



## **Licensing Terms and Conditions for the Hulbee Enterprise Search Software**

### **1. Formation of Contract**

1. The Hulbee Enterprise Search software – hereinafter “Software” – is available for you to download. Clicking on Hulbee Enterprise Search enables you to download the Software. You may only download and install the Software if you have expressly consented to these Licensing Terms and Conditions. The same terms and conditions will apply if you receive the Software by delivery instead of by download.

### **2. Right of Cancellation**

1. If you are not obtaining the Software for your commercial or self-employed activity, you have a right of cancellation. Within the cancellation period you can cancel your acceptance of the contract, without giving any reasons, either in written form (e.g. letter, fax or e-mail) or by returning a supplied data carrier with the relevant material. The period will commence no earlier than on receipt of this instruction and is in principle two weeks. The time limit will be deemed met if the notice of cancellation or the data carrier with the relevant material is dispatched in time. However, the right of cancellation in the case of Software that is made available for downloading will expire immediately on commencement of the downloading of the Software.

Notice of cancellation must be sent to:

Fa. Hulbee AG  
Bucherstrasse 2  
CH-9322 Egnach  
Tel: +41 (0) 71 666 79 31  
Telefax: +41 (0) 71 666 79 30  
E-Mail: [info@hulbee.com](mailto:info@hulbee.com)

2. In the case of effective cancellation, performances received on both sides shall be returned and any benefits obtained shall be surrendered. If the received performance cannot be returned in full or in part or can only be returned in a deteriorated state, equivalent compensation must be paid where appropriate. This will not apply if the deterioration is due solely to inspection, such as would have been possible in a shop, for instance. You may otherwise avoid the duty to pay compensation by not using the Software as your property and by refraining from any action that diminishes its value. Data carriers capable of shipping by parcel post are to be returned at our risk.

### **3. Rights of Duplication**

You may duplicate the Software provided that such duplication is essential for use of the Software. Necessary duplications shall in particular include the installation following download of the Software on the hard disk of the hardware used and the loading of the program in the internal memory. You may also duplicate the Software for backup purposes. No other or further duplication is allowed.

### **4. Multiple Use and Use on Networks**

You may use the Software on any hardware that is available to you and hence also on several hardware stations provided that the Software is used by you alone, or you may use the Software on a single workstation so that the Software can be used by several persons on this one workstation. Installation and use on more than one piece of hardware that is used by several persons simultaneously is not permitted.

If you wish to install the Software on a network, you must purchase a software licence for every workstation that access the Software through the network. This applies regardless of whether such access is simultaneous or at different times.

### **5. Licensing and Data Protection**

The Software must be licensed before you can use it. By entering the licence number you generate an installation number that is specific to the hardware. You then receive an activation code with which you must conclude the licensing process.

Because you are making use of a service of Hulbee AG, you will provide us with your contact, account and credit card details. This information and e-mail correspondence will be stored and processed electronically if this is essential to performance of the contract.

The contact details and communication will be assigned to your account profile. We will only pass on essential contact details to reliable contract partners if this is essential for the performance of the required service or execution of the contract.

Hulbee AG never passes customers details on to third parties for marketing purposes, not even so that product information in which it is assumed that you may be interested can be sent to you. We do not sell any customer details to third parties, nor do we pass any e-mail addresses on to third parties.

### **6. Passing On of the Software**

You may sell or donate the Software including any documents in your possession permanently to third parties provided that the acquiring third party declares to you also its consent to the continued validity of these Terms and Conditions.

You must hand over to the new user all program copies including any backup copies that may exist or destroy the copies not handed over. Passing on will result in your right to use the Software expiring. You may not transfer the Software to third parties if there are grounds to suspect that the third party will breach the terms and conditions, in particular by unauthorised duplication.

### **7. Decompilation and Program Modifications**

1. The reverse translation of a transferred program code to other code forms (decompilation) and other forms of reverse capture of the various production stages

of the Software (reverse engineering), including a program modification, are in principle prohibited unless otherwise dictated by mandatory provisions of law.

2. The removal of a copy protection or similar protection mechanisms is only permitted if this protection mechanism impairs or prevents the trouble-free use of the program.
3. If the acts mentioned under No. 1 are performed on commercial grounds, they shall only be permitted if they are indispensable to the creation, maintenance or functioning of an independently created and interoperable program and the necessary relevant information has not yet been published or is otherwise accessible, for instance by enquiry from the manufacturer.
4. Copyright notices, serial numbers and other elements enabling identification of the program must not be removed or modified.

## **8. Claims based on Defects**

1. Defects in the supplied Software (material defects and deficiencies in title) are subject to a liability period of one year (commencing from delivery or download) if you are a merchant or legal person or an undertaking equal to a legal person. Otherwise statutory limitation periods shall apply. Defects will at our option be rectified either by correction (improvement) or by delivery of a defect-free Software (substitute delivery).
2. If the defect cannot be rectified within a reasonable period of time or if the improvement or substitute delivery is to be regarded as failed on other grounds, you may at your option reduce the purchase price, rescind the contract or demand compensation or recompense for fruitless expenses. The provisions of this contract concerning liability shall be considered.
3. Improvement or substitute delivery shall only be assumed to have failed if Hulbee AG has been given sufficient opportunity for improvement or substitute delivery without the desired success having been achieved, if improvement or substitute delivery is impossible, if it is refused or unreasonably delayed, if there is justified doubt as to the prospects of success or if improvement or substitute delivery is unreasonable on some other grounds.

## **9. Liability**

1. Hulbee AG shall have unlimited liability for losses arising from loss of life, physical injury or damage to health founded on a negligent breach of duties or an intentional or negligent breach of duties by Hulbee, a statutory representative or vicarious agent.
2. Hulbee AG shall have unlimited liability for other liability claims only in the case of intent and gross negligence also of its statutory representatives and managerial staff. Hulbee AG shall be liable for the culpability of other vicarious agents only to the extent of its liability for slight negligence under section 3 of this liability clause.
3. Hulbee AG shall only be liable for slight negligence if a duty is breached whose observance is of particular importance for realisation of the purpose of the contract (cardinal duty). If a cardinal duty is breached, liability shall be limited in sum to five times the transfer fee and to those losses that must typically be expected to arise in the transfer of a software.
4. Liability for loss of data shall be limited to the typical costs of recovery that would be incurred for the creation of backup copies at regular intervals commensurate with the risk.
5. These provisions shall also apply in respect of our employees.

6. This does not affect liability under product liability laws.

## **10. Duty of Inspection and Notification**

If you are a merchant or legal person or equal to a legal person, you must inspect the received Software including any documentation within 8 working days of delivery, particularly in respect of completeness and the functionality of fundamental program functions. Defects that are discovered or capable of being discovered thereby must be notified in writing within a further eight working days. The notification of defects must include a description of the defects that is as detailed as possible. Defects that cannot be discovered within the due described inspection must be notified within 8 working days of discovery. If the duty of inspection and notification is breached, the Software will be regarded as approved in respect of the defect concerned.

## **11. Reservation of title**

Hulbee AG reserves title to the transferred Software until such time as claims under this contractual relationship have been settled in full.

## **12. Conflict with other Terms and Conditions**

If you also have General Business Terms, the contract shall also come about even without express agreement of the application of General Business Terms. If the different General Business Terms coincide in content, they shall be deemed agreed. Conflicting individual provisions shall be replaced by the provisions of discretionary law. The same shall apply for the case that your Business Terms contain provisions that are not included in these Terms and Conditions. If these Terms and Conditions contain provisions that are not included in your Business Terms, these Terms and Conditions shall apply.

## **13. Duties of Disclosure**

You have a duty to notify us in writing of the name and full address of the acquirer in the event that you pass on the Software.

## **14. Miscellaneous**

1. Amendments and additions to these Terms and Conditions must be confirmed in writing.
2. The place of performance is Egnach / Switzerland.
3. The Licensing Terms and Conditions and the contractual relationship shall be governed by Swiss law (Thurgau canton) to the exclusion of the UN Sales Convention (CISG).
4. Frauenfeld / Switzerland shall be the agreed place of jurisdiction for commercial customers and legal persons under public law.
5. Should individual provisions be ineffective or invalid, this shall not affect the effectiveness of the remaining provisions. Partial invalidity shall not render the entire contract invalid.