Software Usage Agreement

This Agreement is entered into as of _____ by and between

AbsInt Angewandte Informatik GmbH
Science Park 1
66123 Saarbruecken
Germany

(hereinafter "AbsInt")

and

_____

(hereinafter "LICENSEE").

1 DEFINITIONS

1.1 "Licensed Software"

AbsInt's computer program(s) in Object Code form (or Source Code form if specified explicitely) as listed and described in AbsInt's attached Confidential Product and Price List Exhibit, together with associated Documentation, and any fixes, updates, or upgrades which are delivered to LICENSEE by AbsInt under this initial Agreement or under any other agreement or arrangement between the parties.

1.2 "Node-locked"

A node-locked license allows to execute Licensed Software on one fixed computer. The execution is restricted to one processor and one process.

1.3 "Floating"

A floating license allows to execute Licensed Software subject to the control of AbsInt's license manager software that permits one individual user concurrently per token.

1.4 "Unrestricted"

A node-locked license allows to execute Licensed Software on several computers. The execution is not restricted to one processor and one process.

1.5 "Documentation"

User's guides for the Licensed Software.

1.6 "Object Code"

The representation of a Licensed Software in the binary instruction code form suitable for execution by a computer.

1.7 "Source Code"

The representation of a Licensed Software in high-level programming language form.

1.8 "Proprietary Rights"

Any and all rights in and with respect to patents, copyrights, Confidential Information, know-how, trade secrets, moral rights, contract or licensing rights, confidential and proprietary information protected under contract or otherwise under law, and other similar rights or interests in intellectual or industrial property.

1.9 "Indemnify"

To fully defend and indemnify the designated party to be indemnified, its officers, directors, employees, agents and other representatives, and to pay any and all liabilities, losses and damages (including awards of court costs and attorneys' fees) resulting from the subject claim.

1.10 "Confidential Information"

Information (i) relating to the architecture, design, and coding methodology embodied in the Licensed Software; (ii) embodied herein regarding the terms and conditions of this Agreement; and (iii) disclosed by one party to the other regarding past, present, or future marketing and business plans, customer lists, and lists of prospective customers.

- "Confidential Information" includes all tangible materials which contain the information described above, including without limitation, written or printed documents and electronic media.

- "Confidential Information" does not include (i) information which is or becomes generally known or available through no act or failure to act by the receiving party; (ii) is already known by the receiving party as evidenced by its written records, (iii) is rightfully furnished to the receiving party by a third party without restriction or disclosure; or (iv) is independently developed by the receiving party without reference to Confidential Information.

1.11 "Technical Support Terms"

Those terms and conditions set forth in the attached Technical Support Terms Exhibit, and by reference incorporated herein.

1.12 "Effective Date"

The date of execution hereof by both parties as specified in the preamble hereof.

2 LICENSE AND RESTRICTIONS

2.1 Grant of Rights

AbsInt grants to LICENSEE a personal, non-transferable and non-exclusive right to use the Licensed Software, solely for the internal business purposes of LICENSEE's Department(s) operating under the name(s) specified in the Definition of Project(s)/Department(s)/Site(s) Exhibit, solely in the context of the project(s) specified in the Definition of Project(s)/Department(s)/Site(s) Exhibit, solely within the limits of the License type specified in the Definition of Project(s)/Department(s)/Site(s) Exhibit, and exclusively under the terms, conditions and restrictions as set out in this Agreement.

LICENSEE may install the Licensed Software on all computers that belong to and operate under the control of LICENSEE's Department operating under the name specified in the Definition of Project(s)/Department(s)/Site(s) Exhibit. The Licensed Software or future versions thereof may include mechanisms to limit or inhibit using or copying

the Licensed Software.

2.2 Retained Rights

All rights that are not expressly granted to LICENSEE herein are retained by AbsInt.

2.3 Restrictions on Use

The Right to use the Licensed Software is restricted to use by the Developers within LICENSEE's Department operating under the name specified in the Definition of Project(s)/Department(s)/Site(s) Exhibit.

The Right to use the Licensed Software does not include any use of the Licensed Software sold as a service.

LICENSEE shall not modify or create derivative works of the Licensed Software, including translation or localization.

3 COPYING

LICENSEE may make a reasonable number of backup copies of the Licensed Software solely for backup purposes. LICENSEE agrees not to make nor to permit the making of copies of the Licensed Software (including its documentation) except as authorized by this Agreement or otherwise authorized in writing by AbsInt.

4 DUTIES OF AbsInt

AbsInt shall provide technical support only to LICENSEE in accordance with the Technical Support Terms. AbsInt shall charge fees for technical support as provided in the Technical Support Terms.

AbsInt shall use reasonable efforts to perform the support responsibilities described above.

5 THIS AGREEMENT PREVAILS

Notwithstanding the content of LICENSEE's purchase order, this Agreement shall take precedence over such purchase order, and any conflicting, inconsistent, or additional terms of LICENSEE's purchase order shall be null and void.

6 PRICE AND PAYMENT

6.1 Price

LICENSEE shall pay the prices for the Licensed Software as indicated on the Confidential Product and Price List. LICENSEE may not suspend any payments due nor offset an obligation to pay any charges or fees provided for in this Agreement against any claims LICENSEE may have against AbsInt.

6.2 Payment Terms

Net 30 days upon receipt of invoice.

6.3 Taxes

The prices stated are exclusive of all taxes. LICENSEE is responsible for all VAT, sales, use and other taxes. LICENSEE shall pay all such charges either as levied by taxing authorities or as invoiced by AbsInt, or, in lieu thereof, LICENSEE shall provide an exemption certificate acceptable to the relevant taxing authorities.

7 DELIVERY AND INSTALLATION

AbsInt shall deliver Licensed Software to LICENSEE by sending one copy to the address of LICENSEE, or LICENSEE shall download the Licensed Software from an authorized download site. Delivery shall take place as soon as reasonably possible after LICENSEE has signed this Agreement, but in no event later than 30 days thereafter. The obligations and cost of installation shall be borne solely by LICENSEE. If LICENSEE requests assistance, AbsInt will provide such assistance at AbsInt's current regular hourly rates, as amended from time to time.

7.1 Technical Support

The parties have determined that it is in the best interest of the parties that AbsInt disclaim any and all performance warranties regarding the Licensed Software, and provide in lieu thereof, technical support services under the Technical Support Terms. Accordingly, the disclaimer of performance warranties provided below does not nullify AbsInt's obligations to provide technical support under the Technical Support Terms.

8 WARRANTIES

Provided LICENSEE has paid all applicable fees for the Licensed Software, AbsInt warrants to LICENSEE, for a warranty period of 183 days, that the unmodified Licensed Software, when properly installed and used, will substantially function in the manner specified in the Documentation. This warranty period starts on the date of shipment by AbsInt of the Licensed Software, or, if the Licensed Software is installed by AbsInt, starts on the last date of installation by AbsInt. If during the above mentioned period a deviation appears in the Licensed Software, AbsInt will use reasonable efforts to correct the deviation or replace the Licensed Software within a reasonable time after written notice by LICENSEE. If neither of the foregoing is commercially practicable, AbsInt may terminate this Agreement and refund the applicable fee. AbsInt also warrants that AbsInt has the authority to enter into this Agreement and the right to grant the rights and licenses granted to LICENSEE herein without breach of obligation to any third party, and the performance of this Agreement will not breach any obligation to any third party.

This "Limited Warranty" is the only warranty by AbsInt. LICENSEE acknowledges that AbsInt does not make or give any warranty other than as aforesaid with respect to the Licensed Software.

Except as stated above, the Licensed Software and Documentation are provided "AS-IS". Neither AbsInt nor its suppliers, nor its resellers grant any warranties, express or implied, including without limitation the implied warranties of merchantability and fitness for a particular purpose or that the use of the Licensed Software will be uninterrupted or error free. Notwithstanding the foregoing, some jurisdictions do not allow the exclusion of certain implied warranties; however, the exclusion of AbsInt's warranty shall apply to the fullest extent permitted by applicable law. This Agreement does not exclude any warranties that may not be excluded by law and any liability arising hereunder shall be strictly limited to the correction or replacement of the Licensed Software or Documentation, or a refund at AbsInt's option.

LICENSEE expressly acknowledges that no representations other than those contained in this Agreement have been made respecting the goods or services to be provided hereunder, and that LICENSEE has not relied on any representation not expressly set out herein.

9 INDEMNIFICATION

AbsInt agrees to indemnify LICENSEE solely against direct damages arising out of any legal action based solely on a claim that the unmodified Licensed Software, properly installed and used, infringes copyrights of a third party.

In the event of any ruling of such infringement by a court of competent jurisdiction, or if AbsInt reasonably believes such a ruling is likely, AbsInt shall, at its expense and after

notice to and consultation with LICENSEE, at AbsInt's sole option either:

- modify the subject infringing material so as not to infringe, or replace such infringing material with a material that does not infringe; provided, however, that any modified or replaced material provided by AbsInt shall have the same functionality, operating characteristics, compatibility and interoperability as the infringing material being modified or replaced; or

- if the foregoing is commercially not practicable, terminate this Agreement and repay LICENSEE a portion, if any, of the fee equal to the amount paid by LICENSEE less one-thirty-sixth (1/36) thereof for each month or portion thereof that this Agreement has been in effect.

All Indemnities are subject to the following conditions:

- LICENSEE notifies AbsInt in writing within thirty (30) days of being apprised of the claim.

- AbsInt has sole control of the defense and all related settlement negotiations, subject to the right of LICENSEE to participate in and monitor such defense, at its own cost and option and through its own counsel, for the purpose of consulting with AbsInt's counsel.

- LICENSEE provides AbsInt with the assistance, information, and authority necessary to perform as required above, provided that reasonable costs and expenses incurred by LICENSEE in providing such assistance and information will be reimbursed by AbsInt.

The foregoing states the entire liability of AbsInt with respect to infringement of any copyright, as well as the entire obligation of AbsInt to indemnify LICENSEE against claims of third parties in connection with the use of the Licensed Software.

LICENSEE shall indemnify AbsInt against any claim made by a third party in connection with the use of the Licensed Software, except for claims concerning the infringement of copyrights of such party.

10 LIMITATION OF LIABILITY

10.1 Limitation of Actual Damages

Except for infringement Indemnities, AbsInt's liability to LICENSEE for actual damages from any cause whatsoever, and regardless of the form of the action, whether in contract, tort (including negligence), product liability or otherwise, will be limited to the amounts paid to AbsInt hereunder.

In no event will AbsInt or its suppliers or its resellers be liable for any special, incidental, punitive, indirect or consequential damages (including any damages for loss of business profits, business interruption, or loss of business information), even if informed of the

possibility thereof in advance.

11 PROPRIETARY RIGHTS

11.1 Title to Licensed Software

Under this Agreement, LICENSEE acquires only a license for the Licensed Software and does not acquire any rights of ownership of any Proprietary Rights embodied therein. All right, title and interest in and to the Proprietary Rights embodied in the Licensed Software shall at all times remain the property of AbsInt or its licensors.

11.2 Confidential Information

Each party acknowledges that the other party may disclose its Confidential Information to the other in the performance of this Agreement. Each party further acknowledges the other party's assertion that the other party's Confidential Information is deemed to include valuable trade secrets and confidential business information proprietary to the other party and/or third parties. Accordingly, each party shall (i) take reasonable steps to keep the Confidential Information disclosed by the other party confidential, and (ii) use and disclose such Confidential Information only with the receiving party's employees and contractors who have a need to know and only for the purposes of fulfilling this Agreement, or for purposes of disclosure to affiliated companies and professional advisors for the purpose of disclosing the party's internal business.

11.3 Confidentiality of Licensed Software

Specifically regarding the Licensed Software, LICENSEE acknowledges AbsInt's claim that the Licensed Software embodies valuable trade secrets proprietary to AbsInt or AbsInt's licensors. Accordingly, LICENSEE shall take reasonable measures to protect the Licensed Software from unauthorized access, disclosure, and use, including without limitation, the placement of any Proprietary Rights notice on the Licensed Software that is reasonably requested by AbsInt or AbsInt's licensors. LICENSEE shall not:

- Transfer, (re)distribute, encumber, sell, lease, sublicense, share rights, use the Licensed Software in time-sharing or service bureau arrangement, loan, rent, or provide access to the Licensed Software, except as provided herein.

- Remove or add any Proprietary Rights notice associated with the Licensed Software without the express written permission of AbsInt.

- Disassemble, decompile or reverse engineer the Licensed Software for any purpose.

12 TERM AND TERMINATION

12.1 Term of Agreement

This Agreement shall commence as of the Effective Date and shall continue until terminated. LICENSEE may terminate this Agreement at any time.

12.2 Termination by AbsInt

Each party may terminate this Agreement and all licenses granted herein for a material breach by the other party which remains uncured after thirty (30) days from receipt by the other party of written notice describing the nature of the breach.

AbsInt may terminate this Agreement effective immediately without being required to serve notice of default upon LICENSEE:

- if LICENSEE shall fail to observe or fulfill and perform one or more of its material obligations under the terms and conditions of this Agreement to such an extent that such breach is incurable or disproportional to such an extent that AbsInt cannot in reason be required to continue this Agreement;

- if LICENSEE abandons the Site(s) mentioned in this Agreement, unless LICENSEE has given proper Notice of change of address with the request to AbsInt to change the Site(s) as described in the Definition of Project(s)/Department(s)/Site(s) Exhibit, which request shall not be unreasonably withheld;

- if LICENSEE is subjected to a merger, take-over or transfer of control, meaning that ownership of more than 50% of the nominal value of the issued equity share capital or ownership of more than 50% of the shares entitling the holders to vote for the election of directors, or persons performing similar functions, is transferred or sold to other persons or entities than those holding these shares at the time of execution of this Agreement;

- if a moratorium shall be applied for, or a petition in bankruptcy shall be filed by or against LICENSEE.

12.3 Termination by LICENSEE for Cause

LICENSEE may terminate this Agreement for a material breach by AbsInt which remains uncured after thirty (30) days from receipt by AbsInt of written notice describing the nature of the breach.

12.4 Consequences of Termination

Should this Agreement terminate or be terminated for any reason whatsoever, LICENSEE shall immediately discontinue all use of the Licensed Software and LICENSEE shall within eight (8) days: erase, remove or destroy the Licensed Software and any copies thereof and/or return all copies of the Licensed Software and related materials in its possession, and provide AbsInt with a certificate signed by an officer of LICENSEE attesting to the completion of such actions.

12.5 Continuing Obligations

The following obligations shall survive the termination hereof: (i) any and all limitations of liability and Indemnities granted by either party herein, (ii) any covenant granted herein for the purpose of protecting the Proprietary Rights of either party or any remedy for breach thereof, and (iii) the payment of taxes, duties, or any money to AbsInt hereunder.

13 GENERAL PROVISIONS

13.1 Notices

All notices shall be given in writing and shall be effective when either (i) served by personal delivery, (ii) upon receipt of mail sent as certified mail, return receipt requested, or (iii) upon receipt of facsimile transmission if verified by a written or electronic record of the transmission, provided that any such communication is addressed to the parties at their respective addresses and/or facsimile numbers set forth below, or to such other address or numbers as either party may later specify by written notice or provide as part of the performance of this Agreement.

- If to AbsInt:

    AbsInt Angewandte Informatik GmbH
    Science Park 1
    D-66123 Saarbruecken

    Phone: +49 681 383600
    Fax: +49 681 3836020

- If to LICENSEE:

    _____
    _____
    _____

    _____
    _____

Phone: _____

Fax: _____

13.2 Merger; Amendment

This Agreement shall not be considered an offer by either party, and it shall not be effective until signed by both parties. This Agreement constitutes the entire understanding of the parties with respect to the subject matter of this Agreement and merges all prior communications, understandings, and agreements. This Agreement may be modified only by a written agreement signed by the parties.

13.3 Severability

If any part, term, or provision of this Agreement shall be held illegal, unenforcable or in conflict with any law of a government having jurisdiction over this Agreement, the remaining provisions of the Agreement will be enforced to the maximum extent permittable so as to effect the intent of the parties at the time of entering into this Agreement.

13.4 No Implied Waivers

The failure of either party to enforce at any time any of the provisions hereof shall not be a waiver of such provision, or any other provision, or of the right of such party thereafter to enforce any provision hereof.

13.5 Governing Law

This license shall be governed and interpreted in accordance with the laws of the Federal Republic of Germany. Any disputes arising herefrom shall be subject to the jurisdiction of appropriate courts of Saarbrücken, Germany.

13.6 Force Majeure

Neither party shall be liable for damages for any delay or failure of delivery arising out of causes beyond their reasonable control and without their fault or negligence, including, but not limited to, Acts of God, acts of civil or military authority, fires, riots, wars, or embargoes.

13.7 Assignment

LICENSEE shall not assign this Agreement or any right or interest under this Agreement, nor delegate any work or obligation to be performed under this Agreement, without AbsInt's prior written consent which shall not be unreasonably withheld. Any attempted assignment or delegation in contravention of this provision shall be void and ineffective and shall be deemed to be a material breach hereof.

13.8 Attached Exhibits

This Agreement includes the attached exhibits listed below, which are hereby incorporated in this Agreement by reference.

- Confidential Product and Price List Exhibit
- Definition of Project(s)/Department(s)/Site(s) Exhibit
- Technical Support Terms Exhibit

13.9 Authority

Each of the undersigned warrants that he or she has the legal authority to bind to this Agreement the party which he or she represents.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed below.

LICENSEE

Signature: _____
Name: _____
Title: _____
Date: _____

AbsInt

Signature: _____
Name: _____
Title: _____
Date: _____

Confidential Product and Price List Exhibit

Licensed Software:

- The name and functionality of the licensed software are as described in the quote.

  Supported Targets: The supported targets are the target processors as named in the quote.

  License Type: The license type as specified in the quote.

  Supported Compilers: The licensed software analyzes executables compiled by the compiler as described in the quote.

  Packaging: The licensed software is delivered as a set of executable programs.

  Documentation: The documentation is delivered in binary form in PDF format.

  Platform: The platform is as described in the quote.

  Prices: The prices are according to the quote.

  Support: The support and the support period is provided according to the quote and as described in the Technical Support Terms Exhibit. AbsInt may adjust the annual charge after one year upon ninety (90) days prior written notice.

Definition of Project(s)/Department(s)/Site(s) Exhibit

License type: _____

Project(s): _____
_____
_____
_____
_____
_____
_____
_____

Site(s): _____
_____
_____
_____
_____
_____
_____
_____

Department(s): _____
_____
_____
_____

Technical Support Terms Exhibit

This Agreement is intended to be part of the attached Software Usage Agreement made and entered into by and between AbsInt and LICENSEE.

1 DEFINITIONS

Capitalized terms used in this Exhibit and not otherwise defined shall have the same meaning as set forth in the body of the Agreement. As used herein, the following words shall have the meanings set out below:

1.1 "Error"

A programming error, logic error, or defect within the Licensed Software which causes it to operate incorrectly or otherwise not in conformity with the associated Documentation and that is reproducible by AbsInt from the Licensed Software delivered by AbsInt hereunder.

1.2 "Fix"

The repair or replacement of Object Code versions of the Licensed Software to remedy an Error.

1.3 "Priority A Error"

An Error which renders the Licensed Software inoperative or causes the Licensed Software to substantially fail.

1.4 "Priority B Error"

An Error which substantially degrades the performance of the Licensed Software or materially restricts use of the Licensed Software.

1.5 "Priority C Error"

An Error which causes only a minor impact on the use of the Licensed Software.

1.6 "Update"

A maintenance release of the Licensed Software and/or released revisions to the Licensed Software which are intended to improve efficiency or to incorporate additional or alternative functionality, such release being denoted as a Licensed Software Update by AbsInt in its generally published programs and policies.

1.7 "Upgrade"

A new release of the Licensed Software which incorporates substantial additional or alternative functionality, such release being denoted as a Licensed Software Upgrade by AbsInt in its generally published programs and policies.

1.8 "Workaround"

A change in the procedures followed or data supplied by a Licensed Software user to avoid an Error without substantially impairing use of the Licensed Software.

2 TECHNICAL SUPPORT SERVICES

2.1 Error Correction

AbsInt agrees to provide to LICENSEE Error correction services as described below, provided that LICENSEE provides written documentation of the Error sufficient for AbsInt to reproduce same with AbsInt's master copy of the Licensed Software.

2.1.1 Priority A Errors

Within 3 business days of learning of a Priority A Error, AbsInt shall assign AbsInt engineers to correct the Error; provide LICENSEE with periodic reports on the status of the corrections; and initiate work to provide LICENSEE with a Workaround or Fix. AbsInt shall try to provide LICENSEE with such Workaround or Fix within ten (10) business days.

2.1.2 Priority B Errors

Within 3 business days of learning of a Priority B Error, AbsInt shall assign AbsInt engineers to correct the Error; provide LICENSEE with periodic reports on the status of the corrections; and initiate work to provide LICENSEE with a Workaround or Fix. AbsInt shall try to provide LICENSEE with such Workaround or Fix within thirty (30) business days.

2.1.3 Priority C Errors

AbsInt shall use commercially reasonable efforts to include the Fix for the Error in the next major release of the Licensed Software.

2.1.4 Errors not Caused by the Licensed Software

If AbsInt reasonably believes that a problem reported by LICENSEE may not be due to an Error in the Licensed Software, AbsInt will so notify LICENSEE. At that time, LICENSEE may (i) instruct AbsInt to proceed with problem determination at its possible expense as set forth below, or (ii) instruct AbsInt that LICENSEE does not wish the problem pursued at its possible expense. If LICENSEE requests that AbsInt proceed with problem determination at its possible expense and AbsInt reasonably determines that the Error was not due to an Error in the Licensed Software, AbsInt shall immediately stop further work and so inform LICENSEE, and LICENSEE shall pay AbsInt, at AbsInt's then-current consulting rates, for all work performed in connection with such determination, plus actual and reasonable expenses incurred therewith. LICENSEE shall not be liable under this section for problem determination or repair to the extent that problems are due to Errors in the Licensed Software, nor shall LICENSEE be liable for work performed under this section in excess of its instructions or after LICENSEE has notified AbsInt in accordance with the terms hereof that it no longer wishes work on the problem determination to be continued at its possible expense.

2.2 Updates and Upgrades

AbsInt shall provide to LICENSEE at no additional charge copies of every Update and Upgrade at the time AbsInt makes such Update or Upgrade generally available to other customers.

2.3 Telephone Support

AbsInt shall provide reasonable telephone consultation with respect to the Licensed Software to LICENSEE during AbsInt's normal business hours, excluding holidays.

2.4 Technical Contacts

Each party will designate one of its employees as its principal technical contact for the other party for technical issues related to this Agreement. Each party may change its technical contact upon giving written notice to the other party of the name of the new technical contact.

2.5 Exclusions

Notwithstanding any other provisions of this Agreement to the contrary, the technical support obligations of AbsInt shall not apply to Errors due to any of the following: (i) misuse of the Licensed Software, (ii) unauthorized modification of the Licensed Software, (iii) failure by LICENSEE to utilize compatible computer and networking hardware and software, (iv) interaction with software or firmware not provided by AbsInt, (v) any change in applicable operating system software, or (vi) the failure of LICENSEE to install the latest Update or Upgrade.

3 TERM; TECHNICAL SUPPORT FEES

3.1 Term

The term of these Technical Support Terms shall become effective as of Effective Date and shall continue in full force and effect for a period of one year. Thereafter, this Agreement may be terminated by either party, upon thirty (30) days prior written notice.

3.2 Fees

The technical support services to be provided hereunder shall be at the charges described in the Confidential Product and Price List Exhibit. Payment terms are net 30 days from date of invoice.