

## LICENSE AGREEMENT for HOSTED APPLICATION

The present License Agreement is concluded between the Licensee and Arkon Flow Systems, s.r.o. for the Software(s) belonging to Arkon Flow Systems. By accepting the terms of this License Agreement, as set forth below, the Licensee agrees to use and make available the Arkon Flow Systems` Product(s) and Service(s) in accordance with the general terms and conditions set out below. The publishing, networking, commissioning and use of one or more Product(s) and Service(s) by the Licensee constitutes full acceptance of this License Agreement.

### 1 - Definitions

<b>License Agreement</b>	Refers to this Agreement including all of its Annexes, Documentations, Special Terms and Conditions concluded with the Licensee.
<b>Hosted Application</b>	Refers to any software package designed by Arkon Flow Systems, for the management and data hosting provided by the Equipment, accessible via the Internet.
<b>End User</b>	Refers to either the Licensee when the Licensee concludes the License Agreement in its name and on its own account and for its own use, or the Licensee's customer(s) when the Licensee concludes this License Agreement as Integrator on behalf of its own clients.
<b>Intellectual Property Rights</b>	Refers to any industrial and intellectual property right(s), whether patented, deposited, registered or not, such as but not limited to patents, trademarks, designs, copyrights, utility certificates, trade secrets and all other rights and forms of legal or contractual protection of the same nature, as well as any requests and any renewals, extensions or dismemberment thereof, attached to any information.
<b>Open Software</b>	Refers to Software(s) distributed free of charge with all its Sources Programs, so that all the users who use it can expand it and redistribute it in turn
<b>Licensee</b>	Designates the physical or legal person (s) authorized by Arkon Flow Systems to use, download, install, and upload, publish and network in their own name or on behalf of their subsidiaries and related entities or on behalf of the End Users, the Software(s) provided by Arkon Flow Systems.
<b>Update</b>	Refers to the version of an Application that increments the Program's revision number and corrects any defects, bugs and or malfunctions or makes minor modifications to the existing operation of the Software in accordance with the published specifications but does not substantially change character or basic structure of the Software.
<b>Upgrade</b>	Refers to the version of an Application that increments the Major or Minor version number and contains enhancements that enhance the functionality or capabilities of the Application thereby changing the basic character or structure of the Application.
<b>Use</b>	Refers to the installation, loading, execution of access, use, storage, direct or indirect display of the Product(s) and Service(s).

<b>Customer Data</b>	Refers to all User data related to the Product(s) and Service(s), accessible through the Product(s) and Service(s) and stored on Licensee's servers or on Arkon Flow Systems` Equipment.
<b>Firewall</b>	Refers to the electronic and software solution for protecting a network connected to the Internet from hacking. It ensures the security of information by filtering the inputs and controlling the outputs.
<b>Hosting</b>	Refers to the fact of storing and making available data on a server for the Licensee via a hosted application
<b>HTTPS</b>	Refers to a protocol transfer of hypertext pages on the Internet with a security protocol
<b>Product(s) and Service(s)</b>	Means both the hosted application(s) provided by Arkon Flow Systems and all goods and services attached to those hosted application(s) (Documentation, maintenance, updating, hosting, storing, safeguard...)

## **2 - General points**

This License Agreement is a contract between the Licensee and Arkon Flow Systems for the use of one or more Product(s) and Service(s) belonging to Arkon Flow Systems. In the event that a system or technical administrator or other representative of the Licensee accepts these terms on behalf of all End Users, the Licensee is responsible for ensuring that the terms of this License Agreement are fully understood, accepted and respected by each End User.

For each License, this License Agreement grants only a non-exclusive right to use the Product(s) and Service(s), and any file or related material provided by or on behalf of Arkon Flow Systems with Product(s) and Service(s). The terms outlined herein shall also govern all Updates and Upgrades to the Software(s) provided by Arkon Flow Systems that replace and or supplement the Product(s) and Service(s), unless such release shall be accompanied by a separate License Agreement, in which case the terms of the latter shall prevail.

## **3 - Intellectual property rights**

Arkon Flow Systems declares that he is the holder of all the Intellectual Property Rights pertaining to the Product(s) and Service(s), and legally possesses the rights to exploit and use the supplied software to analyze data which will help to build critical updates and provide patches for the stability and functionality the software.

This License Agreement does not confer on the Licensee any transfer of title or proprietary rights regarding the Product(s) and Service(s), or any right or patents, licenses, trademarks and other industrial or intellectual property rights thereto.

The Licensee shall not infringe upon Arkon Flow Systems` industrial or intellectual property rights for any reason or in any way and is committed to ensuring that all persons - End Users, agents and third parties - who have or will have access to the Product(s) and Service(s), respect this condition.

The Product(s) and Service(s) provided by Arkon Flow Systems are subject to a non-disclosure obligation. The Licensee shall not disclose, provide or make available in any manner the Program(s) and or component(s) (including base structures and data message formats) or copies to a third party without the prior written consent of Arkon Flow Systems, even in the event of a transfer, made available for an entity related to the Licensee, either the link results from any contractual relationship or from a participation (subsidiaries, holding companies, foreign establishments, End Users ...).

The Licensee may not remove, conceal, or modify any patent, copyright, trademark, or other proprietary notices on the Product(s) and Service(s). The Licensee shall preserve the integrity of the Product(s) and Service(s) and prevent unauthorized access to the Product(s) and Service(s). The Licensee shall promptly inform Arkon Flow Systems of any unauthorized possession or use of the Product(s) and Service(s) by any person or entity that does not have a License.

#### **4 - Delivery – Installation**

The Product(s) and Service(s) will be installed, hosted and used on Arkon Flow Systems website.

The license granted hereunder allows the Licensee to use the Product(s) and Service(s) only in accordance with the terms of this License Agreement and for only one use. The Product(s) and Service(s) should not be used for a second use.

Under no circumstances is the Licensee authorized to grant any license, loan, sub-license, transfer, make available to a third party the Product(s) and Service(s) without the prior agreement of Arkon Flow Systems.

#### **5 - Obligations of the Licensee**

Whether the Product(s) and Service(s) are made available free of charge (for example in case of testing period or preliminary works) or for a specific price, their use must be in full compliance with this License Agreement, according to the functionalities and capacities specified in the ordering documentation agreed between the Licensee and Arkon Flow Systems. In the event of any conflict between the terms of this License Agreement and the terms of any Documentation or any specific order conditions, the terms of the License Agreement will prevail.

Licensee acknowledges that the continued integrity of the Product(s) and Service(s) and the performance by Arkon Flow Systems of its obligations under this License Agreement depend on the use of the Product(s) and Service(s). As such, Licensee shall: (i) use the Product(s) and Service(s) in accordance with the Documentation Provided by Arkon Flow Systems and the Terms and Conditions contained in this License Agreement and (ii) comply with Arkon Flow Systems` instructions for installing new Updates and for correcting the bugs and problems inherent in the Product(s) and Service(s).

After having fully understood and evaluated it before signing the present License Agreement, the Licensee hereby accepts all information concerning the Product(s) and Service(s), its (their) functionalities, capabilities, performance, specifications, its (their) technical perimeter and the technical conditions defined by Arkon Flow Systems for its access, its availability and its use. The Licensee acknowledges having studied all the functionalities and characteristics of Arkon Flow Systems` Product(s) and Service(s) and to having ensured that the Product(s) and Service(s) responds to its needs and is (are) compliant with his/her technical and computer environment. In this respect, the Licensee must ensure that its software, its computer programs, its technical and computer environment (security, firewall, type of hosting, ERP ...) are compatible with Arkon Flow Systems` Product(s) and Service(s). The Licensee is solely responsible for managing any interface issues. Consequently, the Licensee shall refrain from raising or invoking the inadequacy of the Product(s) and Service(s) regarding its needs and from requiring Arkon Flow Systems to implement new functionalities or updates, or even the reimbursement of payment and or payment of any damages for any reason whatsoever.

The Licensee ensures that he/she fully understands digital networks, the characteristics of the Internet and its limits, in particular the risk of overload of the network. The Licensee waives the right to hold Arkon Flow Systems liable for any malfunction or damage resulting from the characteristics of the environment or the use of the Internet.

The Licensee also guarantees Arkon Flow Systems that the data collected and processed through the use of the Product(s) and Service(s) do not infringe the rights of third parties and are not contrary to the legal or regulatory provisions, in particular but not limited to security, police, health, environment or morality provisions. The Licensee gives and confirms his authorization to Arkon Flow Systems for managing the storage for his data and information, which will be treated and consulted via the Product(s) and Service(s) according to the present agreement when the Product(s) and Service(s) included a data storage service.

When the Product(s) and Service(s) do not include any storage service, the Licensee will be responsible for the storage and safeguarding of its data, to a frequency at he decides alone, and Arkon Flow Systems will not be held liable for any loss and/or modification of said Data.

## **6 - Restrictions**

The Licensee shall neither copy nor permit a third party to copy the Product(s) and Service(s), except to make a reasonable number of copies solely for testing, backup or archiving, provided that all references copyright and ownership rights contained in the original shall appear on the authorized copies. The Licensee is also prohibited from undertaking (i) any reproduction by any means whatsoever of the Product(s) and Service(s), except to create a backup copy for security reasons, which may only be used in the event of any, defaults or failure of the original Product(s) and Service(s) or (ii) any representation, dissemination or commercialization of the Software(s), whether free of charges or with payment (iii) any form of use of the Product(s) and Service(s) in any way whatsoever for the purposes of designing, producing, distributing, or marketing similar product or substitution product.

The Licensee is not permitted to modify, decompile, disassemble, translate, or in any way rebuild the Product(s) and Service(s) or create works based on it. This list is merely indicative and not exclusive of any act of the Licensee which would infringe upon Arkon Flow Systems` property rights.

## **7 - Warranty**

Arkon Flow Systems guarantee an access to his Product(s) and Service(s) 7 days a week and 24 hours a day excepted in case of cuts enforced by the exploitation of the Product(s) and Service(s) and by any current, preventive or remedial maintenance operations, which cannot in any case engage his liability regarding to the Licensee.

In case of use of the Hosted Application, in Arkon Server the availability rate is at minimum 95% and the guarantee of restoration is within 48 hours. Arkon Flow Systems doesn't guarantee neither a continuous availability of the Hosted Applications nor a lack of mistakes in the Hosted Applications. Arkon Flow Systems guaranteed his Product(s) and Service(s) subject to use it in accordance with his recommendations.

Arkon Flow Systems` obligation under any guarantee shall be limited to his own discretion to (i) making reasonable efforts to repair the non-compliance or (ii) making available of a version corrected on the Product(s) and Service(s), insofar as the non-conformity is reproducible on its own Equipment and that the defects and bugs indicated by the Licensee are identical in the source program of Arkon Flow Systems.

Arkon Flow Systems reserves the right to invoice the Licensee for any services performed following the communication of an error, bug, or failure of the Hosted Application by the Licensee which would be in reality due to Equipment, software or application not provided by Arkon Flow Systems, or a modification of the Hosted Application by the Licensee.

## **8 - Exemptions from warranty**

Arkon Flow Systems shall not be held liable, in any event, for any default or non-compliance alleged if they arise from: (i) use of the Product(s) and Service(s) in violation of this License Agreement or (ii) changes made to the Product(s) and Service(s) by a person other than Arkon Flow Systems or (iii) damages resulting from misuse, improper use or negligence.

Arkon Flow Systems will not be held liable in the case of impossibility of connection due (i) to facts and elements attributable to the Licensee (for example: management of interfaces, compatibility of the various software of the Licensee ...), or (ii) to the Licensee's suppliers such as Internet Service Provider. Arkon Flow Systems cannot be held responsible for the speed of access or slowdown or unavailability of the server, when this unavailability is due to cases of force majeure or to any other cause, in particular to failures of the network, loss of Internet connectivity due to operators or temporary interruptions due to maintenance. It is the Licensee's responsibility to establish a security policy for the protection of its Data (non-disclosure of passwords or identifiers in particular) and its servers.

The access to the Product(s) and Service(s) requires a telecommunications network for which the supply and cost are not provided for in this License Agreement. The Licensee shall entirely bear the cost thereof and shall therefore call upon a telecommunications operator who will be responsible for this service. The purpose of the License Agreement is limited to the access and use of the Product(s) and Service(s), the provision of the Equipment or any other hardware, software or consumables required for the use of the Product(s) and Service(s) is therefore not provided for in this License Agreement.

Arkon Flow Systems does not guarantee that the Product(s) and Service(s) correspond to the Licensee's specific requirements or that it will operate with any computer equipment, equipment or software belonging to the Licensee. It's the Licensee's responsibility to verify the suitability of its environment and its computer hardware before using the Product(s) and Service(s) and to take all appropriate measures to adapt its computing environment (including server, Firewall, interface management ...) and its Equipment in order to ensure an efficient and effective use of the Product(s) and Service(s).

#### **9 - Limitation of liability**

The liability of Arkon Flow Systems can only be established in the event of serious fault or proven negligence in the undertaking of its obligations and will be expressly limited to direct and materials damages resulting from such gross negligence or proven negligence. This liability will be expressly limited to an amount representing the price paid by the Licensee under the six last months of the License Agreement, but this amount may not exceed € 1,500 in any case.

Arkon Flow Systems shall in no event be liable for indirect and / or consequential damages including but not limited to: operating losses, loss of profits, loss of opportunity, invasion of privacy, damage to supplies substitute goods and services, data loss, etc.) arising out of or in connection with this License Agreement or the use and performance of the Product(s) and Service(s) provided.

#### **10 - Term and Termination**

The License Agreement shall take effect on the date of signature. In the event of a breach by the Licensee of its contractual obligations, the License Agreement may be terminated ipso jure and without further notice if the Licensee has not acted upon a formal notice to have to remedy its breaches and to respect its obligations within thirty (30) days of receiving said notice.

The Agreement may be terminated in accordance with the same terms and without any other formalities or notice in the event of a change of owner or principal shareholder of the Licensee, resulting in a takeover of the Licensee, the contract being concluded intuit personae.

In all cases of termination, the Licensee shall cease to use the Product(s) and Service(s). In addition, Arkon Flow Systems reserves the right, from the effective date of termination of the contract, to take all measures in order to stop the use of the Product(s) and Service(s) by the Licensee, as for example invalidate access code made available to the Licensee pursuant to the present agreement.

At the end of the License Agreement, whatsoever the reason of the termination and the party who request the end of the contract, Arkon Flow Systems commits to destroy all data belong to the Licensee.

It is expressly agreed by the Licensee that, at the end of the contractual relationship between the parties, Arkon Flow Systems has no right or obligation to retain and or archive the data managed, stored or made available to the Licensee during the use of the Product(s) and Service(s). It is the Licensee's responsibility to take all necessary measures to ensure the safeguarding of the Data at the end of the License Agreement.

### **11 - Force Majeure**

Neither party may be held liable for the breach of its obligations as a result of an event of force majeure as defined by law and case law. If the event is extended beyond a period of one (1) month and in the absence of agreement between the parties, the License Agreement may be terminated by a formal notice without further formality or indemnity.

### **12 - Open Source Software**

Some Software products have been created using source code available through separate open-source projects and proprietary third-party Software(s). The list of the Open Source Software(s) used and the conditions of license of use of these Open Source Software(s) are available at the Human Machine Interface.

### **13 - Security and confidentiality**

The Data hosted during the exploitation of the Product(s) and Service(s) are the exclusive property of the Licensee. Arkon Flow Systems commits to ensure the non-disclosure of the data and password to any third party. Arkon Flow Systems guarantees the implementation of all technical and human resources needed in order to ensure the safety of the data storage on server and during data exchange with Licensee(s) as a means, in particular by:

- Systematic use of HTTPS protocol for data transfer
- Use of firewall system
- Implementation of access control by ID and password
- Indivisibility of server data base from the Internet, except ever since the Application herself.

Arkon Flow Systems guarantees safety storage of hosted Data with frequent backups and keeps it available, subject to the provisions described in article 10 in case of termination of the present License Agreement.

The Licensee is therefore solely responsible for the security of the individual computers or other connected Equipment(s) allowing access to the Product(s) and Service(s) and their use by the authorized persons only. The Licensee ensures the preservation and the confidentiality of the usernames and passwords which are provided by Arkon Flow Systems.

### **14 - Transfer**

The Licensee is not permitted to transfer this License Agreement, free of charges or against payment and or the access or use of the Product(s) and Service(s) without the prior written consent of Arkon Flow Systems. Arkon Flow Systems may at any time transfer the ownership rights and consequently this License Agreement to any affiliated or non-affiliated company.

Arkon Flow Systems may authorize the Licensee, as part of its relations with its own customers, to transfer to an End User the right to use the Product(s) and Service(s), under the strict conditions defined in the present License Agreement. Any transfer in whole or in part of the rights conferred by this License Agreement in favor of an End User must be approved and authorized in advance by Arkon Flow Systems.

Such approval remains at the sole discretion of Arkon Flow Systems who is free to refuse, including but not exclusively in case of past violations or potential copyrights. In the event of a transfer of the Product(s) and Service(s) authorized by Arkon Flow Systems to a third party, the Licensee agrees (i) to waive all rights to the Product(s) and Service(s) when they are transferred to a third party, (ii) to cease using the Product(s) and Service(s) and (iii) to ensure that the third party agrees to be bound by and comply with the Terms and Conditions herein.

### **15 - Entire Contract**

This License Agreement constitutes an entire agreement between the parties regarding to the Use of the Software(s) referred to herein and supersedes all previous and current agreements relating thereto. If any provision of this License Agreement is found not to be in accordance with applicable law, then said provision

shall be deleted from this License Agreement or revised to obtain the same economic effect to enable the License Agreement to remain in force.

#### **16 - Financial conditions**

The price, the terms of invoicing and the date of payment of the License Agreement are defined in the order. Arkon Flow Systems reserve the right to add to the Product(s) or Service(s); news features, in option or not, chargeable or not. Accession of the Licensee to those options, with the financial conditions associated will be subject to an addendum.

Arkon Flow Systems reserves the right, at its own discretion, as part of the renewal of the present License Agreement, to review his financial conditions. The only obligation due by Arkon Flow Systems in the case will be to advise the Licensee about the new financial conditions at least three months before the end of the time underway. In the absence of termination of the License Agreement by the Licensee, the new financial conditions will be applied.

Terms and frequency of payment will be defined on the order.

Payment must be made to Arkon Flow Systems' account.

In case of payment default, in whole or in part at the time agreed, Arkon Flow Systems shall be free, at its own discretion, to suspend the Licensee's access to the Product(s) and Service(s) until the complete payment. Furthermore, according to the commercial law, interest corresponding to the rate of the European Central Bank increased by 10% will be claimed automatically and without prior formal notice by Arkon Flow Systems.

During the unpaid period, Arkon Flow Systems will be discharged of his obligations and specifically his obligation of made available the Product(s) and Service(s) to the Licensee. Furthermore, in case of termination of the present License Agreement, as described in article 10 above, Licensee shall be obliged of the total amount of the License Agreement for the year underway without any reduction or compensation in case of termination due to a breach of his obligations or to a breach of the notice by the Licensee in order to stamp out the License Agreement.

#### **17 - Applicable Law**

This License Agreement is governed exclusively by Czech law. Any dispute concerning the validity, interpretation or execution of all or part of this License Agreement and following an attempt to reach an amicable settlement will be submitted to The County Court in Brno, Czech Republic, to whom the parties grant exclusive jurisdiction.