

END USER LICENSE AGREEMENT

WARNING:

Please read the following End User License Agreement (EULA) carefully BEFORE you proceed downloading, installing, copying or using the PHPro Software Product. At the end of the present EULA you will be asked to accept the terms and conditions of this EULA before you can download or install the PHPro Software Product. By indicating your acceptance below OR by downloading, copying, installing or using the PHPro Software Product in any other way, you accept to bound by terms and conditions of this EULA. If you do not accept and/or agree with the terms and conditions you should decline from accepting these terms and conditions and you will not be able to use the PHPro Software Product.

If you do not understand the present EULA or if you believe this EULA is not applicable to you, please contact PHPro by e-mail at info@phpro.be

Article 1. Definitions

- End User** : Person or company buying the PHPro Software Product in order to use it for personal or professional use or for use by its direct customers, without any objective of reselling or renting out the PHPro Software Product to such customers or to any third party
- EULA** : The provisions of the underlying documents which govern the relationship between PHPro and the End User in relation to the License of the PHPro Software Product
- License** : The right obtained under the present EULA to use the PHPro Software Product under the conditions set out in the present EULA
- Party/Parties** : PHPro and/or the End User
- PHPro** : The limited liability company PHPro with registered office at Veldkant 33A, 2550 Kontich (Belgium) and know in the Crossroad bank of Enterprises under nr. 0836.535.621
- PHPro Software Product** : Any other software program developed or sold by PHPro.

Article 2. Licence

- 2.1.** Subject to the provisions of this EULA, PHPro grants End User, who accepts from PHPro, a limited, perpetual, non-exclusive, non-transferable License to install and use one copy of the PHPro Software Product acquired in this License and in the manner and for the purpose described in this EULA and on a single computer or on as many computers as Licenses have been granted to the End User by PHPro. The PHPro Software Product is licensed as a single product. Its component parts may not be separated.
- 2.2.** The End User is allowed to customize, adapt or translate the PHPro Software Product for personal use only, all other modifications, manipulations, duplications and any derivative work of the PHPro Software Product or any part thereof is prohibited except and only to the extent that such activity is expressly permitted by article 7 of the Belgian Software Act (*i.e. Wet van 30 juni 1994 houdende omzetting in Belgische recht van de Europese Richtlijn van 14 mei 1991 betreffende de rechtsbescherming van computerprogramma's*) notwithstanding this limitation.
- 2.3.** The use of the PHPro Software Product is restricted to the end user and to its direct customers. The End User does not have the right to commercialise, resell, rent, lease or lend the PHPro Software Product (both commercial and non-commercial), nor does he have the right to transfer his License to any third party. In the event that the PHPro Software Product is used by the customers of the End User, the End User expressly warrants that shall impose a similar provision on these customers. The End User shall be solely liable for any damages deriving from the use of the PHPro Software Product by these customers.
- 2.4.** The End User is not allowed to make any copies of the PHPro Software Product other than a backup server copy. This backup server copy may only be used for backup purposes in case of a failure of the main server.
- 2.5.** PHPro is not obligated to provide maintenance, technical or other support, or updates to the End User for the PHPro Software Product licensed under this EULA. In the event that PHPro does provide maintenance, technical or other support, or updates, this EULA applies to such additional software and updates of the PHPro Software Product, including without limitation supplements, services packages, hot fixes, or add-on components (collectively "Supplements") that PHPro may provide to the End User or make available to the End User after the date the End User obtains his initial copy of the PHPro Software Product, unless PHPro provides other terms along with such Supplements.
- 2.6.** The End User will use all reasonable, adequate organisational, technological and security measures to prevent unauthorised use of or access to the PHPro Software Product and to ensure that the PHPro Software Product is only used in accordance with the terms of this Agreement. Any unauthorised use of the PHPro Software Product, whether or not as a result of the violation by the End User of this provision, shall constitute a material breach of this EULA.

Article 3. Duration – Termination

- 3.1.** This EULA shall take effect from the moment that the End User indicates his acceptances with the terms and conditions of this EULA or by downloading, copying, installing or using the PHPro Software Product in any other way. This EULA is entered into for an indefinite period of time.
- 3.2.** Notwithstanding its right to claim for damages PHPro may, at its discretion, terminate the EULA by operation of law and without prior notice by the mere sending of a registered letter to the End User in the following cases:
- a repeated or serious breach of the contractual obligations by the End User, such as, but not limited to a wrongful use of the License;
 - In case the End User has requested a postponement of payment, is bankrupt, has suspended its payments, has an unstable credit or is manifestly insolvent;
 - In case of dissolution and/or liquidation of the End User's company;
 - If the End User's assets or a part of the End User's assets are executive and/or precautionary seized at the request of a creditor, or in case of other executive or precautionary measures against the assets of the End User.
 - Where there is evidence or strong suspicion of fraud by the End User;

The termination will take immediate effect.

- 3.3.** The End User is entitled to terminate this EULA at all times. Upon termination, the End User shall promptly return the PHPro Software Product, all copies of this PHPro Software Product to PHPro. Such termination does in no way entitle the End User to any form of compensation whatsoever.
- 3.4.** Termination of this EULA, for any reason whatsoever, shall, with immediate effect, terminate all rights and licences granted by PHPro to the End User under the provisions of the present EULA.

Article 4. Intellectual property and third Party Licenses

- 4.1.** The End User acknowledges and agrees that the rights granted to the End User or obtained as a result of or in connection with this EULA by the End User are license rights only, and nothing contained in this EULA constitutes or shall be construed as intending, nor shall be deemed or implied to be a sale or an assignment of any or all of PHPro's rights of the PHPro Software Product.
- 4.2.** The End User is not allowed to adapt or remove any of the copyright and/or trademark related notices in the PHPro Software Product. The End User will use copyright notices and trademarks in accordance with accepted copyright and trademark practices, including identification of copyright and/or trademark holders' names. Copyright and trademark notices can only be used to identify printed output produced by the PHPro Software Product and such use does not grant the End User or its customers any intellectual property rights.

- 4.3. The End User may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of PHPPro and/or its associated companies without their express written consent. The End User may not use any meta tags or any other "hidden text" utilizing PHPPro's name or trademarks without the express written consent of PHPPro.
- 4.4. The End User is granted a limited, revocable, and nonexclusive right to create a hyperlink to the home page of PHPPro as long as the link does not portray PHPPro and/or its associated companies, or their products or services in a false, misleading, derogatory, or otherwise offensive matter. The End User may not use any PHPPro's logo or other proprietary graphic or trademark as part of the link without express written permission.
- 4.5. Certain components bundles with the PHPPro Software Product may be provided under third party licenses and may be subject to other terms and conditions as those of the underlying EULA. Moreover certain PHPPro Software Product may only work in combination with software which must be bought from third parties. A license of this software may also be subject to other terms and conditions as those of the underlying EULA. The End User shall be required to obtain for itself all licenses from third party software which is not included in the PHPPro Software Product or which must be combined with the PHPPro Software Product. PHPPro does not assume any responsibility in case of an infringement of such third party license agreements by the End User.

Article 5. Warranty

- 5.1. The PHPPro Software Product are provided on an 'AS IS' and 'WITH ALL FAULTS' basis. To the maximum extent permitted by law, PHPPro and its suppliers expressly disclaim all warranties, express or implied, including but not limited to merchantability, satisfactory quality or accuracy. PHPPro does not warrant that the PHPPro Software Product will be free from viruses.
- 5.2. PHPPro does not warrant that the PHPPro Software Product made available to the End User will be suitable for the actual and/or intended use by the End User. PHPPro does also not warrant that the PHPPro Software Product will operate without interruption, errors or defects or that it will work on all possible operating systems. No oral or written advise or information provided by PHPPro or any of its agents, employees or suppliers shall create a warranty.

Article 6. Limitation of liability

- 6.1. The liability which PHPPro may incur derives from a reasonable effort obligation (*inspanningsverbintenis/obligation de moyen*) and the End User will have to provide proper proof of such liability.
- 6.2. PHPPro will only be liable for damages which was directly caused by PHPPro, this however limited to an amount of 5.000 EUR, except in case of misconduct and fraud and this regardless whether the claim is based on a contractual or non- contractual basis.
- 6.3. The End User must inform PHPPro in writing of any event which can engender PHPPro's liability or of each loss suffered by the End User, and this as soon as possible and at the latest fifteen (15) days from the onset of such event or loss, or, at least, from the moment the End User

was aware or should have been aware of this event or loss. This must enable PHPro to determine the origin and causes of the detriments within a reasonable period of time. Failure to do so entitles PHPro to refuse any payment of damages and to reject any liability.

6.4. Is excluded from liability:

- The reimbursement by PHPro for all indirect or consequential damage, including financial or commercial losses, loss of profit, the increase in general costs, disturbance of the planning, loss of anticipated profits, loss of capital, loss of customers, lost opportunities, loss of data, loss of benefits, damage to and loss of files, etc., that result from the execution of this agreement;
- damage caused by the fault or mistake of the End User;
- reimbursement of all direct or indirect damage caused by the use of the PHPro Software Product;
- compensation for the damage that is wholly or partly caused by software or hardware provided or created by third parties, or by any other element of the End User's business;
- all third party claims directed against the End User;
- social unrest, strikes, force majeure, act of third parties or all other circumstances beyond control of PHPro.
- viruses in the system of the End User and the consequences thereof.

The above limitations apply to the maximum extent permitted by Belgian Law.

6.5. PHPro is not liable for any claim concerning the infringement of intellectual property rights based on:

- the use of a modified or old version of (a part of) the developments, if the infringement could have been prevented by using the unmodified or most recent version made available by PHPro; or
- information, designs, specifications, instructions, software, data or other materials which were not developed by PHPro.

6.6. The limits on liability of this article will apply regardless of the fact that End User informed PHPro of the existence of a real risk of damage. The Parties acknowledge that this constitutes a reasonable allocation of the risk

Article 7. Infringement of intellectual property rights

7.1. PHPro warrants that it is the owner of the PHPro Software Product and all rights pertaining thereto, including intellectual property rights, or has adequate rights to grant the license to the End User.

7.2. PHPro shall protect, defend, or at the sole discretion of PHPro settle, indemnify and hold the End User harmless against third party claims which are asserted against the End User to the extent that such claims are based upon contention that the PHPro Software Product or any part thereof infringes any copyrights, trademarks or trade secrets of any third party under the laws of the country, provided that:

- The End User notifies PHPro promptly in writing of any claim in sufficient time to enable PHPro to protect its interests without prejudice;
- PHPro has the sole right to control the defence and/or settlement thereof;
- The End User provides all relevant information and reasonable cooperation to PHPro in its defence of such claim, of which the costs will be borne by PHPro; and
- The End User shall not admit or settle any such claim without the prior written consent of PHPro.

Article 8. General Provisions

- 8.1.** The End User is not entitled to assign, pledge or otherwise dispose of its rights or obligations under this EULA to any third party without the prior written consent of PHPro.
- 8.2.** This EULA contains the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes and replaces all prior agreements or understandings, whether written or oral, with respect to the same subject matter that are still in force between the Parties. This EULA shall supersede both Parties general terms of agreement insofar that these are contrary to any of the articles of this EULA
- 8.3.** Whenever possible, the provisions of this EULA shall be interpreted in such a manner as to be valid and enforceable under the applicable law. However, if one or more provisions of this EULA are found to be invalid, illegal or unenforceable, in whole or in part, the remainder of that provision and of this EULA shall remain in full force and effect as if such invalid, illegal or unenforceable provision had never been contained herein. Moreover, in such an event, the Parties shall amend the invalid, illegal or unenforceable provision(s) or any part thereof and/or agree on a new provision in such a way as to reflect insofar as possible the purpose of the invalid, illegal or unenforceable provision(s).
- 8.4.** Any failure or delay by a Party in exercising any right under this EULA, any single or partial exercise of any right under this EULA or any partial reaction or absence of reaction by a Party in the event of a violation by the other Party by one or more provisions of this EULA, shall not operate or be interpreted as a waiver (either express or implied, in whole or in part) of that party's rights under this EULA or under the said provision(s), nor shall it preclude any further exercise of any such rights. Any waiver of a right must be express and in writing. If there has been an express written waiver of a right following a specific failure by a Party, this waiver cannot be invoked by the other Party in favour of a new failure, similar to the prior one, or in favour of any other kind of failure.
- 8.5.** All notices and other forms of communication required under this EULA must be sent to:

e-mail: info@phpro.be

OR

PHPro n.v.
Veldkant 33A
2550 Kontich
Belgium

When the End User send e-mails to PHPro, the End User is communicating with PHPro electronically. The End User expressly consents to receive the communications from PHPro electronically. PHPro will communicate with the End User by e-mail. The End User agrees that all agreements, notices, disclosures and other communications which are provided by PHPro electronically to the End User satisfy any legal requirement that such communications must be in writing.

- 8.6.** None of the provisions in this EULA can be interpreted as indication the intent of the Parties to form a partnership, association or joint venture.
- 8.7.** All rights and obligations pursuant to this EULA which by their wording or nature shall continue after expiration or termination of this EULA, shall survive. This includes, without limitation, the provisions regarding Intellectual Property, Warranties and Limitation of liability.

Article 9. Applicable law and jurisdiction

- 9.1.** All issues, questions, disputes concerning the validity, interpretation, enforcement, performance and termination of this EULA shall be governed by and construed in accordance with Belgian law, with exclusion of the Vienna Sales Convention of 1984 (CISG). No effect shall be given to other choice-of-law or conflict-of-laws rules or provisions (Belgian, foreign or international), that would cause the laws of any other jurisdiction to be applicable.
- 9.2.** Any dispute concerning the validity, interpretation, enforcement, performance and termination of this EULA shall be submitted to the exclusive jurisdiction of the Antwerp (Belgium) courts.