License Agreement Electronic-Key-Manager

1. Electronic-Key-Manager

1.1. The Electronic-Key-Manager (EKM) is a software package within the Electronic-Key-System (EKS) for writing and managing the Electronic-Keys on a personal computer (PC) under the Microsoft Windows® [1] operating system.

1.2. The following versions are available:

▶ Demo version
▶ *Light* version
▶ Single-user version
▶ Full version

1.3. The demo version, the *Light* version and the single-user version can be operated locally only. The license permits installation of the software on one PC.

1.4. The full version can be operated via a client/server architecture within a network. The license permits installation of the EKM server component on one PC and installation of the EKM client component on an unlimited number of PCs.

2. Right of use

2.1. The Customer shall be granted a non-exclusive, simple, indefinite right of use to the EKM as follows:

2.1.1. The EKM may only be used according to the user documentation, only according to the agreement in Clause 1, and only with the agreed upon number of licenses.

2.1.2. The right to use the EKM is limited to the internal business operations of the Customer.

2.1.3. The Customer is not permitted to lend, rent or otherwise sublicense the EKM to third parties, or to publicly reproduce or make it accessible; this includes provision for use as part of a terminal server or comparable concept such as hosting, application service providing, software as a service or in a software-on-demand environment. Third parties are also branch offices, any companies or partners that are affiliated with the Customer, or spatially or organizationally separated institutions of the same body.

2.1.4. The Customer is strictly prohibited from performing any duplication and rework. The rights of the Customer in accordance with the mandatory provisions of Sections 69d, 69e of the German Copyright Act [UrhG] (in particular the right to make a single backup copy) shall remain unaffected. The EKM must be completely deleted from the hardware that has been used up to now when changing the hardware (e.g. PC) on which the EKM is installed.

2.2. The Customer is permitted to transfer all of its rights to the EKM to third parties by abandoning its own use with final effect. Such transfer shall terminate all of the Customer's rights of use to the EKM.

2.3. Any copyright notices, serial numbers as well as other features that serve to identify EUCHNER or third parties may not be made unrecognizable, altered or removed by the Customer.

2.4. If the Customer culpably exceeds the agreed upon scope of use, EUCHNER may prohibit the Customer from using the EKM without prejudice to other rights; the Customer's right to use the EKM thereby expires.

2.5. In the event that the EKM is handed over to the Customer for experimental, testing similar purposes (e.g. as a test license), the Customer may not use the EKM in a production or live environment.

3. Note on risk

The Customer is reminded that it is not possible, according to the state-of-the-art technology, to make software in such a way that it works in an error-free manner in every instance with all systems and applications (application programs and usage types) and in all combinations (especially with third-party software). It is the Customer's responsibility to protect its systems and data

by additional protective measures, in particular by means of a suitable and regular backup of the software, program versions and data.

4. Claims for defects

4.1. In case of any defects, EUCHNER will eliminate or replace the defect at its own discretion (subsequent performance). In case of any failure, unreasonability or refusal of subsequent performance, the Customer may reduce the price or – in case of not insignificant defects – withdraw from the license agreement and/or claim damages within the limits of Clause 5.

4.2. The EKM is free from any defects when it corresponds to the agreed upon condition that results from the user documentation.

5. Liability for damages and reimbursement of expenses

5.1. EUCHNER's liability for damages and reimbursement for slight negligence shall be excluded, in particular for any breach of obligations arising from the contractual relationship and tort, unless EUCHNER has violated a fundamental contractual obligation, that is, an obligation whose fulfillment allows for the proper performance of the contract in the first place or whose fulfillment the Customer can regularly rely upon. In this case, the liability of EUCHNER is limited to the type of contractual damage that EUCHNER would have to expect in the event of conclusion of the contract due to the circumstances known to EUCHNER.

5.2. EUCHNER is not liable for any consequential damages or other indirect damages, in particular not for lost profits.

5.3. However, EUCHNER's liability is unlimited for any damage resulting from harm caused to life, limb or health of persons; intent and gross negligence; absence of a guaranteed condition and according to the German Product Liability Act.

6. Statute of limitations for defect claims and claims for compensation

Any claims made by the Customer due to a defect shall lapse after one year. The period of limitation shall also be one year for any claims made by the Customer for any damages and expenses that are not based on a defect of the EKM. However, these shortened periods of limitation shall not apply to the Customer's claims due to harm to life, limb or health or to any claims arising from an intentional or grossly negligent breach of duty.

7. Export

The Customer shall comply with all the relevant regulations, especially the provisions of the German foreign trade law and US export control regulations.

8. Choice of law, place of jurisdiction

This Agreement is governed by the laws of the Federal Republic of Germany, with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG). The place of jurisdiction shall be the registered office of EUCHNER. However, EUCHNER may also bring a claim at the Customer's registered office.

9. Written form requirement

Any changes or modifications to this Agreement must be made in writing. This shall also apply to this written form requirement clause. The written form shall include changes or modifications by fax, but not by e-mail.

10. Severability clause

Should individual provisions of this Agreement be either entirely or partly ineffective, this shall not affect the remainder of this Agreement, however. The Parties shall replace any ineffective provisions with effective provisions in such a manner that the economic purpose of the provisions is achieved as far as possible. This shall also apply in the case of any loophole that was not intended by one of the Parties or in the case of impracticable provisions.

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