

1. Application, Definitions

1.1. This License Agreement is entered by and between Sprecher Automation GmbH or an affiliated company of Sprecher (Sprecher) and the „Licensee“. This License Agreement is applicable for all SPRECON®-E software products and the software product SPRECON®-V460.

1.2. The License Agreement shall determine the conditions of granting the object code - of the „computer programs respectively software from Sprecher“ including „software products from third parties“ linked with those - from SPRECON®-V460, the related media, printed respectively on-line documentation, Software-updates, add-on-components, web-service and/or additional software codes etc, which Sprecher will make available (hereinafter summarized as “Software”). The Software shall be licensed, not sold. Kind, amount, payment, operation environments and other conditions of the Software shall be agreed separately.

1.3. Software-updates are new versions of the Software, which for example include corrected program deficiencies or minor program improvements. A Software-update shall replace or amend (or de-activate) the original Software. In case the Software-update is part of licensed Software, the Software-update shall only be used as part of the original Software.

1.4. Software-maintenance and Software-upgrades are not subject of this License Agreement. Software-maintenance benefits, for example hotline or on-site-services. Software-upgrades are new versions of the Software, which include additional functions.

1.5. By installing respectively using the Software, the Licensee declares to have read and understood the conditions of this License Agreement and to be bound on the conditions of this License Agreement.

1.6. The License shall be not entitled to install and use the Software if the Licensee has not accepted this License Agreement. In this case termination shall take place.

1.7. This General Terms shall be amended, modified or replaced by special conditions, e.g. individual agreements, product terms, terms of third parties etc, depending on the kind of utilization, which shall be confirmed before utilization, as required.

1.8. The terms of this License Agreement shall explicitly not apply for software products from third parties. For software products from third parties the terms of use of the respective licensor shall be obligatory.

1.9. In case of contradictions in the contract documents following order of precedence shall apply: (a) special agreements, if confirmed by Sprecher in writing; (b) this General Terms; (c) non-mandatory provisions of the commercial law and civil law.

1.10. Third Party shall mean any person, other then the contract partners, even if such third party is related to a partner in any way.

2. Rights and Obligations of Use

2.1. Licensee is granted a non-transferable (in case of a partner license a transferable), non-exclusive, with regard to the subject matter limited, timely unlimited right for using the object code of the Software as specified in the conditions of this License Agreement on the number of workstations on the facility respectively as per agreed project mentioned in the Agreement. Any and all other rights related to the Software remains with Sprecher respectively with third parties. Unless Sprecher's prior written consent is received and irrespective of the conditions of §40d of the Austrian Copyright Act (UrhG) respectively as per applicable license-, copy right law and/or agreement regarding intellectual property Licensee is in particular not entitled to reproduce, modify, entirely (except in case of a partner license acc. clause 2.3.) or partly disclose the Software to third parties, lease, rent or make available commercial hosting service to third parties. The Software license shall not be shared.

2.2. Alternatively to the conditions as outlined in clause 2.1. the Licensee shall be entitled to install the Software on a storage device, e.g. network server, and permit employees of the Licensee, to access and use the Software from another device via a secured connection, under the condition the Licensee has acquired the Software for the storage device and for the other devices for this special kind of usage. The Software shall not be used on multiple devices at the same time.

2.3. The Software shall be used with hardware and systems, which comply with the defined minimum standards of the Software. In case of replacement of the hardware, Licensee is entitled to continue utilization of the Software to the extent of this License Agreement on the new hardware, which shall explicitly approved for the Software from Sprecher, without entering into a new License Agreement.

2.4. Licensee has the right, to buy a so called partner license, what means, he is entitled, to transfer the Software one-time and permanently directly to an end-customer by binding contract, with the obligation to observe the obligations of this License Agreement, including the obligation, not to transfer the Software. In this case, Licensee shall bear the sole liability for the selection of the Software and the operation environments near the end-customer, unless no other separate Agreement is made.

2.5. Licensee is obliged, to use the Software and the information and documentation received in this context exclusively according the respective agreement and, not to exploit the Software, neither during nor after termination of the respective agreement (respectively upon completion of use) and, not to gain access to third parties.

2.6. The Licensee is not entitled, to copy, change, amend, edit, re-develop, decompile or disassemble the Software, to unlink single components, to use the Software on more as the agreed number of workstations, and he is not entitled to use the Software commercially or make the Software available to Third Parties.

2.7. Demo Software shall be used only for the purpose of evaluation. No license shall be granted with a demo software, commercial utilization shall be excluded.

3. Scope of Performance and Function

3.1. The scope of performance and function shall be described in the respective description from Sprecher and as defined on the date of entering into this License Agreement. Special performances or functions of the Software, for example statements on capacity, time response, compatibility with other programs or cross-linking possibilities, or individual adaptations of the Software to other programs or other special operation conditions shall be agreed on a case by case basis.

4. Documentation

4.1. The Licensee will get documentation for utilization of the Software, for example a functional description, a description for use respectively general information for installation of the program at time point of delivery or taking over of the Software, in case taking over is agreed. The documentation will be made available in English language in one copy either in machine readable or printed form, if applicable in form of an on-line-documentation.

4.2. Documentation, records and the like, made available in written form shall not be reproduced without explicit written consent from Sprecher. In case such consent is given by Sprecher, reproductions shall be clearly marked with a reference to Sprecher's copy right. The Licensee shall be entitled to make one copy of documentations, which are provided only in electronic format.

5. Backup Copies

5.1. Licensee is entitled to reproduce a backup copy of the machine-readable program of the Software, also clearly marked with

a reference to Sprecher's copy right and to store it for archive purposes.

6. License Fee

6.1. The utilization of the Software shall be granted only after complete fulfillment of any and all obligations (in case of delay in payment including interest and additional liabilities). Unless not agreed different, the license fee is payable within 30 days after date of invoice, net, without any deduction. Any taxes and duties outside Austria shall be on the account of the Licensee, as far as applicable.

7. Deliveries

7.1. Licensee will obtain the Software on a machine-readable medium in the agreed version including the documentation as stipulated in the Agreement.

8. Return and Destruction

8.1. Sprecher shall be entitled to withdraw the right to use with immediate effect, in case Licensee infringes repeatedly and grossly negligent against substantial conditions of this License Agreement, despite written warnings. In this case, Licensee has no right of reimbursement of the license fee. Licensee is obliged to immediately inform Sprecher of any violation done by an end-customer and to pursue the injury on request of Sprecher.

8.2. Upon termination of this License Agreement Licensee is obliged, at Sprecher's option, either to return Sprecher the entire Software including any documentation and hard lock made available with it or demolish it by providing the proof of destruction. This obligation shall apply also to software that has been modified or combined with other parts.

9. Copyright, Intellectual Property Rights

9.1. The Software is proprietary. Any and all Copyright and Industrial Property Right regarding the Software (including but not limited to picture, brands, photos, animations, video, music, text and "applets", which is contained in the Software), and regarding the documentation and copies remain at every time at Sprecher respectively the respective third parties. Any and all Copyright and Industrial Property Right regarding contents, which are not included in the Software, but which can be accessed with help of the Software, remain with the respective owner of the content and may be protected by applicable license-, copy right law and/or agreement regarding intellectual property. Licensee shall have no right for use of such contents. Licensee shall in no case obtain the source code. Licensee is obliged, to protect respectively to retain unchanged any and all rights of Sprecher respectively the third parties.

9.2. Licensee is obliged, to immediately inform Sprecher in case of an asserted infringement of industrial property right in writing and do everything in its power that Sprecher can hold off the asserted infringement of industrial property. In case of infringement claims against Sprecher, for which Sprecher may be held responsible, Sprecher may, at its own expense modify or replace the Software or obtain the right to use it. It this cannot be done at reasonable costs, Licensee shall, at Sprecher's request, without delay return the originals and all copies of the Software, including any documentation made available to Licensee. Herewith all claims from the Licensee shall be fully and definitely settled with regard to the infringement of industrial property right and the copyright, and Sprecher shall have no further obligation to Licensee.

9.3. The SPRECON®-V460 software product contains following open source software components, which are protected by copyright:

- zenVNCSrv.exe, zenVNCSrvCE.exe and zenVNCCli.exe subject to the GNU General Public License (GPL). A copy of the applicable license terms is downloadable under <http://www.gnu.org/copyleft/gpl.html>.
- MsgCtrlVoip.dll subject to GNU Lesser General Public License LGPL. A copy of the applicable license terms is downloadable under <http://www.gnu.org/licenses/lgpl-3.0.html>.

- ude.dll subject to Mozilla Public License – MPL. A copy of the applicable license terms is downloadable under <https://www.mozilla.org/en-US/MPL/>.

For this software components the conditions of the „GNU & Mozilla Public Licenses.rtf“, which are stored and downloadable on the machine-readable medium, shall be applicable.

9.4. Some software components of the Software SPRECON®-V460 use open source libraries. For this libraries the conditions of the "OpenSourceLicense.rtf", which are stored and downloadable on the machine-readable medium, shall be applicable.

9.5. The SPRECON®-E software products PLC designer contains following open source software components, which are protected by copyright:

- Binutils, GCC and GNU Make; subject to the GNU General Public License (GPL). A copy of the applicable license terms is downloadable under: <http://www.gnu.org/copyleft/gpl.html>.

10. Warranty and Elimination of Errors

10.1. Sprecher warrants, that the Software, at the time point of delivery, is not afflicted with deficiencies, which revoke or reduce the operational capability compared with the valid functional description from Sprecher, provided that the Software is used in accordance with the respectively valid installation requirements and used with the respectively valid operation conditions. Irrelevant discrepancies shall be unaffected.

10.2. The warranty from Sprecher comprises error identification and elimination of errors respectively fault repair during the warranty period. The warranty shall be statute-barred in any case 12 months after readiness of delivery, unless not agreed otherwise.

10.3. Any deficiencies respectively malfunctions, these are functions deviating from the valid functional description from Sprecher, shall be disclosed to Sprecher immediately and in a traceable manner. Functions in need of improvements or user faults respectively malfunctions caused through Force Majeure shall not be considered as defects in term of this License Agreement.

10.4. Elimination of errors respectively malfunctions shall be done under the sole option of Sprecher by delivering new Software or by modification of the already delivered Software. Elimination of errors shall be conditional (i) upon the error being an error resulting in malfunction, (ii) upon the error being reproducible, (iii) upon any new version offered to Licensee free of charge within the warranty period having being installed, (iv) upon Sprecher receiving from the Licensee all documentation and information necessary for eliminating the error and (v) upon Sprecher being given access to the hardware and Software during Sprecher's normal working hours.

10.5. The warranty shall not apply in case Licensee or third parties have modified the Software without Sprecher's prior written consent, even if the error occurs in a part of the Software not modified. If, during error identification, it is detected that the case in question is not covered by warranty or that the cause of the error is not due to the Software supplied, Licensee shall bear all costs that may be accrued.

10.6. Sprecher shall not warrant, (i) that the Software functions meet Licensee's requirements, (ii) that the programs and configuration of the Software selected by the Licensee work together, (iii) that the programs work continuously and without errors or (iv) that all Software errors can be eliminated.

10.7. If, despite sustained efforts of Sprecher, Sprecher is not able to trace the error or is not able to bypass the error in a way, that the Software can be used according the functional description, within a reasonable period, either party may terminate the License Agreement for the Software immediately by returning of all goods and reimbursement of services received, unless it is not an insignificant error.

10.8. Deficiencies respectively malfunction in one or some of the parts of the Software shall not entitle Licensee to terminate the License Agreement with respect to other parts.

10.9. Licensee accepts and agrees that Sprecher uses the technical data - made available from Licensee, for example during warranty or support - commercially in an anonymous way, including software support and software development.

11. Liability, Insurance, Force Majeure

11.1. Outside the scope of the Product Liability Act, Sprecher shall be liable if the damage in question is proved to be due to intentional acts or acts of gross negligence, within the limits of statutory provisions, whereas the liability in case of gross negligence shall be limited to the net value of the Software. Sprecher shall not be liable for damages due to acts of ordinary negligence nor for consequential damages or damages for pure economic loss, indirect damages, loss of production, financing costs, costs for replacement energy, loss of energy, data or information, loss of profits, loss of savings or interest, or damage resulting from Third Party claims against the Licensee.

11.2. Sprecher shall not be liable for damages in case of non-compliance with instructions for installation and utilization.

11.3. Sprecher shall not assume any liability for dysfunctions at the Licensee not caused by Sprecher, although they are in timely closeness to installation or utilization of the Software. Sprecher shall not assume any liability for interference or failures on the computer system of Licensee, for loss of data due to technical malfunction, interrupted data communication or other interferences or failures, which can arise by utilization or installation of the Software.

11.4. The liability provisions shall apply exclusively for all claims of Licensee against Sprecher, regardless of the legal basis or entitlement, and shall also apply to all employees, auxiliary persons and sub suppliers of Sprecher

11.5. In case of a special risk of any damage at the Licensee, which cannot be identified from Sprecher, the Licensee shall inform Sprecher and shall keep itself an appropriate insurance coverage.

11.6. In case Licensee exceeds the contractually stipulated limits of rights or Licensee violates duties as per Clause 2. (Rights and Obligations of Use), 8. (Return and Destruction), 9. (Copyright, Intellectual Property Rights) and 12. (Secrecy) of this General Terms shall be entitled to claim all and any damages due to this.

12. Secrecy

12.1. Licensee undertakes to use all data, drawings, technical specifications, materials provided and documentations of any kind, which he receives in connection with the contract with Sprecher or which he receives or become aware in the course of the contractual co-operation, confidential, not to copy them and not to disclose the same to Third Parties or make them available elsewhere, unless they are generally known or otherwise lawfully known. The Licensee shall impose the above obligation on their staff and auxiliary persons accordingly. The secrecy obligation shall continue after termination of the contract.

12.2. Licensee is permitted to refer to the contractual co-operation in marketing material and publication, irrespectively of the kind, only after he has got the expressly written confirmation from Sprecher.

13. Other Provisions

13.1. If individual provisions are or become ineffective or unenforceable, totally or partly, they shall be deemed to be replaced by a provision which comes as close as possible to the economic purpose intended and the effectiveness and enforceability of the remaining provisions shall not be affected thereby. The same shall apply to gaps.

13.2. In order to be effective any and all modifications and amendments including this Clause shall be made in writing and signed by authorized representatives of both partners.

13.3. A transfer of rights and obligations to Third Parties shall require the prior express written consent of Sprecher.

14. Applicable Law, Jurisdiction

14.1. Place of jurisdiction for Licensee, for all disputes, arising out of or in connection with the contract shall be settled exclusively by the court in charge in Linz/Austria. Sprecher shall be entitled, on its own choice, to sue the Licensee at any other court, which can be applicable according national or international law.

14.2. All legal transactions, especially contracts concluded under this General Terms, shall exclusively be subject to Austrian Law, the conflict of laws rules shall be expressly excluded, especially the rules of private international law, as far as they refer to the application of foreign law. If the Austrian Law provides, in case of foreign contact, the application of special international rules, applicable also in Austria – e.g. the UN Sales Law (CISG) – they shall be expressly excluded.

**Sprecher Automation GmbH
Franckstrasse 51, A-4018 Linz/Austria**