

## (0) Preamble

(0.1) Ergon Informatik AG, Merkurstrasse 43, 8032 Zurich (hereinafter referred to as “Ergon”) shall provide the customer with the described usage rights (hereinafter referred to as the “licence”) for the software “Airlock” (hereinafter referred to as the “product”) itself or via a reseller (Ergon and reseller are hereinafter both referred to as the “seller”) for the duration of the contract on the basis of a licence agreement (hereinafter referred to as the “agreement”) as well as these licence terms. Ergon is the owner of all the property and usage rights for the product and the further development thereof.

(0.2) The included third-party software packages are subject to separate licences (hereinafter referred to as “third-party licences”). Third-party licences are listed in the product documentation under *Third-Party Licences*. With the purchase, the customer accepts the licence terms of all the third-party licences listed therein. Ergon warrants that none of these third-party licences shall be infringed with the use of the product.

(0.3) Ergon integrates third party services (e.g. cloud services) into the product. The service levels for such a service are defined and guaranteed by the respective service provider, not by Ergon.

## (1) Usage Rights Evaluation and Community Edition Licence

(1.1) Ergon grants the customer free use of the product for evaluation purposes for a maximum of 30 days. As an evaluation version, the product is not suitable for production use as security software, and usage in a production environment is prohibited. Ergon does not provide a warranty for evaluation versions and assumes no liability for any damages or claims resulting from their use. If the customer decides not to purchase a licence, he is obliged to destroy all copies of the product.

(1.2) Ergon may make certain parts of the product available under a community edition licence. Under such licence, Ergon grants the customer a time-limited, location-unlimited, non-exclusive and non-transferable right to install and use the product. The community edition licence enforces limited features, functions and technical limitations.

(1.3) The customer must adhere to all the conditions stated in these licence terms even if no licence agreement has been signed and no licence key is required to operate the product.

(1.4) The customer is responsible for selecting, installing, configuring and using the product and for solving any issues resulting from its use.

(1.5) The customer is entitled to adapt the product to his needs (configuration, parameterisation) at his

own risk to the extent specified in the documentation and/or to connect it to interoperable programs.

(1.6) The customer is not entitled to modify, translate, reverse engineer, decompile, disassemble, create derivative works based on the product, sublicense or redistribute the product or parts thereof (e.g. the rule sets).

(1.7) For Customers with an evaluation- or community edition licence, Ergon reserves the right to collect the data of the product use for the sole purpose of improving the product.

(1.8) Customers of the community edition licence agree that Ergon may communicate their use of the product to other existing or potential customers by using their company name and company logo.

(1.9) Customers with a community edition licence are required to upgrade the product within 12 months of its initial release.

## (2) Usage Rights Premium Edition Licence

(2.1) Following the issuance of the licence key, on the condition that the licence fees are paid in due time, Ergon grants the customer a time-unlimited, location-unlimited, non-exclusive and within affiliated companies limited transferable right to install and use the product. The licence price for unlimited company licences shall be adjusted according to the company situation in case of a transfer or inorganic growth of the customer (such as but not limited to company acquisitions or mergers). The usage rights comprise the rights acquired according to the agreement (e.g. number of installations/entities, applications, registered users by name) for the purpose of safeguarding the services offered by the customer, which may be used by the customer and their users (employees, customers, third parties). The customer is not entitled to grant third parties any access to the product for the purpose of providing “Software as a Service” via their customer data or to provide this to third parties in any other manner. The customer is entitled to make copies of the product exclusively for security- or archiving purposes.

(2.2) Customers that have contracted a licence agreement that includes the high-availability option are permitted to deploy the same licence key for the purpose of increasing failover security.

(2.3) The product can be used on virtual machines. The customer is only entitled to keep the virtual machine available on multiple servers at the same time or to move automatically between the servers by licensing the corresponding environment. (“Business Continuity Management”).

(2.4) The customer is not entitled to break or change any licence keys.

(2.5) A licence with a MAC address is technically tied to one server. In the event of a server change, the customer warrants that the licence shall not be

reused. Ergon shall consequently deliver a replacement licence key within 2 working days.

(2.6) A licence without a MAC address may only be used for one installation concurrently. Extended simultaneous use must be purchased additionally.

(2.7) Products supplied by Ergon are intended for worldwide use. Exports from Switzerland or the EU - individually or in a system-integrated form - may be subject to approval by the customer and are subject to the applicable foreign trade laws as well as the US Export Regulations, which the customer must be aware of and observe. Resale to customers in the nuclear sector, in particular in the production and operation of nuclear technology, requires special permits. Ergon reserves the right to adjust the export and import provisions at any time as required by national or international legislation.

(2.8) The licence terms and licence keys limit the use of the product functionally, technically and contractually. Bypassed technical and/or contractual limitations (e.g. a bypass use of reverse proxy) must be relicensed for the entire sublicensing period.

(2.9) Use notification (pay-per-use)  
If the agreement stipulates the inclusion of a notification for certain quantity parameters of the usage, the customer is obliged to report these on time in accordance with the agreement.

(2.10) Ergon is entitled to check adherence to the intended use of the product, respecting the business and trade secrets of the customer and in mutual agreement. In case additional usage is determined, Ergon shall invoice the customer for the corresponding extra licensing according to the prices currently applicable.

(2.11) The customer is responsible for selecting, installing, configuring and using the product and for solving any issues resulting out of its use.

(2.12) Only Airlock logs may be displayed when using the world map service of the Airlock reporting component.

### **(3) Warranty, Liability**

(3.1) The product is made available to the customer as a download. The customer undertakes to check the functionality of and absence of defects in the product provided during the trial phase and to report any defects. A warranty-based defect is deemed to be present if the product deviates from the assured functionalities and services during the intended use to such an extent that its suitability for the intended use is either made impossible or significantly reduced. Ergon shall conclusively rectify such defects during the warranty period of one year after the product is made available for download. Ergon reserves the right to issue a patch or a corrected version of the product or provide a solution to work around or remove such defect.

(3.2) Ergon assumes no liability for errors, malfunctions or damage caused by improper

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operation, configuration, parameterisation or abnormal operating conditions (e.g. hardware errors, operating system). Ergon assumes no liability for changes made to the product by the customer or any third party.

(3.3) Ergon warrants that no third-party property rights shall be infringed by the customer through the intended use of the product. If claims are made against the customer for the infringement of third-party intellectual property rights due to the use of the product, Ergon shall, at its own expense, assume the defence and any costs and damages imposed on the customer by a legally binding court decision if the customer notifies Ergon of the facts without delay and leaves Ergon to conduct all negotiations. The customer is not authorised to make any declaration of recognition in this regard.

(3.4) If justified claims are asserted, Ergon shall take the necessary precautions and, if necessary, acquire the rights or supply equivalent parts and components. If this is not achieved with acceptable and reasonable effort and the claims are established by a final judgment, Ergon shall compensate the customer for the loss of the usage rights by reimbursing the licence fees.

(3.5) Ergon shall be liable for damages if intent or gross negligence is proved to be attributable to it or its employees. Liability for minor negligence is limited to a total of CHF 100,000 for the duration of the contractual relationship. Reimbursement for consequential and indirect damages, such as non-made profit or data loss, is excluded.

### **(4) Software Subscription (SSU)**

(4.1) The customer of a premium edition licence is obliged to purchase software subscription (SSU) with a contractual period of at least one year.

(4.2) The SSU entitles the customer (i) to access Techzone (<https://techzone.ergon.ch>), (ii) to maintain and service the active release. Ergon provides maintenance and care services for active releases. The current status, i.e. those releases which are active up to which date, is continuously updated under "Lifecycle" in the Airlock Techzone (iii) as well as the provision of subsequent releases. Support services are not included in the SSU.

(4.3) Ergon shall decide at its sole discretion when product updates are provided. During the installation, the customer must follow the instructions provided by Ergon.

(4.4) The installation may require the use of conversion scripts to adapt existing product parts, data or data models subject to additional costs.

(4.5) SSU can only be purchased for the entire licence of the product. If it is not cancelled, the SSU renews itself automatically. A late payment for a subsequent period constitutes an interruption. SSU services are omitted following an interruption.

Resumption of services requires the payment of the SSU for the full interruption period.

(4.6) Ergon ensures the compatibility of bug and hotfixes for corresponding minor releases. Ergon does not guarantee release compatibility with third-party systems without an explicit compatibility commitment from the third-party manufacturer.

## (5) Support

(5.1) The customer shall enter into a separate support contract with the seller. Ergon does not guarantee support services (i) without a separate support contract (ii) without a valid SSU and (iii) for non-active releases.

(<https://techzone.ergon.ch/lifecycle>)

## (6) Fees/Payment Terms

(6.1) Licence fees are due upon the conclusion of the agreement. SSU fees are due annually in advance. Fees for services or additional services are invoiced on a monthly basis in addition to the expenses and ancillary costs.

(6.2) All invoices including VAT must be paid until payment date net (normally 30days).

(6.3) Invoices that are not objected to in writing during the payment period shall be deemed to have been accepted.

## (7) Product Rights

(7.1) The customer is entitled to use the product only in accordance with the rights expressly granted under these licence terms. All other rights, in particular the ownership, copyright and property rights for the product and all not expressly transferred usage rights remain with Ergon or the owner of the property rights of the licences.

(7.2) The product contains information, ideas, data structures, database models, libraries, tools, concepts, designs, methods, configurations, parametrisations and procedures that constitute Ergon's business and trade secrets. This includes but is not limited to Filter Patterns in Deny Rules, ML Hyperparameters, REST API specifications, OpenAPI specifications. Accordingly, the customer undertakes (i) to treat the product with the same care and confidentiality as its own business and trade secrets, (ii) to use it only for the intended use as described in these licence terms and (iii), subject to prior written authorisation by Ergon, not to make it available to third parties in any way or form, in whole or in part, or to publish it.

(7.3) This obligation to maintain confidentiality remains in force as long as Ergon has a legitimate

interest, even after the termination of the contractual relationship.

## (8) Duration and Termination

(8.1) The licence agreement is concluded when the products offered by Ergon are ordered. Unless otherwise agreed, the right to use the product is granted for an indefinite period.

(8.2) The SSU services are concluded for the agreed subscription period. After the expiration of the subscription period, the SSU renews itself for another year. The SSU may be terminated with a 30-day notice period prior to the end of the subscription period.

(8.3) Ergon can only withdraw the usage rights granted to the customer under these licence terms if the customer violates the licence terms in a serious way, in particular if the customer is in default on the payment of the licence fees despite a written warning or if the customer continues to violate the conditions of use (section 2) and the rights for the product (section 8) despite a written warning setting a reasonable period of time for the restoration of the contractual condition. Furthermore, Ergon is entitled to end the contract in accordance with section 3.4 if it cannot remedy an infringement of property rights in any other manner.

(8.4) If SSU fees are not paid, Ergon may discontinue the services mentioned in section 4 at any time.

(8.5) With the end of the SSU subscription, the customer's right to the services stipulated in section 4 expires, and with the end of the licence agreement, the customer's right to use the product according to section 2 expires. The customer is entitled to keep an archive copy of the product not created for production purposes for the fulfilment of the statutory storage obligations. The customer ensures that the product is no longer used in production.

## (9) Closing provisions

(9.1) If any individual provisions of the licence agreement are or become invalid, this shall not affect the other provisions of the agreement. The parties shall jointly find provisions to replace the invalid provisions.

(9.2) These licence terms may be changed by Ergon at any time and shall be communicated to the customer in writing. Without an objection from the customer within 20 working days, they shall come into force automatically.

(9.3) All contracts concluded under these licence terms shall be governed exclusively by Swiss law, excluding the United Nations Convention on

## Airlock Licence Terms

Version 07.21 as of 25<sup>th</sup> June 2021



Contracts for the International Sale of Goods of 11 April 1980.

(9.4) The parties undertake to find an amicable solution in good faith in the event of differences of

opinion concerning this agreement. If, despite these efforts, no amicable solution is reached, Zurich 1 is designated as the place of jurisdiction.