

## Software Licensing Agreement (Loan)

between

The German Social Accident Insurance  
**Deutsche Gesetzliche Unfallversicherung e.V. (DGUV)**,  
Glinkastraße 40, 10117 Berlin, Deutschland,  
represented by its Managing Director

Dr. Stefan Hussy,

in this instance represented by the Director of the  
Institute for Occupational Safety and Health of the DGUV  
(Institut für Arbeitsschutz der DGUV),

Prof. Dr. Dietmar Reinert

– hereinafter referred to as the “IFA” or “DGUV” –

and

– hereinafter referred to as the “licensee” –

### Preamble

The licensee plans to use the NECID – Nano Exposure & Contextual Information Database – software at its company for the purpose of systematically capturing, processing and storing scientific data gained while measuring nanomaterial exposure. The software that forms the object of this agreement is a trial version developed by IFA in conjunction with other occupational health and safety institutions of the PEROSH Group (Partnership of European Research in Occupational Safety and Health). The IFA has been granted the authority by the respective developers of the PEROSH Group to sign licensing agreements for the software that forms the object of this agreement. On the basis of this agreement, the IFA thus grants the licensee the right to use the trial version of the NECID software for the contract period defined in § 7 and makes the most recent version available to the licensee for this purpose.

## § 1 Definitions

- (1) “Software” or “database software” refers to the computer program in object code form as described in the attached licence certificate (**Appendix**).
- (2) “Confidential information” refers to all information and documentation of the other party which must be marked or, depending on the relevant circumstances, treated as confidential. This applies in particular to information about internal processes, business relationships and know-how.

## § 2 Object of the agreement

- (1) The object of this agreement is the provision of the software for the term of the agreement and the necessary rights associated with its contractually agreed usage, as specified in § 3.
- (2) The IFA will provide the licensee with a copy of the software that forms the object of this agreement, as specified in § 4.
- (3) The definitive nature of the software is stipulated in the licence certificate.
- (4) Installation and configuration services are not covered by this agreement (§ 4 provision 3).

## § 3 Grant of rights

- (1) The licensee receives the non-exclusive, to the contract period limited, non-transferable and non-sublicensable right to use the software for the term of this agreement only.
- (2) The right to copy the object of this licence is limited to installation of the object of the licence on a computer system in the direct possession of the licensee and in accordance with the purpose of use. It is also limited to such copying of it as is required for loading, displaying, running, transmitting and storing the object of the licence as well as the right to make a security copy of the object of this licence by a person authorised to do so under § 69 (2) UrhG (German Copyright Act). The licensee must mark the completed security copy with the clearly visible words “Security Copy” and also attach to it a PEROSH Group copyright notice.
- (3) Further details of the number of licences and the nature and extent of any authorisation to use the software are stipulated in the licence certificate (**Appendix**). The number of access options and users also determines the number of permissible copies.
- (4) The right to handle the object of the licence is limited to maintenance and restoration of proper use of the software.
- (5) The right to de-compilation of the object of the licence is only granted on condition of § 69 e (1) (1-3) UrhG (German Copyright Act) and under the provisions of § 69 e (2) (1-3) UrhG (German Copyright Act).
- (6) No further rights of use or exploitation of the object of the licence are granted to the licensee. The licensee is not permitted to pass on the copy of the software provided by the licensor or a security copy made by the licensee to any third party. In particular, the licensee is prohibited from selling, lending, leasing or in any other way sublicensing the software, publicly demonstrating it or making the software publicly accessible.
- (7) Should any use, versions or parts of the software be used to form the content of any publication, the software name “NECID” must be cited and the PEROSH Group named as copyright holder.
- (8) On request, and subject to just cause, the licensee will allow the IFA or a third party designated by it to check whether the licensee’s use of the object of the licence falls within the bounds of the rights stipulated in this agreement; the licensee will help the IFA carry out any such checks to the best of its ability.

(9) Should the licensee violate any of the above provisions, all of the rights to use granted in this agreement will immediately become invalid and automatically revert to the licensor. In any such case, the licensee must cease using the software immediately and in its entirety, delete all copies of the software installed on the licensee's systems and delete any security copy made or hand it over to the licensor.

#### **§ 4 Handover and installation of the object of the licence**

(1) The IFA will make a copy of the software available to the licensee for downloading from <http://necid.ifa.dguv.de/>.

(2) Use of the software will require specific access details for each of the licensee's users. This information will automatically be conveyed in digital form (e-mail) to the authorised users named in the licence certificate once they have registered – via the website cited in provision 1 above. These access details are personalised and may only be used by the authorised users named in the licence certificate. These access details may not be passed on to any third parties.

(3) The hardware and software environment within the software is to be used is stipulated in the licence certificate. Installation, implementation and use of the software are the responsibility of the licensee. The licensee is responsible for ensuring the system environment meets the requirements of the licence certificate, including the duty of checking its suitability for use as per the conditions of the licensee's use.

#### **§ 5 Licence fees**

No payment shall be made for permission to use the software. The IFA charges no licence fees for granting the rights specified in this agreement.

#### **§ 6 Protection of the software**

The licensee is obliged to take appropriate measures to protect the software from any access by unauthorised third parties, and in particular is obliged to store all copies of the software in a safe place.

#### **§ 7 Period of validity and termination of the agreement**

(1) This agreement is signed for an unspecified period, starting with the date of signing of both parties. It may be terminated by either party provided notice of three (3) month to the end of the calendar month is given.

(2) The agreement may also be terminated by either party without notice provided there is good cause to do so. One example of good cause that would entitle the IFA to terminate the agreement without notice would be if the licensee were to violate its usage right by using the software beyond the scope specified in this agreement.

(3) Termination in accordance with provisions 1 and 2 must be made in writing.

(4) In the event of any termination, the licensee must cease using the software immediately and in its entirety, delete all copies of the software installed on the licensee's systems and delete any security copy made or hand them over to the IFA.

## **§ 8 Liability**

(1) The IFA is liable solely

- for wilful or gross negligence,
- for injury to life, limb or health,
- as per the provisions of the German Product Liability Act
- within the scope of any guarantee provided by the IFA.

(2) With the exception of any case of intent or malice, the IFA also bears no liability for initial faults.

(3) No further liability on the part of the IFA exists. In particular, the licensee must bear the risk of fitness for purpose and use. It is the responsibility of the licensee to determine the location where the software will be used and the choice of suitable hardware, as well as undertake any testing of the software that may be appropriate under its own conditions before it is put to productive use. The IFA accepts no liability for this.

(4) The above limitation of liability also applies to the personal liability of the employees, representatives and official bodies of the DGUV.

## **§ 9 Confidentiality**

(1) The parties agree to preserve the secrecy of confidential information. This obligation extends five years beyond the termination of the agreement.

(2) This duty of confidentiality does not apply to information,

a) which was demonstrably known to the recipient before this agreement was signed, or subsequently became known to a third party without any resultant breach of a confidentiality agreement, statutory regulations or official directives;

b) which was public knowledge at the time this agreement was signed or subsequently became public knowledge without any breach of this agreement occurring;

c) which must be disclosed as the result of statutory obligations, or on the directive of a court or other authority. Wherever permissible and practicable, the recipient of such information under obligation to make such a disclosure will give the other party prior notice and the opportunity to oppose such disclosure.

(3) The parties will give consultants access to confidential information only if they are subject to professional secrecy, or bound by a prior undertaking to observe the confidentiality provisions of this agreement. Furthermore, the parties will only disclose confidential information to employees who need to know such information in order to meet the terms of this agreement, and will furthermore oblige any such employees, within the confines of labour law, to preserve that confidentiality even after they have left the organisation.

**§ 10 Final provisions**

- (1) The licensee may only transfer rights and obligations arising from or in connection with this agreement with the written approval of the IFA.
- (2) Amendments and additions to this agreement must be made in written form. This also applies to any amendment or waiver of this provision. Electronic documents in text form do not meet the written form requirement.
- (3) The general terms and conditions of the licensee do not apply.
- (4) This agreement is subject solely to German law, under the exclusion of the UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980).
- (5) The place of performance is Sankt Augustin [Germany]. The sole place of jurisdiction is Berlin [Germany].
- (6) Should individual provisions of this agreement be invalid, the legal validity of the remaining provisions will fundamentally remain unaffected. The parties to this agreement will attempt to replace the invalid provision with one that best reflects the legal and commercial purpose of the agreement.
- (7) The appendix cited in this agreement – Licence Certificate – forms part of this agreement.
- (8) The terms and conditions of this contract are drafted in German and English.  
 If there are any differences in wording between the English and German versions of the Terms and Conditions of Contract, the German version will always apply.

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location                      date

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location                      date

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Deutsche Gesetzliche Unfallversicherung e.V.

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Lizenznehmende Person