

## English

### Sorting Thoughts License Agreement,

Version 2.0, December 2010 - <http://www.sortingthoughts.com>

**PLEASE READ THIS SOFTWARE LICENSE AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE. BY USING THE SOFTWARE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE.**

#### 1. LICENSE CONDITIONS.

This Agreement constitutes a legally binding agreement between you (either an individual or a single entity) („Customer“) and Hendrik Ebel, for the Software („Sorting Thoughts“) and bytecode executable and any files and all associated media, printed materials, and „online“ or electronic documentation (collectively, the „Product“).

By installing the Product, the Customer is indicating that the Customer has read and understands this Agreement and agrees to be bound by its terms and conditions.

If this Agreement is unacceptable to the Customer, the Customer must destroy any copies of the Product in the Customer's possession immediately.

1.1 Purchase of a single user license permits a single user to install and use Sorting Thoughts on multiple machine. Use by multiple users on multiple machines requires a purchase of multiple individual licenses or a multi-user license, such as a „Family Pack“ license.

1.2 Purchase of a multi-user license allows use by multiple users on multiple machines, up to the limit described by the type of license purchased. All users under a multi-user license must be employees or students of the organization purchasing the multi-user license. All users under a "Family Pack" license must be members of the same private household. The individual or organization purchasing the multi-user license will be regarded as the Customer and is responsible for ensuring compliance with all of the terms contained in this License Agreement on behalf of all users of Things under the license.

#### 2. OWNERSHIP.

Hendrik Ebel retains all rights, title and interest in and to the Product, including all intellectual property rights therein.

#### 3. OTHER RESTRICTIONS.

Customer may not use, copy or distribute the Product without Hendrik Ebel's authorization, except that Customer may make one or more copies of the Product solely for backup or archival purposes.

- a) Customer shall not modify, copy or adapt the Product; merge the Product into another program; reverse engineer, disassemble, decompile, or otherwise attempt to derive source code from the Product (except to the extent the foregoing restriction is expressly prohibited by applicable law); or place the Product onto a server, or combine the Product with any software or hardware, so that it becomes accessible (directly or indirectly) by means of a public (such as the Internet) or a private network;
- b) Customer shall not under any circumstances, remove or alter copyright notices, registration numbers, or other features serving to identify the Product.

- c) Customer shall not hire out the Product (or any part thereof) to any third party for commercial purposes or for service bureau use.
- d) Customer shall not sub-license, rent, lease, loan, or otherwise indirectly transfer (such as by consignment) any portion of the Product to any third party.
- e) Customer shall not transfer the Product to any third party, if Customer knows or has reason to know that the third party will violate any term or condition of this Agreement.  
Any use of the Product (or any part thereof) in violation of this Agreement shall entitle Hendrik Ebel to all rights and remedies available to it at law or in equity, including (without limitation) monetary damages and equitable relief.

#### **4. NO WARRANTY (please note the specific country modifications in Section 9).**

The Software is being delivered to you "AS IS" and Hendrik Ebel makes no warranty as to its use or performance. HENDRIK EBEL AND ITS SUPPLIERS DO NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS YOU MAY OBTAIN BY USING THE SOFTWARE. EXCEPT FOR ANY WARRANTY, CONDITION, REPRESENTATION OR TERM TO THE EXTENT TO WHICH THE SAME CANNOT OR MAY NOT BE EXCLUDED OR LIMITED BY LAW APPLICABLE TO YOU IN YOUR JURISDICTION, HENDRIK EBEL AND ITS SUPPLIERS MAKE NO WARRANTIES, CONDITIONS, REPRESENTATIONS, OR TERMS (EXPRESS OR IMPLIED WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE) AS TO ANY MATTER INCLUDING WITHOUT LIMITATION NONINFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, INTEGRATION, SATISFACTORY QUALITY, OR FITNESS FOR ANY PARTICULAR PURPOSE. The provisions of Section 4 and Section 5 shall survive the termination of this Agreement, howsoever caused, but this shall not imply or create any continued right to use the Software after termination of this Agreement.

#### **5. LIMITATION OF LIABILITY (please note the specific country modifications in Section 9).**

IN NO EVENT WILL HENDRIK EBEL OR ITS SUPPLIERS BE LIABLE TO YOU FOR ANY DAMAGES, CLAIMS OR COSTS WHATSOEVER OR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL DAMAGES, OR ANY LOST PROFITS OR LOST SAVINGS, EVEN IF A REPRESENTATIVE OF HENDRIK EBEL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, DAMAGES, CLAIMS OR COSTS OR FOR ANY CLAIM BY ANY THIRD PARTY. THE FOREGOING LIMITATIONS AND EXCLUSIONS APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN YOUR JURISDICTION. HENDRIK EBEL'S AGGREGATE LIABILITY AND THAT OF ITS SUPPLIERS UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT PAID FOR THE SOFTWARE, IF ANY. Nothing contained in this Agreement limits Hendrik Ebel's liability to you in the event of death or personal injury resulting from Hendrik Ebel's negligence or for the tort of deceit (fraud). Hendrik Ebel is acting on behalf of its suppliers for the purpose of disclaiming, excluding and/or limiting obligations, warranties and liability as provided in this Agreement, but in no other respects and for no other purpose.

#### **6. MAINTENANCE AND SUPPORT**

Hendrik Ebel is not required to provide maintenance or support to the Customer.

#### **7. GENERAL PROVISIONS.**

If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of this Agreement, which shall remain valid and enforceable according to its terms. This Agreement may only be modified by a writing signed by Hendrik Ebel. Updates may be licensed to you by Hendrik Ebel with additional or different terms. This is the entire agreement between Hendrik Ebel and you relating to

the Software and it supersedes any prior representations, discussions, undertakings, communications or advertising relating to the Software.

## **8. GOVERNING LAW.**

This Agreement will be governed by and construed in accordance with the substantive laws in force in Germany if a license to the Software is purchased by a Customer having its seat in a member state of the European Union. The respective courts of Germany competent for Hendrik Ebel's seat shall have jurisdiction over all disputes relating to this Agreement; however Hendrik Ebel may file legal actions as well at the seat of the Customer. This Agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

## **9. SPECIFIC COUNTRY MODIFICATIONS.**

9.1. Warranty for Users Residing in the European Union. If the Customer obtained the Software in a member state of the EU, and usually resides in such country, then Section 5 does not apply, instead, Hendrik Ebel warrants that the Software provides the functionalities set forth in the Documentation (the "agreed upon functionalities") for the limited warranty period following receipt of the Software when used on the recommended hardware configuration. As used in this Section, "limited warranty period" means one (1) year if you are a business user and two (2) years if you are not a business user. Non-substantial variation from the agreed upon functionalities shall not be considered and does not establish any warranty rights. If the functionalities of the Software vary substantially from the agreed upon functionalities, Hendrik Ebel is entitled -- by way of re-performance and at its own discretion -- to repair or replace the Software. If this fails, the Customer is entitled to a reduction of the purchase price (reduction) or to cancel the purchase agreement (rescission) and/or to claim damages pursuant to Sec. 9.2.

9.2. Limitation of Liability for Users Residing in the European Union.

9.2.1. If the Customer obtained the Software in a member state of the EU, and usually resides in such country, then Section 7 does not apply, Instead, subject to the provisions in Section 9.2.2, Hendrik Ebel's statutory liability for damages shall be limited as follows:

- (i) Hendrik Ebel shall be liable only up to the amount of damages as typically foreseeable at the time of entering into the purchase agreement in respect of damages caused by a slightly negligent breach of a material contractual obligation and
- (ii) Hendrik Ebel shall not be liable for damages caused by a slightly negligent breach of a non-material contractual obligation.

9.2.2. The aforesaid limitation of liability shall not apply to liability under the German Product Liability Act, liability for assuming a specific guarantee or liability for culpably caused personal injuries.