



License agreement **GENIUS TOOLS Model Processor**

INNEO Solutions GmbH

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IMPORTANT: Please read the terms and conditions of this License Agreement carefully before using the software. INNEO Solutions GmbH ("INNEO") is willing to license the software to you as the company or legal entity ("Customer") that will be utilizing the software only on the condition that you accept all of the terms of this License Agreement. Even if you would like to use the software but are not our customer, e.g. because you are an employee, other staff member or a consultant of the Customer ("User"), you may only do so if you comply with the terms and conditions of this License Agreement, also even if you do not personally enter into a license agreement with us. Therefore, the terms and conditions of this License Agreement must be agreed to when the software is installed and each time the Customer and a User register.

1. Grant of License

- 1.1 The web based application "Model Processor" from the product line "GENIUS TOOLS" (the "Licensed Software") is the property of INNEO and is protected by copyright law. INNEO hereby grants to the Customer a non-exclusive and non-transferable license to use this Licensed Software on their system for electronic data processing (the "EDP System") and INNEO'S webserver and to perform the tasks the Licensed Software was designed to complete. This includes the number of Users appointed by the Customer for which the Customer has purchased licenses. They can use the Licensed Software simultaneously. However, the Customer may not grant any third party rights to use the Licensed Software.
- 1.2 The Customer is allowed to make one copy of the Licensed Software for archival purposes.
- 1.3 The license covers the use of the Licensed Software only in the form released at the time when this Agreement is entered into. If according to a maintenance Agreement updates of the Licensed Software are delivered to the Customer, such updates are also covered by the license.
- 1.4 The Customer and the User may not, by reverse engineering or otherwise, decompile the Licensed Software.
- 1.5 The Customer and the User may not use the Licensed Software or any information on its structure to develop and/or generate computer programs similar to the Licensed Software. The Customer and the User shall not export the Licensed Software.

2. Warranty

- 2.1 The Licensed Software is warranted to conform to the program product specifications when released by INNEO applicable at the time the Licensed Software is downloaded.
- 2.2 If the Licensed Software should contain significant defects INNEO may, at its discretion, remedy such defects or provide the Customer with a new version of the Licensed Software. If, within a reasonable period of time, these remedies should fail, the Customer may withdraw from the Agreement.

3. Liability limitations

- 3.1 INNEO shall pay damages or compensation for futile expenses, regardless of any legal basis (e.g. breach of duty, from tort), only to the following extent:
 - 3.1.1 in case of wrongful intent as well as in case of issuing a guarantee regarding the agreed condition for the full amount,



3.1.2 in the event of gross negligence, to the extent of typical and foreseeable damage which should have been prevented by exercising due care,

3.1.3 in other cases (i.e. slight or normal negligence):

- a.) only in the event of a violation of a material contractual obligation, if such breach endangers the purpose of the agreement;
- b.) in case of claims for defects and delay, but only for typical and foreseeable damage.

3.2 Notwithstanding the foregoing, statutory liability for personal injury and under the Product Liability Act ("Produkthaftungsgesetz") remains unaffected. INNEO is entitled to raise a plea of contributory negligence.

3.3 In case of data loss, INNEO is only liable for expenses or damages that would have been occurred if the Customer and/or the User would have had proper data backup.

4. License fee

The license fee for granting the Licensed Software forms part of the agreement between the Customer and INNEO and shall be paid to INNEO annually.

5. Confidentiality

- 5.1 The Customer and the User agree to keep confidential and to use their best efforts to prevent and protect the contents of the Licensed Software and all parts thereof from unauthorized disclosure, even by its employees, other staff members or consultants. For this, Customer shall inform about all persons having access to the Licensed Software and instruct them not to violate it. In particular, the Customer will not disclose any design characteristics or implementation details of the Licensed Software.
- 5.2 The provisions set forth in this section shall survive termination of this Agreement for a period of 10 years.

6. Combination

- 6.1 The Customer may combine machine readable Licensed Software for its internal usage with other computer programs. However, upon expiration of the license, the Customer is obliged to remove any connection to the program and delete the Licensed Software.
- 6.2 Modified or combined versions of the Licensed Software are still subject to the provisions of this Agreement.



7. Indemnification

- 7.1 Should a third party raise claims against the Customer that a use of the Licensed Software under this Agreement violates the copyright, patent or trademark of such third party, INNEO shall indemnify the Customer against these claims.
- 7.2 Indemnification shall apply only if:
- 7.2.1 The Customer notifies INNEO without undue delay in writing of the suit or any claim of infringement.
 - 7.2.2. The Customer permits INNEO to fully control the defense and settlement of any claim or suit, and INNEO receives all necessary information and reasonable support from the Customer.
 - 7.2.3 The infringement claim or suit is not based on any modification of the Licensed Software made by the Customer.
 - 7.2.4 The infringement claim or suit is not based on any combination of the Licensed Software with other software, and the use of the Licensed Software, without such combination would not constitute an infringement.
- 7.3 To comply with the indemnification, INNEO shall use its best efforts to supply the Customer with the legal right to further use the Licensed Software. If this should not be possible at a reasonable cost, INNEO shall change or substitute the product in a way that any infringement of third party rights ends.

8. Term

- 8.1 The term of the license shall initially be for a period of one year. It shall extend automatically for a further year if it is not terminated in writing with a notice period of three months before the respective contractual year is due to end.
- 8.2 INNEO may terminate this License Agreement with one month's notice, but only if the Customer is in breach of this License Agreement and fails to remedy such breach within 30 days upon notice.
- 8.3 If as a result of the termination of the Agreement, the license of the Customer end before the number of processes that the Customer has bought have been used, the Customer can opt to either i) receive a payment in the sum of the value of the processes that have not yet been used, or ii) extend the usage right for a three month period, free of charge, so that during this period the Customer can use the already paid for but not yet used processes. In the latter case, the already paid for but not yet used processes will be forfeited without substitute after the extension period has elapsed. In the first case, the sum to be paid will be calculated as follows: the number of individual processes that have not yet been used in the paid quota will be divided by the number of all the individual processes of this quota and this sum will be multiplied by the total price of the quota.
- 8.4 Upon expiration of the license, the Customer shall delete the Licensed Software within 30 days after termination. The Customer shall notify INNEO without undue delay after such deletion has been made and shall establish reasonable proof of it on INNEO's demand. Subject to written approval by INNEO, the Customer may keep a copy of the Licensed Software for archive purposes.



9. Data protection

- 9.1 The Licensed Software is a web based application, i.e. it is not isolated to the Customer's system, but rather works in conjunction with INNEO's webserver. The host system can be found on servers in Germany.
- 9.2 When the Licensed Software is used, INNEO collects, processes and uses the following data from the Customer or the User:
- Windows user name
 - Computer name / IP address
 - Version of Licensed Software used
 - Start of user session (date and time)
 - End of user session (date and time)
 - Object-related actions
 - The beginning and end of each processing run (date and time)
 - Name of each processed object (file name), the date and time the processing ended.

In addition, any error reports will be processed and used and individual processes in the system will be marked either subject to a fee or free of charge.

- 9.3 The collecting, processing and usage of the data mentioned in 9.2 above shall only be carried out in order to allow the Licensed Software to be used, for invoicing purposes and to ensure that the terms of this License Agreement are adhered to. This data will not be disclosed to third parties. The data will be saved by INNEO for as long as this License Agreement with the Customer exists. Upon termination of the License Agreement, the Customer and those Users appointed under the Customer's License Agreement will automatically be granted access to the system as guests, i.e. access which allows the system to be used further but with restricted functions. User sessions, object-related actions and processing runs will no longer be logged. However, the data compiled in the past will be saved by INNEO. Furthermore, the Windows user name and the name of the computer or IP address of, as well as the version of the Licensed Software used by a computer that has limited access to the system will continue to be collected, processed and used. INNEO therefore will collect, process and use the data specified above to the extent described above also after the License Agreement has been terminated. If this is not desired, upon request by the Customer, INNEO will delete the data, unless deleting such conflicts with the statutory duties to preserve records. In this case, if necessary, INNEO will block the data. As a result, however, the Customer will be unable to use the system even in a restricted form.



10. Miscellaneous

- 10.1 Any general terms and conditions of the Customer that contradict any of the provisions in this License Agreement shall not apply. This Agreement is the entire and sole understanding of the parties hereto with respect to the subject-matter hereof and supersedes all prior understandings, transactions or communications, whether written or oral. No provisions of the Agreement shall be changed, revoked or waived except by an Agreement in writing duly signed by both parties or by the duly authorized representatives thereof.
- 10.2 The content, validity and performance of this Agreement shall be governed in all aspects by the laws of the Federal Republic of Germany. Ellwangen, Germany, shall be the place of jurisdiction for any disputes resulting from this Agreement.
- 10.3 In case one or more of the provisions contained in this Agreement shall for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.