

Empowering businesses to **increase value** through actionable intelligence, delivered **in real-time, anywhere.**

## **ControlMaestro™**

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### **INTEGRATOR LICENSE AGREEMENT FOR ELUTIONS' SOFTWARE**

**IMPORTANT — READ CAREFULLY:**

Reserved for ControlMaestro Integrators and Developers.

If You want to acquire a simple right to use the Software Product, please refer to document named END-USER LICENSE AGREEMENT or contact ELUTIONS.

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Your rights conceded on Software Product are specified in this Agreement, and ELUTIONS retains all rights not expressly granted to You in this agreement.

## 1. DEFINITIONS

- "Equipments" means the accessory equipment installed by ELUTIONS in order to supply the needed data to "Software PRODUCT"
- "Development Authentication Dongle" means any ELUTIONS hardware accessory such as a USB-based token which is necessary to execute, to use the Product Software and to benefit of the specifics authorizations and rights of integration given by this License
- "Usage Authentication Dongle" means the ELUTIONS hardware accessory such as a USB-based token, which is necessary to execute and use the Product Software as an End-User.
- "Software Update" means any minor Software revision to the Software Product or bug fixes (i.e. providing slight functional improvements) generally made available by ELUTIONS in its sole discretion and implying a modification of the second figure of the number of version (*example* :1.3 => 1.4).
- "Software Upgrade" means any major revision to the Software Product (i.e., providing significantly new functionality) generally made available by ELUTIONS in its sole discretion and implying a modification of the first figure of the number of version (*example*:1.8 => 2.0)..
- "Term" means the term of each license as defined in Section 7.
- "End-User" means the client of the Licensee (individual or company employing the User) which use its Application.
- "End-User License" means the right for your End-User to execute your Application on one computer or machine.
- "User" means a single individual; employee of the licensee, who utilizes the Software Product.
- "Order" means the commercial document detailing the type and the number of Software Product licences You bought, and the current version of the Software Product
- "Application". means a software file that Licensee has created by concurrently (a) linking new modules supplying new or improved functionalities and (b) incorporating or linking the Software Product.

## 2. FEES

You agree to pay ELUTIONS in the amount and for the number of Licenses and Development Authentication Dongle, as set forth on the Order submitted by You and accepted by ELUTIONS.

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Payment of the License Fee entitles You to benefit of the rights conceded in this License.

### 3. RIGHTS

#### 3.1. Right of use for internal operations:

The Payment of the Licence grants You the following world-wide and nonexclusive rights:

- a. to use the Software Product
- b. to install the Software Product in executable form only, on a reasonable number of computers provided that the Software Product is used or executed only by as many concurrent Users at any given time period as You have concurrent Licences and Development Authentication Dongle activated;
- c. to benefit of as many Development Authentication Dongle as You have concurrent licences activated and paid;
- d. to make reasonable number of copies of the Software Product to backup devices such as hard disks provided that You reproduce all the copyright, trademark and other proprietary notices which appear on or in the Software Product. The copy is subject to the terms of the present contract. You may use copy only to reinstall the Software Product;
- e. to use, reproduce, demonstrate, the Software Product documentation, royalty-free, in any form, on any media, but only for your internal use;

#### 3.2. Rights of integration and sublicense

**Rights of integration.** Subject to the terms and conditions of this section, including the restrictions of Sections 4 and 5, ELUTIONS grants you the personal, nonexclusive, non-transferable, and limited right :

- a. to supply any kind of services in respect with to your Application;
- b. to create Applications under the following conditions set forth below;
- c. to make exact copies of the Software Product and distribute those copies solely in conjunction with your work, solely as required for permitting End-Users of the Applications to install and execute the Applications;
- d. to sublicense to your End Users the personal, nonexclusive, non-transferable right to install and execute the Software Product, without modification, solely as components of your Application;
- e. to distribute, sell, rent, edit, publish, transmit and communicate your Application, within your own license agreement, to any public on any or all medium, and by any or all means, and the right to market, either in consideration of a fee, or free of charge, one or more copies of the Application by any means.
- f. to distribute one (1) Usage Authentication Dongle with each of your End-User License.

Such rights are conditioned upon compliance with restrictions set forth below in Sections 4 and 5.

**Usage Authentication Dongle.** For each license of your Application You concede to an End-User You must obtain from ELUTIONS a corresponding Usage Authentication Dongle. *Each* Usage Authentication Dongle must be activated directly by each End-User. ELUTIONS will supply you, the required quantity of Usage Authentication Dongles as set forth on the Order submitted by You. Your Order will be booked provided that You pay the corresponding amount in the same time You realise your order.

**Copyright.** All copies of the Application you create and any commercial support or packaging must bear a valid ELUTIONS copyright notice mentioning: "Powered by ControlMaestro - Copyright © 2010- ELUTIONS".

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### 4. INTERDICTIONS

#### 4.1. General interdictions

This Licence does not authorize You to:

- a. Modify the Software Product in order to correct bugs and errors without the prior consent of ELUTIONS;
- b. Translate, reverse-engineer, decompile, disassemble partially or completely the Software Product, except if such activity comply with the conditions of the article 122-6-1 of the French intellectual property code. If interoperability problems between the Software and other computer programs are encountered, You accept to inform ELUTIONS and study with this latter the possible solutions;
- c. Remove or alter any Software Product identification, proprietary notice, labels or trademarks which appears on or in the Software Product;
- d. Disclose, distribute, Republish, market, publicly display, and demonstrate all or part of the Software Product documentation, modified or not, neither with nor without consideration to any third-party;
- e. Open the Development Authentication Dongle and Usage Authentication Dongle or attempt to duplicate it in any way;
- f. Lease, rent or loan the Development Authentication Dongle to any third party;
- g. Allow third parties to access or use the Development Authentication Dongle such as in a time-sharing arrangement;
- h. Try or succeed in bypassing the hardware protection constituted by Usage or Development Authentication Dongles;
- i. Distribute more than one (1) Usage Authentication Dongle for one (1) End-User License.
- j. Sublicense, distribute or otherwise transfer the Software Product or any component thereof to any third-party except as expressly authorized in this agreement;
- k. Sublicense, distribute or otherwise transfer the rights conceded to You in section 3.2 of this agreement;
- l. Reproduce or use the Software Product except as expressly authorized under this Section;
- m. Sell, license, sublicense, publish, display, distribute, disseminate, assign, or otherwise transfer (whether by sale, exchange, lease, gift, or otherwise) to a third-party the Software Product, any copy or portion thereof, or any License or other rights thereto, in whole or in part, without ELUTIONS prior written consent, except as expressly permitted by this Agreement in Section 3.2;
- n. Use ELUTIONS name, trade names, logos, or other trademarks of ELUTIONS or any of its Affiliates or Licensors in any advertising, promotional literature or any other material, whether in written, electronic, or other form, distributed to any third-party, except in the form provided by ELUTIONS, and then solely for purposes of identifying ELUTIONS Software Product;

#### **4.2. Specific obligations**

The Application shall be accompanied by an Application License whose terms and conditions:

- a) oblige each End-User to proceed to the activation of each license on the following URL :  
<http://activation.elutions-europe.com>;
- b) Protect Software Product at least in same conditions and with same restrictions that the End-User Licence Agreement of ELUTIONS in its last version.

The Application License must explicitly exclude ELUTIONS from all liability for damages or any obligation to provide remedial actions. In no circumstance shall you include a warranty for any form of the Product Software as a part of your Application that is inconsistent with or additional to the limitation of warranty contained in this License.

#### **5. RESTRICTIONS**

THIS NONEXCLUSIVE LICENSE IS BOUND TO YOU AND CAN NOT BE SOLD NOR TRANSFERRED TO A THIRD-PARTY WITHOUT THE PRIOR AUTHORISATION OF ELUTIONS. In consequence You may not transfer the Software Product neither with nor without consideration. Except if expressly authorized by ELUTIONS in a separated agreement, You agree not to permit any third-party to use the Software Product in any form, and to use all reasonable efforts to ensure that no unauthorized use of the Software Product is made. You may not permit third-parties to benefit from the use or functionality of the Software Product via a timesharing, or other arrangement.

#### **6. TERM**

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The term of this license shall commence on the date of activation of each Development Authentication Dongle for a period in accordance with the French law about the software protection.

## **7. PAYMENT**

Fees for the acquisition and exploitation of the Licenses chosen are billed upon ELUTIONS's receipt of the signed Order.

## **8. RESPONSIBILITY**

ELUTIONS guarantees You against all counterfeiting lawsuits that could be brought against You, because of the possession and/or the use of the Software Product, at the only condition that You had informed ELUTIONS, within eight (8) days, about the summon and had ensured ELUTIONS the free right to defend itself.

You will have and keep the control of the use of the Software Product installed on each computer. This is the reason why You engage your own and only responsibility about the exploitations of the results from the use of the Software Product. You recognise that ELUTIONS will have no responsibility towards You or a third-party, for any damage that could result from the direct or indirect use of the Software Product, excepted counterfeiting actions.

Moreover, ELUTIONS does not warrant that the operation of the Software Product will be uninterrupted, or error-free.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ELUTIONS NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE PRODUCTION BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF DATA, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE PROGRAM, EVEN IF ELUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME LAW AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

In any cases, the financial liability of ELUTIONS for damages of any kind whatever relating shall be limited to the total amount paid to ELUTIONS under this agreement.

## **9. CASES OF ABSOLUTE NECESSITY**

ELUTIONS and You will be exempted from charges and responsibilities if the execution of the present agreement, and particularly the installation of the Software Product on your computer, was delayed or impossible in case of absolute necessity, including but not limited to riots, storms, strikes, fires, acts of God...

## **10. TERMINATION**

If You fail to comply with any provision of this agreement, this license and your right to use the Software Product automatically terminate. This termination does not prevent ELUTIONS from claiming any further damages. Upon the termination or expiration of the Agreement, whatever the grounds may be, You shall make any payment that has accrued up to the date of termination, stop immediately using the Software Product and send back any Equipment, Development Authentication Dongle, non-distributed Usage Authentication Dongle to ELUTIONS.

## **11. GOVERNING LAW**

This License is governed by the laws of France.

Every dispute between both parties about the interpretation or/and the execution of this contract, that could not reach an amicable arrangement, will be brought to the competent court of LYON, FRANCE which has the full competence, wherever the Software Product or the defendant is.

Should You have any questions concerning this Licence please contact ELUTIONS SAS, Le Quatuor, 14 avenue Tony Garnier, France (European Union).

## **12. MISCELLANEOUS PROVISIONS**

If any provision of this agreement is held to be unenforceable upon a definite legal, statutory or judicial provision, the remainder of this agreement shall continue in full force and effect.

## **13. WARRANTY**

**13.1.** Development Authentication Dongle. ELUTIONS warrants for one year each Development Authentication Dongle will be free from defects in materials and workmanship under normal use and service for the period of validity of this License. ELUTIONS's sole and exclusive obligation, and your sole and exclusive compensation, for breach of the foregoing warranty will be, at ELUTIONS's option, to (i) repair the defective Development Authentication Dongle to correct the defect; (ii) replace the defective Development Authentication Dongle. Unless otherwise authorized by ELUTIONS, shipping, handling, duty and insurance costs for returns will be paid by you.

The replacement of a defective Development Authentication Dongle is supplied at no additional charge.

**13.2.** Usage Authentication Dongle. ELUTIONS warrants for one year each Usage Authentication Dongle will be free from defects in materials and workmanship under normal use and service for the period of validity of this License. ELUTIONS's sole and exclusive obligation, and your sole and exclusive compensation, for breach of the foregoing warranty will be, at ELUTIONS's option, to (i) repair the defective Usage Authentication Dongle to correct the defect; (ii) replace the defective Usage Authentication Dongle. Unless otherwise authorized by ELUTIONS, shipping, handling, duty and insurance costs for returns will be paid by you.

The replacement of a defective Usage Authentication Dongle is supplied at no additional charge. Otherwise, once the delay of the contractual warranty of one year expired, the cost of the replacement will be at your only charge.

**13.3.** ELUTIONS warrants the conformity of the Software Product with technical characteristics described by ELUTIONS during ninety (90) days from the date of receipt. Some states and jurisdictions do not allow limitations on duration of an implied warranty, so the above limitation may not apply to You.

ELUTIONS will, at its own expense and as its sole obligation and your exclusive compensation for any breach of this warranty, use commercially reasonable efforts to correct any reproducible error You report to ELUTIONS during the warranty period, either by providing You with a modified version of the Software Product that eliminates the error, or by instructing You in methods of operating the Software Product that eliminate the practical adverse effect of the error. Any such error correction provided to You will not extend the original warranty period.

If ELUTIONS determines that it is unable to correct the error, ELUTIONS will refund You all license fees You actually paid for the Software Product, in which case this agreement and your right to use the Software Product will terminate. This limited warranty is void if the defect has resulted from accident, abuse, misuse, or unauthorized modification of the Software Product or use of the Software Product in connection with other products, equipment, or software not supplied nor validated by ELUTIONS.

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**15. COMPLIANCE WITH LAW**

In case of import, You agree that You will comply with all local tax and customs laws, regulations and codes of your country in the performance of this agreement. You will pay the corresponding taxes.

**16. U.S. GOVERNMENT RESTRICTED RIGHTS**

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