

BINGOOO License Agreement

The software product described below is not sold, but licensed. The user, by installing, copying for his own purposes or otherwise deploying BINGOOO as a software product, affirms that he will be bound by the terms and conditions of this License Agreement.

1. OBJECT OF THE AGREEMENT

This Agreement sets forth the terms and conditions governing relations between BINGOOO AG (hereinafter referred to as "BINGOOO") and the user concerning:

- provision of the object code form of the "BINGOOO software" for the versions BINGOOO trial, BINGOOO personal, BINGOOO professional and BINGOOO corporate (hereinafter referred to as "Software") in the version downloaded by the user or transmitted to him on a data carrier.
- use of the BINGOOO agents to access their sources. BINGOOO reserves the right to alter, update or restrict these agents at any time.
- programming of own agents to access sources and their use in BINGOOO.

2. RIGHTS OF THE USER

2.1 The versions BINGOOO trial and BINGOOO personal are intended solely for personal use or own training purposes. Any commercial use of BINGOOO is subject to a BINGOOO professional or BINGOOO corporate license. The user is hereby informed that the software and any documentation material given to him or provided in downloadable form on the homepage of BINGOOO or a BINGOOO partner are protected by copyright. Vis-à-vis the user, all rights of use and exploitation to page designs, graphics, logos, buttons, symbols, audio samples, software, texts and/or other works, particularly to the software, are held solely by BINGOOO, except as otherwise provided in this Agreement.

2.2 BINGOOO grants the user the right to install and make copies of the Software in single personal computers or in networks, viz. in accordance with the number of licenses purchased. The user may only deploy the installed software for his own purposes and in accordance with the documentation material, i.e. using the software to access the agents provided by BINGOOO or his own agents and, with regard to the agents, to create, run, further process or save search routines. The documentation may be used only for the purpose of operating and understanding the software on the part of the user.

The user shall be entitled to transfer all rights of use hereunder on a permanent basis, provided no copies are retained. Wherever the software product is an update, each transfer shall extend to all previous versions of the Software.

No commercial distribution of an already activated license by third parties is permissible. License rights and rights of use in this connection are non-transferrable. The same applies to the commercial distribution of own developed agents.

All other use and exploitation rights to the software and/or the agents not expressly mentioned in sub-clause 2.2 above, regardless of their content and spatial or temporal coverage, shall be retained by and remain with BINGOOO. This shall apply, e.g., to disassembly, alteration, revision and translation. Title shall remain with BINGOOO.

2.3 No claim to updates and repairs of the BINGOOO agents shall exist.

2.4 The right to use the software and/or agents may also be terminated by BINGOOO for cause. The right of use shall cease upon the end user receiving the notice of termination. Such termination for cause can occur, in particular, if:

- the user repeatedly or persistently violates the Agreement;
- the user deliberately takes action that prevents the software from accessing BINGOOO's servers which ensure the functionalities of the software;
- the user employs or uses the software to commit criminal acts or regulatory offences;
- in the opinion of BINGOOO, the user infringes commercial or personal rights of third parties including partner companies of BINGOOO by employing or using the software; BINGOOO shall have the same right if a third party substantiates an infringement by submitting written evidence of such infringement to BINGOOO;
- BINGOOO is forbidden to distribute or use the software or parts thereof.

Wherever this is applicable to all users or to specific, definable user groups, notice of termination can also be given on the www.BINGOOO.com homepage. Such notice is deemed to have been received when user gains access to the BINGOOO homepage using the software.

2.5 If the right to use the software ends for whatever reason the software must be deleted from the computer.

3. AGREEMENT WITH OTHER ARRANGEMENTS GOVERNING THE USE OF THE SOFTWARE

BINGOOO takes the protection of personal data very seriously. The protection of your privacy is of the utmost importance to us. Hence, compliance with statutory provisions on data protection is a matter of course for us. Furthermore, we have adopted additional internal company restrictions:

- no registration required when downloading BINGOOO trial;
- no transfer of user personal data by BINGOOO to third parties;
- when BINGOOO is uninstalled, such uninstallation is complete, with no active components of any kind remaining.

We point out that other Internet sites or services which are accessible or made accessible by BINGOOO and any partners who collect data in connection with prize competitions, promotions and similar user-oriented offers, have their own data-protection policies which are pursued independently of BINGOOO. BINGOOO can assume no responsibility or liability for these policies, which are beyond the control of BINGOOO.

The software - if only because of the technical problems that are associated with the Internet linkup and cannot be ruled out - should not be used for tasks, the faulty execution of which can cause major damage (e.g. weapons control, patient care). BINGOOO shall not be responsible for any damage incurred in connection with a violation of these remarks.

4. FURTHER DEVELOPMENT OF THE SOFTWARE AND THE ASSOCIATED RIGHT OF USE

BINGOOO shall be authorised, at its own discretion, to provide new versions of the software, patches, updates, upgrades and the like ("versions") for use and to distribute them to the end user, also automatically when the software is called up at a later date. The user is entitled to accept or refuse any new version that is subject to a charge. The user has no legal claim to be provided with new versions of the software.

To the extent that no new terms and conditions are agreed in connection with the provision of new versions, etc., the present contractual terms shall continue to apply.
top

5. INDEMNIFICATION OF BINGOOO WITH REGARD TO SEARCH RESULTS GENERATED BY THE USER

5.1 With this software, BINGOOO merely provides a tool with which the user can create and run search routines. The software itself does not provide any content for the Internet.

Consequently, BINGOOO assumes no responsibility for content that becomes accessible to the user on the screen or otherwise as the result of executing search routines. The same shall apply to any and all violations of rights of third parties on or by any pages displayed on the screen or otherwise made accessible to the end user during execution of search routines.

5.2 In relations with BINGOOO, the user alone shall bear the responsibility under press law, copyright law, competition law, trademark law, patent/utility model law and other responsibility for the search results and content generated by him with the help of the software.

The user shall indemnify BINGOOO against all third-party claims asserted against BINGOOO as the result of any violation of the terms set forth in sub-clause 5. This shall apply in particular to the right of forbearance, right to removal and/or compensation claims, including any costs of defence against such claims and any losses resulting indirectly from such claims, particularly financial losses.

6. TECHNICAL AVAILABILITY OF THE OFFERED SERVICE

6.1 BINGOOO cannot ensure a specific degree of technical availability of the services offered to the user on the Internet, neither as regards the availability of the servers used nor as regards telecommunications link. Users are hereby notified of the fact that regular computer maintenance is necessary. For this reason alone, no guarantee can be given that the services provided by BINGOOO will be available 24 hours a day.

6.2 In the event of operating problems or cases of force majeure, labour disputes, seizure, traffic disruptions, general raw material or energy shortages and the like - either in BINGOOO facilities or in external facilities used by BINGOOO to fulfil its obligations - the functionality of the software may cease, be restricted or delayed without prior notification of the user, due to the non-availability of the BINGOOO servers.

6.3 The user shall not be entitled to asset claims if a faulty screen display is caused by:

- the use of unsuitable display software and/or hardware (e.g. browsers);
- faults in the communications networks of other operators ;
- computer failure of Internet providers or online services;
- incomplete and/or non-updated services on so-called proxy servers (buffers) of commercial and non-commercial providers or online services.

7. WARRANTY

7.1 The subject matter of the Agreement is the software, which is usable in principle within the meaning of the program description. No guarantee can be given that all applications and combinations, specifically in conjunction with various software components, will run free of fault. Any defects must be reported without delay, though no later than 14 days following acquisition of the license. Claims under warranties shall expire after two years, counting from the first delivery or the first on-line download.

Warranty claims shall be met by making new deliveries of the software or by reworking within a reasonable period. New deliveries may also be provided by a download option from the Internet, which is subject to separate costs (telecommunications provider). In the event that two attempts at making new deliveries or reworking fail, any already paid license fees may be reduced or discontinued altogether (reduction of purchase price or cancellation).

7.2 BINGOOO shall pay compensation - regardless of the legal grounds (in particular non-performance, impossibility, warranty, delay, negligence in the course of contracting, violation of secondary obligations, tortious act) - caused by its own actions or the actions of its agents only

- in the event of wrongful intent and gross negligence;
- in other cases: only as a result of the violation of a material duty that jeopardises the purpose of the Agreement; if due to delay and impossibility, only to a limited amount of € 250 per case and a total maximum of € 1,000 arising from the Agreement. Otherwise: to the extent that BINGOOO is insured for the damage or loss that occurs within the scope of insurance cover and subject to the condition precedent of payment by insurer. This shall not affect the defence of contributory negligence, statutory liability in the case of personal injury, and the provisions of Germany's Product Liability Act (ProdHG).

7.3 Any claims for compensation shall be barred three years after knowledge is gained of the damage or loss.

7.4 If the user is a merchant (Kaufmann, as defined by Germany's Commercial Code, HGB), the restriction specified in sub-clause 7.2 shall apply to all legal grounds for liability specified in sub-clause 7.2, even in the event of grossly negligent violation of any and all obligations by persons employed in performing BINGOOO's obligations who are not legal representatives or executive employees. In relations with merchants, liability for the gross negligence of persons employed in performing BINGOOO's obligations who are not legal representatives or executive employees shall be limited in all cases to the damage or loss which is usually and typically foreseeable in such cases over which the user has no control.

8. FINAL PROVISIONS

8.1 BINGOOO is a trademark of BINGOOO AG. Copyright © 2002 BINGOOO AG. All rights reserved. Windows™, Windows 95™, Windows 98™, Windows 2000™ and Windows ME™ and Windows XP™ are trademarks of Microsoft Corporation.

8.2 The place of performance shall be Cologne.

8.3 The place of jurisdiction shall be Cologne for all disputes between the parties hereto arising directly or indirectly from and in connection with this contractual relationship wherever the user is a merchant, a legal entity under public law or a special fund under public law (sec. 38 of Germany's Code of Civil Procedure, ZPO). If the user is not a merchant, jurisdiction shall be subject to the statutory provisions of the ZPO wherever the permanent abode or habitual residence of the user at the time of filing an action is not unknown or the user does not move his permanent abode or habitual residence away from the territory covered by the law after concluding the Agreement.

8.4 The substantive law of the Federal Republic of Germany, with the exception of conflict of laws provisions and the UN Convention on the International Sale of Goods, shall apply to all legal relations arising from the agreements with BINGOOO.

8.5 The invalidity of individual provisions shall not affect the validity of the remainder of the Agreement. Any invalid clause shall be replaced by a supplementary interpretation or, if possible, by a provision that approximates as closely as possible to the economic purpose of the invalid provision. The same shall apply by analogy in the event that the Agreement contains any gaps.