

EULA (End User License Agreement) for empower® AI

These terms govern the use of empower® AI. empower® AI is provided as an extension of Microsoft Office with a cloud backend. All of its functions are based on artificial intelligence.

USE OF EMPOWER® AI CONSTITUTES YOUR ACCEPTANCE OF THESE TERMS. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL OR USE EMPOWER® AI AND PROMPTLY DELETE ALL COMPONENTS INSTALLED BY YOU. IN CASE A CONTRACT INCL. LICENSE AGREEMENT HAS BEEN SIGNED ON CORPORATE LEVEL, THEN THAT CONTRACT SUPERSEDES THIS AGREEMENT.

Preamble

You as a user (also referred to as "Licensee" in this Agreement) intend to install and use empower® AI, a software product of empower GmbH (Im Mediapark 8, 50670 Cologne, Germany – "Licensor"). Under the terms of this Agreement, the Licensor shall grant the Licensee the use of empower® AI.

Order of Interpretation

In case of conflict between or among documents for the purpose defined in the preamble, the following order of precedence shall apply:

1. A License Agreement explicitly accepted and signed by Licensor and Licensee on corporate level.
2. This EULA

1 Definitions

1.1 "empower® AI" is the software product of the Licensor which you are about to install, created as an extension of Microsoft Office, comprising the client-side add-in and the cloud services required in order to operate it, including the related documentation. All functions of empower® AI are based on artificial intelligence; a Large Language Model ("LLM") is used in order to generate, supplement or modify content.

1.2 "Input" is any prompt, text, file, document, template or other data submitted to empower® AI by the Licensee or its users.

1.3 "Output" is the content generated, supplemented or modified by empower® AI on the basis of Input.

1.4 "AI Costs" are the use-dependent charges for the use of empower® AI in accordance with clause 15.

2 Subject of the Agreement; subscription required

2.1 Subject of this Agreement is the provision of empower® AI for use, limited to the term of the Agreement, as well as the granting of the rights necessary to use empower® AI according to the Agreement against payment of a fee on corporate level.

2.2 empower® AI is operated as a cloud service. Its use requires a connection to the Licensor's cloud backend; empower® AI cannot be used offline.

2.3 empower® AI may be obtained for installation via the Microsoft commercial marketplace or other distribution channels. Installation alone does not grant any right of use. Use of empower® AI requires a valid subscription purchased from the Licensor on corporate level; empower® AI is not provided for unpaid or trial usage.

2.4 Upon expiry or termination of the subscription, the rights of use granted under this Agreement shall end and empower® AI can no longer be used.

2.5 The quality of empower® AI shall be defined solely in the documentation relating to the offered product edition. The documentation can be found at support.empowersuite.com.

3 Granting of rights and restrictions

3.1 The Licensee shall be granted the non-exclusive, non-transferable and non-sublicensable right, limited to the term of the Agreement, to use empower® AI as per Agreement. Use as per the terms of the Agreement includes installing, loading, displaying and running empower® AI.

3.2 The overall maximum number of users is to be observed for the entire user group that pays for a number of named user licenses. empower® AI may be distributed to such licensed named users.

3.3 The Licensee shall not be entitled to forward to third parties the copy of empower® AI provided to it or any copies made by it. In particular, it shall not be permitted to sell, loan or rent empower® AI, sublicense it in any other manner, or make it accessible to the general public.

3.4 The Licensee shall not be entitled to edit or decompile empower® AI. Excepted from this is § 69e UrhG. However, the Licensor should be involved in any attempt to establish interoperability.

3.5 empower® AI verifies the validity of the license used at regular intervals by way of a connection to a server of the Licensor. Details of the data processed in order to operate empower® AI are set out in clauses 4, 9 and 10 and in the documentation of the relevant product edition.

3.6 If the Licensee violates one of the above provisions (3.1 through 3.4), the Licensor can, in its sole discretion, decide to either charge e.g. for extra usage or (in case of willful intent or repeated violation) to immediately terminate the Agreement. In case of termination all usage rights granted within the scope of this Agreement shall become invalid with immediate effect and shall revert automatically to the Licensor. In such cases the Licensee must immediately and completely refrain from using empower® AI and delete all components installed on its systems.

4 Provision, sub-processors and changes

4.1 empower® AI is provided by means of cloud services based on Microsoft Azure (including Azure OpenAI). For this purpose, the Licensor engages Microsoft as a sub-processor within the European Union. Input and Output are processed within the European Union.

4.2 The Licensor may change, replace or supplement models, model versions, model providers or sub-processors where this is appropriate in order to maintain, secure or improve empower® AI. The Licensor shall inform the Licensee of material changes in due time. Where personal data is processed, the change procedure agreed in the data processing agreement shall apply in addition.

4.3 The Licensor may modify, restrict or discontinue individual functions of empower® AI with reasonable notice, in particular where a third-party service used in order to provide them ceases to be available on reasonable terms.

4.4 Individual functions of empower® AI may be designated as preview, beta or experimental. Such functions are provided "as is". There is no claim to availability, support, defect rectification or continued provision, and they may be changed or discontinued at any time.

5 Availability, accuracy and nature of Output

5.1 Continuous availability of empower® AI is not owed. The Licensor does not warrant that Output is error-free, complete, up to date or factually correct. empower® AI is subject to the inherent limitations of LLM-based systems, including the generation of content that appears plausible but is incorrect.

5.2 Identical or similar Input may produce different Output. Output is not necessarily unique; other licensees may receive identical or similar Output. The Licensee therefore acquires no exclusivity in Output.

5.3 Output does not constitute legal, tax, financial, medical or other professional advice and is not intended to serve as the sole basis for decisions having legal effect or comparable effect on natural persons.

6 Responsibility for Output

6.1 Output serves exclusively to support the Licensee's own work. The Licensee shall review Output at its own responsibility before using, sharing or publishing it.

6.2 No warranty is given that Output is free of third-party rights. The assurances, indemnities and remedies under clause 12 relate to empower® AI itself and do not extend to Output.

6.3 The Licensee shall inform the users of empower® AI accordingly. In particular, the Licensee shall ensure that its users are aware that they are interacting with an AI system and that Output must be reviewed before it is used.

7 Rights in Input and Output

7.1 The Licensee retains all rights in its Input. The Licensee grants the Licensor the non-exclusive right, limited to the term of the Agreement, to process Input to the extent necessary in order to provide empower® AI, including transmission to the sub-processors named in clause 4.1.

7.2 The Licensee is responsible for ensuring that it holds the rights necessary to submit its Input and to have it processed.

7.3 The Licensor asserts no rights in Output. To the extent that any rights in Output are held by the Licensor, the Licensor grants the Licensee the non-exclusive right, unlimited in time, to use such Output for the Licensee's own business purposes. The Licensee acknowledges that Output may not be capable of protection as intellectual property.

8 Prohibited use

8.1 The Licensee shall use empower® AI only in accordance with applicable law and shall comply with the acceptable use requirements of the model providers engaged in accordance with clause 4.1.

8.2 The Licensee shall not, and shall not permit its users to:

1. use empower® AI to generate or disseminate content which is unlawful, infringing, defamatory, discriminatory or otherwise harmful;
2. use Input or Output in order to develop, train, fine-tune or benchmark competing models or AI services, or to reverse engineer, extract or reconstruct the models, system prompts, templates or other components underlying empower® AI;
3. circumvent or attempt to circumvent quotas, cost limits, content filters, safety mechanisms or other technical restrictions;
4. use empower® AI by automated means beyond ordinary interactive use (e.g. scripted mass requests), unless separately agreed;
5. use empower® AI for any of the practices prohibited under Art. 5 of Regulation (EU) 2024/1689 (AI Act) or under any comparable applicable law.

8.3 In the event of a breach of clause 8.1 or 8.2, the Licensor may suspend access to empower® AI with immediate effect in whole or in part; clause 3.6 shall apply accordingly.

9 Input restrictions and data protection

9.1 The Licensee shall ensure that its users submit as Input, or have processed, only such information as has been approved for such processing under the Licensee's internal policies.

9.2 The Licensee shall not submit as Input any special categories of personal data within the meaning of Art. 9 GDPR, any personal data relating to criminal convictions or offences, or any data whose processing in a cloud service is prohibited under statutory or regulatory requirements applicable to the Licensee, unless separately agreed in writing.

9.3 Where personal data is processed in connection with empower® AI, the data processing agreement concluded between the parties shall apply.

9.4 The confidentiality obligations under clause 17 shall apply to Input and Output accordingly.

10 No training with Input or Output; log data

10.1 The Licensor ensures that Input and Output are not stored beyond the processing required in order to provide the service and are not used to train LLMs.

10.2 To the extent necessary for error analysis and support, for determining the AI Costs or for IT security, only technical log data and metadata may be processed and stored, to the minimum extent required and for a limited period. Input is, as a matter of principle, not stored beyond the processing required in order to provide the service.

10.3 Where the analysis of specific Input or Output is required in order to remedy a defect, this shall require the prior instruction of the Licensee in text form in each individual case.

11 Transparency and allocation of roles

11.1 empower® AI constitutes an AI system within the meaning of Regulation (EU) 2024/1689 (AI Act). The Licensor acts as provider, the Licensee as deployer.

11.2 empower® AI indicates that content is generated with the assistance of AI where this is required by law. The Licensee remains responsible for complying with any disclosure or labelling obligations owed by the Licensee to its own users, customers or third parties in respect of AI-generated content which the Licensee uses or publishes.

11.3 The Licensee shall ensure a sufficient level of AI literacy among the users of empower® AI (cf. Art. 4 AI Act).

11.4 empower® AI is not intended for use as, or as part of, a high-risk AI system within the meaning of Art. 6 AI Act. Any such use requires the prior written agreement of the Licensor.

12 Third-party rights

12.1 The Licensor assures the Licensee,

1. that empower® AI does not infringe any patent rights, trademark rights, copyrights, brand names, corporate secrets, licenses or other industrial property rights of third parties.
2. that it is in possession of the necessary rights and the power of disposition to grant the Licensee the licenses to the intellectual property (in particular, patent rights, trademarks, copyrights, brand names, corporate secrets, licenses and other industrial property rights) with regard to each individual component of empower® AI.

12.2 The Licensor shall indemnify the Licensee against all damage, claims and costs, and any reasonable expenses in connection with this, and hold it harmless from any allegations by third parties that empower® AI infringes any patent rights, trademark laws, copyrights, trade names, operational or corporate secrets, trademarks or other rights or industrial property rights of any third party. The Licensee shall inform the Licensor immediately in writing of any such claim; the Licensor shall avert any such demands and claims at its own expense and the Licensee shall provide every reasonable assistance requested by the Licensor. If the Licensee fails to inform the Licensor in time, such failure shall release the Licensor from its duties under this clause only to the extent that it has suffered a disadvantage as a result.

12.3 If it should be determined that empower® AI constitutes an infringement and the use of such is prohibited, the Licensor shall, at its own expense, either obtain a license for the use of the contested components, or replace the contested components with a functional equivalent that is not subject to any industrial property rights, or alter empower® AI accordingly.

12.4 This clause 12 relates to empower® AI itself and does not extend to Output (clause 6.2).

13 Support and defect rectification

13.1 The corporation of Licensee has to establish and announce an in-house support for empower® AI in case of queries or problems (hereinafter referred to as first-level support). The Licensee shall report any queries or defects to the Licensor via this designated first-level support only, describing the defect and the specific circumstances (for the purpose of reproducing the error) as precisely as possible.

13.2 The Licensor shall guarantee that the contractually agreed quality of empower® AI is maintained during the term of this Agreement and that the use of empower® AI as per Agreement does not conflict with any third-party rights. The Licensor shall rectify any material defects or defects of title within a reasonable time.

13.3 Support services relate to the technical functionality of empower® AI (e.g. error analysis and remedy of malfunctions). Review of the substance or professional correctness of Output, prompt engineering and the adaptation or integration of customer-specific models are not owed unless separately agreed.

13.4 Deviations of Output from the Licensee's expectations as to content, style or design do not in themselves constitute a defect within the meaning of clause 13.2.

14 Term and termination

14.1 The start of license is defined by the License Agreement on corporate level or by a separate order issued by Licensee and accepted by Licensor.

14.2 The Agreement shall be concluded for an indefinite period. It may be terminated by either party on corporate level with a notice period of six (6) weeks to the end of any year of term, if not agreed otherwise.

14.3 The Agreement can also be terminated without notice by the Licensor in writing for good cause. Good cause entitling the Licensor to terminate the Agreement shall be deemed to exist, in particular, if the Licensee violates any usage rights of the Licensor by using empower® AI above and beyond the scope of the usage permitted under the terms of the Agreement and fails to cease said violation within a reasonable time after receiving a warning from the Licensor to that effect. A pro rata reimbursement of the license fee shall be excluded in such cases.

14.4 If the Licensor refuses to remedy a problem relating to empower® AI or to resolve an existing infringement of industrial property rights, or if, after being granted a reasonable time to perform remedy, such remedy ultimately fails, the Licensee may terminate the Agreement in writing with a notice period of 30 days. If the Licensor also fails to remedy the problem or resolve the infringement within this 30-day period, the termination shall be effective. The Licensee shall then be entitled to reimbursement of the license fee from the effective date of termination. The obligation on the part of the Licensor to indemnify and hold harmless as defined in clause 12 shall remain hereby unaffected.

14.5 Notice of termination must be given in writing.

14.6 If the Agreement is terminated, the Licensee shall cease using empower® AI at the end of the license term or upon the termination becoming effective and shall remove all installed components from its computers.

15 Remuneration and AI Costs

- 15.1 All fees and payment terms are specified in the offer / order accepted by both parties on corporate level.
- 15.2 Use of empower® AI is charged on the basis of actual use, in addition to license fees ("AI Costs"). The basis of calculation, the prices and any caps are set out in the offer / order accepted by both parties on corporate level.
- 15.3 The Licensee may at any time request information on the AI Costs incurred to date, expressed in the agreed currency. Where empower® AI provides corresponding reporting, this information is made available in the administrative settings.
- 15.4 Where empower® AI provides quota, budget or approval controls, the Licensee is responsible for configuring them in accordance with its own requirements. AI Costs incurred within the configured limits are attributable to the Licensee.
- 15.5 The Licensor may suspend empower® AI temporarily and in whole or in part where an agreed cap or budget has been exhausted or where use deviates significantly from the agreed scope.
- 15.6 After the end of an agreed billing period, the AI Costs actually incurred are invoiced in accordance with clause 15.2.

16 Liability

- 16.1 The Licensor shall not be liable, irrespective of the legal basis, for indirect, non-foreseeable or special damage, or for consequential damages or damages of a punitive nature; it shall, in particular, not be liable for loss of revenue or loss of profit, loss of business opportunity, loss of image or loss of data, even if the Licensor was warned about such risks.
- 16.2 In no event shall the Licensor be liable to the Licensee or its successors and assignees for damages that are higher than the annual license fee on corporate level.
- 16.3 The above-mentioned limitations of liability shall not apply in the case of liability for death, injury or impaired health, for gross negligence, intent or deceit or if liability can be neither excluded nor limited by law (e.g. Product Liability Law).
- 16.4 The Licensor is not liable for damage resulting from the use of Output.

17 Confidentiality

- 17.1 The parties hereby agree to disclose no confidential information.
- 17.2 This obligation shall not include confidential information of which the recipient was already demonstrably aware at the time of concluding the Agreement or of which it was made aware by a third party at a later stage without this constituting a violation of a non-disclosure agreement, statutory regulations or official directives; which was public knowledge at the time of concluding the Agreement or became public knowledge at a later stage, provided that this was not due to a violation of this Agreement; or which must be disclosed due to legal obligations or on grounds of an official or judicial directive. To the extent that disclosure is permissible and possible, the recipient obligated to disclose the information shall inform the other party in advance and provide it with the opportunity to take action against said disclosure.

18 Miscellaneous

- 18.1 The Licensee may transfer rights or obligations arising from or in connection with this Agreement to third parties solely with the written approval of the Licensor.
- 18.2 Any alterations or amendments to the Agreement must be made in writing. This shall also apply for the alteration or cancellation of this clause. Electronic documents in text form do not fulfil the written form requirement.
- 18.3 General Terms and Conditions of Business of the Licensee and the Licensor shall not apply.
- 18.4 German law shall apply exclusively to this Agreement, excluding the United Nations Convention on Contracts for the International Sale of Goods from 11 April 1980.
- 18.5 Data required for order fulfilment (name and contact details as well as other data provided for order fulfilment) may be saved electronically by both parties, however both parties are required to handle such data in accordance to applicable data privacy laws. Where the Licensor processes personal data on behalf of the Licensee, the data processing agreement concluded between the parties shall apply in addition.
- 18.6 Should individual provisions of this Agreement be ineffective, the validity of the remaining provisions shall remain hereby unaffected. The contracting parties shall endeavour to replace the invalid provision with one that best meets the objective of the Agreement both legally and economically.

[Annex A is not part of the Agreement – delete before publication. "Retained" means the wording is carried over unchanged apart from the product name. "Condensed" means the substance is retained in fewer clauses.]

