

## **ANAGO LICENSE CONTRACT**

*The undersigned:*

1. **Anago B.V.**, situated in 's-Hertogenbosch, the Netherlands, hereinafter referred to as "Anago", and
2. **(Customer)** situated in **(city/country)** hereinafter referred to as "Customer".

### **HAVING UNDERSTOOD:**

**whereas** Anago has developed an service based on and accessible through the internet by which it provides access to Anago Products;

**whereas** Anago is willing to grant Customer a License for the use of Anago Products through the service and shall configure the service for Customer;

**whereas** Anago has the rights to certain Anago Products connected to the service and is willing to provide these to Customer;

### **PARTIES AGREE AS FOLLOWS:**

#### **1. DEFINITIONS**

- 1.1 **Service:**  
the direct and/or indirect (through a third party) provision by Anago of Anago Products through a web-based application.
- 1.2 **Anago Products:**  
All products and services delivered by Anago, and the resulting provisions and related activities which do not originate from third parties and whose intellectual property rights, industrial property rights and other rights are held by Anago.
- 1.3 **Contract:**  
This Contract between Anago and Customer for the Licensing of the Anago Products, including herein all documents to which reference may properly be made in order to ascertain the rights and obligations of Anago and Customer.
- 1.4 **Object Code:**  
The computer programming code substantially in binary form. It is directly executable by a computer after processing, but without reverse engineering, compilation or assembly.
- 1.5 **Products:**  
All Anago Products and/or Third Party Products delivered by Anago, the resulting provisions and related activities.
- 1.6 **Source Codes:**  
The computer programming code that may be displayed in a form readable and understandable by a programmer of ordinary skill. It includes related Source Code level system documentation, comments and procedural code. Source Code does not include Object Code.
- 1.7 **Third Party Products:**  
All products and services delivered by Anago, the resulting provisions and related activities which originate from third parties and whose intellectual property rights,

industrial property rights and other rights are not held by Anago.

- 1.8 Workdays:  
Normal Dutch working hours (8.30-17.30) and days (Monday through Friday) with the exception of public holidays.
- 1.9 Any of the above words and expressions shown in the singular shall have the same meaning when used in the plural and vice-versa.
- 1.10 The headings above the articles of the Contract are only intended to increase the legibility of the Contract. The content and meaning of an article placed under a particular heading is, therefore, not limited to the meaning and content of the heading.

## **2. OBJECT OF THE CONTRACT**

- 2.1 Customer is granted a non-exclusive license to use the Anago Products as described in Appendix 1.
- 2.2 User rights on the Products cannot be transferred to any third party (third parties include holding companies and subsidiaries).
- 2.3 User rights are limited exclusively to own use of the Products for the agreed upon Named User license as indicated in Appendix 1. User rights for software Products are limited to the Object Code. Rights to the Source Code are not provided, unless explicitly agreed upon otherwise in writing.
- 2.4 It is prohibited for Customer directly or indirectly (through a third party) to copy, duplicate or alter the Products in any way, without the prior written approval from Anago.
- 2.5 User rights on the Products cannot be transferred to any third party (third parties also include holding companies and subsidiaries).
- 2.6 Customer does not have the right to make the Products available, under any title or in any way whatsoever, to any third party (third parties also include holding companies and subsidiaries).
- 2.7 Reverse engineering or decompilation of the Products is not permitted by Customer, unless such is explicitly permitted by law.
- 2.8 The user rights shall go into effect after Customer has made the required payments and fulfilled its other obligations.

## **3. REQUIREMENTS CUSTOMER**

- 3.1 Customer must keep the environment in which the Products operate (including other software and hardware products) in good condition. Anago is not responsible amongst others, for loss of performance, errors and malfunctioning due to hardware defects, problems with operating software and insufficient network maintenance. Customer shall ensure that all Products are operated by qualified personnel.

## **4. WARRANTY**

- 4.1 Anago does not warrant that the Products shall function without interruption or without errors, are suitable for every intended use of Customer and/or will lead to results desired by Customer.

## **5. PRICES**

- 5.1 Fees, charges, etc., Customer is indebted on the basis of the Contract are stated in

appendix 1.

- 5.2** In the event that services need to take place outside of the Anago office, hourly rates, travel and waiting- time compensations, actual travel and hotel expenses and any other costs connected to such services will be charged. The means of transportation will be determined by Anago.
- 5.3** All prices mentioned exclude VAT and other levies imposed by the government. However, the amounts invoiced will include applicable VAT and other levies possibly imposed by the government.
- 5.4** If Anago is unable to make a delivery in time due to Customer, Anago will have the right to charge a 1,5% interest reimbursement on a monthly basis over the indebted amount.
- 5.5** The prices agreed to between Anago and Customer are among other things based on the costs of salaries, social premiums, materials, and travel and accommodation costs, etc., as well as the rate of exchange between the currencies as applicable at the time of closing of the Contract. Anago is authorized in case of changes to one or more of the cost items and changes in the rate of exchange, to adjust the prices to these changes.
- 5.6** Anago will offer Customer the possibility to become acquainted with possible changes in prices. If Customer does not agree with a price change, Customer will only be permitted to annul the Contract from the date the change in price becomes applicable, if the total price increase during 1 (one) year exceeds the yearly inflation rate of the current year (or previous year for price increases announced for the next year) as published by the CBS (Dutch Bureau for Statistics) by 5%.

**6. PAYMENT**

- 6.1** Anago will invoice the amount, appropriately itemized, owed by Customer on a quarterly basis and/or other term mentioned to Customer, unless otherwise stated in the Contract. Customer will pay all amounts indebted within 30 (thirty) days after the invoice date concerned. These payments will not be subject to compensation or deduction.
- 6.2** Should Customer fail to fulfill any obligation, Customer is in breach without any further notification of breach being required. Anago reserves the right to charge all incurred costs to Customer, including judicial and extra-judicial expenses, with regard to the collection of debts from Customer. Extra-judicial collection costs amount to 15% of the debt, with a minimum of Euro 500,- (five hundred). In any case Customer will be charged interest on a monthly basis, at the legal percentage rate, on all outstanding debts starting from the date of failure to pay.
- 6.3** Until full payment has been made Anago has the right to suspend all services and obligations to Customer. Customer's obligation to meet Customer's commitments remains unchanged.
- 6.4** Above mentioned stipulations leave all the legal rights of Anago unhindered.

**7. DELIVERY DATES**

- 7.1** All delivery dates which may be named by and may be applicable to Anago are determined to the best of Anago's knowledge on the basis of information made known to Anago at the time of entering into the Contract and will be taken into consideration as much as possible.
- 7.2** Delivery dates shall therefore not be considered to be absolute delivery dates within which must be delivered, but a time period within which Anago shall strive with best efforts to deliver what has been agreed to. If it is not possible to keep to the delivery

date, then Anago and Customer will consult with each other to agree on a substitute delivery date.

- 7.3** Exceeding a given delivery date which may be applicable never constitutes an attributable shortcoming by Anago. Anago does not accept liability under any circumstances in cases where the delivery date may be exceeded.

**8. LIABILITY**

- 8.1** Anago's total liability due to culpable failure to fulfill the Contract, will be limited, in accordance with articles 8.2 and 8.3, to compensation for direct damage, to a maximum of the amount of the price stipulated in the Contract (excluding VAT) this to a maximum of Euro 250.000,- (two hundred and fifty thousand).

- 8.2** If the Contract also includes an Contract over time with a term of more than 1 (one) year and Anago's liability flows forth from the Contract over time, the stipulated price will be calculated on the basis of the total amount (excluding VAT) as actually paid by Customer to Anago on the basis of the Contract over time for 1 (one) year (this being the year in which the damage occurred) this to a maximum of Euro 250.000,- (two hundred and fifty thousand).

- 8.3** Anago has insured itself against damage. Anago is in any case not liable for further damage and will not compensate for any further damage which Customer may suffer on the basis of the Contract entered into with Anago, however caused, including possible claims of liability against Customer by third parties, than is covered and paid out by the insurance, unless in case of malicious intent or gross negligence.

- 8.4** In the event that the insurance policy from Anago does not pay out as a direct result of the negligence of Anago in either failing to pay an insurance premium or cancelling the insurance policy for any unwarranted reason then the total liability due to culpable failure to fulfill the Contract, will be limited, in accordance with article 8.2, to compensation for direct damage, to a maximum of the amount of the price stipulated in the Contract (excluding VAT) this to a maximum of Euro 250.000,- (two hundred and fifty thousand).

- 8.5** Anago's total liability for damage resulting from death or physical injury will in no event amount to more than Euro 1.000.000,- (one million), whereby a sequence of events is regarded as one event.

- 8.6** Direct damage is exclusively understood as:

- a) The reasonable costs made in determining the cause and the extent of the damage;
- b) The reasonable costs incurred in prevention or limitation of damage, to the degree that Customer can demonstrate that these costs have led to the limitation of the damage.

- 8.7** Anago's liability for indirect damage, including consequential damage, loss of profit, loss of savings, mutilated and/or lost data, delays, losses, damage as a result of a failure of Customer to provide the required information or assistance, damage through corporate inactivity and/or claims from third parties against Customer, is rejected. In no event will Anago be liable for the loss of data even if this is the result of an error in the Products. Customer must have a fallback scenario in place in the event errors arise in order to minimize interruptions in the business process.

- 8.8** With the exception of the case named in article 8.1 and 8.5, Anago has no liability for damage compensation regardless of what an action towards compensation could be based on.

- 8.9** Anago's liability exists solely when Customer immediately and appropriately notifies Anago of the deficiency in writing, proposing therein a reasonable time period for correction of the deficiency and Anago then culpably fails to meet the aforesaid obligations. The notification of deficiency ought to be as detailed a description of the deficiency as possible so that Anago is able to react adequately.
- 8.10** The condition for the existence of any right to compensation is always that Customer notifies Anago in writing within 60 (sixty) days after the damage came into existence, by registered mail, and takes the necessary measures to limit the damage as much as possible.
- 8.11** Customer indemnifies Anago from all liability regarding third parties due to allegations as a consequence of deficiency in a product, system or service provided by Customer to third parties that consisted of a delivery made by Anago.
- 8.12** Anago does not accept any liability for damage regardless of its nature caused by Third Party Products which Anago has delivered to Customer. If possible Anago will transfer its rights for damage compensation from the supplier of the Third Party Product in question to Customer.
- 8.13** Anago is not liable for any damage regardless of its nature, which is the result of a failure to provide support and/or maintenance in time.

**9. ORACLE EMBEDDED PROGRAMS AND LICENSES**

- 9.1** All Anago software is priced and delivered with Oracle software licenses embedded, according to the Oracle Embedded Software License Agreement between Anago and Oracle. The term "embedded" refers to the following requirements:
- a) The Oracle software and Anago software are priced together on the Anago standard price list and on clients invoice as the price of the Anago software and are not distributed separately; thus all prices of Anago software include the fee for Oracle embedded license and maintenance and cannot be delivered without this embedded fee. Client does not need to purchase or own Oracle database licenses for use with Anago software.
  - b) Client is not permitted to use any Oracle or thirds party tools to access the Oracle software directly, rather all access must be done using Oracle, third party or Anago tools that are embedded in the Anago software.
  - c) All Oracle software is installed, configured and maintained by Anago integrated software or by Anago employees only. Client is not permitted to install, configure, monitor or use the Oracle programs separately and independently from the Anago software.
  - d) All administration tasks on Oracle must be done via Anago software integrated software or by Anago employees only. Client is not permitted to access the Oracle programs directly but rather only through the Anago software.
  - e) All information from Oracle software must be accessed by the client either through prepackaged reports, or ad hoc reports that are developed by Anago, and included in the Anago software, which do not require or permit the client to navigate the underlying data schema.
  - f) If Anago software must interface with another application or database, the client is not permitted to directly access the Oracle database or use Oracle-supplied APIs - other than embedded supplied by Anago - to establish the transfer of data. To transfer data, client must use predefined APIs unique to the Anago software and management of the data transfer must be done through Anago software.
  - g) Only Anago can access the Oracle software directly for purposes of technical

assistance to client and such access is limited to providing technical assistance, including troubleshooting, problem resolution, and support assistance.

**9.2 Oracle Company Owned Licensing (Bring Your Own License)**

When client is using the Oracle Company Owned Licensing model, the following applies:

- a) Client uses own existing Oracle Database licenses to run Oracle deployments for all Anago software. To run a DB instance under this model, you must have the appropriate Oracle Database license (Software Update License and Support) for the DB instance class and Oracle Database edition (Enterprise Edition with OLAP option). Client must follow all Oracle's policies for licensing Oracle Database software in Clients' computing environment.
- b) Client shall indemnify Anago against all product liability claims by Client or by Oracle in respect of usage of Oracle software and licenses.
- c) Client is responsible for all Oracle database configuration, administration, maintenance and correct running of all Oracle instances that are used for Anago software.
- d) Using this Company Owned Licensing model does not impact the pricing of Anago software. Anago software is always priced and delivered with Oracle software licenses embedded.

**10. INTELLECTUAL OWNERSHIP**

**10.1** Anago has the exclusive right to further develop the Anago Products and place them at the disposal of third parties by means of licenses.

**10.2** Except where Third Party Products are concerned, all intellectual property rights, industrial property rights and other rights resulting from all activities carried out by Anago, regardless of where and when carried out and regardless of whether it concerns the delivery of an existing Product or a still-to-be-developed Product, reside with Anago.

**10.3** Customer acknowledges that all present and future intellectual property rights, industrial property rights, other rights and the registration and/or application of the foregoing rights and/or similar rights for the whole term thereof and all renewals or extensions thereof, now or at any time in the future worldwide at all times shall be and are hereby assigned or will be transferred to Anago.

**11. TRANSFER**

**11.1** The Contract between Anago and Customer and the rights and obligations, which stem from the Contract cannot be carried over to a third party by Customer without the prior written consent from Anago.

**12. DURATION**

**12.1** This Contract is effective as of the date of undersigning and shall have a term as agreed between parties.

**13. TERMINATION**

**13.1** Leaving unhindered the stipulations elsewhere in the Contract, each party has the right to terminate the Contract wholly or partially without judicial intervention by means of a signed registered letter. This can be done, if after notifying the other party in writing of a failure to fulfill their obligations, they then fail to meet the

aforesaid obligations within a reasonable period of time.

- 13.2** Anago has the right to immediately terminate the Contract wholly or partially, without judicial intervention if Customer is in a state of bankruptcy, suspension of payment, or if Customer's company is liquidated or ended for any other reason than reconstruction or company merger.
- 13.3** After the Contract has been ended, for any reason, Customer can no longer derive any rights from the Contract, leaving unhindered the existence of the obligations of both parties which by their nature continue automatically after the end of the Contract.

**14. GOVERNING LAW**

- 14.1** This Contract shall be governed by the laws of The Netherlands.
- 14.2** Any disagreement between parties because of this contract will be solved through arbitration of the Stichting Geschillenoplossing Automatisering (SGOA) (The Dutch arbitration court (foundation) for ICT related matters), in accordance with the SGOA's regulations for arbitration. With the mutual agreement of both parties, prior to arbitration, parties may try to solve their disagreement through other provisions offered by the SGOA for the settlement of disputes.
- 14.3** If the SGOA declares itself unauthorized or if parties mutually agree to such, disagreements will be placed before a qualified court in Amsterdam, The Netherlands.
- 14.4** The foregoing will not prevent any party from taking legal action, prior to turning to the SGOA, for purposes of sequestration and/or garnish in order to ensue security for its existing rights.

**15. GENERAL CONDITIONS**

- 15.1** Any notice in the context of the Contract shall be deemed to have been properly given if it has been sent by registered mail or fax immediately followed by a copy sent by registered mail to the other's party's official registered or alternatively to its last known address.
- 15.2** The Contract including all documents to which reference is made herein constitutes the entire Contract of the parties concerning the licensing of Anago Products and supersedes all prior or contemporaneous oral or written Contracts concerning this subject. The general conditions of either party shall not apply to the Contract.

Thus agreed and signed dually in 's-Hertogenbosch,

Date:

On behalf of:

**Anago B.V.**

**(Name Customer)**

Lawfully represented by:

Signature :  
Name :  
Function :

Signature :  
Name :  
Function :



**APPENDIX 1 – PRODUCTS & PRICES**

(Belongs to the Contract between Anago and Customer, concerning the provision of Products.)

**The Contract applies to the following Products:**

<b>Product</b>	<b>Type of License</b>	<b>Number of Licenses</b>	<b>Price per License in Euro</b>
Anago Standard User	Named User		
Anago Light User Pack	Named User		

**Additional Restrictions:**

The following additional restrictions apply to the use of the Products:

- **Named User**
  - The Named User licence gives rights to use one or more Anago applications on the Anago Server platform.
  - A Named User is defined as an individual authorised by you to use the programs which are installed on a production server, regardless of whether the individual is actively using the program(s) at any given time. In addition to the production server, the user is licensed for an additional test/development server. This price includes a database licence for the duration of the contract.
  - In the event that the Named User leaves his or her function by Customer and no longer uses the Anago Product, Customer may transfer the Named User license to another employee within its organization.