AFFILIATES of LICENSOR

8.1. LICENSOR may, in its sole discretion, provide support services related to the SOFTWARE. The services may be provided by AFFILIATES of LICENSOR as well and, if LICENSOR provides such support services, it may decide content, extent, frequency and terms of such support services in its sole discretion.

8.2. LICENSEE shall implement without undue delay updates or upgrades generally provided or specifically provided to LICENSEE by LICENSOR or AFFILIATES of LICENSOR in relation to the SOFTWARE. LICENSEE may be requested to accept amended terms and conditions in view of the update / upgrade, otherwise the terms of this LICENSE AGREEMENT shall apply.

8.3. Any supplemental software code provided to LICENSEE as part of such support services (e.g. as upgrade) shall be considered part of the SOFTWARE and subject to the terms and conditions of this LICENSE AGREEMENT unless amended terms and conditions are provided by LICENSOR.

8.4. In view of services by AFFILIATES of LICENSOR in relation to the SOFTWARE, the provisions of this LICENSE AGREEMENT (as amended from time to time as provided herein) shall apply, i.e. in case of support by an AFFILIATE of LICENSOR in relation to the SOFTWARE the limitations or exclusions of liability as provided herein shall apply in favor of such AFFILIATE. For the avoidance of doubt and in line with Section 3, the preceding sentence shall also apply in view of the SOFTWARE or parts thereof which is/are downloaded from a web site of any of LICENSOR's AFFILIATES.

8.5. The development of any improvements, enhancements or modifications made or relevant to the SOFTWARE shall be LICENSOR's sole right and in LICENSOR'S sole discretion. If such improvements, enhancement or modifications apply to the components made available to LICENSEE, then LICENSOR may, at its sole discretion, provide such improvements, enhancement or modifications and the terms and conditions of this LICENSE AGREEMENT shall automatically apply thereto, unless LICENSOR provides for different terms and conditions when making available the improvements, enhancement or modification.

## 9. Coming into Force; Duration of the License

9.1. "Effective Date": The LICENSE shall come into force upon downloading of the Software or such component(s). If the validity of the LICENSE as per local law is conditional upon official registration or approval, the date of the official

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registration or approval shall be the effective date. The LICENSEE shall inform LICENSOR without undue delay of any such requirement. The LICENSEE shall immediately after downloading of the SOFTWARE take the necessary measures to register or obtain approval. If the registration or approval has not taken place within 3 (three) months from the date referred to in the previous sentence, LICENSEE shall inform LICENSOR without undue delay and LICENSOR shall have the right to immediately withdraw from the LICENSE AGREEMENT by sending a written notice to LICENSEE.

9.2. The right of the LICENSEE to use the Software shall expire automatically without notice if LICENSEE violates any terms of this LICENSE AGREEMENT or does not agree to amended terms and conditions as set forth in Section 8.2 – 8.5. If there is an insignificant breach of duty, automatic expiry shall only apply (i) after repeated violation of the same or a comparable duty or (ii) after the LICENSEE has been unsuccessfully requested by LICENSOR to rectify the situation caused by the breach of duty. When the right of use is terminated, the LICENSEE is obliged to remove the SOFTWARE and the setup file and any copies thereof as well as to delete them, including any modified versions.

9.3. This LICENSE AGREEMENT may be terminated at any time by one Party with fifteen (15) days previous written notice.

9.4 In the event of expiration or termination of this LICENSE AGREEMENT, however the reason, and subject to any express provisions set out in this LICENSE AGREEMENT, all rights and licenses shall immediately cease. The SOFTWARE and the setup file and any copies thereof, including modified versions, shall be immediately and permanently removed from the hard drive which it was installed, and all copies of the SOFTWARE in LICENSEE's control shall be destroyed.

## 10. Compensation after breach of Contract

10.1. The LICENSEE shall be liable for any damage incurred by LICENSOR due to a breach of this LICENSE AGREEMENT by LICENSEE or by any person engaged or employed by LICENSEE in connection with the performance of this LICENSE AGREEMENT.

## 11. General Provisions depending on Domicile of LICENSEE and kind of SOFTWARE

### Section A:

The provisions of this Section A shall apply to LICENSEE domiciled or with residual residence in Germany:

The term „written“ or „in writing“ in case of notifications and/or declarations to be made by Licensee will also be fulfilled by a notification or declaration, respectively, as text document on a permanent data carrier showing the persons giving this notification/declaration without requiring signature(s) (so-called *Textform*). A “permanent data carrier” shall include any media allowing recipient to store / save a notification/declaration to him contained on the data carrier in a way allowing to have access to it for a time period reasonable in view of the purpose of the notification / declaration and sufficient to retrieve the notification/declaration therefrom. Such requirements may be fulfilled e.g. by an email.

### A.1 in view of SOFTWARE licensed against remuneration (components of PDC)

#### A.1.1 Defects

The limitation period for claims for making good of defects shall be 12 months from the date when LICENSEE receives the KEY for the SOFTWARE. The same shall apply to withdrawal and reduction. This period does not apply:

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- insofar as the law prescribes longer periods are prescribed by law according to Sec. 438 para. 1 No. 2 (buildings and things used for buildings) and Sec. 634a para. 1 No. 2 (defects of a building) German Civil Code ("Bürgerliches Gesetzbuch"),
- in case of intent,
- in case of fraudulent concealment of the defect, as well as
- in the event of non-compliance with a quality guarantee.

Claims for reimbursement of expenses by LICENSEE pursuant to Sec. 445a of the German Civil Code (seller's recourse) shall become time-barred 12 months after the date when LICENSEE receives the KEY for the SOFTWARE, provided that this shall not apply in case (i) LICENSEE is a consumer or (i) LICENSEE resells the SOFTWARE and the last customer in the supply chain (in respect of the SOFTWARE) is a consumer.

The legal provisions regarding suspension of the statute of limitations ("Ablaufhemmung", "Hemmung") and recommencement of limitation periods shall be unaffected.

LICENSEE shall have no claim with respect to expenses incurred in the course of supplementary performance (*Nacherfüllung*), including costs of travel, transport, labor, and material, to the extent that expenses are increased because the SOFTWARE has subsequently been brought to another location than the LICENSEE's office.

#### A.1.2 Liability

Claims for damages of LICENSEE against Licensor, irrespective of the legal grounds (e.g. based on infringement of duties arising in connection with the contract or tort), shall be excluded.

This shall not apply to the extent liability is based on:

- (a) Product Liability Act;
- (b) intent or gross negligence on the part of the Licensor or his legal representatives, executives or other persons deployed by Licensor for fulfilment of his duties;
- (c) fraud;
- (d) failure to comply with a guarantee granted;
- (e) negligent injury to life, limb or health; or
- (f) negligent breach of a fundamental condition of contract ("*wesentliche Vertragspflichten*").

However, claims for damages arising from a breach of a fundamental condition of contract shall be limited to the foreseeable damage which is intrinsic to the contract, provided that no other of the above case applies.

The above provisions shall not imply a change in the burden of proof to the detriment of LICENSEE.

#### A.1.3 Applicable Law

This Agreement and its interpretation shall be governed by substantive German law to the exclusion of the United Nations Convention on contracts for the International Sale of Goods (CISG).

#### A.1.4 Dispute Resolution

Exclusive place of jurisdiction shall be the location at which the Licensor has his registered seat. The Licensor is however entitled to bring the case before the court of jurisdiction for the registered seat of the LICENSEE.

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However, for consumers only the following provision shall apply: Consumers who after entering into the Agreement move to another country, venue for litigation against the consumer shall be Licensor's domicile. This shall also apply in cases where the consumer's residual residence or the habitual residence [*Wohnsitz oder gewöhnlicher Aufenthaltsort*] is not known at the time of instituting litigation.

*NOTE as per Article 36 of German legislation on consumer dispute resolution („Verbraucherstreitbeilegungsgesetz“): Licensor does not participate in voluntary dispute resolution proceedings held at a German consumer dispute resolution body. There is no statutory obligation of Licensor to do so.*

A.2. in view of SOFTWARE licensed free of charge (EDS PowerCon and PDC to the exclusion of PDC)

The provisions set out in Section 11 A.1 above shall apply to any claims or rights (if any) which are provided to LICENSEE by applicable law in view of the licensing free of charge.

Section B: The provisions of this Section B shall apply to LICENSEE domiciled or with residual residence outside of Germany:

B.1 in view of SOFTWARE licensed free of charge (EDS PowerCon and PDC to the exclusion of PDC))

B.1.1 (No) Warranty and Liability

1. In view of the fact that the License is granted the license under B.1 free of charge, Licensor in view of such parts of the SOFTWARE hereby disclaims any warranty or defect liability whatsoever as well as any warranty and liability in view of defect in title or intellectual property rights.

No oral or written information or advice given by Licensor or Affiliates of Licensor shall create any warranty of either of them. "AFFILIATE" shall mean any one or more business entities, which in relation to a party is (are) directly or indirectly: (i) owned or controlled by the party, (ii) owning or controlling the party, or (iii) owned or controlled by the business entity owning or controlling the party, at the relevant time. For the purposes of this definition, a business entity shall be deemed to own and/or to control another entity if more than 50% (fifty per cent) of the voting stock of the latter business entity, ordinarily entitled to vote in the election of directors (or, if there is no such stock, more than 50% (fifty per cent) of the ownership of or control in the latter business entity) is held by the owning and/or controlling business entity.

2. Licensor's liability, if any – irrespective of the legal grounds (e.g. in connection with defects, delay, third party intellectual property rights, indemnity) - shall be limited as follows:

a) Licensor shall not be liable for loss of profit, loss of revenues, loss of use, loss of production, costs of capital or costs connected with interruption of operation, loss of anticipated savings or for any special indirect or consequential damage or loss of any nature whatsoever;

b) Licensor's total liability in respect of any and all claims for damages or losses which may arise in connection with its performance or non-performance under the Agreement shall in no event exceed in total 500 Euros.

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The preceding limitations shall not apply to Licensor's intention or gross negligence, but shall apply to intent or gross negligence of persons employed by the Licensor for the performance of Licensor's obligations.

#### B.1.2 Applicable Law

The Agreement shall be governed by substantive Swiss law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and excluding the application of conflict of law principles.

*NOTE: Towards a customers, who is consumer and who has his habitual residence in an EU member country or in a country being member of the European Economic Area (EEA) – hereinafter: "Country of Residence of Consumer" the following information applies: As per Article 6 para (2) of the Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations ("Rome I Regulation") the preceding reference to substantive German law shall not deprive the consumer of the protection afforded to him by provisions of this Country of Residence of Consumer that cannot be derogated from by agreement by virtue of the law which, if Licensor*

*(a) pursues his commercial or professional activities in the Country of Residence of Consumer, or*

*(b) by any means, directs such activities to that Country of Residence of Consumer or to several countries including that country, and the contract falls within the scope of such activities.*

#### B.1.3 Dispute Resolution

a) For consumers who have the residual residence outside of Germany: Lüdenscheid/Germany shall be the non-exclusive venue. This means that the customer (being a consumer) shall be free to file legal proceedings in view of rights or claims in connection with this Agreement which are based on consumer protection law ("Consumer Claims") in Germany (Lüdenscheid) or in any other EU member country in which the consumer has his residual residence.

b) For businesses domiciled outside Germany: Any dispute, controversy or claim arising out of, or in relation to, this contract, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules.

The number of arbitrators shall be one. The seat of the arbitration shall be Zurich/CH, unless the parties agree on a city in another country. The arbitral proceedings shall be conducted in English.

#### B.2 in view of SOFTWARE licensed against remuneration (components of PDC)

##### B.2.1 Guarantee

LICENSEE hereby is granted a guarantee by LICENSOR that the SOFTWARE will work substantially in line with the product description for 90 (ninety) days as from downloading the SOFTWARE. Any statutory warranty shall be excluded.

##### B.2.2 Liability

Claims for damages of LICENSEE against LICENSOR, irrespective of the legal grounds (e.g. based on infringement of duties arising in connection with the contract or tort), shall be excluded.

This shall not apply to the extent liability is based on:

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- (a) Product Liability Act;
- (b) intent (*rechtswidrige Absicht*);
- (c) gross negligence; or
- (d) negligent injury to life, limb or health.

However, sentence 1 in this clause B.2.2 shall apply to intent or gross negligence of persons employed by the LICENSOR for the performance of LICENSOR's obligations.

### B.2.3 Applicable Law

The Agreement shall be governed by substantive Swiss law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and excluding the application of conflict of law principles.

*NOTE: Towards a customers, who is consumer and who has his habitual residence in an EU member country or in a country being member of the European Economic Area (EEA) – hereinafter: "Country of Residence of Consumer" the following information applies: As per Article 6 para (2) of the Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations ("Rome I Regulation") the preceding reference to substantive German law shall not deprive the consumer of the protection afforded to him by provisions of this Country of Residence of Consumer that cannot be derogated from by agreement by virtue of the law which, if Licensor*

*(a) pursues his commercial or professional activities in the Country of Residence of Consumer, or*

*(b) by any means, directs such activities to that Country of Residence of Consumer or to several countries including that country, and the contract falls within the scope of such activities.*

### B.2.4 Dispute Resolution

a) For consumers who have the residual residence outside of Germany: Lüdenscheid/Germany shall be the non-exclusive venue. This means that the customer (being a consumer) shall be free to file legal proceedings in view of rights or claims in connection with this Agreement which are based on consumer protection law ("Consumer Claims") in Germany (Lüdenscheid) or in any other EU member country in which the consumer has his residual residence.

b) For businesses domiciled outside Germany: Any dispute, controversy or claim arising out of, or in relation to, this contract, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrators shall be one. The seat of the arbitration shall be Zurich/CH, unless the parties agree on a city in another country. The arbitral proceedings shall be conducted in English.

## 12. Export Control, Miscellaneous

12.1. In order to comply with national and international foreign trade regulations/laws, the parties will support each other and provide all necessary documentation and information for export control purposes, such as relating to the registration of items to be exported in export control lists or to the final destination and end use of the items. LICENSOR shall not be obliged to perform its obligation under the LICENSE AGREEMENT in violation of any statutory or internal export control regulations. LICENSOR shall have the right at any time to withdraw from the LICENSE AGREEMENT, without incurring any liability for either party, if

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- the LICENSEE, despite request, does not provide either any or sufficient enough information about the final destination and the end use of the goods;
- LICENSOR obtains knowledge of an unintended end use after tendering or knowledge of any previously unknown person involved in the business and cannot perform the LICENSE AGREEMENT due to any export control or intra-group regulations;
- the items or services are intended for military end use, civil nuclear use or for use in connection with weapons of mass destruction or for missiles capable of delivering such weapons; substantive evidence shall be sufficient to prove this intent; or
- a possibly illegal or unlicensed export or an infringement of embargo rules cannot be fully ruled out.

12.2. This LICENSE AGREEMENT shall be the entire agreement and understanding between LICENSEE and LICENSOR concerning the SOFTWARE, and it supersedes any prior proposal, representation, or understanding between the parties related thereto. These terms and conditions shall apply exclusively. Any terms and conditions of the LICENSEE that deviate from, or supplement, this LICENSE AGREEMENT shall not be binding on LICENSOR even if LICENSOR does not object thereto and regardless of any statement to the contrary. This also applies if the LICENSEE declares that he is only willing to enter into the license agreement based on his own terms.

12.3. Amendments to this LICENSE AGREEMENT shall require a written agreement between the Parties hereof. All waivers must be in writing. Any waiver or failure to enforce any provision of the LICENSE AGREEMENT on one occasion will not be deemed a waiver on any other occasion or of any other provision.

12.4. LICENSEE acknowledges that LICENSEE's breach of its obligations with respect to LICENSOR's proprietary rights will cause irreparable injury to LICENSOR and will entitle LICENSOR to seek injunctive or other equitable relief.

12.5. On LICENSOR's request, but not more than once per year, LICENSEE shall furnish LICENSOR with a signed certification verifying that LICENSEE's use of the SOFTWARE is in accordance with the terms and conditions of this LICENSE AGREEMENT. In addition, LICENSEE shall maintain records of its use of the SOFTWARE. LICENSOR shall have the right during the term of the LICENSE AGREEMENT and for up to one (1) year after its termination, upon reasonable notice and during normal business hours, to audit and inspect such records and LICENSEE's use of the SOFTWARE in order to verify compliance with the terms of the LICENSE AGREEMENT. Audits will be made no more than once in any twelve (12) months period. If an audit reveals that LICENSEE has used the SOFTWARE other than in compliance with the terms of this LICENSE AGREEMENT, then LICENSEE shall (i) reimburse LICENSOR's reasonable costs of conducting the audit and (ii) take, at LICENSEE's expense, all reasonable corrective action requested by LICENSOR.

12.6. Neither party will be liable to the other for any failure or delay in performance due to circumstances beyond its reasonable control including, without limitation, acts of God, labor disruption, war, terrorist threat or government action. If either party is unable to perform its obligations for one of the foregoing reasons it shall give prompt written notice thereof to the other party.

12.7. THIRD PARTY SOFTWARE licensors shall be third party beneficiaries to the LICENSE AGREEMENT for purposes of enforcing their rights with respect to the applicable THIRD PARTY SOFTWARE. No other third party is intended to be a beneficiary of this LICENSE AGREEMENT that is entitled to enforce its terms.

12.8. If individual terms of this LICENSE AGREEMENT are or become void or unenforceable, the effectiveness and enforceability of all the remaining provisions shall be unaffected. The invalid or unenforceable provision shall be replaced

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		Mannheim	Geschäftsführung:	DE15120700700240207021
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with a valid and enforceable provision which comes as close as possible to the economic purpose of the invalid or unenforceable one, respectively.

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12.10. No relationship, whether of employment or responsibility, between LICENSEE or LICENSOR or their employees, agent-employees or third parties is established. Each party is responsible for its obligations and encumbrance imposed by the legislation in force, whether regarding labour, social security or any other concerning their employees, agents or third parties involved.

12.11. No agency, partnership, joint venture or employment relationship is created between the parties. In the compliance of the obligations set forth hereunder, both parties are and shall be independent.

12.12. This LICENSE AGREEMENT is executed exclusively in English.

12.13. This LICENSE AGREEMENT represents the entire understanding between the Parties for the subject matter herein and both remain in effect.

ABB STOTZ-KONTAKT GmbH  
Eppelheimer Str. 82  
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Questions, complaints or claims by Licensee should be addressed to:  
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Annex: THIRD PARTY SOFTWARE

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The OSS software packages used in this product are described in the following.

PDC:

- No Open Source Software included

EDS

- Open Source Software "NLog" subject to license:
- <https://github.com/NLog/NLog/blob/master/LICENSE.txt>

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