Training and Research Licence for
the Software Product FlexGanttFX

1. Scope

[1] This training and research licence (hereinafter the "Licence") is valid for the software product FlexGanttFX produced by Dirk Lemmermann Software & Consulting (hereinafter the "Licensor"). FlexGanttFX (hereinafter the "Software") is a framework for the creation of so-called Gantt Charts based on the programming language Java.

[2] This Licence regulates the conditions applicable for the use of the object code and the source code of the Software by an educational establishment which legitimately purchases the Software (hereinafter the "Licensee") for the creation of Gantt Charts. Any use of the Software that differs from or exceeds the limits of this Licence is prohibited.

[3] Any general terms or purchase conditions of the Licensee that may possibly exist are hereby refuted. They shall not become part of the agreement.

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[2] If nothing else has been expressly agreed, delivery of the Software (programs in object code and source code plus documentation) shall occur in the version that is current at the moment of supply or downloading.

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[2] The Licensee may integrate the Software programs into other computer programs or otherwise use them in connection with other programs. The Licensee may modify the Software.

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[2] With respect to the Software, the Licensee has only the rights granted through this Training and Research Licence, which also include the right to eliminate errors and the right to make a copy for back-up and archive purposes. Copyright notices, trade marks, company and other business designations of the Licensor or third parties which appear in the programs or the documentation or in other material accompanying the Software may not be altered, deleted or removed, even in copies of the programs or documentation.

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[1] If the modifications made by the Licensee to the Software (object code and/or source code) are protected by copyright, in the sense of a derivative work, the rights in such derivative works shall be the property of the Licensee. This does not, however, in any way affect the exclusive rights of the Licensor in the source code in its original form, so that any exercise of the rights of the Licensee in the works created and derived by it is permitted only with the prior express approval of the Licensor.

6. Transfer of the Licence to third parties.

[1] Transfer of this Licence and the Licensee's rights of use pertaining thereto to third parties is not permitted.

7. Maintenance and support

[1] No Software maintenance or support services shall be supplied by the Licensor, unless the parties have concluded a separate maintenance or support agreement.

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[1] Except where there exists express agreement to the contrary, the Licence fees for the Software shall be determined in accordance with the Licensor's prices in force on the date of supply or downloading of the Software. The Licensor reserves the right to alter the prices at any time. The Licence fees do not include any services such as, for example, installation, implementation, training or support. If the Licensor provides any services, it shall be entitled to invoice these in accordance with current rates on a time-and-materials basis subject to the existence of other agreements in any separate contracts for services.

[2] Providing nothing else has been expressly agreed, all fees, rates and prices are in Swiss francs exclusive of VAT and other taxes, levies, customs duties or fees of any type and excluding incidental costs such as insurance, expenses etc.

[3] Invoices from the Licensor are due for payment within 30 days of the date of the invoice. In case of non-compliance with payment periods or dates, the Licensee shall additionally owe default interest of 1% per month, without any reminder, with effect from the due date for payment. Set-off of any counter claims by the Licensee is permitted only with the prior approval of the Licensor, or if there has been a non-appealable judgment.

9. Delivery dates

[1] Delivery dates are binding for the Licensor only if expressly confirmed by it in writing. An exception is made in the case of hindrances to delivery outside the area of influence of the Licensor such as appreciable disturbances to operation, breakdown in telecommunications connections, industrial disputes, official measures or force majeure. If a binding delivery date cannot be met by the Licensor for reasons attributable to it, the Licensee shall twice set a reasonable grace period of at least 10 working days on each occasion. If the Licensor does not meet the second period, the Licensee shall be entitled to withdraw from the agreement. Reminders and notifications of grace periods shall be given in writing.

10. Infringement of intellectual property rights

[1] The Licensor shall defend claims brought by third parties against the Licensee on the grounds of infringement of intellectual property rights through legitimate use of the Software (object code and/ or source code) at its own expense (incl. damages) and risk, provided that the Licensee notifies the Licensor of such claims immediately in writing and allows it sole power of decision regarding the conduct of any proceedings or other measures for judicial or out-of-court settlement of the dispute and providing that the Licensee did not predominantly cause or bear the responsibility for the claim by the third party or for a non-appealable judgment against it.

[2] If such claims are asserted by third parties, the Licensor may, as it prefers, either procure for the Licensee the right to continued use of the Software, or replace it with equivalent software, or cancel the agreement and refund the price paid by the Licensee. Any liability on the part of the Licensor shall be regulated according to section 12.

[3] Any warranty on the part of the Licensor covering possible infringement of third party rights through the Software is excluded to the extent that such a third party claim is based on a possible modification of the Software (object code and/or source code) by the Licensee, i.e. any warranty on the part of the Licensor is fully excluded if, without the modification to the Software by the Licensee, there would be no basis for the third party claim concerned.

11. Warranty

[1] The warranty of the Licensor refers to repeatable defects sufficiently documented by the Licensee in the unmodified Software purchased from the Licensor, i.e. to deviations from the description of the programs in the associated documentation and only if the defects result in a serious impairment of the intended and contractually-compliant use. The Licensor shall provide no warranty for performance features, functionalities, possibilities for use, or other properties of the Software not described in the documentation.

[2] The Licensor shall endeavour to rectify a defect through supply of a corrected version (update) or a workaround solution or information as to how to avoid the effects of the defect. If a defect cannot be eliminated within two reasonable grace periods set in writing by the Licensee, each of at least 20 working days, then, providing that the Software was purchased directly from the Licensor, the Licensee shall have a claim to a reduction in the price or, in the case of severe defect, to cancellation of the agreement and refund of the price paid.

[3] The warranty period shall amount to 2 months from either the date of the supply of the Software by the Licensor or download thereof by the Licensee. Rectification of defects or replacement of the Software or parts thereof shall not result in prolongation of the warranty.

[4] If the Licensee has carried out modifications to the source code, the Licensor's warranty for any defect in the Software shall be subject to the condition that the Licensee must prove that the defect concerned was not influenced by one of the modifications carried out the Licensee.

[5] All more extensive warranty claims shall be excluded, in particular in connection with defects and malfunctions for which the Licensor is not responsible such as force majeure, incorrect installation, intervention by the Licensee or third parties, unsuitable usage conditions or environmental influences. If, after investigation of a purported defect, it transpires that there is no defect, the Licensor shall be entitled to invoice the Licensee for the costs of the investigation at the Licensor's rates in force at the time of the investigation.

12. Liability

[1] The Licensor shall be liable for any grossly negligent or intentional loss or damage caused by it and its senior executive bodies. Any more extensive liability, in particular for consequential loss or damage and other indirect loss or damage such as, for example, loss of profit, claims of third parties against the Licensor or loss of data, is excluded insofar as permitted by law. Any liability of the Licensor is also excluded if modifications to the source code carried out by the Licensee contributed to the loss or damage.

13. Termination of the Licence

[1] In the event of any infringement of the provisions of this Licence by the Licensee, such as infringement by the Licensee of the Licensor's rights in the Software, in particular in the case of use of the Software above and beyond the rights of use stated in section 3, or in the event of default in payment on the part of the Licensee, the Licensor shall be entitled to terminate this Licence with immediate effect after the expiry without result of a 10-day grace period, set in writing, for restoration of the lawful circumstances. In this case, any outstanding claims for remuneration on the part of the Licensor shall become due immediately, and shall be settled by the Licensee within 10 days. Any payments already made by the Licensee shall be forfeited and shall remain the property the Licensor.

[2] On termination of this Licence, the Licensee shall, at the request of the Licensor, immediately and irretrievably delete the Software (object code and source code) and all complete or partial copies thereof and confirm this to the Licensor in writing, or shall return them to the Licensor.

14. Partial invalidity

[1] If individual provisions of this Licence agreement are or become fully or partly invalid or unenforceable, this shall not affect the validity of the remaining provisions. The parties shall replace the ineffective provision with an effective one which, as far as legally possible, most closely approaches the economic purpose of the ineffective provision.

15. Applicable law and place of jurisdiction

[1] This Licence agreement and the complete legal relationship between the parties are subject to substantive Swiss law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) and the Hague Conventions Relating to a Uniform Law on the International Sale of Goods shall not apply.

[2] In the event of disputes arising from or in connection with these conditions or the legal relationship between the parties as a whole, the courts in the place where the Licensor's registered office is located, at present Zurich, shall have exclusive jurisdiction.