

# **EUCHNER**

## **License Agreement**

## **1. EKS Data Service**

- 1.1. EKS Data Service is a software package in the Electronic-Key-System EKS used to access transponder data from a central database on a personal computer (PC) running the Microsoft Windows® 1) operating system and to transfer it to a programmable logic controller (PLC).
- 1.2. The following versions are available:
  - EKS Data Service (order no. 8163316)
- 1.3. One license allows the PC server component of EKS Data Service to be installed on one PC and the PLC client component to be installed on any number of PLCs. The customer may make the PC server component available to the machine supplier only for the purpose of commissioning the machine and only during the commissioning period. The customer shall ensure that the machine supplier deletes the PC server component immediately afterward.
- 1.4. The customer receives the software only in machine-readable form (object code). The software is supplied at the discretion of EUCHNER as a download, in a ZIP file attached to an email, or on a data carrier.

## **2. Right of use**

- 2.1. The customer is granted a simple, non-exclusive right to use the software for an unlimited period. This right is as follows:
  - 2.1.1. The software may be used only in accordance with the user documentation and the agreement in section 1 and only with the agreed number of licenses.
  - 2.1.2. The right to use the software is restricted to the customer's internal business purposes.
  - 2.1.3. The customer is not permitted to lease the software to third parties, to sublicense it in other ways, or to reproduce or make it available publicly. This includes providing it for use as part of a terminal server concept or a comparable concept such as hosting, application service provision, or software as a service, or in a software-on-demand environment. Third parties include branch offices, companies associated with the customer, shareholders, or geographically or organizationally separate facilities of the same licensee.
  - 2.1.4. Duplication and reworking by the customer are strictly forbidden. The customer's rights under the mandatory provisions of sections 69d and 69e of the German Act on Copyright and Related Rights (UrhG) (in particular the right to create a single backup copy) remain unaffected. If the hardware (e.g., the PC) that the software is installed on is changed, the software shall be deleted in full from the previous hardware.
- 2.2. The customer is permitted to transfer its right to the software to third parties in full, if it finally abandons its own use of the software. The transfer results in the termination of all the customer's rights to use the software. The customer shall inform EUCHNER in writing of the name and address of the third party and provide confirmation from the third party that the third party recognizes that these usage rules apply to it.
- 2.3. The customer shall not make unrecognizable, change, or remove any copyright notices, serial numbers, or other features created by EUCHNER or by third parties for the purpose of identification.
- 2.4. The customer is fully responsible for ensuring that its employees comply with the usage rules. If the customer suspects that an employee or a third party has made unauthorized use of the software, it shall inform EUCHNER immediately and make every effort to resolve the situation. If the customer culpably exceeds the agreed scope of use, EUCHNER can prohibit the customer from using the software, notwithstanding its other rights. This terminates the customer's right to use the software.
- 2.5. If the software is made available to the customer for trials, testing, or similar purposes (e.g., as a test license), the customer may not use the software in a production or live environment.

## **3. Notification of risk**

The customer is hereby informed that, using the latest technology, it is not possible to produce software that always functions without problems with all systems and applications (application programs and types of usage) and in all combinations (in particular with software from third-party providers). The customer is responsible for protecting its systems and data by taking further protective measures and, in particular, by backing up the software, program updates and data regularly and in an appropriate way.

1) Microsoft Windows® is a registered trademark of Microsoft Corporation

## 4. Claims for faults

- 4.1. In the event of a fault, EUCHNER shall, at its own discretion, rectify the fault or supply a new copy of the software (supplementary performance). If the supplementary performance fails, is unreasonable, or is refused, the customer can reduce the price or – if the faults are not trivial – withdraw from the license agreement and/or demand compensation for damages within the scope of section 5.
- 4.2. The software is free of faults if it has the agreed characteristics specified in the user documentation.

## 5. Liability for damages and reimbursement of expenses

- 5.1. EUCHNER shall not be held liable for damages and reimbursement of expenses for minor negligence, in particular as a result of the breach of contractual obligations and unlawful acts, unless EUCHNER has breached a significant contractual obligation whose fulfillment is essential to the proper implementation of the agreement or on whose fulfillment the customer may ordinarily rely. In this case the liability of EUCHNER is limited to the typically occurring contractual damages, the occurrence of which EUCHNER should have anticipated on conclusion of the contract due to the circumstances known to EUCHNER at the time.
- 5.2. However, if the customer is supplied with the software free of charge, EUCHNER shall not be held liable for minor negligence.
- 5.3. EUCHNER is not liable for consequential or other indirect damages and, in particular, is not liable for loss of profits.
- 5.4. However, EUCHNER has unlimited liability for damages for death, injury, or harm to health, for intent or gross negligence, for the lack of a guaranteed feature, and for damages under the German Product Liability Act (ProdHaftG).

## 6. Expiry of claims for faults and compensation

The customer's claims for faults shall expire after one year. The expiry period is also one year for claims by the customer for damages and reimbursement of expenses that are not based on a fault in the software. Claims for intentional or grossly negligent breach of obligations and for damages as a result of death, injury, or harm to health and damages under the German Product Liability Act remain unaffected by this.

## 7. Use outside Germany

If the customer uses the software outside Germany, the customer shall comply with all the relevant regulations, in particular the provisions of German foreign trade legislation and US export control regulations.

## 8. Applicable law and place of jurisdiction

This agreement is subject to German law, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG). If the customer is a merchant, the place of jurisdiction is the location of the headquarters of EUCHNER. EUCHNER is also entitled to institute legal proceedings at the location of the customer's headquarters.

## 9. Requirement for the written form

Supplements and other amendments to this agreement shall be made in writing, as set out in section 126 of the German Civil Code (BGB). This also applies to the requirement for the written form itself. Faxes fulfill the requirement for the written form, but emails do not.

## 10. Severability clause

If individual provisions of this agreement become invalid in full or in part, the validity of the remainder of the agreement is unaffected. Both parties undertake to replace invalid provisions with valid provisions that ensure that the economic purpose of the original provisions is fulfilled as far as possible. This also applies to any unintended loopholes and to provisions that cannot be implemented.

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