



AXSOS BPMTouch License Terms

useroriented IT

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License conditions of AXSOS AG for license programs in Germany

LICENSE CONDITIONS

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Distribution of AXSOS AG licensing programs in Germany

AXSOS AG, based in 70567 Stuttgart, develops and markets its licensing programs in Germany.

Scope / contracting parties

These license conditions are valid for all directly distributed license programs of AXSOS AG. Contracting parties are AXSOS AG (as licensor) on the one hand and the customer (as licensee) on the other hand.

Contract components

License agreement

By concluding a license agreement, the customer acquires the right to use license programs of AXSOS AG under the agreed conditions.

License certificate

The license certificate and any supplements to the license certificate describe the license material and specify the scope of use and license fees.

Third party licensing programs

As far as AXSOS AG distributes license programs of third parties or the customer acquires such from AXSOS AG, the contractual conditions of the third-party supplier shall apply exclusively.



Scope of the rights of use of AXSOS AG license programs

Content and scope

The customer acquires the non-exclusive, non-transferable, paid right to use the license material in accordance with the scope of use defined in the license certificate in his own business and - if agreed - in businesses controlled by him.

Use

Use according to the license agreement means to save, store and use the license material (i.e. to execute the programs in whole or in part and to use the associated documentation) to the defined extent in machine-readable form on IT systems including mobile devices. The customer has the right to copy the license material insofar as this is necessary for the use according to the contract or for back-ups.

Data center license revenue

If the customer intends to offer services (outsourcing, ASP etc.) to third parties on the basis of the licensed material, he must acquire a data center license supplement for this purpose (third parties are, for example, companies in which the customer holds less than 50% of the shares).

Changes

The customer has the right to adapt the license material to his needs by parameterization or to connect it with other programs.

Further changes, especially in the area of the program code, are not permitted.

Ownership and property rights

Ownership and property rights of AXSOS AG

AXSOS AG holds all copyrights and property rights and - if registered - also the industrial property rights (patent rights, trademark rights etc.) of the license material. Excluded from this are any open source components integrated in the software. The customer only acquires the rights of use of the license material expressly granted to him.

Safeguarding ownership and property rights

The customer shall safeguard the ownership and industrial property rights of AXSOS AG and commits to informing AXSOS AG immediately of all violations and attacks by third parties. The customer undertakes to affix the AXSOS AG copyright notice to all copies and partial copies made or outsourced by him and to keep records of the number and place of storage of all copies (including partial copies). AXSOS AG shall have the right to inspect these records.

Confidentiality

The license material contains information, ideas, concepts and procedures which constitute trade secrets of AXSOS AG. The customer undertakes not to make the license material accessible to third parties in any form, either in whole or in part, nor to publish it, unless



obliged to do so by law (e.g. auditors). The customer shall ensure that third parties only have access to the licence material on his premises or with permitted remote access and only for use in accordance with the contract. The customer also commits not to give third parties access to any data files that are provided to him as license material. If the customer passes on any storage medium or machine to a third party, the customer shall delete the stored license material.

External back-ups and copies

AXSOS AG commits to backing up the license programs on external storage media and to save the source codes and object codes in the latest development version with an independent third party (custodian).

The customer has the right to copy the license material used by him according to the license agreement or license certificate from the custodian and to use it freely afterwards, if

- a) AXSOS AG ceases its business activities without transferring its obligations towards the customer to one or more qualified third parties;
- b) bankruptcy or inheritance proceedings have been opened with legal effect over the assets of AXSOS AG or the opening has been refused for lack of assets.

Delivery date / delivery costs

If no specific delivery date has been agreed upon, the delivery of the license material will take place after the legally valid signing of the contract, along with the delivery of any releases or service packs up to that given time free of charge.

Test period and right of return

The customer has the right to test the licensed material. The test period begins on the day of the first delivery of the license material and ends 14 days later or earlier if production use begins.

During the trial period, the customer may terminate the license agreement at any time without cost consequences and return the license material. This termination must be made in writing. If the license material has already been delivered in a pre-project for testing purposes, no further test period will be granted.

License fees

Calculation based on the scope of use

The license fees are determined at the beginning of the contract on the basis of the defined scope of use and are recorded in the license certificate.

License fee

With the license fee, the customer pays for the acquisition of the rights to use the licensed material according to the release status and any service pack level at the time of commencement of productive use.

Adjustment of fees



The license fee agreed upon at the beginning of the contract is protected for 6 months. If the delivery cannot be effected within this period for any reason for which the customer is responsible, AXSOS AG reserves the right to adjust the license fee.

If the scope of use agreed upon at the beginning of the contract is increased, the license fee shall be recalculated and the difference to be paid shall be invoiced to the customer.

In case of a possible under-use, the customer has no claim to adjustment and reimbursement of the agreed license fee.

The customer shall be obliged to immediately inform AXSOS AG in writing of any changes in the agreed scope of use.

Terms of payment

Payment deadline

The license fee will be invoiced with delivery of the license material and is payable, plus statutory VAT, within 14 days.

AXSOS AG's right of termination in case of non-payment

If the client does not pay the license fee or does not pay it in full within the aforementioned period or any grace period granted, AXSOS AG shall be entitled to terminate the license agreement without notice.

Legal consequences of termination

In the event of termination without notice by AXSOS AG, according to the above clause, the client shall, with immediate effect, no longer be entitled to use the license material. The customer shall also be obliged to destroy or delete the license material including all copies or partial copies as well as all modified copies of the license material and copies connected with other programs within 30 days or to return them to AXSOS AG.

In case of termination without notice according to the above clause, the client shall compensate AXSOS AG (in particular, compensation for the inconvenience caused) and shall also owe AXSOS AG a fee of 10% of the license fee for use of the license material up to the point of termination.

Quality warranty / complaints and corrections

Scope of warranty / warranty period

AXSOS AG guarantees the customer that the license material corresponds to the specifications defined at the time of the contract agreement for the 12 months after the start of productive use and that it does not have any defects which restrict the use agreed in the contract.

Program viruses

AXSOS AG agrees to deliver only license programs which are produced and distributed in compliance with strict virus protection procedures. If, in the opinion of the customer, a virus is suspected or detected in a license program delivered by AXSOS AG, AXSOS AG shall assist in clarifying the matter. If AXSOS AG is responsible for the presence of the virus, it shall remove it from the license program or deliver a virus-free copy free of charge.



Limitation of warranty

AXSOS AG cannot assume any warranty if the defect in a license program is due to circumstances beyond its control, including for example,

- a) change of the application and operating conditions,
- b) interference with the program product by the customer or third parties,
- c) operating errors of the customer or third parties.

Furthermore, AXSOS AG does not guarantee that the license programs can be used without interruption and without errors in all combinations desired by the customer, with any data, EDP systems, programs and with any hardware, nor that the correction of a program error will exclude the occurrence of other program errors.

Complaints and corrections

The customer shall notify AXSOS AG immediately, in writing or electronically, of any defects detected. If necessary, an error protocol shall be drawn up and sent to AXSOS AG together with the corresponding accompanying documents so that the errors can be diagnosed and - as far as possible - reproduced.

AXSOS AG undertakes to rectify and document any defect within a reasonable period of time at its own expense. In the case of program errors, AXSOS AG shall be entitled to remedy the error by means of a correction or by supplying a replacement version of the license material (free of charge).

Warranty claims of the customer

In the case of defects for which AXSOS AG is responsible, the customer shall initially only be entitled to rectification free of charge. Should the rectification of defects fail, the customer shall be entitled to demand a reduction of the purchase price or to withdraw from the contract. However, the customer shall not be entitled to or shall be excluded from claims for damages within the meaning of § 437 No. 3 BGB. AXSOS AG shall therefore not be liable for such claims.

Legal warranty

Content

AXSOS AG guarantees that it has unlimited access to the copyrights, the existing protective rights (patents, trademark rights, etc.) and any rights of use of the licensed product.

Defense against attacks

In the event of a third party attack or lawsuit against the customer on account of the use of the licensed product, AXSOS AG must be informed immediately in writing. AXSOS AG shall be entitled to conduct and settle out-of-court negotiations and/or a possible lawsuit with the third party in place of the customer. AXSOS AG shall bear the costs arising from the legal dispute with the third party as well as any claims for damages of the third party that may have been awarded by a court or acknowledged by way of settlement.

Continued use of the licensed product



If a third party brings an action against the customer on the grounds of the use of the licensed product, invoking its own rights, or if the customer is convinced that such an action is likely, AXSOS AG shall at its discretion

- a) either replace the licensed product or have it modified so that further use can no longer infringe the alleged rights of the third party
- b) reclaim the software including all copies and partial copies and refund the license fee to the customer.

Limitation of liability

AXSOS AG shall be released from the above obligations if the claim of the third party is due to the fact that the license product has been modified by the client or by a third party or has been used in a way other than defined in the license certificate.

The customer is not entitled to any claims other than those described in the three clauses above under the heading "Quality warranty" – "Scope of warranty", "Program viruses", "Limitation of warranty".

Liability

The liability of AXSOS AG is definitively specified under the sections "Quality warranty" and "Legal warranty", above. There shall be no further liability under these sections.

AXSOS AG shall be liable without limitation in terms of blame and amount for damages caused intentionally or by gross negligence including injury to life, body or health. Any liability for damages caused by slight negligence and any further liability of AXSOS AG for direct or indirect damages (such as interruption of operations or loss of profit at the customer's premises) shall be excluded. The provisions of the Product Liability Act (ProdHaftG) shall remain reserved.

Maintenance contract

AXSOS AG strongly recommends the customer to close a maintenance contract from the beginning of productive use of the license material. In this way, the customer ensures that he is already entitled to any releases and service packs during the warranty period. If the customer decides only later to conclude a maintenance contract, he must pay the maintenance fees from the beginning of the productive use with a surcharge of 10%.

Further provisions

Written form

Amendments and supplements to the license agreement (also in the license certificate, supplements, appendices etc.) are only valid and legally effective if they are agreed in writing and signed by both parties of the agreement.

Legal succession



The rights and obligations of the customer under the license agreement shall not be transferable without the written consent of AXSOS AG.

If the distribution of the license programs is no longer with the licensor, AXSOS AG guarantees legal succession.

Confidentiality and data protection

In the context of the business relations with the customer, the processing of personal data in the sense of the Data Protection Act (DSGVO) is unavoidable, such as customer and employee addresses, installation location, contact persons and other specifications. Unless otherwise agreed, the customer agrees that such data may be disclosed and processed by AXSOS AG.

Amicable agreement

The contracting parties shall endeavor to resolve any disagreement by mutual agreement and amicable settlement.

Applicable law / court of jurisdiction

The license agreement and the present license conditions are subject to German law. In particular, the relevant provisions of the German Civil Code (BGB) shall apply. The place of jurisdiction is the legal domicile of the defendant.