

# UPGRADE SUBSCRIPTION FOR THE SOFTWARE SUITE DATALAB PANTHEON

## 1 Definitions

**1.1 The Provider** is the company Datalab SI, družba za poslovno informacijske rešitve d. o. o., based at Hajdrihova ulica 28c, SI-1000 Ljubljana, tax identification number SI99654717. The Provider concludes this License Agreement on its own behalf and for its own account with the Client.

**1.2 The Client** is a legal entity or private individual that received a preliminary invoice or invoice from the Provider based on an order for the Software Suite and a possible conclusion of additional agreements, paid the preliminary invoice or invoice and received in return a serial number and the status of a registered Client, which makes it possible to activate the Software Suite

**1.3 The Software Suite** is the Computer Program Datalab PANTHEON and Supplementary Materials.

**1.4 The Computer Program** is the computer program in any of its available editions, composed of a group of files in the form of source or compiled or executable code.

**1.5 Supplementary Materials** are information intended for operating or illustrating the operation of the Software Suite, training materials, videos, and other materials provided by the Provider to the Client in exchange for compensation or for free. Supplementary Materials also include written (digital or printed), audio and video documentation for the Software Suite and a knowledge base about the usage of the Software Suite, available at the Provider's user community portal. Supplementary Materials can be subject to terms of special licenses.

**1.6 Written Documentation** is written instructions for the use of the Software Suite. Only Written Documentation is relevant for defining an error. Regardless of paragraph 1.5, the Provider always provides the Client written instructions for the use of the Software Suite free of charge. The Client can access written instructions on the Provider's website.

**1.7 The Upgraded Software Suite** is the Software Suite that inseparably contains the latest updates for legislation changes, improvements, fixes, changes and new features; the Client is entitled to it with a concluded Software License Agreement and an Upgrade Subscription. All terms of the Software License Agreement apply to the Upgraded Software Suite as well, except the terms of article 2 (Grant of License), and article 6 (Limited Warranty).

**1.8 Intellectual Property Rights** are all proprietary, neighboring and other rights, including *sui generis* rights of the database system provider as regulated by the Copyright and Related Rights Act of Slovenia; furthermore including all other intellectual property rights, especially industrial property rights as

regulated by the Industrial Property Act of Slovenia, and other rights similar to intellectual property rights that are subject to the license agreement or any other agreement between the Provider and the Client.

**1.9 The Software License Agreement** is this license agreement which covers the use of the Software Suite and additional Client rights and defines the terms of Software Suite use. The License Agreement is signed by the Provider and the Client.

**1.10 Additional Agreements** are agreements that are or can be concluded by the Provider and the Client regarding the Software Suite, most notably the Upgrade Subscription and other service agreements.

**1.11 The User** is natural person who can use or access the Software Suite through the Workstation and/or access the Client's data that is being processed by the PANTHEON Software Suite through the Software Suite.

**1.12 A Vertical Solution** is software, hardware or similar solution that complements or upgrades the PANTHEON Software Suite and enables the use of or access to the Software Suite and/or the Client's data that is being processed by the PANTHEON Software Suite.

**1.13 A Connector** is each individual person, computer program or other similar device or technology that uses or is part of each individual Vertical Solution.

**1.14 The Connector License** is an agreement between the Provider and the Client, which enables the use of or access to the Software Suite and/or the Client's data that is being processed by the PANTHEON Software Suite by Connectors. All provisions of this License Agreement are valid for the Connector License, except when this License Agreement provides special provisions for External Connectors.

**1.15 The Upgrade Subscription** is this Agreement, which regulates the Provider's and Client's rights and obligations in relation to upgrades of the Software Suite.

**1.16 Upgrading** is the right to download the Upgraded Software Suite and the right to use it, as well as the right to access and use other data sources, like updated master data and the company register; the Provider grants those rights to Clients who have concluded a valid Upgrade Subscription.

**1.17 The Upgrade Price** is the Current Upgrade Price plus the Historical Value.

**1.18 The Current Upgrade Price** is the payment for Upgrading. It is expressed as part of the market price that depends on when the Upgrade Subscription was concluded.

**1.19 The Historical Value** is the payment for the period when a Client did not have an Upgrade Subscription in effect based on the number of started calendar months in which the Client did not have an Upgrade Subscription in effect, according to the valid price list published at the Provider's website.

**1.20 The Order** is an order that the Client places at the Provider's website or some other way and thus shows the interest for concluding a Software License Agreement for the desired edition of the Software Suite and for any additional agreements; the Order includes the number of users, who may concurrently use the Software Suite.

**1.21 The Preliminary Invoice** is issued by the Provider to the Client based on the received Order. It includes the edition of the Software Suite, the Market Price, the Purchase Price, the Price of Additional Agreements, the license's area of validity, and the number of users, who may concurrently use the Software Suite, and the number of Connector Licenses. The Preliminary Invoice also contains the payment plan for the Purchase Price or Price of Additional Agreements, for example the number of installments over a given period. The Preliminary Invoice includes a reference to the validity of the provisions of this Software License Agreement and a link to the website where this Software License Agreement is published. The Preliminary Invoice becomes a part of the Software License Agreement in the part where the Software Suite edition, the license's area of validity, the Purchase Price, the number of users, who may concurrently use the Software Suite, the number of Connector Licenses, and the payment plan are stated.

**1.22 The Market Price** is the Provider's recommended sale price, at the moment of price calculation for the use of a Software Suite edition and for additional Client's rights related to the Software Suite from the Software License Agreement, multiplied by the number of users, who may concurrently use the Software Suite. The Market Price includes the price of any Connector Licenses.

**1.23 The Purchase Price** is equal to the Market Price at the moment of placing the Order, reduced by any Provider's discounts and increased by any additional cost and the value-added tax. The Purchase Price is stated on the Preliminary Invoice or invoice.

**1.24 Support Providers** are legal entities or private individuals that provide support and other Service Desk Services for the Software Suite based on a contractual or other relationship with the Provider. Support Providers shall obtain a certificate for providing support services for the Software Suite and other Service Desk services.

**1.25 The Help Desk Support Tool** is a web application at the Provider's user community portal User Site (<https://usersite.datalab.eu>) used for support and other Service Desk services, messaging, reporting errors (including cases of warranty) and other communication between the Client and the Provider. The Client can access it when logged in at User Site, but also by email after registering their email address; sending an e-mail to [pomoc@datalab.si](mailto:pomoc@datalab.si) or including the e-mail in the carbon copy recipients will process and save that e-mail message as a Help Desk Application incident.

**1.26 An Error** is the Software Suite's functioning or content that is not according to the specifications or intended function as described in Written Documentation.

**1.27 The Error Report** is the submission of a written description of an Error by the Client in the Help Desk application, which sent to a Support Provider.

## **2 Conclusion of Upgrade Subscription**

2.1 The Client sends the Provider an Order for the conclusion of an Upgrade Subscription that has to include the Client's full name/company name, address/company head office address, tax number, and other identifying information, including the Client's e-mail address. The Client is solely responsible for the veracity and truthfulness of the identifying information provided to the Provider. Based on the Order, the Provider sends the Client a Preliminary Invoice or Invoice.

2.2 When the Client pays the Preliminary Invoice or Invoice, the Provider allows the Client to conclude the Upgrade Subscription.

2.3 The Client concludes the Upgrade Subscription by clicking the 'I Agree' button in the electronic form, stating that they accept all provisions of the Upgrade Subscription, which thereby become binding. During this process, the Workstation, with which the Client performs their actions, must be connected to the Internet, so that the Provider may record the acceptance of the terms of the Upgrade Subscription.

2.4 By clicking the 'I Agree' button, a natural person performing the action states that they are a legal representative of the Client or a person authorized by the Client to perform the above action.

2.5 By clicking the 'I Agree' button, the Client states that they agree with the respective valid version of this Upgrade Subscription, which is published on the Provider's website.

2.6 The Client is considered to be informed about the content of this Agreement, if they have been explicitly directed to it in the Preliminary Invoice or Invoice and the content of the Agreement is available on the website as stated on the Preliminary Invoice or Invoice.

2.7 If the Client does not agree with any of the provisions of the Upgrade Subscription, they may not conclude an Upgrade Subscription and download, install or use the Upgraded Software Suite.

2.8 Single Upgrade Subscription The Client may conclude an Upgrade Subscription for 3 (three) days, but a renewal is not possible. In that case, the conclusion procedure is generally the same as in paragraphs 2.1 through 2.3.

## **3 Intellectual Property Rights for the Upgraded Software Suite and Terms of Use for the Upgraded Software Suite**

3.1 The Provider guarantees the Client that the Provider has legally acquired all intellectual property rights for the Software Suite that are required for the Client to use the Software Suite, or that the Provider is the holder of all intellectual property rights for the Software Suite.

3.2 The Client uses the Upgraded Software Suite based on a concluded Software License Agreement and Upgrade Subscription.

3.3 All terms of the Software License Agreement apply to the Upgraded Software Suite as well, except the terms of article 2 (Grant of License), and article 6 (Limited Warranty).

#### **4 Upgrading**

4.1 The Client is entitled to Upgrading the Software Suite based on the concluded Upgrade Subscription.

4.2 The Provider shall release an Upgraded Software Suite at least for times per calendar year. The detailed schedule of releases is at the sole discretion of the Provider and is published at the Provider's website.

4.3 The Client can download the Upgraded Software Suite only from the Provider's server using internet technology integrated in the Software Suite, regardless of whether the Client has internet access or not.

4.4 The Client must start the download and installation process for the Upgraded Software Suite on their own.

4.5 The Provider's obligations in relation to debugging and providing support to the Client exist only if the Client has the latest version of the Upgraded Software Suite installed.

4.6 The Provider shall fix an Error that was properly reported in the Help Desk Support Tool by the Client within a reasonable time based on the type of Error, but not sooner than 45 (forty-five) days after its proper reporting.

4.7 The Provider will endeavor to release an Upgraded Software Suite with updates for legislation changes at least 7 (seven) days before the legislation changes become binding for the Client, provided that all documentation for the legislation changes are clear and published appropriately in advance.

4.8 If the Client or a third party made any changes or modifications to the Software Suite (based on any agreement with the Provider) that complicate or interfere with the installation or use of the Upgraded Software Suite, the Client may not demand the ensuring of normal installation or operation of the Upgraded Software Suite from the Provider on the grounds of any provision of the Upgrade Subscription, the Software License Agreement or any Additional Agreements.

#### **5 Calculating the Upgrade Price**

5.1 The Upgrade Price is billed to the Client in accordance with the Provider's valid price list, which is published at the Provider's website.

5.2 If the Client does not have an Upgrade Subscription in effect for more than 14 (fourteen) consecutive days, they shall, in addition to the Current Upgrade Price, pay also the Historical Value, which together form the Upgrade Price. The same applies for the Single Upgrade Subscription from paragraph 2.8 of this Upgrade Subscription.

5.3 If the Upgrade Price exceeds a certain amount, it may be paid in installments. The exact amount and allowed number of installments are stated in the Provider's policy, which is published at the Provider's website.

5.4. The Provider may change the way the Upgrade Price is calculated and/or the amount during the time that the Client has an Upgrade Subscription in effect. In this case, the Provider shall carry out the Agreement with unchanged terms until the end of the 12-month period since the conclusion of the Upgrade Subscription or its last renewal. The Agreement is then carried out with the Provider's new terms in the next 12-month period. The Client agrees with the Provider's new terms regarding the way the Upgrade Price is calculated and/or the amount if the Client does not terminate this Upgrade Subscription in accordance with the provisions of this Agreement related to the termination of this Agreement. The Provider shall notify the Client in time and through appropriate channels about the intended changes in the way the Upgrade Price is calculated and/or the amount as well as about the options of terminating the Agreement.

## **6 Exclusion of the Provider's Liability**

6.1 The Provider, its suppliers, co-contractors and support providers, taking into account only minimal legal limitations of exclusion of liability, are in no case liable to the Client or third Parties for any damages to the Client or a third party that occurred or may occur for any reason arising from the Upgrade Subscription. For the avoidance of doubt, the listed damages include, but are not limited to, property damage, loss of profit or revenue, physical or psychological trauma to others and detrimental effects on an organization's reputation.

6.2 The Provider, its suppliers, co-contractors and support providers are in no case liable to the Client or third Parties for any damages to the Client or third Parties that occurred or may occur, because the Client allowed persons who are not the Provider's certified Support Providers to provide support, maintenance, debugging or upgrading services or any other modifications of the Software Suite.

6.3 The Provider's total liability is in no case higher than the Purchase Price that the Client paid for the conclusion of the Software License Agreement and any other additional contracts, taking into account only minimal legal limitations of exclusion of liability.

## **7 Term and Termination**

7.1 This Upgrade Subscription is concluded for a period of 12 months. At the end of this 12-month period, the Agreement is extended for another 12 months automatically, except if the Client terminates the Upgrade Subscriptions at least 8 days before the end of the 12-month period.

7.2 The termination statement shall be submitted in writing and the counterparty shall be notified.

7.3 If the Client terminates this Agreement in accordance with the previous paragraphs of this article, they are not entitled to a refund of any advance payments made for Upgrading in a particular period.

7.4 If the Client has not paid the Preliminary Invoice or Invoice for Upgrading the Software Suite in accordance with the Provider's price list for the next 12-month period, the Provider may immediately discontinue the Upgrading of the Software Suite and stop providing other services related to this Agreement as well as terminate the Upgrade Subscription with immediate effect without having to extend the payment deadline for the Client.

7.5 The provisions of the previous paragraphs are not in effect for the Single Upgrade Subscription from paragraph 2.8 of this Upgrade Subscription.

7.6 The termination of the Upgrade Subscription does not affect the terms of the Software License Agreement.

7.7 By terminating the Software License Agreement, the Upgrade Subscription is automatically terminated in accordance with the provisions of the Software License Agreement. In this case, the Client is not entitled to a refund of any advance payments made for Upgrading in a particular period.

7.8 If the Client is in breach of any of the provisions of this Agreement, the Provider may immediately prevent the Client from using the Software Suite or Upgrading the Software Suite. The Provider may also terminate this Agreement or the Software License Agreement. In the latter case, the provisions of the Software License Agreement concerning the termination of the Software License Agreement due to breaches by the Client are in effect.

7.9 In case of breach of contract by the Client, the Provider is entitled to compensation of any damage that would occur due to the breach.

## **8 Final Provisions**

8.1 The Client may not transfer any rights from the Upgrade Subscription to third parties without written permission of the Provider.

8.2 If any of the provisions of the Upgrade Subscription might prove to be void, other provisions are not affected and remain effective.

8.3 The Upgrade Subscription is the whole upgrade subscription for the Software Suite and it replaces any other arrangements about the subject of the Upgrade Agreement, except if the Upgrade Subscription states that it is supplemented by additional provisions of a contract or document, the Preliminary Invoice or the Invoice being such documents.

8.4 This Software License Agreement is concluded without the signature of either party in accordance with the provisions of the conclusion of the Software License Agreement in Article 2.

8.5 A court in Ljubljana with proper jurisdiction over the subject matter in question has jurisdiction over any dispute arising from the Upgrade Subscription.