

Licensing Terms for Grant of Rights to Use ASAM Products

Preamble

Verein zur Förderung der internationalen Standardisierung von Automatisierungs- und Meßsystemen (ASAM) e.V. (hereinafter: ASAM) distributes the following products: standards, source code and tools, the use of which is subject to these licensing terms (see <http://www.asam.net/license.html>).

ASAM products, including all components thereof, constitute intellectual property belonging to ASAM e.V. and protected by copyright law.

The below licensing terms govern the grant of rights to use ASAM products. Enterprises are free to acquire the licenses to use ASAM products described in detail below as purchasers or by becoming ASAM members.

§ 1 Definitions

(1) “ASAM products” for purposes of these licensing terms are standards, source code and tools.

(a) “Standards” refer to specifications that ASAM adopted as public standards and may contain the following components: standard documents, schemata, models, interface-definition files, sample code, source code and other files;

(b) “source code” refer to text written in a formal programming language in a file and may be imported, interpreted, translated or executed by computer programs. Source code further encompasses such files as may be needed for the above-referenced tasks of the computer programs, including configuration- or Make-files;

“marked files” refer to source code files that ASAM marks as follows in the source code’s header:

This file is distributable in accordance with the ASAM license terms.

See www.asam.net/license.html for further details;

(c) “tools” refer to programs that may be installed and executed on a user’s computer system.

(2) “Licensor” refers to Verein zur Förderung der internationalen Standardisierung von Automatisierungs- und Meßsystemen (ASAM) e.V., Altlaufstr. 40, 85635 Höhenkirchen, Germany.

(3) “Licensee” for purposes of these licensing terms refers to members, purchasers, the research and education communities as well as other licensees.

(a) “Members” refer to the Licensor’s members, including their respective governing bodies, legal representatives and staff, but excluding external staff such as temps and freelancers;

(b) “purchasers” refer to the buyers of ASAM Products, including their respective governing bodies, legal representatives and staff, but excluding external staff such as temps and freelancers;

(c) “research and education communities” refer to colleges and universities as well as research-related institutions that use ASAM products exclusively for non-commercial purposes in the context of research and education;

(d) “other licensees” refer to such licensees that meet none of the above definitions, including but not limited to licensees who received sublicenses from members or purchasers.

(4) “List of known issues” refers to the list published by the licensor for each standard, which contains errors, lack of clarity, ambiguities or contradictions of ASAM products (see <http://www.asam.net/license.html>).

§ 2 Granting of rights of use / sharing and processing

(1) The licensor grants the various licensees listed under § 1 para. 3 a basic, non-exclusive and unlimited license to use ASAM products subject to the following paragraphs:

(a) Members and purchasers are entitled to use ASAM products for internal and/or commercial purposes.

(b) The research and education communities must not use ASAM products for commercial purposes.

(c) Other licensees are merely entitled to use ASAM products as part of a project, a service or a staff leasing arrangement on behalf of a member or purchaser. They are not entitled to pass ASAM products on and /or grant sublicenses to use them.

(2) The grant of licenses for the **standards** is subject to the specific provisions below:

(a) Absent the licensor’s express prior written approval, licensees may share standards by way of sublicensing only subject to the following terms:

- The licensor grants members and purchasers the right to share standards by sublicensing them free of charge in the context of an exchange of services, project acquisition activities, training or support, and whoever receives such sublicenses for standards from members or purchasers belongs to the other licensees. Absent the licensor's express prior written approval, members and purchasers are obligated only to pass standards on unchanged, and they further undertake in this respect to alert in writing any other licensee with whom they share standards by way of sublicensing of the licensor's list of known issues (see <http://www.asam.net/license.html>).

Members and purchasers must include all copyright, trademark and name designations when passing on standards and shall deliver verifiably to any other licensee with whom they share standards by way of sublicensing a copy of these licensing terms.

- The research and education communities as well as other licensees are not entitled to pass standards on to third parties or grant sublicenses thereto.

(b) In all other respects, standards may be neither shared nor sublicensed.

(3) The grant of licenses for the **source code** is subject to the specific provisions below:

(a) The license granted pursuant to § 2 para. 1 encompasses the rights:

(aa) of duplication;

(bb) of processing;

(cc) to translate the source code into another format or into binary formats;

(dd) to integrate the source code with own commercial products and such products' distribution.

(b) The source code may be shared with third parties only in cases of source code files that ASAM designated as **marked files** in accordance with § 1 para. 1 lit. (b), and such marked files may only be passed on if the following conditions are met:

(aa) The licensee prominently annotates all file portions that have been processed or changed to signify such processing and changes by the licensee;

and

(bb) the licensee leaves intact all copyright, trademark and name designations in the files.

(c) No further rights are granted to the source code. Save for the provision in lit. (b), the licensee is not entitled to pass on to third parties copies of the source code that it created or

duplicated, and it must neither sell, lease or otherwise sublicense the source code nor publish it, make it available to the public or provide it upon request.

(4) The grant of licenses for the **tools** is subject to the specific provisions below:

(a) The license described in § 2 para. 1 specifically encompasses the right of duplication – i.e., the right to make and store back-up copies of tools without changes.

(b) By contrast, tools must be neither changed nor processed without the licensor's express prior written consent.

(c) Likewise, licensees must not pass on tools by way of sublicensing without the licensor's express prior written consent. Furthermore, the licensee may neither sell, lease or otherwise sublicense at a fee tools or back-up copies of the same, nor publish them, make them available to the public or provide them upon request.

(5) In the event that the licensee violates any of the foregoing provisions, all licenses conveyed under these licensing terms shall immediately be null and void, and the licensee must promptly and completely cease its use of ASAM products as well as delete all copies made or return them to the licensor.

§ 3 Designations

(1) The copyright notices contained in ASAM products (© by ASAM e.V.) as well as the disclaimers referring to these licensing terms must not be changed or made unrecognizable. Without these notices, any use or exploitation is expressly excluded.

(2) Under these licensing terms, the licensor grants the licensee a right to make use of its designations and copyright notices only insofar as the appropriate and customary use for the purpose of identifying the origin of ASAM products so requires.

§ 4 Exclusion and limitation of liability

(1) The licensor provides ASAM products for download, and while it is entitled to modify and amend ASAM products, it is not obligated to do so beyond statutory warranty obligations. For this purpose, the licensor maintains a list of known issues, which contains errors, lack of clarity, ambiguities or contradictions of ASAM products (see <http://www.asam.net/license.html>). When publishing a new version of ASAM products, the licensor is under no obligation to revise and update the lists of known issues for previous versions. Furthermore, the licensor need not revise and update lists if it publicly disavows a standard or announces the discontinuation of the development of and/or support for any of ASAM products.

(2) Any liability of the licensor is hereby expressly excluded. Specifically, the licensor shall bear no liability for ASAM products' technical usability or suitability for commercial use, their freedom from other legal or non-legal defects or the completeness of any description by which ASAM products are accompanied that does not represent a warranty. Such exclusion of liability does not apply in cases:

- of intentional misconduct or gross negligence;
- of injuries to life, body or health;
- governed by the provisions of the German product liability act (ProdHaftG);
- of the slightly negligent breach of a duty, the performance of which is essential to the satisfaction of the purpose of the agreement (cardinal obligation). In this case, the licensor's liability is capped at the amount of predictable and typical damages based on the nature of the transaction in question.

(3) The foregoing limitation of liability extends to the personal liability of the licensor's staff, representatives and governing bodies.

(4) In the event that the licensee is a business, it must examine ASAM products for obvious defects immediately upon receipt and promptly communicate any defects so found to the licensor, failing which such defects are excluded from any warranty. The same is true in the event that such a defect is found at a later point in time. § 377 of the German commercial code (HGB) applies.

(5) The licensee undertakes to view the list of known issues referenced in § 4 para. 1 in regular intervals.

§ 5 Miscellaneous

(1) These licensing terms are exclusively governed by the law of the Federal Republic of Germany, to the exclusion of CISG.

(2) The place of performance is Munich, Germany, and any dispute arising from or in connection with this contractual relationship is settled by Munich's Landgericht I unless applicable law mandates otherwise.

(3) The parties are aware that the source code and the tools may be subject to export and import restrictions as software; specifically, their transfer may require approval, and the use of the software and any related technology abroad may be subject to restrictions. The licensee will observe all pertinent provisions, including applicable export and import regulations imposed by the Federal Republic of Germany, the European Union and/or the United States of America. The licenses that the licensor grants licensees are subject to the condition that such grant of rights encounters no obstacles under the national or international provisions of export and/or import law or other legal regulations.

(4) In the event that individual provisions of these licensing terms are or become ineffective or unenforceable, the remaining provisions hereof continue in full force and effect, and the licensor and the licensee will endeavor to replace the ineffective or unenforceable provision by an effective and enforceable one that best approximates the ineffective or unenforceable provision in economic terms; the same applies in cases of gaps found herein.