

RCDevs SpanKey Enterprise Perpetual Software License Agreement

Version 1.1 (effective from May 2018)

This RCDevs SpanKey Enterprise Perpetual Software License Agreement (“Agreement”) executed by and between RCDevs SA having his principal place of business at 1 Avenue du Blues, L-4368, Belvaux, Luxembourg (“RCDevs”) and the Licensee entitles the Licensee to use the Software defined in clause 1 below, regardless of the means of transmission or delivery, subject to the terms and conditions mentioned below.

RCDevs and the Licensee are here below collectively and individually referred to as the “Parties” or “Party”.

Licensee may contact RCDevs Sales Department at:

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RCDevs SA

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Preamble

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Definitions

“Error” or “Errors” means that the Software when used in the operating environment and otherwise according to the instructions of RCDevs, does not operate materially in essential parts as defined in Software Documentation. The defects or non-conformities causing minor and trivial deviations there from are not considered as errors.

“Fix” or “Fixes” means the repair or replacement of object or executable code versions of the Software to remedy an Error.

“Update” or “Updates” shall mean a minor release of the Software consisting primarily of bug fixes and Error corrections. Updates do not include new or additional functionality.

“New Version” or “New Versions” shall mean a release of the Software including new or additional functionalities.

"Concurrent Clients" shall mean the number of client hosts which are able to use the Software functionalities at the same time.

“Server” or “Servers” shall mean one or several single user computers and/or network servers having the Software installed and running.

“Licensee” is the person or the company to whom the license is granted.

IMPORTANT: READ CAREFULLY: By using, installing or copying the Software the Licensee fully accepts the present Agreement. If the Licensee does not agree, he shall not install and use the Software.

1. Software

The Software in this Agreement ("Software") shall mean (i) RCDevs SpanKey Server ("SpanKeyServer"), RCDevs SpanKey Client ("SpanKeyClient"), Web-Based LDAP Administrator ("WebADM"), User Self-Service Desk ("SelfDesk") and Token Self-Registration ("SelfReg") with which the Agreement is provided, (ii) any explaining materials and any documentation related to the Software including, without limitation, any description of the Software, its specification, description of properties, description of control, description of interface in which the Software is used, a manual or installation handbook of the Software or any description of the correct use of the Software ("Documentation"), (iii) copies of the Software, Fix of Errors, if any, of the Software, additions to the Software, extensions of the Software, modified versions of the Software, Updates and New Versions of the Software, if supplied, in respect of which RCDevs grants the License pursuant to clause 3 below ("License"). RCDevs shall supply the Software only in the form of executable code.

2. Installation

The Software requires installation. The Licensee must install the Software on a correctly configured Server complying with requirements set out in the Documentation. The manner of installation is specified in the Documentation. No computer programs, applications and the like or hardware which could unfavorably affect the Software may be installed on the Server on which the Software is installed.

3. License

Provided that the Licensee has discharged his obligations hereunder, including by paying the License Fee referred to in clause 10 when due and payable (as per the relevant invoice for the Software License ("Invoice")), RCDevs grants the Licensee a non-transferable and non-exclusive license to use the Software on (i) a limited number of Servers as specified in the Invoice (the "Maximum Servers") and (ii) for a limited number of Concurrent Clients as specified in the Invoice (the "Maximum Concurrent Clients").

The Licensee may install and use the Software for his internal purposes and for an unlimited period. The Software License is provided by RCDevs with one or several computer license files. The use of the Software is permitted only for the Server or Servers which network addresses have been included by RCDevs in the relevant license file(s). The Licensee may also make copies of the Software for backup and disaster recovery purposes.

Installation of Fixes, Updates, security corrections and New Versions for the Software is provided and only possible with the subscription to the RCDevs' Software support and maintenance services which is available from RCDevs in a separated agreement.

4. Obligations and Restrictions on License

The License is subject to the following obligations and restrictions:

- a. The Licensee shall use the Software only with the authorized Server or Servers, which network addresses have been included in the relevant license file(s). The provided license file(s) may not be shared by alternating use of the Software between different Servers.
- b. The Licensee is expressly prohibited from sub-licensing, selling, renting, leasing or otherwise distributing the Software to third parties or using the Software to develop any derivative work or similar application.
- c. The Licensee shall use the Software only in the manner which is in accordance with all applicable legal regulations in the laws under which he uses the Software including, without limitation, in accordance with applicable limitations arising from copyright laws and other intellectual property rights.
- d. The Licensee shall not use, modify, interpret, reproduce or transfer his rights to use the Software or copies of the Software in any manner other than as expressly provided for in this Agreement.
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- g. The Licensee shall not obscure, alter or remove any patent, copyright or trademark marking or legend contained on or in any Software or any associated medium or Documentation.
- h. The Licensee shall not permit or authorize any person to do or attempt to do anything with respect to the Software that he cannot do himself under this Agreement.

The Licensee shall use his best efforts to promptly notify RCDevs upon learning of any violation of the above restrictions.

5. Intellectual Property Ownership, Reservation of Rights

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6. Commencement and End of the Agreement

This Agreement enters into force at the date written in the Invoice (the “Effective Date”). This Agreement is not limited in time.

The Licensee’s rights shall automatically and immediately extinguish without any prior notice from RCDevs if he fails to comply with the provision of this Agreement.

This Agreement may be terminated by either party if the other party is in material breach of any term or condition of this Agreement and such breach is not remedied for a period of thirty (30) days after the party in breach has been notified in writing of such breach by the other party.

Upon termination of the Agreement for any reason, the limited right to use the Software granted to Licensee under this Agreement will immediately terminate and the Licensee has no further right to use the software in any way. The Licensee shall immediately desinstall, delete, destroy or return at his own costs the Software, all back-up copies, if any, and all related materials to RCDevs.

7. LIMITED WARRANTY AND DISCLAIMER

7.1. Limited Warranty. RCDevs warrants that, starting at the Effective Date, and for a period of sixty (60) days thereafter (“Warranty Period”), the Software licensed hereunder (including Updates or Fixes provided within the Warranty Period for the remainder of the Warranty Period) will perform substantially in accordance with the Documentation.

7.2. Exclusive Remedy. In case of any breach of the above limited warranty, RCDevs will (i) repair or replace the Software or (ii) if such repair or replacement would in RCDevs’ opinion be commercially unreasonable, refund the price paid by Customer for the applicable Software.

7.3. Exclusion of Warranty. The above Limited Warranty will not apply if: (i) the Software is not used in accordance with this Agreement or the Documentation; (ii) the Software or any part thereof has been modified by any entity other than RCDevs; or (iii) a malfunction in the Software has been caused by any equipment or Software not supplied by RCDevs.

7.4 Disclaimer of warranties.

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THE LICENSEE ACKNOWLEDGES AND AGREES THAT AS SET OUT IN CLAUSES 2 ABOVE, INSTALLATION OF THE SOFTWARE MAY AFFECT THE OPERATION OF THE EQUIPMENT ON WHICH IT IS INSTALLED.

8. No Further Obligations

This Agreement imposes no obligations on RCDevs except for the obligations specifically listed in this Agreement. RCDevs shall have no obligation to provide any consultancy and training. Except as set forth in Article 7, RCDevs shall have no obligation to provide any support, maintenance, corrections, bug fixes, security corrections, upgrades or new releases for the Software. Those are subject matter of the RCDevs SpanKey Enterprise Software Support and Maintenance Agreement.

The Licensee acknowledges and agrees that this Agreement does not include any support or maintenance terms. The Software support and maintenance services will be delivered according to RCDevs' Software support and maintenance terms, which are available from RCDevs in a separated agreement.

9. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS, IN NO EVENT SHALL RCDEVES, HIS OFFICERS, EMPLOYEES AND/OR LICENSE PROVIDERS BE HELD LIABLE FOR ANY LOST PROFIT, REVENUE, SAVINGS OR SALES, OR FOR ANY LOSS OF DATA, OR FOR COSTS EXPENDED TO PROCURE SPARE GOODS OR SERVICES, FOR PROPERTY DAMAGE, PERSONAL DAMAGE, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL,

ECONOMIC, COVERING, CRIMINAL, SPECIAL OR CONSEQUENTIAL DAMAGE, CAUSED IN ANY MANNER WHATSOEVER, WHETHER ARISING FROM A CONTRACT, NEGLIGENCE OR OTHER FACT ESTABLISHING THE OCCURRENCE OF LIABILITY, INCURRED DUE TO THE USE OF OR IMPOSSIBILITY TO USE THE SOFTWARE, EVEN IN THE EVENT THAT RCDEVs OR HIS LICENSE PROVIDERS HAVE BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE. BECAUSE CERTAIN JURISDICTIONS AND CERTAIN LAWS DO NOT PERMIT THE EXCLUSION OF LIABILITY BUT MAY ALLOW THE LIMITATION OF LIABILITY, THE LIABILITY OF RCDEVs, HIS OFFICERS, HIS EMPLOYEES AND/OR LICENSE PROVIDERS IN SUCH CIRCUMSTANCES SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO 5.000 EUROS.

No provision of this Agreement shall affect the rights of such a Party for which the law recognizes the rights and position of a consumer. RCDevs on his own behalf, on behalf of his officers, employees and on behalf of his license providers shall act for the purpose of refusal, exclusion or limitation of the obligations, liability and warranties as set out in clause 9, except for any other purpose or in any other matters.

10. License Fee and Payment Terms

The Software is licensed not sold. A License Fee for the Software shall be specified in the relevant Invoice for the Software License (the "License Fee") which shall make reference to the Maximum Servers and Maximum Concurrent Clients for which the Software is designated. Upon due payment of the License Fee, the Licensee shall become entitled to use the Software in accordance with the terms and conditions of this Agreement for an unlimited period of time. By paying the License Fee, Licensee agrees to be bound by the terms and conditions of the present Agreement. Unless another due/maturity date is specified in the Invoice issued by RCDevs or its designee, the License Fee shall be due upon delivery of the Software. The Licensee shall be liable for the fulfillment of tax and duty charges related to the provision of the License for the Software stipulated by applicable law, except for income taxes of RCDevs. If the License Fee is not paid by the due/maturity date, the License for the Software shall be automatically revoked and the Licensee shall pay all costs connected with the recovery of a receivable due, including attorney fees and court fees (on an attorney-own-client scale). The obligation to pay the License Fee shall not apply to the Software provided as NFR or a trial version or to Software otherwise distributed without charge. The Software License Fee does not include the support and maintenance services for the Software.

In the event that the Licensee needs to use the Software on more Servers or exceeds the number of Maximum Concurrent Clients licensed, the Licensee agrees to request from RCDevs and pay for the required additional Servers and/or Concurrent Clients.

In the event that RCDevs discovers that the Licensee uses the Software in a way that exceeds the number of Maximum Servers or Maximum Concurrent Clients licensed, RCDevs shall revoke this Agreement and/or seek any other legal remedies to which it is entitled.

11. NFR and Trial Version

The Licensee may use the Software supplied as NFR or trial version exclusively for verifying and testing the Software features. He may also use the NFR Software for demonstration purposes.

12. Organization and End User Data on End User and Protection of Rights

The Licensee agrees that RCDevs may check, by his own means, whether the Licensee is using the Software in accordance with the provisions of this Agreement. The Licensee hereby authorizes RCDevs to access the Software data so that RCDevs can identify the Licensee and those end-users and Servers for which the Software is designated and licensed. THE LICENSEE ACKNOWLEDGES AND AGREES THAT ANY INFORMATION, INCLUDING PERSONAL DATA (IN RESPECT OF THE LICENSEE AND THE END USERS), PROVIDED TO RCDEVES MAY BE MAINTAINED AND PROCESSED UNDER LUXEMBOURG JURISDICTION.

13. Compliance

The Licensee shall comply with all applicable laws in connection with the Software. Without limiting the foregoing, the Software, the Documentation or parts thereof, including the information about the Software and parts thereof, shall be subject to the measures on monitoring of imports and exports under legal regulations which may be issued by the governments competent for the issuance thereof under applicable law. The Licensee agrees to strictly comply with all applicable import and export regulations and acknowledges that he shall be held liable for the obtaining of licenses for export, re-export, transfer or import of the Software.

14. Applicable Law

This Agreement shall be governed by and construed in accordance with the Luxembourg law. The Licensee expressly agrees that exclusive jurisdiction for any claim or dispute with RCDevs or relating in any way to his use of the Software resides in Luxembourg and he further agrees and expressly consents to the exercise of the personal jurisdiction in courts of competent jurisdiction in Luxembourg in connection with any such dispute or claim.

15. General Provisions

If any provision of this Agreement is invalid or unenforceable, this shall not affect the validity of the remaining provisions of the Agreement. Those shall remain valid and enforceable under the terms and conditions stipulated herein.

This Agreement between the Licensee and RCDevs represents the single and entire Agreement applying to the Software and completely supersedes any prior agreement, license, representations, negotiations, obligations, reports, or advertisement of information related to the Software.

The Parties undertake obligations, that any and all business and other facts, information, solutions or data which are characteristic to one or both of the Parties and of which disclosure to the public or of which acquisition or use by unauthorized persons are likely to hurt or imperil the rightful financial, economic or market interests of the Parties - provided the given Party has taken all of the necessary steps to keep such information confidential - shall be treated as business secret by the Parties and none of the Parties are authorized to release business secrets to third parties.

16. Confidentiality

The Parties undertake obligations, that any and all business and other facts, information, solutions or data which are characteristic to one or both of the Parties and of which disclosure to the public or of which acquisition or use by unauthorized persons are likely to hurt or imperil the rightful financial, economic or market interests of the Parties - provided the given Party has taken all of the necessary steps to keep such information confidential - shall be treated as business secret by the Parties and none of the Parties are authorized to release business secrets to third parties.

During the term of this Agreement, RCDevs will collect some personal data such as the name, electronic email and address of some representatives of Licensee as required by law or for legitimate business purposes and in compliance with the EU General Data Privacy Regulation coming into force May 25, 2018. Licensee expressly consents to the collection and processing of such information by RCDevs. This information will not be transferred to any third party or processed by RCDevs for any other purposes than the ones for which the data was initially collected. In accordance to the law, RCDevs will delete this data in a reasonable delay after the end of any business relationship with the Licensee and will only retain the data as long as necessary for the provision of services to the Licensee under this Agreement or as otherwise required by law. Any person concerned by such private data collection can contact RCDevs anytime at privacy@rcdevs.com to access, modify or delete one's information.

17. Amendments to this Agreement

We may at any time amend, delete or add to this Agreement (a "Change") by giving notice of such Change by posting a revised version of this Agreement on the RCDevs website. A Change will be made unilaterally by us and you will be deemed to have accepted the Change after you have received notice of it. We will give you 2 months' notice of any Change with the Change taking effect once the 2 month notice period has passed, except the 2 month notice period will not apply where a Change is required by law or relates to the addition of a new service, extra functionality to the existing Service or any other change which neither reduces your rights nor increases your responsibilities. In such instances, the Change will be made without prior notice to you and shall be effective immediately.