

Lookeen Server End User License Agreement (EULA)

Creation date: 2019-SEP-1; Revision 1012

IMPORTANT: PLEASE READ THIS AGREEMENT CAREFULLY BEFORE CLICKING ON THE "I AGREE" BUTTON BELOW OR INSTALLING THE SOFTWARE!

This License Agreement (the "Agreement") is a legal agreement between you ("the customer") - either an individual or a single legal entity - and the vendor of Lookeen Server, Axonic Informationssysteme GmbH, Germany ("Axonic") which governs your acquisition and use of the Lookeen Server software and any accompanying documentation (the "Lookeen Server"). You must accept the terms of this Agreement before downloading, copying, or otherwise using the Lookeen Server. By clicking "I AGREE" at the end of this Agreement, or by downloading, copying, or otherwise using the Lookeen Server, you are indicating that you have read and understood, and that you assent to be bound by, the terms of this Agreement. If you do not agree to the terms of the Agreement, do not click on the "I AGREE" button and do not install or use the Lookeen Server. If you do not agree to the terms of the Agreement, you are not granted any rights whatsoever with regard to the Lookeen Server and must permanently delete all copies of the Lookeen Server in your possession.

1. Grant of License:

Subject to the terms of this Agreement, Axonic grants you a personal, non-exclusive and non-transferable License to install and execute one (1) copy of the Lookeen Server, in accordance with its documentation, on up to one (1) Windows Server. The granting of this right does not include the right to sublicense the Lookeen Server. You may download, install and use the Lookeen Server free of charge on any computer during the 30 days immediately after the Lookeen Server is installed ("Evaluation Period"). After the Evaluation Period, your continued use of the Lookeen Server will be subject to payment of all applicable fees as described in section 4 below. Upon payment of the License Fee, you will be provided, through Axonic or Axonic's authorized agent, with a confidential numbered code to access the Lookeen Server (the "License Key"). You shall, at all times and without exception, maintain the confidentiality of the License Key. Specifically, you shall not disclose the information associated with the License Key to any other person, corporation or any other entity. Please see section 13 for additional license regulations concerning Lookeen Client and section 14 for regulations concerning the Lookeen Server.

2. Restrictions on Use:

Except as expressly permitted in section 1 (Grant of License) (if at all), you may not (a) copy, translate, modify, reverse engineer, decompile, disassemble, create derivative works of, or otherwise use the Lookeen Server or any part thereof, (b) distribute, sell, assign, pledge, sublicense, lease, loan, use for service bureau purposes, rent, or otherwise transfer the Lookeen Server or any part thereof in any form to another person, (c) remove from the Lookeen Server, or alter, any of the trademarks, trade names, logos, patent or copyright notices, or other proprietary notices or markings, or add any other notices or markings to the Lookeen Server. Axonic does not grant you any express or implied licenses or rights to any enabling technologies or systems that may be necessary to use the Lookeen Server. Please see sections 13 and 14 for regulations, restrictions and rights concerning Lookeen Client and section 15 for regulations concerning Lookeen Server.

3. Ownership:

The Lookeen Server is licensed, not sold, and you agree that the Lookeen Server and all intellectual property and proprietary rights therein are owned by Axonic. Axonic reserves title and all rights and interests in and to the Lookeen Server not expressly granted to you in section 1 (Grant of License), including without limitation all patent rights, copyrights, trademarks, trade names, trade secrets and other intellectual property and proprietary rights. There are no implied licenses under this Agreement, and all rights not expressly granted are reserved by Axonic. Portions of this software are Copyright © 2012 The Apache Software Foundation. See further details in section 11.

4. Registration:

If you use the Lookeen Server after the 30 day evaluation period, you agree to obtain a registered license from Axonic and pay all applicable fees. Unless you and Axonic have entered into a separate agreement, fees shall be the then-current fees, information about which can be obtained from Axonic's sales department by sending an e-mail to: sales@lookeen-server.com <<mailto:sales@lookeen-server.com>>.

5. No Warranties:

THE LOOKEEN SERVER IS PROVIDED AND LICENSED TO YOU "AS IS". Should the Lookeen Server prove to be defective in any way, you assume the entire cost of all servicing, repair or correction arising in connection with the defects.

AXONIC DISCLAIMS ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ACCURACY OF INFORMATIONAL CONTENT, SYSTEM INTEGRATION, AND NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SOFTWARE. WITHOUT LIMITING THE FOREGOING, AXONIC SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES THAT THE SOFTWARE, AXONIC'S EFFORTS, OR ANY SYSTEM WITH WHICH YOU WILL USE THE SOFTWARE WILL MEET YOUR REQUIREMENTS, FULFILL ANY OF YOUR PARTICULAR PURPOSES OR NEEDS, OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. YOU ASSUME THE RESPONSIBILITY FOR THE SELECTION OF YOUR REQUIREMENTS, SOFTWARE, AND HARDWARE TO ACHIEVE YOUR INTENDED RESULTS.

Some jurisdictions do not allow the disclaimer of implied warranties, so the above disclaimer may not apply to you, in which case the duration of any such implied warranties is limited to thirty (30) days from the date the Lookeen Server is first downloaded by you. In case of a breach of such implied warranties, Axonic's sole and exclusive obligation and liability and your sole and exclusive remedy will be at Axonic's sole discretion to (i) repair, correct, or work around any defect; (ii) provide a replacement copy of the Lookeen Server; or (iii) terminate this Agreement and issue you a refund of any fees that you may have paid Axonic for the Lookeen Server (if any). By accepting this EULA, you acknowledge that you were provided with a sufficient period in which to test and evaluate the Lookeen Server. The purpose of this trial period is to ascertain if the Lookeen Server suits your needs, is able to run on your intended infrastructure or if there are any reasons why you cannot accept the Lookeen Server provided "as is".

Axonic strongly recommends performing a backup of your company's data before installing the Lookeen Server or any related upgrades or updates.

6. Limitation of Liability:

AXONIC SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY INNACURACY OF THE EMAIL PRIORITIZATION AND MANAGEMENT PROCESS. THIS INCLUDES, BUT IS NOT LIMITED TO, THE LOSS OF MAIL MESSAGES SENT TO YOU, OPERABILITY, ACCESSIBILITY OR PERFORMANCE OF YOUR MICROSOFT EXCHANGE SERVERS OR YOUR NETWORK, GENERALLY: YOUR TECHNICAL IT INFRASTRUCTURE. UNDER NO CIRCUMSTANCES AND UNDERNO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, SHALL AXONIC BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, LOSS OF BUSINESS INFORMATION, ANY OTHER PECUNIARY LOSS , OR DAMAGES RESULTING FROM YOUR USE OF THE SOFTWARE. AXONIC'S LIABILITY FOR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID BY YOU HEREUNDER IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF AXONIC IS INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSION MAY NOT APPLY.

Furthermore, Axonic assumes zero responsibility for the security of your data. If you choose to allow access / use / view share /etc. through a 3rd party or any other individual/company (e.g. through Support- or IT-Service), it is at your own risk. Axonic strongly advises that you take necessary security steps before you take any such action. Axonic also advises that you back-up all of your company data before making any changes to your settings.

Account Security

You are responsible for safeguarding the password that you use to access the Services and you agree not to disclose your password to any third party. You are responsible for any activity using your account, whether or not you authorized that activity. You acknowledge that if you wish to protect your transmission of data or files to Lookeen Server or the Lookeen Client, it is your responsibility to use a secure encrypted connection to communicate with the services.

Note: You are also advised that using Lookeen Server remotely, as with any remote access service leaves your data in an inherently more dangerous state than if you were to leave it on a closed system. Using networks that can connect to devices wirelessly carries certain inherent risks to user data. You are therefore advised that you alone, as the user of Lookeen Server are responsible for this data. Lookeen (Axonic) will assume no responsibility over user data. It is the users' responsibility to secure their own data and devices.

Shared files and user copyright infringements

Lookeen Server does not own or control any file shared/indexed/linked to/used using this software. Lookeen Server is only the software that allows you to connect to the Lookeen Client. Axonic does not have any control over the content of users or the actions of other users, and Axonic is not allowed to examine the information that you can transfer with the software. The gateways that the Lookeen software uses do not index any file listings, nor do they enable Lookeen Server or Lookeen products to control or monitor the actions of any user. Lookeen Server or Lookeen Client makes no representations or warranties regarding the files indexed by Lookeen users. Lookeen advises that users have an updated anti-virus, firewall and other security measures in place, as Lookeen assumes no liability of user files. All security of user files shall be the responsibility of the user themselves. Copying or distributing unauthorized files may violate copyright laws. Compliance with the copyright law is solely the user's responsibility. Please do not share nor download copyrighted material if you don't have the right to do so.

7. Indemnification:

You agree to indemnify and hold Axonic and its employees and affiliates immune to all damages, liabilities, losses, costs and expenses arising from or relating to your use or misuse of the Lookeen Server or your breach of this Agreement. Furthermore, you agree that Axonic is not responsible for any third party claims of damage and Axonic assumes no responsibility for the content you submit or make available through this service.

8. Term and Termination:

The term of this Agreement will commence upon your clicking the "I AGREE" button or upon installation of the Lookeen Server software and will continue until terminated, as specified in this section 8 (Term and Termination). The license granted under this Agreement shall terminate 30 days following installation of the Lookeen Server unless you register the Software and pay all applicable fees. The license will automatically terminate earlier if you fail to comply with the limitations described herein. You may terminate this Agreement at any time by destroying all copies of the Lookeen Server in your possession and by discontinuing use of the Lookeen Server. Axonic may terminate this Agreement and without prior notice take appropriate technical measures to effect such termination in the following cases:

- (a) if you fail to comply with the terms of this Agreement;
- (b) if you distribute the Lookeen Server without prior authorization by Axonic; or
- (c) if your use of the Lookeen Server gives rise to any legal action against Axonic or its officers, directors, employees or agents.

Any termination by Axonic pursuant to this section 8 (Term and Termination) will be exercised without limiting any other rights or remedies of Axonic. Upon termination of this Agreement, the license granted in section 1 (License Grant) will terminate and you must immediately destroy all copies of the Lookeen Server in your possession or control. Sections 2, 3, 5 through 14 and 22, 26 of this Agreement will survive termination.

9. U.S. Government Use Restricted Rights:

The Lookeen Server is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Consistent with 48 C.F.R. § 12.212 and 48 C.F.R. §§ 227.7202-1 through 227.7202-4, Axonic provides the Lookeen Server to U.S. Government end users solely pursuant to the terms and conditions herein. The contractor/manufacture is: Axonic Informationssysteme GmbH, Kaiserstrasse 241, 76133 Karlsruhe, Germany.

10. Export Control:

You agree and acknowledge that the Lookeen Server is subject to German export control law, and you will comply with all applicable laws and regulations in your use of the Lookeen Server under this Agreement, including without limitation all export laws and regulations of the Federal Ministry of Economics ("Wirtschaftsministerium Deutschland") and all other German agencies and authorities, including the German Code of Commercial Law ("Deutsches Handelsrecht"). Without limiting the foregoing, you expressly agree not to export or re-export the Lookeen Server in violation of such laws or regulations, or without all required licenses and authorizations.

11. 3rd Party Components:

Portions of this software are Copyright © 2012 The Apache Software Foundation. All rights reserved. For more information on the Apache Software Foundation, please see: www.apache.org <<http://www.apache.org>>. The Lucence.Net search engine is licensed under the Apache License, Version 2.0 (the "License"); you may not use this file except in compliance with the License. You may obtain a copy of the License at www.apache.org/licenses/LICENSE-2.0 <<http://www.apache.org/licenses/LICENSE-2.0>>. Unless required by applicable law or agreed to in writing, software distributed under the License is distributed on an "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, either express or implied. See the License for the specific language governing permissions and limitations under the License.

12. LOOKEEN SERVER NOT INTENDED FOR HIGH-RISK ACTIVITIES:

The Lookeen Server is not designed, manufactured or intended for use as online equipment control for equipment in hazardous environments requiring fail-safe performance, such as, but not limited to, the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Lookeen Server could lead directly to death, personal injury, or severe physical or environmental damage. AXONIC SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR ANY HIGH RISK USES LISTED ABOVE.

13. Lookeen Client Regulations:

The Lookeen Client Version ("Lookeen Client") is its own, independent program, so is subject to different conditions, prices and license models to the Lookeen Server, as described above. The EULA and the privacy policy for Lookeen Client also differ from Lookeen Server - information concerning the EULA and privacy policy for Lookeen Client is available at www.lookeen.com <<http://www.lookeen.com>>. For pricing and licensing queries, please contact sales@lookeen.com <<mailto:sales@lookeen.com>>. Purchasing licenses for Lookeen Client does not cover the use of Lookeen Server. This stipulation has no impact on the Lookeen Server 30-day evaluation period, nor is it valid in the case that you have paid the license fee mentioned in section 4.

14. Lookeen Server Regulations:

Lookeen Server is an independently-sold software program and service. Lookeen Server is only for commercial and professional use and is available for a fee. If you would like further information, please contact: sales@lookeen-server.com <<mailto:sales@lookeen-server.com>>. Lookeen Server is an extension of Lookeen Client. As noted in section 15 below, it is therefore necessary to have Lookeen Client in order to use the Lookeen Server. Lookeen Server is not a standalone Outlook or desktop search - it is an extension to your server and has to be connected to Lookeen Client, which itself has to be installed on your workstation. Lookeen Client works as a standalone search program, while Lookeen Server does not. Both versions are based on different pricing and licensing models.

15. Lookeen Client Requirements:

In order to use Lookeen Server, it is necessary to first install the Lookeen Client. Purchasing Lookeen Client Licenses will induce non-recurring costs, dependent on the number of licenses purchased. Included in the price of the license is the lifelong use of the product as well as every update (version 1.x to 1.y) within the current software version. Payment must be made after the invoice has been issued and is based on the respective terms of payment according to Axonic's terms and conditions. Upgrades (version 1.y to 2.x) to the subsequent software version are not included.

16. Lookeen Server Licensing Regulations:

The maximum number of Lookeen Server licenses issued depends on the number of Lookeen Client licenses purchased. You may only purchase as many licenses for the Lookeen Server as you already own, or purchase, for Lookeen Client. It is possible to purchase more licenses for Lookeen client, but they may not be connected to the Lookeen Server if you do not own the appropriate number of Lookeen Server licenses. It is the customer's responsibility to only use as many licenses as have been purchased. As soon as further Lookeen Client users are equipped with Lookeen Server functionality, further Lookeen Server licenses have to be purchased.

17. Preclusion:

Purchasing Lookeen Server licenses does not under any circumstances include the acquisition of Lookeen Client licenses or the rights to use Lookeen Client.

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18. Licensing Options:

You may choose two different payment options to license the Lookeen Server. The “Annual Subscription Payment Plan” or the “Lifetime License Payment”. The payment option is fixed by acceptance of the invoice and cannot be changed afterwards.

19. Annual Subscription Payment Plan:

If you choose to license the Lookeen Server by an “Annual Subscription Payment Plan”, using the Lookeen Server will induce annually-recurring costs, depending on the number of licenses purchased. Payment must be made after the invoice has been issued and is based on the respective terms of payment according to Axonic’s terms and conditions.

Axonic may, in unforeseen circumstances beyond its control (e.g. in the case of inflation), increase the annual license costs by up to 25%. Should such circumstances arise, you will be provided with a notification period of four months (prior to the end of the year).

The contract period for the Annual Subscription Plan is indefinite, rescindable up until two months before the end of each twelve-month period following issue of invoice. If the contract is not terminated (you can terminate the contract only in written form) within this period of time, the contract will automatically be renewed for another twelve months. The customer will then be entitled to request a new license key for use in the subsequent period. Axonic will send the corresponding invoice based on the respective terms of payment according to Axonic’s terms and conditions.

Cancelling the contract entails complete cessation of use of the Lookeen Server. In addition, all terms of this agreement (with the exception of paragraphs 18 and 21) remain in effect following a cancellation of the contract.

The Annual Subscription Plan includes every update (version 1.x to 1.y) and upgrade (version 1.y to 2.x) for the Lookeen Server. Please note that, as stipulated in section 15, there is a different regulation for the Lookeen Client licenses - updates for Lookeen Client are also free of charge, but upgrades involve charges.

20. Lifetime License Payment:

If you choose to license the Lookeen Server by a “Lifetime License Payment”, using the Lookeen Server will induce a one-time charge, depending on the number of licenses purchased. Payment must be made after the invoice has been issued and is based on the respective terms of payment according to Axonic’s terms and conditions.

The Lifetime License Payment includes every update (version 1.x to 1.y) and upgrade (version 1.y to 2.x) for the Lookeen Server for one year after the invoice date. Please note that, as stipulated in section 15, there is a different regulation for the Lookeen Client licenses - updates for Lookeen Client are also free of charge, but upgrades involve charges.

After one year you may optionally sign up for an annual “Update contract” which entitles you to receive and use every update (version 1.x to 1.y) and upgrade (version 1.y to 2.x) for the Lookeen Server.

21. Lookeen Server Update/Upgrade Regulations:

Updates and upgrades will be provided at irregular intervals at the discretion of Axonic. Axonic does not offer customized versions, nor are the updates provided custom-built; they will also be provided to other customers. The content, structure and features of updates and upgrades are decided upon exclusively by Axonic. Updates and upgrades will be delivered via download. The customer is strongly encouraged to test the updates and upgrades fully before implementing a company-wide rollout.

22. Customer Support:

Axonic provides support via email, phone and remotes sessions only by charge on a per-hour basis; invoice pulsing 30 minutes. For further information, please contact sales@lookeen-server.com <<mailto:sales@lookeen-server.com>>.

‘Support’ means the provision of technical advice to the customer. This can, for example, entail: a description of possible ways to achieve solutions; responses to FAQs; workarounds; and manuals. ‘Support’ does not cover maintenance, face-to-face customer service, bug fixes or anything similar.

Response times to queries will depend on the availability of support and the volume of support requests received. Axonic will deal with requests on a ‘first come, first served’ basis. At present, estimated response time is at minimum two (2) working days.

23. Price Binding:

The prices for Lookeen Server licenses mentioned on the online shop at www.lookeen-server.com <<http://www.lookeen-server.com/>> and www.lookeen.com <<http://www.lookeen.com>> are binding for all customers, resellers and affiliates. Price reductions by resellers or affiliates are not allowed - they require written approval from Axonic.

24. Feedback to Axonic:

When you submit feedback to Axonic/Lookeen through the helpline, online forum, or any other form of communication you declare that (1) That information becomes the property of Axonic (2) that you have no claim to compensation arising from the changes in service or products that arise from your communication and (3) You give the right to Axonic to disclose that content for any reason to anyone without your permission and without compensation from Axonic.

25. Updates to the service:

Lookeen reserves the right, in its sole discretion, to make necessary unscheduled deployments of changes, updates or enhancements to the software and service of all Lookeen products at any time. Axonic may add or remove functionalities or features, and may suspend or stop a service altogether.

26. Miscellaneous:

Nothing contained herein will be construed to create any agency, employment, partnership, principal agent relationship, or other form of joint enterprise between the parties. No waiver or modification of the Agreement will be valid unless signed by each party. The waiver of a breach of any term hereof will in no way be construed as a waiver of any other term or breach hereof. The headings in this Agreement do not affect its interpretation. You may not assign or transfer any of your rights or obligations under this Agreement to a third party without the prior written consent of Axonic. Any attempted assignment or transfer in violation of the foregoing will be void from the beginning. Axonic may assign this Agreement without consent to any third party. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Agreement will remain in full force and effect. Notices to Axonic must be sent to the following address, and will be deemed effective three (3) days after certified mailing, return receipt requested:

Axonic Informationssysteme GmbH, Kaiserstrasse 241, 76133 Karlsruhe, Germany; Notices to you may be sent to your email address and will be deemed effective upon arrival at your email server.

Axonic may modify or amend this agreement at any time by providing you notice of the modification or amendment, and by installing, copying or using the Lookeen Server after any such modification or amendment, you agree to be bound thereby.

This Agreement is governed by the laws of Germany without reference to conflict of law principles that would require the application of the laws of any other jurisdiction.

The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed. All disputes arising out of this Agreement will be subject to the exclusive jurisdiction of courts located in Karlsruhe, Germany.

This Agreement is the final, complete, and exclusive agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous understandings and agreements relating to such subject matter, whether oral or written.

You acknowledge that you have read this agreement, that you understand it, that you agree to be bound by its terms, and that this is the complete and exclusive statement of the agreement between you and Axonic regarding the Lookeen Server.

01/SEP/2019, Axonic Informationssysteme GmbH, Karlsruhe, Germany

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