

BaxEnergy GmbH (“BaxEnergy”) Software License and Services Agreement

IF YOUR COMPANY HAS EXECUTED A LICENSE AGREEMENT WITH BAXENERGY, THIS AGREEMENT SHALL GOVERN AND SUPERSEDE ALL PRIOR AGREEMENTS.

IMPORTANT – READ CAREFULLY: BaxEnergy is willing to license to your company ("Licensee") this software and documentation ("BaxEnergy Products") only on the condition that your company accepts all of the terms in this Agreement. Capitalized terms not defined herein shall have the meaning defined in BaxEnergy’s quotations or correspondence. PLEASE READ THE TERMS CAREFULLY BEFORE INSTALLING OR USING THE SOFTWARE, AS INSTALLATION OR USE OF THE SOFTWARE WILL INDICATE YOUR COMPANY’S ASSENT TO THEM.

Capitalized terms used in this Agreement are defined Section 10 below.

1. License

1.1 License Grant:

Subject to the terms and conditions of this Agreement, BaxEnergy grants to Licensee a perpetual nonexclusive, nontransferable (except as specified in Section 8.1) license to use the BaxEnergy Products in accordance with Section 9. Licensee may make a reasonable number of copies of any BaxEnergy Product documentation for internal business use.

1.2 License Restrictions:

Except as expressly provided in Section 9, Licensee agrees that it has no right to: (i) modify the BaxEnergy Products or to permit any third party to do so; (ii) copy the BaxEnergy Products, except as strictly required to install the BaxEnergy Software and make a reasonable number of copies for archival or backup purposes, or (iii) use the BaxEnergy Products to provide service-bureau, software rental, time sharing or any data services to any third party. Any BaxEnergy Products ordered by Licensee and licensed by BaxEnergy as a bundled unit must be used by Licensee as a bundled unit. Licensee has no right to use or reference, for purposes of development, any library or any portion thereof contained in the BaxEnergy Product. Licensee acknowledges that BaxEnergy Products contain trade secrets of BaxEnergy, and in order to protect such trade secrets, Licensee agrees not to disassemble, decompile or reverse engineer the BaxEnergy Products, nor permit any third party to do so, except to the extent such restrictions are prohibited by applicable law.

1.3 Limited Rights:

Licensee’s rights in the BaxEnergy Products will be limited to those expressly granted in this Section 1, and BaxEnergy reserves all other rights, title, interest and licenses, including, without limitation, all patent, copyright, trademark, service mark, trade secret, and trade name rights therein. All BaxEnergy Products are provided with the commercial license rights and restrictions described in this Agreement.

1.4. Audit Rights:

Upon BaxEnergy’s written request, Licensee shall furnish BaxEnergy with a certification signed by an officer of Licensee verifying that the BaxEnergy Products are being used pursuant to the terms of this Agreement. In addition, upon prior written notice, BaxEnergy may audit Licensee’s use of the BaxEnergy Products to ensure that Licensee is in compliance with the terms of this Agreement. Any such audit shall be conducted during regular business hours at Licensee’s facilities and shall not unreasonably interfere with Licensee’s business activities. Licensee shall provide BaxEnergy access to the relevant Licensee records and facilities. If an audit reveals that Licensee has underpaid fees to BaxEnergy, Licensee shall be invoiced for such underpaid fees based on BaxEnergy’s fee structure in effect at the time the audit is completed.

Licensee shall promptly deliver to BaxEnergy any unpaid fee for any errors or omissions disclosed by such audit. Licensee shall pay BaxEnergy an additional fee of twenty-five percent (25%) of the applicable unpaid fee disclosed by the audit as liquidated damages and not as a penalty, to compensate for Licensee's over

use of the BaxEnergy Products. If the underpaid fees exceed five percent (5%) of the license fees previously paid by Licensee, then Licensee shall also pay BaxEnergy's reasonable costs of conducting the audit.

2. Total Care Plan.

BaxEnergy may make available to Licensee a support and maintenance program ("Total Care Plan"). BaxEnergy's current terms of Total Care Plan will be provided on request and are also available through BaxEnergy's description of services section at <http://www.BaxEnergy.com>. Promptly following its use of any Updates, Bug Fixes and/or other software ("Replacement Software") as designated by BaxEnergy and accepted by Licensee, Licensee will return or destroy the BaxEnergy Software replaced by the Replacement Software. Licensee will not receive any credit for software replaced by Replacement Software. If Licensee purchases BaxEnergy's installation services, BaxEnergy will perform such work in a professional and workmanlike manner consistent with generally accepted standards in the enterprise software industry. Licensee agrees to supply BaxEnergy with access to and use of all information and facilities reasonably necessary for BaxEnergy to render any on-site services pursuant to this Agreement. BaxEnergy will comply with all reasonable safety rules and procedures provided by Licensee to BaxEnergy personnel in advance. All Replacement Software provided under the Total Care Plan shall be considered part of the BaxEnergy Products under this agreement and shall be subject to all the provisions of this agreement.

3. Warranties.

3.1 Limited Warranty:

BaxEnergy warrants that, for a period of one (1) year after delivery of the BaxEnergy Products, the BaxEnergy Products will function in accordance with BaxEnergy's accompanying documentation in all material respects. As Licensee's sole and exclusive remedy and BaxEnergy's entire liability for any breach of the foregoing warranty, BaxEnergy will repair or replace, at no additional charge to Licensee, any BaxEnergy Products that fail to meet this limited warranty. The limited warranty set forth herein shall automatically become null and void if a party other than BaxEnergy modifies the BaxEnergy Products in any way. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, BAXENERGY MAKES NO WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED, AND BAXENERGY EXPRESSLY DISCLAIMS ANY AND ALL SUCH OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND NONINFRINGEMENT.

3.2 Insurance Requirements:

During the term of this Agreement, BaxEnergy will obtain and maintain in force insurance for (a) Worker's Compensation and Employer's Liability Insurance (b) General Liability Insurance (c) Automobile Liability. All insurance will be in compliance with requirements from statutory regulations in the applicable state

3.3 Proof of Coverage:

At Licensee's request, BaxEnergy will furnish Licensee with Certificates of Insurance evidencing the insurance described above, including a notice that no change in, or cancellation of, any such policy or policies shall be made without notice to Licensee at least ten (10) days prior to such change or cancellation.

4. Liability and indemnity exclusions

BaxEnergy will have no liability for infringement claims of any kind arising from: (i) any use of the BaxEnergy Products beyond the scope of this Agreement; (ii) Licensee's use of the BaxEnergy Products in combination with any products not developed by BaxEnergy, if the basis for the claim is such combined use; (iii) Licensee's failure to use updated or modified versions of the BaxEnergy Products provided or made available by BaxEnergy without additional charge; or (iv) BaxEnergy's compliance with designs or specifications provided by Licensee.

THE PROVISIONS OF THIS SECTION 4 SET FORTH BAXENERGY SOLE AND EXCLUSIVE OBLIGATIONS AND LICENSEE'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

5. Limitations of Liability.

EVEN IF ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE AND REGARDLESS OF WHETHER A CLAIM ARISES UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT BAXENERGY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES, IN NO EVENT SHALL BAXENERGY BE LIABLE FOR: (i) ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGES OF ANY KIND (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS); (ii) CLAIMS THAT ARE COVERED BY THE INSURANCE POLICIES SPECIFIED IN SECTION 3, AS CARRIED BY BAXENERGY, SHALL BAXENERGY'S TOTAL LIABILITY EXCEED THE COVERAGE AMOUNTS SPECIFIED THEREIN; NOR (iii) CLAIMS THAT ARE NOT COVERED BY THE INSURANCE POLICIES SPECIFIED IN SECTION 3, AS CARRIED BY BAXENERGY, SHOULD BAXENERGY'S TOTAL CUMULATIVE LIABILITY HEREUNDER EXCEED THE TOTAL LICENSE FEES PAID BY LICENSEE TO BAXENERGY UNDER THIS AGREEMENT OR ONE HUNDRED THOUSAND EUROS (€100,000), WHICHEVER IS LESS. The parties expressly agree that the allocation of risk contained in this Section is an essential basis of this Agreement.

6. Confidential Information.

"Confidential Information" means the BaxEnergy Products and any business (including any pricing information provided by BaxEnergy) or technical information that is marked by a disclosing party as "confidential" or "proprietary" at the time of disclosure. Licensee's Confidential Information shall also include information related to Licensee's operations that Licensee discloses to BaxEnergy in connection with this Agreement in whatever form. BaxEnergy's Confidential Information shall also include without liability any interfaces developed using BaxEnergy's Software. The receiving party will not use or disclose any Confidential Information of the other party except as expressly permitted herein and will use all reasonable measures to maintain the confidence of all such Confidential Information, which measure will in no event be less than the measures that the receiving party takes to protect its own confidential information of similar importance. Confidential Information will not include information which: (i) is or becomes publicly available without fault of the receiving party; (ii) is independently developed by the receiving party without use or access to the Confidential Information; or (iii) was known to the receiving party prior to its receipt of the Confidential Information from the disclosing party and is not subject to other restrictions on disclosure or use.

7. Term and Termination.

This Agreement will remain in effect perpetually unless and until terminated pursuant to this Section. Either party may terminate this Agreement if the other party breaches any material term, and such breach remains uncured for thirty (30) days after receiving notice thereof. In the event of any termination of this Agreement, the parties agree to return or at the other party's request destroy all of the other party's Confidential Information within three (3) business days, and without limiting the foregoing, Licensee will return or at BaxEnergy's request destroy all copies of the BaxEnergy Products within its possession or control. Licensee may terminate its license to the BaxEnergy Products under this Agreement at any time by destroying all copies of the BaxEnergy Products and Confidential Information associated with the BaxEnergy Products within its possession or control.

Termination of this Agreement by either party will be a nonexclusive remedy for breach without prejudice to any other right or remedy of such party. The rights and obligations of the parties contained in Sections 5, 6 and 8 will survive the termination of this Agreement.

8. General

8.1 Assignment, Independent Contractors, Notices and Force Majeure:

Licensee may assign this Agreement provided that BaxEnergy consents in writing to such assignment which consent may be withheld at BaxEnergy's sole discretion. Licensee hereby acknowledges that as a condition to such consent, BaxEnergy may require any assignee to update all BaxEnergy Products to the then-current version and purchase one year of Total Care Plan services at BaxEnergy's then current rate. Except as otherwise specified in writing by BaxEnergy in its consent to assign this Agreement, orders submitted by the Assignee will be in accordance with BaxEnergy's current fee structure. Any attempted assignment, whether by operation of law, as a result of any change in control of Licensee or otherwise without complying with this Section shall be null and void. The parties to this Agreement are independent contractors and neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent. All notices required or permitted under this Agreement will be sent to the address specified above (or such other address specified by the receiving party) in writing and will be deemed effective upon receipt. BaxEnergy will not be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control.

8.2 Disputes and Governing Law:

This Agreement is governed and construed by the laws of Germany. Place of performance and jurisdiction shall be in the court of Stadthagen, Germany.

All notifications and declarations pursuant to this Agreement shall be in writing. Facsimile shall be considered as writing. E-mail shall be considered as writing.

The parties agree that, in the event of a dispute or alleged breach of this Agreement or an individual contract, they will work together in good faith, first to try to resolve the matter internally by escalating it to higher levels of management and, then if necessary, to use a mutually agreed alternative dispute resolution technique prior to resorting to litigation. This provision shall not apply to disputes involving confidentiality or infringement of intellectual property in which case either party shall be free to seek available remedies.

Nothing herein contained shall in any way create any association, partnership, joint venture or the relation of principal and agent between the Parties hereto or be construed to evidence the intention of the Parties to constitute such.

If any provision of this Agreement shall be found to be invalid or unenforceable for legal or factual reasons the invalidity or unenforceability of such provisions shall not affect the other provisions of this Agreement and all provisions of this Agreement not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic and legal objective of the Agreement. This applies as well in case of an omission or invalidity of the whole Agreement.

8.3 Compliance with Laws; Government Approvals and Severability:

Licensee's use of the BaxEnergy Products will comply with all laws, rules, and regulations of the Germany and other countries that may be applicable to the BaxEnergy Products. Without limiting the generality of the foregoing, Licensee acknowledges that the distribution and use of BaxEnergy Products and any technical data related thereto (collectively "BaxEnergy Technology") may be subject to export control laws and regulations. Licensee will not export or re-export, directly or indirectly, any BaxEnergy Technology, to any destination for any use that is restricted by the applicable export control laws and regulations including, without limitation, to any party that is involved in sensitive or unguarded nuclear activities, or activities related to chemical or biological weapons or missiles.

Licensee may not use the BaxEnergy Products to operate or control any inherently dangerous application. Notwithstanding the preceding sentence, Licensee may use the BaxEnergy Products in a commercial nuclear power facility so long as Licensee does not use the BaxEnergy Products: (i) in any manner where failure of the BaxEnergy Products would affect the operability of Licensee's facility or affect Licensee's

ability to safely cease all operations of the facility; (ii) to control any safety related system or in any safety related application; or (iii) in any manner that would violate applicable laws or regulations.

Licensee shall indemnify and hold BaxEnergy harmless from any and all claims, liability, costs, damages and losses arising out of or related use of the BaxEnergy Products in violation of this section. BaxEnergy shall have no responsibility to test, certify, validate or to take any other action regarding the BaxEnergy Products with the Nuclear Regulatory Commission or any other governmental agency. Obtaining such approvals, if any, will be the sole responsibility of Licensee.

Within ninety (90) days of the Effective Date, Licensee must, at Licensee's expense, obtain and arrange for the maintenance of all government approvals, if any that may be necessary to make this Agreement effective in the locations where the BaxEnergy Products are used by Licensee.

If for any reason any part of this Agreement is found unenforceable, the remainder of this Agreement will be enforced to the maximum extent permissible.

8.4 Use of Name in Customer List:

Licensee consents to BaxEnergy's use of Licensee's non-stylized corporate name in its marketing literature and customer lists. Licensee may withdraw such consent at any time with reasonable notice.

8.5 Entire Agreement, Waiver and Language:

This Agreement is the entire agreement between BaxEnergy and Licensee with respect to all BaxEnergy products and services and their use, superseding any prior agreements (except for agreements which pertain to trial or beta software) or understandings related to any BaxEnergy products or services. This Agreement cannot be amended except by a writing which specifically references this Agreement and is signed by both parties. In no event will any purported amendment or agreement be binding on BaxEnergy, unless executed by a BaxEnergy officer. The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. The parties hereto have agreed that this Agreement and any documentation, agreements and/or correspondence ancillary thereto be written in English. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

9. BaxEnergy Products Usage Terms

The following usage terms will apply only to the extent that Licensee orders each type of BaxEnergy Product as specified by BaxEnergy in its then current fee structure or otherwise.

9.1 Client/Server Products (Currently includes the Data Engine and the Web Interface technologies):

Licensee's use of Client Software cannot exceed the number of Individual Licenses specified in accepted orders and licensed pursuant to this Agreement. Licensee's use of Server Software cannot exceed the number of Data Points created in such Server Software (as measured by the BaxEnergy Software), Data Connections or Users as applicable and specified in accepted orders and licensed under this Agreement. Server Software modules and Data Points designated by Licensee in an order for use with one Server Software module cannot be moved to or otherwise used with any other Server Software module without BaxEnergy's express consent. The Server Software may not be used to programmatically interoperate with third party applications or Licensee developed applications unless Licensee has purchased the Server Software for such usage. Additionally, except as otherwise expressly provided in this Agreement, once Data Points have been designated by Licensee in an order for use with a Server Software module, Licensee cannot return such Data Points to BaxEnergy for any credit or refund of any kind. Licensee's use of Interfaces will not exceed the number of Data Connections specified in accepted orders and licensed pursuant to this Agreement.

9.2 Thin-Client Products (currently includes SCADA technology for Web, iOS and Android):

In using this type of BaxEnergy Software, Licensee will not exceed the number of Concurrent Users specified in accepted orders and licensed under this Agreement.

9.3 Development Systems (currently includes any BaxEnergy Software designated by BaxEnergy or Licensee for development, configuration or support purposes):

This type of BaxEnergy Software is licensed solely for Licensee's internal development and support purposes on a single computer. Such BaxEnergy Software cannot be used in production or otherwise used to process any data generated from Licensee's business operations.

9.4 Third Party Software:

Software designated by BaxEnergy as "Third Party Software" is not subject to this Agreement. BaxEnergy acts only as a distributor for Third Party Software and all licensing terms, support and warranty service, if any, will be provided by the third party vendor for this type of software. Except for BaxEnergy's failure to deliver the Third Party Software in accordance with Licensee's accepted orders, notwithstanding any provision in this Agreement, in no event will BaxEnergy be liable to Licensee or to any third party for damages of any kind arising from or related to the Third Party Software.

10. Usage Definitions

"BaxEnergy Software" means all those software products delivered to Licensee or licensee's designee including without limitation, (i) those that are designed and designated by BaxEnergy to operate on a network server computer ("Server Software"), a client computer ("Client Software"), or as an interface with certain hardware monitoring devices, third party software and multiple copies of Server Software ("Interface"); and (ii) all related documentation, bug fixes and updates delivered to Licensee by BaxEnergy or its designee.

"Concurrent Users" mean individuals who are accessing the same copy of Server Software at the same time.

"Data Point" means a tag or module that is created and exists in certain Server Software modules that is used to setup, configure or store data-points or data structures.

"Data Connection" means a link between the data generated from one copy of BaxEnergy Software and another copy of BaxEnergy Software or a third party data source.

"Individual Licenses" means the number of client computers onto which Licensee may install Client Software. One Individual License may be used on up to two client computers to facilitate home office use or remote access so long as one Individual License is not used by two individuals at the same time. Individual Licensed Software cannot be used to export data from the BaxEnergy Software and serve such data directly or indirectly to another client or CPU computer.

"Licensee Customers" means customers of Licensee for whom Licensee may generate, store or process Licensee Data.

"Users" means the number of individuals who are authorized to access a copy of Server Software.

11. Notices

All notices required under this Agreement are to be sent to info@baxenergy.com.