

EUROPRACTICE SOFTWARE SERVICES ACADEMIC END USER AGREEMENT

This Agreement is made the _____ day of _____ (“Effective Date”)

BETWEEN:

HDL Works B.V.

located at

Keplerlaan 16
6716 BS EDE
The Netherlands

(hereafter referred to as “HDL Works”)

AND

_____ (Institution Name)
(hereafter referred to as End User)

_____ (Address of End User)

_____ (Responsible Person)

_____ (Telephone Number)

_____ (Facsimile Number)

_____ (EUROPRACTICE Academic Subscription Number)

TERMS AND CONDITIONS

This legal document is an agreement between the End User and HDL Works. The Science and Technology Facilities Council at Rutherford Appleton Laboratory, Harwell Science and Innovation Campus, Didcot, Oxon, OX11 0QX, United Kingdom, (hereinafter referred to as “RAL”), will be responsible for arranging the issue and signature of EUROPRACTICE Software Services Academic End User Agreements.

PREAMBLE:

HDL Works has authorised RAL under the European Communities EURO PRACTICE programme (the "EURO PRACTICE Programme") to supply its Products (as defined below) to EURO PRACTICE Programme establishments who have been granted an End User licence in the form of this Agreement to use these Products for educational purposes.

The End User has requested HDL Works to authorise the supply to it of a copy of the Products and to provide it with a licence to use the Product for the End User's educational and research purposes only.

The End User is an educational user that is an academic subscriber to the EURO PRACTICE Programme. RAL has concluded a Master Agreement with HDL Works in order to enable the use of the Products on special conditions.

The use of the Product requires this Agreement.

1. GRANT OF LICENCE

HDL Works hereby grants a non-exclusive, non-transferable licence to use and display a copy of their software programs (hereinafter the "Product") on the computer network installed in their organisation. HDL Works reserves all rights not expressly granted to the End User.

This licence is restricted to a non-commercial, educational use at the location of the End User (the "Site") and excludes the right of sublicensing. "Educational use" means the use of the Product by the End User only for undergraduate teaching, postgraduate research purposes and other educational purposes provided always that any such use by the End User, its employees, undergraduates, or postgraduates hereby authorised to use the Product shall not include its or their use of the Product directly or indirectly for any commercial purpose or purposes (including any joint venture for the design or validation of commercial products). Use of the Product for other purposes may not be made without the written consent of HDL Works.

The Product is comprised of trade secrets or confidential information of HDL Works or its licensors; therefore save as permitted by this Agreement, the End User agrees to keep confidential and not to permit access to the Product or disclose any confidential information relating to the Product or HDL Works to any third party except to its employees or agents required to know the same for the purposes of carrying out their obligations hereunder or to any student or employee wishing to use the Product for bona fide educational purposes; and the End User shall take all reasonable precautions to protect the confidentiality of the Product and to ensure that any person permitted access to the Product does not provide it to others. In no event shall the standard of care required by this paragraph be less than reasonable in light of general industry practice.

The End User shall allow HDL Works and or RAL access to its premises (including without limitation a right of access to the Site) at reasonable times and with twenty four (24) hours notice to make such inspection and interview such persons on the premises that HDL Works or RAL reasonably requires to satisfy itself that the use of the Product does not breach any of the End User's obligations under this Agreement. The End User shall comply fully with any such inspection.

2. LICENCE FEE

The End User shall pay the licence fee detailed in the current version of the EURO PRACTICE Software Services to RAL within thirty days of signing this Agreement. No licence will be granted until the licence fee has been received by RAL.

Subsequential licence fees which are mandatory for every year of continued use, including the maintenance fees, will be invoiced by RAL and shall be paid within thirty days.

3. OWNERSHIP OF THE PRODUCT

The licence is not a sale of the original Product or any copy. Title to the intellectual property rights to the Product, accompanying documentation and any copy made by End User remain with HDL Works.

HDL Works warrants that it has the right to grant the rights granted pursuant to this Agreement.

4. MAINTENANCE OF THE PRODUCT.

Maintenance service shall be available from RAL and will only be available if the yearly maintenance fee as detailed in the current version of the applicable EURO PRACTICE Software Services Document has been paid to RAL. HDL Works shall have no obligation to provide technical support to End User.

From time to time HDL Works may, at its discretion and mutual agreement of RAL, issue to RAL updates, bug fixes or patches to the Products (the "Updates"). Such Updates will be provided to End User by RAL. HDL Works shall have no obligation to supply Updates to End Users. End User shall treat any an all Updates in the same manner as agreed upon in the Agreement covering the original copy of Product provided to End User.

5. COPY RESTRICTIONS

The Product and the accompanying written materials are protected by copyright. Unauthorised copying of the Product, including Product as modified, merged, or included with other software, or of the written materials, is expressly forbidden. The End User will be held legally responsible for any copyright infringement that is caused or encouraged by its failure to abide by the terms of this licence. Any alteration, change or removal of any identifications from the Product, including but not limited to copyright, trademark or other notices or proprietary legends is forbidden.

Subject to these restrictions, and if the Product is not copy protected, one (1) copy of the Product may be made solely for backup purposes unless the End User has obtained an additional licence or licences which authorise in writing the use of this Product in connection with other designated computers. In any case the End User is obliged to reproduce the copyright notice on the backup copy.

End User shall maintain a record of the number and location of all copies made of the Product and make such record available to HDL Works upon request.

6. USE RESTRICTIONS.

The End User may not rent or lease the Product. The End User may not modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works based on the Product except where such decompilation is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer programme with other programmes if the conditions of Article 6.1 of the European Union Council Directive dated May 14, 1991, relating to the legal protection of computer programmes are met.

End User may not use, copy, modify or transfer the Product or any copy thereof in whole or in part, or grant any rights in the Product or accompanying documentation, except as expressly provided in the agreement. All rights not expressly granted are reserved by HDL Works or its HDL Workss.

7. TRANSFER RESTRICTIONS.

This Product is licensed only to the End User, and may not be sublicenced, transferred or assigned to anyone without the prior written consent of HDL Works. Any authorised transfer of the Product shall be subject to the terms and conditions of this Agreement. In no event shall the End User transfer, assign, rent, lease, sell, timeshare or otherwise dispose of the Product on a temporary or permanent basis except as expressly provided herein.

8. LIMITED WARRANTY.

a) HDL Works warrants that the Product will conform substantially to the documentation in effect for the Product when delivered, for a period of ninety (90) days from the date of delivery to the End User. HDL Works warrants that it has the right to grant this licence. HDL Works makes no other warranties, express or implied, on any other licensed Product, including but not limited to all implied warranties of merchantability and fitness for a particular purpose.

With regard to the special circumstances of the EURO PRACTICE Programme as a whole, RAL makes no warranties.

In no event will HDL Works or RAL be liable for any indirect, special or consequential damages arising out of this Agreement.

9. LIMITATION OF LIABILITY

HDL Works's entire liability to the End User for any cause of action whatsoever is limited to the amount paid for the Product that is the subject matter of the cause of action. In no event shall HDL Works or its HDL Workss be liable for damages for loss of data, profits or use of the Product or for special, indirect, incidental or consequential damages.

The exceptions to the limit of liability pursuant to this clause are:

- i) death or personal injury resulting from HDL Works's negligence
- ii) direct loss of or damage to physical tangible property of the End User resulting from acts of the HDL Works, its agents or employees whilst on the premises of the End User, in which event HDL Works's liability shall not exceed 1,000,000 (one million pounds) in respect of any single occurrence or series of occurrences.

iii) breach by HDL Works of any of its obligation under this Agreement.

10. PATENT AND COPYRIGHT INDEMNITY

HDL Works will defend or settle at its expense any action brought against the End User to the extent that it is based on a claim that the Product, used within the scope of this Agreement, infringes a copyright or existing patent. HDL Works will pay any cost, damages and legal fees awarded against the End User in such actions which are directly attributable to such claim, provided that the End User notifies HDL Works promptly in writing of the claim, that HDL Works is given complete authority and co-operation by the User and all information necessary for it to conduct the defence or settlement of such claim.

Should the Product become, or in HDL Works's opinion be likely to become, the subject of a claim for infringement of a copyright or patent, HDL Works may at its option and expense procure for the End User the right to continue to use the Product or replace or modify the Product to make it non-infringing. In such event, HDL Works shall have no further liability to the End User in respect thereof.

11. GENERAL.

a) This Agreement supersedes any written or oral agreement between HDL Works and End User. This licence shall apply, unless HDL Works and End User have agreed in writing to variations and additions notwithstanding any proposed variations or additions which may appear in any purchase order provided to HDL Works by the End User.

Any modification of the terms of this licence must specifically refer to this Agreement and must contain the written signature of an authorised representative of HDL Works and End User. No representative of HDL Works has been authorised to make any representation, warranty or promise not contained in this Agreement.

b) The waiver of any breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of the same or other provisions of the Agreement. In the event that any provisions of this Agreement are held to be illegal or otherwise unenforceable, such provisions shall be severed and HDL Works and End User shall negotiate, in good faith, valid substitute provisions which most nearly affect the intent of the licence. The entire licence shall not fail because of the severance of illegal or unenforceable provisions. This Licence is governed by the laws of England.

12. TERMINATION

a) This Agreement is effective until terminated pursuant to this Clause 12.

b) The Licences granted pursuant to Clause 1 of this Agreement will terminate automatically without notice from HDL Works if the End User fails to comply with any provision of this Agreement.

c) HDL Works may at its sole option immediately terminate this Agreement in the event that the End User fails to comply with the payment of the licence fees according to clause 2.

d) The End User may terminate this agreement by giving ninety (90) days prior written notice to HDL Works and at the same time notifying RAL.

e) Either party shall have the right to terminate this Agreement by giving written notice of termination to the other if the other party is guilty of a material breach or substantial breach of its obligations hereunder and has not remedied such breach if remediable within twenty (20) days of receiving notice requiring remedy of such breach.

f) Either party shall have the right to terminate this Agreement forthwith without notice in the event that the operations of other party is suspended or wound up or a receiver appointed over all or a material part of its assets or undertaking or it ceases to exist as a separate legal entity (whether by reason of dissolution, merger, amalgamation or otherwise).

g) Upon termination, the End User shall return the written materials and all copies of the Product, including modified copies, to HDL Works. On HDL Works's request, the End User shall destroy all items mentioned above and prove its compliance with these obligations to HDL Works.

h) Termination of this Agreement shall not release either party from its obligations of confidence under this Agreement and shall not prejudice or affect any right of action or remedy which shall have accrued prior to termination or shall accrue thereafter to either party.

i) Should the Master Agreement between HDL Works and RAL be terminated or breached in any way, the End user may continue to use the Product subject to satisfactory arrangements for continuation being made with HDL Works.

13. FORCE MAJEURE

Neither party shall be liable for failure to perform any of its obligations hereunder if such failure results from force majeure viz. fire, explosion, accident, civil commotion, industrial dispute or any other event beyond its reasonable control.

14. INFORMATION.

In case of any questions concerning this Agreement, the End User may contact RAL in writing, by E-mail or telephone.

HDL Works

End User

Signature: _____
(AUTHORISED REPRESENTATIVE)

Signature: _____
(AUTHORISED REPRESENTATIVE)

Name: _____
(PLEASE PRINT)

Name: _____
(PLEASE PRINT)

Position: _____

Position: _____

Date: _____

Date: _____