

End User License Agreement (EULA)

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1. Introduction

This End User License Agreement (hereinafter referred to as: "Agreement", EULA) regulates transactions through which the Customer purchases so-called Eligible Products. The Customer and Statistical Products Hungary Kft. (hereinafter referred to as: "Supplier") shall agree to harmonize and control the administration of this Agreement within their own Group. The acceptance of this Agreement is based on the agreement of the parties that both the Customer and the Supplier are bound by the terms and conditions of the Agreement. The Customer and the Supplier shall assume to provide a copy of this Agreement to their Companies within their Group. The Customer shall assume responsibility for all the Sites to comply with the terms and conditions of this Agreement.

2. Conclusion and acceptance of the EULA

- 2.1. By the acceptance of this Agreement, the Customer shall declare that it is not considered as a consumer neither under Point a), Section 2 of Act CLV of 1997 on consumer protection (CPA, Consumer Protection Act), nor under Point 3, Subsection 1, Section 8:1 of Act V of 2013 on the Civil Code.
- 2.2. This end user license agreement shall be concluded by the Customer and the Supplier and shall enter into force:
 - (i) when the Customer initiates any act of exploitation in regards of the software (e.g. installation or running), or starts using the services,
 - (ii) when the Customer accepts the conditions of use appearing on the screen by "clicking" during installation, upgrading or on any other occasion,
 - (iii) or when the Customer accepts the conditions of use as a part of the agreement concluded with the Supplier or separately in writing. If the conditions of use in the contract concluded separately would differ from the provisions of this EULA, then the differing provisions of the separate contract shall supersede the provisions of this EULA.

3. Definitions

The terms used in this EULA shall have the meanings determined below. In specific cases, the text of the EULA may have further definitions which will have to be interpreted as specified therein.

Audit Reports - reports or the totality of reports made in the IBM License Metric Tool (hereinafter referred to as: "ILMT") or by any other means approved by IBM (the description of which can be found here:

<http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html>) . These reports ensure the Processor Value Unit ("PVU") based licensing requirements, on the basis of the Virtualization Capacity available for the Eligible Sub-Capacity Product.

Anniversary Date - the first day of the month following the anniversary day of the Effective Date, except for the case when the Effective Date is on the first day of the month, in which case, the Anniversary Date shall be the annual anniversary day of the Effective Date.

User - (i) in the case of an *authorized license*, the end user of the computer, on which the software license has been installed (or in the case of a common use computer, the person authorized by the Customer to access the given computer), (ii) in the case of a *concurrent/server license*, the person authorized by the Customer to use the given software license.

Upgrade - modification regarding a Computer Component, which modifies, adds, removes, enables or disables resources or functions of certain Computer Components. All such modifications can be performed by altering a Computer Component or by altering, adding, removing or replacing the function(s) of a Computer Component, but only to the extent declared and supported by the Supplier regarding the given Computer Component.

Computer Component - a hardware device, its functions, alterations, upgrades, parts or components, or any combination thereof.

Effective Date - the day when the Supplier accepts the Customer's original purchase order regarding the Eligible Product and sends the necessary download links to the Customer via email or provides the necessary installation files on an electronic data carrier, and/or installs the necessary system components for the Customer on site.

Site - any specific unit of the Customer's Company, such as premises or organizational units (for example, departments, divisions, subsidiaries or cost centers), to which the Supplier has assigned the purchased licenses - on the basis of the Customer's information/register -, and where the license is registered under the name of the Site.

IPLA - IBM International Program License Agreement. The IPLA agreement is included in all IBM Programs, in the Program directory, in the "License" folder, in a booklet or in a CD. It is also available on the following website: <http://www.ibm.com/software/sla> , or may be requested from the Supplier.

Governing Law - the laws of Hungary, in particular, Act V of 2013 on the Civil Code and Act LXXVI of 1999 on copyright.

License Information ("LI") - a document including information regarding a specific Program (but not for all Eligible Products distributed by the Supplier), as well as further terms and conditions specific for the given Program. The LI can be found in any of the following: on the <http://www.ibm.com/software/sla> website, in the directory of the Program by using a system command, or in the booklet provided as an annex to the Program.

Solution, embedded solution - a highly integrated and unified system of the specific software functions and modules, which provides more service opportunities than the specific parts individually.

Processor Chip - an electrical circuit board having one or more processor cores, installed in the CPU socket.

CPU Socket - an electrical circuit board in which the Processor Chip can be installed.

Processor Core - a physical functional unit inside the computer device, which interprets and executes program commands, and consists of at least one control unit and of one or more arithmetic logic units. The multi-core technology allows a single Processor Chip to have two or more active Processor Cores. The IFL processor (processor for 'Integrated Facility for Linux' on System Z) is considered a single Processor Core.

Processor Value Unit (PVU) - a metric system used by IBM to assign a specific value to each Processor Core. The description of the Processor Value Unit based licensing model can be found on the following website:

http://www.ibm.com/software/lotus/passportadvantage/pvu_licensing_for_customers.html .

Program - this term - including all the complete or partial copies of the program - has the following meaning: 1) machine-readable commands and data, 2) components, 3) audio and visual content (for example: images, texts, photos, figures), 4) relevant materials subject to license, and 5) documents, keys and documentation concerning the use of the license.

Sub-Capacity Licensing - licensing the Eligible Sub-Capacity Products on the basis of the Virtualization Capacity.

RVU (Resource Value Unit) - resource value units used. Typically, it means the number of processor cores. The exact metrics is defined for the Selected Products concerned.

Software Device - an Eligible Product which could be a Program, and which was developed for a specific function, and not for general computer tasks.

Full Capacity - the total number of activated physical processor cores available on the server.

Eligible Operating System Technology - an operating system, regarding which Sub-Capacity Licensing is available as indicated in the following website:

<http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html> .

Eligible Processor Technology - processor technology, regarding which Sub-Capacity Licensing is available as indicated in the following website:

<http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html> .

Eligible Sub-Capacity Product - a Product, regarding which Sub-Capacity Licensing is available as indicated in the following website:

<http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html> .

Eligible/Selected Products - include the following: non-commercial IBM programs, solutions of the Supplier, non-IBM programs, Restricted Support, extension of the rights of use of a Program, IBM Trade-ups, Trade-ups of Competing Products, Annual Renewal of Software Subscription and Software Support for a Third Party, Restarting Software Subscription and Software Support for a Third Party, Renewal of Restricted Support.

Eligible Virtualization Environment - a server or a group of servers operating as a single processing unit, which includes an Eligible Processor Technology, an Eligible Operating System Technology and an Eligible

Virtualization Technology.

Eligible Virtualization Technology - a virtualization technology, regarding which Sub-Capacity Licensing is available as indicated in the following website:

<http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html> . The Eligible Virtualization Technology is capable of restricting the processor capacity to a specific part of the full physical capacity, which is also referred to as: partition, LPAR or virtual machine.

Company - a legal entity which owns more than 50% of the Customer, or which is owned by the Customer by more than 50%, or has a joint owner regarding thereof.

End User - refers to and includes a natural and/or a legal entity, who has purchased the software for personal use instead of resale, and who is the factual user of the software.

Customer - the legal person who orders the Eligible Product.

Virtualization Capacity - the processor's highest peak capacity available for an Eligible Sub-Capacity Product when used in an Eligible Virtualization Environment, in accordance with the rules indicated on the website below:

<http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html> .

4. Legal provisions

- 4.1. The Customer shall acknowledge that the Eligible Products delivered by the Supplier are the property of their original software developers (which could be the Supplier or its partners), and are protected by copyright. In case these products are not developed by the Supplier, the Supplier is entitled to sell the exploitation rights of such products in all cases.
- 4.2. In the case of products developed by third parties, the Supplier shall guarantee to possess the authorization of the respective owners of such licenses for the resale thereof by the Supplier. The Customer obtains the non-exclusive, time-limited rights of use of the Product when paying the license fee.
- 4.3. The Supplier provides no commercial rights or rights to resale to the Customer. The Customer shall not sell the received Selected Product to any third parties.
- 4.4. The Supplier does not consent to any upgrades, modifications or alterations performed in regards of the Selected Product delivered by the Supplier. The Supplier reserves such rights exclusively to itself.
- 4.5. The Selected Product is protected by copyright both fully and partially in accordance with the provisions of the Governing Law.
- 4.6. On the basis of this EULA, the Customer shall be obliged to notify all users who use the Selected Product on the basis of this agreement about the restrictions on use, and may provide access to the Selected Product only to users who accept to be bound by these restrictions, and who make a declaration in writing in this regard - unless specified otherwise by the individual agreement by the Customer and the Supplier.

The written declaration can be replaced in the case of authorized licenses, if the Customer keeps records of the Users (e.g. in a table of license codes assigned), and demonstrates such records at the request of the Supplier (in the case of an occasional license audit).

- 4.7. The Customer shall not provide access to third parties - outside of the Customer's Sites -, and shall be obliged to make all effort to avoid third parties accessing the Selected Product or its documentation.
- 4.8. By signing the purchase order, the Customer accepts to be bound by the restrictions on use.
- 4.9. The Customer may waive the license rights before the expiry of the purchased license rights (which normally means the period of product support settled by the payment of fees), but in this case, the Service Provider shall not assume any guarantee of reimbursement, refunds on any other basis, or the reimbursement of license fees.

4.10. The user:

4.10.1. shall not provide or lease the Selected Product to third parties - outside of the Customer's Sites - for free or for remuneration, and shall not make the platform accessible to third parties - outside of the Customer's Sites - in any other way;

4.10.2. shall not localize, modify, adapt, translate, alter, copy or reproduce the Selected Product (in addition to the specified back-up copies), and shall not merge the Selected Product with other programs;

4.10.3. shall not decrypt the Selected Product, unless the applicable regulations explicitly authorize this, and in such cases, the user may decrypt the Selected Product only to the corresponding extent and for the corresponding purposes, with the prior and reasonable notification of the Supplier, and shall provide the Supplier with the right to inspect the extent of the decryption.

5. Claims for which the Supplier shall assume no responsibility

The Supplier shall assume no responsibility for claims based on or arising from the following cases:

- 5.1. anything provided by the Customer or provided by any third parties assigned by the Customer that has been embedded in the Selected Product, or anything that arises from the Supplier proceeding in accordance with the plans, specifications or instructions provided by the Customer or provided by any third parties assigned by the Customer;
- 5.2. modifications of the Selected Product by the Customer or by any third parties assigned by the Customer;
- 5.3. using the Selected Product with licenses and restrictions other than applicable, or using invalid or expired versions or editions of the Selected Product - i.e. when the software is no longer supported by the developer in the given IT environment -, in which cases the claims could have been avoided or the risks of the claims could have been lower by using the current version or edition;
- 5.4. combining, operating or using the Selected Product with any other programs, hardware devices, Programs, data, instruments, methods or processes that are not recommended by the developer;
- 5.5. distributing, operating or using the Selected Product by parties others than the Customer - or outside of the Customer's Sites -, or in the interests of any third parties; or
- 5.6. Separately Licensed Code defined in the LI of the Selected Product, if such exists in the LI.

The LI of the Selected Product or other documents might authorize the Customer to copy, modify or distribute any parts of the Selected Product without the Customer required to pay any further license fees to the Supplier. The obligation to pay compensation under this Agreement is applicable only to Product Copies provided by the Supplier to the Customer. The Supplier shall not be responsible for claims regarding those copies of the Selected Product, which have been provided to the Customer by other parties than the Supplier, even if the LI of the Product or other documents would allow that.

6. Damages for which the Supplier shall assume no responsibility

The Supplier shall assume responsibility under no circumstances for the following cases, even if the Customer is notified about the possibility of the occurrence thereof:

- 6.1. loss or corruption of data;
- 6.2. loss of profit, failure of transaction, revenue forgone, loss of goodwill or loss of anticipated savings.

7. Types of licenses

7.1. According to the period of validity of the licenses

7.1.1. Annual license:

- the Eligible Product cannot be used after 12 months - unless the Customer renews the given license with another annual license or switches to a renewable license -, the Customer stops using the Selected Product in any manner, deletes the product from its systems, irrecoverably destroys all copies possessed, and makes a declaration about such destruction signed by its representative at the request of the Supplier;
- product support is applicable only for the given 12 months, the same rights of use apply during this period of time which would apply to the renewable license (e.g. the product can be installed to another computer, new annual code can be requested when changing version or user etc.).

7.1.2. Renewable (perpetual) license:

- the Eligible Product can be used after 12 months;
- in addition to a valid system tracking, product support services are also available (including, among others, e.g. installation to another computer during the year, or change of code when changing version or user);
- in case the Customer does not avail itself of the annual renewal anymore and does not settle the system tracking fee for the next 12 months, then the Customer shall NOT be eligible for product support anymore, and may thereafter request only the renewal of the authorization code from the Supplier which expires every year: once per every year and for the number of users for which the Customer has previously purchased the rights to use;
- issuing a Final Code might be necessary when:
 - the Customer requests annual code for an old version, regarding which the Supplier has ended the support;
 - the Customer comes to the conclusion that a final (perpetual) code is sufficient, the Customer does not intend to request a new code every year, and does not intend to avail itself of the product support either.

The Supplier issues a License Certificate with the final code of the license (valid until 2032) without a valid system tracking. After this: the Customer will not be eligible to receive any further product support and license codes from the Supplier.

The user of the Selected Product shall acknowledge:

- that the proper operation of the software is guaranteed only in the presence of the system requirements determined for the given version, even if a final/perpetual code is provided;
- that the automatic system responsible for generating the codes allows using the final/perpetual codes on a total of 3 occasions (which means that after the first licensing, these codes can be used on two more occasions, e.g. when reinstalling the computer or when the changing user).

7.1.3. Demo license:

- the trial version of the Selected Product, which has the full functionality of the software, but can be used only for a limited period of time;
- the demo license can be used for selling the Selected Product and/or for testing due to version upgrade;

- after the demo period, the User stops using the Selected Product in any manner, deletes the product from its systems, irrecoverably destroys all copies possessed, and makes a declaration about such destruction signed by its representative at the request of the Supplier;
- the availability of product support is limited.

7.2. According to the number of users

7.2.1. Single (Authorized User)

- Interpretation: in accordance with the content of the following website: http://www-01.ibm.com/software/lotus/passportadvantage/about_software_licensing.html ; with reference to this interpretation defined by IBM, we shall hereby draw attention to the fact that the products of the IBM SPSS software family also belong to those products, where the specific devices are considered as (authorized) users (and their lock code is embedded in their authorization code, without which the licensing cannot be performed).

7.2.2. Network (Concurrent)

- Interpretation: in accordance with the content of the following website: http://www-01.ibm.com/software/lotus/passportadvantage/about_software_licensing.html ;
- Number of concurrent users: the maximum number of users allowed to use the system simultaneously;
- Installing the Central License Manager Software is necessary in the manner set out in the installation documentation of the given Eligible Product.

7.3. Licensing server environment

7.3.1. For the server-side products of the Selected Product, the license demand:

- is determined by the capacity of the physical or virtual servers running, which is expressed by the value calculated on the basis of the type of the server and the processor, i.e. total value of PVU (Processor Value Unit); and/or
- is determined by the resource value units used by the Selected Product (Resource Value Unit, RVU).

7.3.2. For server-side products of the Selected Product in the case of IBM components, the Customer is required to prepare audit reports within 30 days of installation for using the license, which shall be prepared with the IBM License Metric Tool (ILMT) or any other tools approved by IBM.

8. Inspection and the legal effects of excessive exploitation

8.1. The Customer shall acknowledge that the Supplier is entitled to inspect the number of users of the Selected Product and the compliance with any other conditions of use at any time, provided that (i) the inspection does not inhibit or disturb the business activities of the Customer or the Customer's Sites; (ii) prior to the inspection, the Supplier and the Customer sign a confidentiality agreement in regards of the data coming to the knowledge of the Supplier during the activities performed within the framework of the inspection; and (iii) the IT security department of the Customer examines and approves any devices used for the inspection in advance. For the inspection of the licenses of the Selected Products, the Customer shall be obliged to allow the professionals assigned by the Supplier to request the data for the audit report. The Supplier performs the inspection at a date agreed upon with the Customer; the Customer shall have 30 (thirty) days to determine this date after the relevant written request of the Supplier.

- 8.2. If the number of licenses used for the Selected Product is higher during the inspection than the number of licenses factually requested and purchased by the Customer, then the Supplier shall identify its reason in a manner agreed upon with the Customer, and the Supplier and the Customer shall agree on the form of handling the discrepancy.

9. Warranty

- 9.1. The Supplier shall warrant that the services purchased (sales of licenses and renewals) are provided in accordance with a practice generally accepted in the sector. The Customer shall be obliged to notify the Supplier in writing about any deficiencies within 90 (ninety) days of delivery in order to enforce the warranty.
- 9.2. The Supplier shall warrant the non-infringement of the software licenses detailed in the individual orders, that is, no third parties have any rights or legal claims regarding the intellectual works, regarding any parts and components of the intellectual works, or regarding the devices used to create such intellectual works provided to the Customer in the framework of the fulfillment of this Agreement, which would restrict or hinder the proper utilization of the intellectual works by the Customer under this Agreement in any way or at any time in the future. The Supplier shall replace the software, the data carriers and the documentations with content, production or material defects for free within 30 (thirty) days of receipt of the Customer's written notice thereof.
- 9.3. In case the Supplier is unable to correct the infringement of warranty, the Customer shall be entitled to terminate the relevant part of the Agreement immediately and may recover the fees paid to the Supplier for the given fulfillment.
- 9.4. The Supplier shall be obliged to provide legal protection or settle any occasional disputes of any legal procedures initiated against the Customer by other means (according to its own choice) at its own expense, if the legal basis of such procedures or claims is the verified infringement of any third party copyrights by the Supplier related to licenses prepared and provided in the framework of the relevant purchase orders.
- 9.5. The Supplier shall be obliged to provide any assistance to the Customer immediately at its request, if such assistance provides effective protection against the claims in the above-mentioned legal procedures initiated against the Customer. The Supplier shall be obliged to pay any compensation and costs to the Customer ordained by the court to be paid on the basis of such claims, provided that the Customer notifies the Supplier in writing immediately about such claims, provides any assistance to the Supplier for the defense in such procedures - including the possibility of amicable agreement -, provides any legally available information for the solution of the case, and offers its cooperation and authorization to the Supplier at the expense of the Supplier, until the dispute is settled by amicable agreement or by other means.

10. Provisions on confidentiality

- 10.1. Any Information defined below and provided by one Party (Discloser) to the other shall be kept confidential and shall be protected in accordance with the provisions of this EULA (confidential information, business secret).
- 10.2. The term "Information" shall include every information disclosed in writing, verbally or in any other way, including, but not limited to, inventions, concepts, ideas, know-how, technical descriptions, plans, specifications, drawings, prints, models, examples, workflows, computer programs, marketing plans, groups of customers or any other technical, financial or business information.
- 10.3. Confidential information provided in writing shall be considered as business secret regardless of whether the Parties have indicated the words "Confidential", "Classified", or any other synonymic terms on such information.

- 10.4. The Contracting Parties shall be obliged to keep all business secrets – which they became aware of and which are in the interests of one another – as confidential, and shall make their agents and employees comply with the confidentiality obligation.
- 10.5. The Supplier and its employed associates shall be obliged to keep every data, fact and confidential information concerning the Customer they have become aware of during the performance of their tasks under this agreement as confidential, regardless of whether they have obtained such information verbally or in writing.
- 10.6. The Customer and its employed associates shall be obliged to keep every data, business secrets and confidential information concerning the Supplier they have become aware of in regards of the performance of their tasks under this agreement as confidential, regardless of whether they have obtained such information verbally or in writing.
- 10.7. For the protection of the business secrets, the Parties – in addition to this confidentiality provision – shall consent to be bound by the provisions of the laws.
- 10.8. The Contracting Parties shall stipulate that they are not bound by this confidentiality obligation if the Information was demonstrably known in writing before the confidentiality obligation, or if the Contracting Parties are required by law, by court or by other authorities to provide the Information to third parties.
- 10.9. The breach of the confidentiality obligation shall be considered as a material breach of the agreement.

11. Term and amendment of the EULA

- 11.1. This agreement shall remain in force for an unlimited period of time, unless agreed otherwise.
- 11.2. The Supplier shall be entitled to amend this EULA unilaterally by the notification of the Customer. The following cases shall also be considered as a notification: (i) a new version of the EULA is accepted when installing a new version; or (ii) the Supplier publishes the new EULA on its website at least 30 days prior to entry into force. Accordingly, the Customer may check the latest valid version of the EULA periodically on the website.
- 11.3. The Customer is not required to accept to be bound by the new EULA immediately during a valid contractual period between the Customer and the Supplier. In case the Customer has a valid system tracking from the Supplier and if the EULA changes during their contractual relationship, then the EULA valid at the time of the conclusion of the agreement or the EULA valid on the last effective date of the agreement shall remain in force, until the Customer accepts the new version of the EULA together with the purchase order/contract for the next system tracking period. In case of the amendment of the EULA, both of the parties shall strive for making the EULA acceptable both for the Supplier and for the Customer.

12. Final provisions

- 12.1. In case any part of this EULA were to be declared invalid or unenforceable, this shall not affect any other provisions of the EULA, and the latter shall remain to be applied without changes.
- 12.2. Issues not regulated by this EULA shall be governed by the applicable provisions of the Hungarian law, provided that the Parties shall explicitly preclude the applicability of the second sentence of Subsection (5), Section 6:63 of the Civil Code in regards of this Agreement, that is, the practices known widely and used regularly by the subjects of similar contracts in the given branch of business shall not become part of this Agreement.