

# Source and Object Code License Agreement for duagon Germany Software

**duagon Germany GmbH**

Neuwieder Straße 1-7  
90411 Nürnberg  
Germany

**Phone** +49 911/99 33 5 - 0  
**Fax** +49 911/99 33 5 - 901  
**E-Mail** info@duagon.com  
**www.duagon.com**

The **Licensor** is duagon Germany GmbH, Neuwieder Straße 1-7, 90411 Nuremberg, Germany.

The **Licensee** is any user of the Licensor's software to whom the Licensor has made such software available, whether by shipment on a data carrier or in electronic format via e-mail or through download from the Licensor's website.

**By installing and/or downloading the Licensor's software from its website, the Licensee accepts the conditions described in this license agreement as legally binding.**

If you have any questions concerning this agreement, please contact duagon Germany GmbH.

## 1 Scope of Agreement

Licensor is the manufacturer/developer of certain proprietary hardware, firmware and software products. Licensee desires to license such firmware or software products, in a) source code or b) object code form, from Licensor in order to make modifications to such software products for use in conjunction with Licensor's hardware products. Licensor agrees to license the software products to Licensee on the following terms and conditions.

## 2 Definitions

### 2.1 Source Code

"Source Code" means the software programs written in human readable, higher-level programming languages.

## 2.2 Object Code

"Object Code" means the software programs written in non-readable programming languages and already compiled for a specific target hardware.

## 2.3 Modified Code

"Modified Code" means a derivative work of the Source Code prepared by Licensee which includes the Source Code, or portions thereof.

## 2.4 Program

"Program" means object code or binary versions of the Modified Code or Source Code.

## 2.5 Product

"Product" means the products designed or manufactured by Licensor for use in conjunction with Licensee's products and the Programs.

## 2.6 Updates

"Updates" mean bug corrections or fixes, patches, workarounds or other changes made by Licensor to the Source Code.

## 2.7 Release

"Release" means a new version of the Source Code which includes enhancements to capabilities or performance.

# 3 License

## 3.1 License Grant

Licensor grants to Licensee only, and not to any parent, subsidiary, affiliate or other division of Licensee, and Licensee accepts a non-exclusive, non-transferable, non-sublicenseable license (a) to use internally, modify, compile or otherwise create Modified Code which is derivative with respect to the Source Code, (b) to make, copy and

**duagon Germany GmbH**

Neuwieder Straße 1-7  
90411 Nürnberg  
Germany

**Phone** +49 911/99 33 5 - 0

**Fax** +49 911/99 33 5 - 901

**E-Mail** [info@duagon.com](mailto:info@duagon.com)

**www.duagon.com**

distribute Object Code for use solely in conjunction with products which incorporate the Products, and (c) to sublicense the distribution rights granted in (b) above.

**duagon Germany GmbH**

Neuwieder Straße 1–7  
90411 Nürnberg  
Germany

**Phone** +49 911/ 99 33 5 - 0  
**Fax** +49 911/ 99 33 5 - 901  
**E-Mail** info@duagon.com  
**www.duagon.com**

### 3.2 Required Provisions of Sublicenses

Each sublicense granted by Licensee must be (a) in the form of a written agreement and shall expressly prohibit any reverse engineering, reverse compiling or otherwise deriving source code from the Programs and (b) contain provisions which are at least as protective of Licensor, the Confidential Information and Licensor's intellectual property rights as contained in this Agreement.

### 3.3 Updates and Releases

The license granted herein shall be deemed to include and extend to any Updates and Releases to the Source Code or Object Code which Licensor may, at its sole option, choose to provide to Licensee.

### 3.4 No Other Rights

Licensee agrees not to make the Source Code, the Object Code, Modified Code, Programs or Documentation available to any unauthorized third parties in any manner and not to use the Source Code, Object Code, Modified Code, Programs or documentation for any purpose other than as specified in this Agreement. Subject to the license granted herein, Licensor owns all right, title and interest in and to the Source Code and the Object Code and all copies and derivations thereof.

## 4 Ordering and Delivery

Subsequent to execution of this Agreement by authorized representatives of the parties, Licensor will promptly deliver to Licensee a copy of the Source Code or Object Code and – if necessary and at his own discretion - related documentation, or will permit the Licensee to download from the Licensor's website. All orders for Source Code or Object Code shall be subject to the terms and conditions of this Agreement. Purchase orders shall be utilized solely for ordering purposes and delivery, payment or any inaction by Licensor shall not constitute Licensor's consent to or acceptance of any terms not found in this Agreement. Licensor shall not be bound by terms additional to or different from those in this Agreement that may appear in any other communications from Licensee unless such

terms are expressly agreed to in a writing signed by an authorized representative of Licensor. Acceptance of a purchase order shall only be effective upon Licensor's issuance of an order acknowledgment form to Licensee.

**duagon Germany GmbH**

Neuwieder Straße 1-7  
90411 Nürnberg  
Germany

**Phone** +49 911/99 33 5 - 0

**Fax** +49 911/99 33 5 - 901

**E-Mail** [info@duagon.com](mailto:info@duagon.com)

**www.duagon.com**

## 5 Maintenance Services

The license granted herein does not include maintenance services. This License Agreement does not create the obligation for the Licensor to provide Updates or Releases to the Licensee, or to provide software support services to the Licensee. Updates and Releases to the Source Code or Object Code, which Licensor may develop from time to time, may be provided to Licensee, at the Licensor's sole option.

## 6 Charges/Price Changes

All applicable license fees and charges payable under this Agreement are specified in the then valid price list of the Licensor. All fees and charges shall be due net 30 days from date of invoice. Licensee is responsible for all taxes, duties, assessments, permits and fees, however designated, which are levied upon this Agreement.

## 7 Confidentiality

Licensee acknowledges that Licensor considers Source Code or Object Code and related documentation to be a trade secret. Licensee agrees to maintain the Source Code, Object Code, Modified Code and related documentation with at least the same degree of care that the Licensee uses to protect its own similar confidential information but no less than a reasonable degree of care.

### 7.1 Scope of Use

Licensee acknowledges and agrees that the Confidential Information furnished to Licensee shall be used solely for the purposes of this Agreement, and solely in conjunction with the Products, whether provided by Licensor or an authorized provider of the Products.

## 7.2 Restrictions

Licensee agrees to limit access to Source Code and Object Code only to those employees of Licensee having a specific need to access the Source Code or Object Code. Licensee will instruct each such employee of their obligations with respect to use, copying, protection and security of Source Code or Object Code. Notwithstanding the earlier termination of this Agreement, the obligations relating to confidentiality are to remain in effect until such time as the Source Code or Object Code becomes publicly known, through no act or failure to act on Licensee's part. Licensee will not permit Licensee's contractors, subcontractors or agents access to the Source Code or Object Code without the express written consent by Licensor to Licensee.

### duagon Germany GmbH

Neuwieder Straße 1-7  
90411 Nürnberg  
Germany

**Phone** +49 911/99 33 5 - 0  
**Fax** +49 911/99 33 5 - 901  
**E-Mail** info@duagon.com  
**www.duagon.com**

## 8 Ownership and Copyright

Title to the Source Code, Object Code, related documentation, all copies thereof and derivative works remains with Licensor. Licensee will not remove the copyright notices from the Source Code or Object Code. Licensee agrees to use its best reasonable efforts to prevent any unauthorized copying of the Source Code, Object Code and Modified Code.

## 9 Warranty

Licensor warrants that it has the right to grant to Licensee the license to use the Source Code and Object Code as described herein. The Source Code, Object Code and Confidential Information are provided "as is". Licensor hereby disclaims all other warranties, express, implied, or otherwise, including but not limited to any implied warranties of merchantability and fitness for a particular purpose.

## 10 Limitation of Liability

Licensor's liability to Licensee for loss or damage from any cause whatsoever, regardless of the form of action, whether in contract, tort or under any statute, including negligence and strict liability, shall be limited to the license fee paid by Licensee to Licensor. In no event shall Licensor be liable for any indirect, incidental, special or consequential damages, including loss of profits, loss of data, loss of use or interruptions of business arising out of this agreement or otherwise, even if advised of the possibility of such damages.

## 11 Injunctive Relief

Licensee acknowledges that in the event of a breach by Licensee of any of the provisions hereof Licensor will not have an adequate remedy at law. Licensor shall therefore be entitled to seek injunctive relief against any such breach by Licensee in any court of competent jurisdiction. Licensor's rights hereunder shall not in any way be construed to limit or restrict its right to seek or obtain other damages or relief under this Agreement or under applicable law.

**duagon Germany GmbH**

Neuwieder Straße 1-7  
90411 Nürnberg  
Germany

**Phone** +49 911/ 99 33 5 - 0

**Fax** +49 911/ 99 33 5 - 901

**E-Mail** info@duagon.com

**www.duagon.com**

## 12 Termination of License

### 12.1 Nonpayment

Licensor shall have the right to terminate this Agreement if Licensee fails to pay Licensor the amounts due under this Agreement within 30 days following Licensor's notice to Licensee of any deficiency. Upon receipt of such notice, Licensee shall cease all development of Modified Code and distribution of Programs and return all Source Code and Object Code, including any copies and related documentation, to Licensor.

### 12.2 Breach

Licensor may terminate this license at any time if Licensee is in breach of any of its terms and conditions. Upon termination for breach, except as provided below, Licensee will immediately cease to use the Source Code and Object Code, return all copies of the Source Code, Object Code and related documentation to Licensor, and shall cease all development and support of Modified Code and Programs.

### 12.3 Rights Upon Termination

If this Agreement is terminated for reasons other than a breach by Licensee, Licensee may continue its use of one copy of the Source Code or Object Code then in Licensee's possession only for the purpose of continuing to provide support for end-user sublicenses granted prior to termination. Licensee may not generate Modified Code or Programs.

## 13 General Provisions

### 13.1 Severability

If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions shall in no way be affected or impaired thereby.

### 13.2 No Assignment

Licensee will not assign its rights or obligations hereunder without the prior written consent of the Licensor. Any such attempted assignment shall be void.

### 13.3 Governing Law

The rights and obligations of the Licensee and the Licensor shall be governed by and construed in accordance with the laws of the Federal Republic of Germany. Court of jurisdiction is Nuremberg, Germany.

### 13.4 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous written or oral proposals, negotiations and agreements pertaining to such subject matter. This Agreement may be extended or amended only by a written instrument signed by authorized representatives of both parties.

**duagon Germany GmbH**

Neuwieder Straße 1-7  
90411 Nürnberg  
Germany

**Phone** +49 911/99 33 5 - 0  
**Fax** +49 911/99 33 5 - 901  
**E-Mail** info@duagon.com  
**www.duagon.com**