



## **Elsner+Flake Digital Library End User License Agreement for Font Software (EULA)**

**Preamble** This End User License Agreement for Font Software (EULA) becomes a legally binding contract between the licensee and Elsner+Flake Type Consulting GmbH (short: Elsner+Flake) when the licensee agrees to the Terms of Condition in an electronic delivery method or purchases the Font Software on a storage medium and opens the packaging containing the typefaces. If the licensee refuses to accept a contractual obligation through this license agreement, he is not permitted to access, use or download the Font Software. The licensee should thoroughly and carefully read through the complete EULA before agreeing to the conditions specified here.

### **License and Usage Rights**

1.1 The Font Software underlying this contractual agreement is the intellectual property of Elsner+Flake and/or its licensors. The term "Font Software" includes any and all updates, upgrades, expansions, modified versions and working copies of the Font Software to which the licensee, i.e. a natural person and legal person or, within the scope of a legal person, a subsidiary with majority share, has accordingly been granted a license. The Font Software remains and shall remain, now and in the future, the property of Elsner+Flake.

1.2 Upon full payment of the agreed-upon usage fee, Elsner+Flake grants the licensee the non-exclusive, non-transferable right to simultaneously use or store the Font Software - provided said software has been released at time of delivery or upon payment made by the licensee - on a maximum of five (5) computers at one single geographical location stipulated by the licensee. In the event that extensions to the above-mentioned restriction become necessary, the licensee has to purchase an extended license. The licensee may install the Font Software on a single file server for use on a single local area network (LAN) only when the use of such Font Software is limited to the workstations and printers that are part of the licensed unit of which the server is part. The Font Software may not be installed or used on a server that can be accessed via the internet or other external network system (a system other than LAN) by workstations which are not part of a licensed unit. If the Font Software is intended to be used for commercial purposes, each individual license permits one additional usage (installation) on a personal home or portable computer. For the exclusive purpose of data backup, additional backup copies of the Font Software can be made.

1.3 Transferring the license to a third party is essentially not permitted. For the exclusive purpose of outputting certain files, the licensee is permitted to transfer a copy of the Font Software which is used for creating the pertinent file to a commercial printer or another service



company. In the event of any text modification, the service company is required to possess its own license. The licensee has to inform the commercial printer/service company about the content of this EULA.

1.4 Embedding of the Font Software into electronic documents or internet pages is only permitted under the absolute assurance that the recipient cannot use the Font Software to edit or create a new document (read-only). It must be ensured that the Font Software cannot be fully or partially extracted from said documents.

1.5 The licensee may electronically distribute Font Software embedded in a „Personal or Internal Business Use“ document only when the Font Software embedded in such document is in a static graphic image (for example, a “gif”) or an embedded electronic document, and is distributed in a secure format that permits only the viewing and printing (and not the editing, altering, enhancing, or modifying) of such static graphic image or embedded document. The licensee may not embed Font Software in a Commercial Product without a separate written license from Elsner+Flake, and the licensee may not embed Font Software in an electronic document or data file for any reason other than his own Personal or Internal Business Use.

1.6 If the licensee intends to edit or modify a document containing the embedded Font Software, a request must be made to Elsner+Flake. Elsner+Flake will then conclude a expansion/embedding license agreement for said purpose. This expansion/embedding license agreement is subject to an additional fee.

## **Exclusion of Other Usage**

2.1 Subject to the provisions in sub-sections 1.3 of this agreement, selling, lending or otherwise transferring the Font Software to a third party or parties is strictly prohibited. In addition, transferring the Font Software as a component or sub-component of other products, e.g. electronic documents or sublicenses, to a third party or parties is also strictly prohibited.

2.2 Subject to the provisions in sub-sections 2.3 and 2.4 of this agreement, the following is prohibited: modifying the Font Software, merging it with other software programs, decompiling it, using modules from said software for one’s own developments or using technical solutions contained in the Font Software for purposes other than operation on the licensee’s own computers.

2.3 Exceptions to subsection 2.2 are only permitted provided they are essential to obtaining the necessary information for establishing interoperability of the software with other programs, and provided this information is neither published nor accessible in any other form and if the licensee is unable to obtain said information from Elsner+Flake or its authorized distributors or appointed agents. In this case, the



licensee shall inform Elsner+Flake in writing as to which portions of the software the licensee is decompiling.

2.4 Modifying the Font Software is prohibited, even in the event that it is necessary for fulfilling personal design requirements. Specifically, it is prohibited to change or modify the Font/Trademark Names used as identifying tags in the Font Software in any form or manner. If such changes or modifications become necessary, prior written consent has to be obtained from Elsner+Flake.

### **Warranty and Liability**

3.1 Upon receipt of the Font Software by the licensee, Elsner+Flake grants a 90-day warranty guaranteeing that the Font Software is essentially free from material defect. To make a warranty claim, the licensee has to return the Font Software, including a copy of the sales receipt within the 90-day warranty period to the sales and distribution partner from which the licensee obtained it. Elsner+Flake will correct substantial malfunctions occurring during this warranty period provided that such malfunctions are reproducible and licensee gives immediate notice and sufficient description of such malfunctions to Elsner+Flake. Such corrections will generally be incorporated into new revisions of the Font-Software or, until the release of such new revisions, into temporary versions, at Elsner+Flake's discretion. The correction may also be achieved by delivery of new versions of the Font-Software (i.e. versions with additional functionality and/or enhanced performance) in which case the warranty does not cover such additional functionality and performance. In the event that licensee should need new or modified hardware for the operation of such new versions, he/she may only return the Font-Software and his/her money will be refunded.

3.2 The foregoing states the entire liability and warranty of Elsner+Flake or its local distributor, and any claims in excess thereof, e.g. for idle time, shortfall of production, waste of material and any other direct, indirect, incidental or consequential damages are limited to actions of Elsner+Flake caused by gross negligence or intent.

### **General**

4.1 The license granted hereunder shall automatically terminate, if licensee fails to comply with the terms and conditions hereof.

4.2 Upon termination of this EULA, licensee agrees to either return or to destroy and refrain from using the Font-Software, the media, copies and/ or any modified or merged portions thereof.

4.3 Licensee agrees to inform his/her employees or any other person having access to the Font-Software and copies thereof, at your premises of the terms and conditions of this EULA and to ensure that they shall strictly abide by these terms and conditions.



## **Final Provisions**

5.1 This contract, including its attachments, which are a component of this contract, represents an agreement between the parties. Verbal collateral agreements do not exist. Any verbal agreements are only binding for Elsner+Flake if said verbal agreements have been acknowledged and confirmed in writing by Elsner+Flake.

5.2 Changes to this contract require written form. This also applies to changes to this written form clause.

5.3 Any and all disputes arising from, or in connection with, this contract as well as any dispute over the materialization of this contract are exclusively subject to the law of the Federal Republic of Germany. The rights and obligations of the parties arising from this contract are based on German law, even in the event that the exertion or breach of contractual rights takes place in a foreign country. Place of jurisdiction is Hamburg, Germany.

5.4 The invalidity or inoperativeness of one or more provisions of this contract does not affect the validity of the rest of the contract and the remaining other provisions shall thereby remain unaffected. An invalid provision shall be replaced by a provision that is permitted by law and which approaches the invalid provision and economic interests intended by the parties.

5.5 This agreement is not governed by the „United Nation Convention on Contracts for the International Sale of Goods (CISG).“

Hamburg, April 1st, 2008

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