License and Maintenance Agreement

between

you
(either an individual person or a single legal entity, hereinafter "Customer" or "You")

and

Data Geekery GmbH, Binzstrasse 23, 8045 Zürich, Switzerland
(hereinafter "Supplier")

together hereinafter the "Parties"

1   Preamble

The Supplier develops, licenses and maintains the software "Java Object Oriented Querying", commonly known as "jOOQ", a database-mapping software library in Java. Its purpose is to provide access to the SQL language through an internal domain-specific language in Java, used to construct queries from classes generated from a database schema. Customer wishes to use the software and to obtain maintenance services for it.

2   Definitions

Agreement	shall mean this license and maintenance agreement for the provision of Maintenance Services (including the Annex) as well as any future amendments to it.
Critical Defect	means a Defect critical to Customer's business, requiring a solution as quickly as possible.
Database Program	means a computer program that organizes data in a database, providing functionalities concerning storage, organization and retrieval of the data.
Defect	is a reproducible deviation of the Software from the specifications as set out in the Documentation of the Software.
Documentation	means the user manual and Javadoc of the Software published on www.jooq.org and amended from time to time.
End-user	means the ultimate user of the End-user Application.
End-user Application	means the software developed or modified by the Customer in which the Software is integrated pursuant to the terms of Section 6.2 and which is distributed by the Customer.
Java Development Kit (JDK)	means the software development tool issued by Oracle Inc. necessary to operate the Software.
Maintenance Services	means the maintenance services provided by the Supplier as set out in Section 7 of this Agreement.
Major Defect	means a Defect affecting a specific area of functionality, but not the whole Software.

Major Release	means a new version of the Software with new major functionalities or features; Major Releases are identified by the following version number: 1.0.0, whereas the first digit ("1") denominates the number of the Major Release. For instance, the Supplier will issue a Major Release to adapt the Software to a new version of the Java Developer Kit, or to undertake major improvements to the Software.
Minor Defect	means a Defect with negligible, cosmetic effects, which does not affect the Software significantly. An example of a Minor Defect are formatting problems, misleading error messages.
Minor Release	means a new version of the Software with new minor functionalities or features. Minor Releases are identified by the following version number: x.1.0, whereas the second digit ("1") denominates the number of the Minor Release, which is preceded by its associated Major Release.
Patch Release	means a new version of the Software with the remedy of one or several Defects. Patch Releases are identified by the following version number: x.y.1, whereas the third digit ("1") denominates the number of the Patch Release, which is preceded by its associated Major and Minor Release.
Release	means a Major, Minor, or Patch Release.
Response Time	means the time during the Support Hours that elapses between the Supplier's actual receipt of a Support Ticket issued by the Customer, and the commencement of Maintenance Services by the Supplier as defined in Section 7.
Service Provider Interface	means the programming interface specifying how a third party computer program interacts with the Software to use predefined functions of the Software.
Severity Level	means the level of priority the Customer assigns to a Support Ticket. The Severity Levels include the following types of Defects: Critical, Major and Minor.

Software	means the computer program jOOQ in the current version and any new Releases thereof.
Subscription Fee	means the fee Customer pays for the use of the Software pursuant to Section 6 and for the Maintenance Services.
Subscription Period	means the duration of validity of this Agreement.
Support Hours	mean the daily time period the Maintenance Services are available to the Customer.
Support Ticket	means the notification of the request for a Maintenance Service issued by the Customer such as the notification of a Defect. In the absence of a Ticketing System, Customer may request for a Maintenance Service through E-Mail at support@datageekery.com.
Ticketing System	is a third party software maintained by the Supplier used by the Customer to create Maintenance Service requests with associated Severity Levels.
Work Product	is any work result of the Maintenance Services, such as new Releases, documents, information and improvements developed or created in the performance of the Maintenance Services.
Workaround	means a way of circumventing a Defect without actually fixing it within the source code. A Workaround is mitigating the effect of the Defect, so that the user can use the Software reasonably.
Working Days	mean the locally recognized working days in Zurich (Switzerland) (excluding locally recognized public and bank holidays).
Workstation	means a computer onto which the Software was installed or copied by the Customer and which is used to run the Software.

3   Annex

The Annex shall be integral part of this Agreement. In the case of contradiction between the Annex and this document the Annex shall prevail.

4   Software and Object of Services

The Agreement covers the Software as set out in the Annex to this Agreement and any new Release; the Software does not include the Documentation which is available for download at http://www.jooq.org. The Maintenance Services do not include maintenance or support for any parts of the Java Development Kit or the Database Program(s).

5   Delivery

The Supplier will make the Software and any new Releases available for download at the site designated by the Supplier. A delivery date included in the Annex shall be approximate.

6   Licenses

6.1   Developer License

The Supplier grants the Customer the non-exclusive and non-transferable license to install and use the Software on the number of Workstations set out in the Annex for operation in conjunction with the Database Programs defined in the Annex. Without the written consent of the Supplier, Customer is not entitled to use the Software in conjunction with other Database Programs.

6.1.1   Timely limited license

Customer may choose a timely-limited license for timely limited use of the Software. Terms of such use are set out in the Annex.

6.1.2   Perpetual license

Customer may choose a perpetual license for timely unlimited use of the Software. Terms of such use are set out in the Annex.

6.2 Distribution Right

Supplier grants the Customer the non-exclusive, perpetual, royalty-free and non-transferable license (i) to distribute the Software as run time version in object code form only and embedded in the End-user Applications and (ii) to grant non-exclusive and perpetual sublicenses of it to the End-user.

Customer is not permitted to distribute the Software as a standalone product. Customer must ensure that the Software is not distributed in any form that allows it to be reused by any application other than the End-user Application.

6.3 Excluded Rights

Except as expressly stated in this Section 6, Customer may not (and shall not permit any third party to) copy, adapt, modify, reverse engineer, decompile, reassemble or disassemble the Software in whole or in part except to the extent expressly permitted by applicable law. Furthermore Customer shall not make available the Software to third parties, unless such third parties are using or operating the Software solely on behalf of the Customer.

7 Maintenance Services

7.1 Maintenance Services

7.1.1 Remedial Services

The Supplier will use reasonable endeavours to remedy Defects by

- delivering a new Release or
- providing the Customer with a suitable Workaround.

The Reaction Time is set out in the Annex and depends on the Severity Level of the Defect. Critical and Major Defects usually are remedied with the next Major, Minor, or Patch Release. Minor Defects usually are remedied with the next Major or Minor Release.

7.1.2 Provision of New Releases

The Supplier may from time to time and at its sole discretion issue and deliver to the Customer new Releases.

If Customer chooses a perpetual license, only Minor Releases and Patch Releases will be provisioned by Supplier.

7.1.3 Support Services

Customer may request support consisting of advice, consultancy and help concerning the use and the operation of the Software. The Supplier will provide these support services through e-mail or phone as defined in the Annex.

7.2 Provision of Services

7.2.1 Availability of Maintenance Services

The Support Hours are set out in the Annex. Support Tickets issued outside of Support Hours will be processed on the next Working Day according to the Response Time set out in the Annex.

7.2.2 Support Tickets and Prioritization of Defects

Customer will prioritize the Support Ticket for Remedial Services based on the Severity Levels. The Supplier is entitled to re-prioritize the Support Ticket and will notify Customer as soon as possible if such a re-prioritization is made. The ultimate decision on the Severity Level lies with the Supplier.

7.3 Start of Maintenance Services

The Maintenance Services shall start upon Delivery of the Software.

7.4 End of Maintenance Services (of perpetual licenses)

The Maintenance Services shall end one (1) year after Delivery of the perpetually licensed Software.

7.5 Excluded Services

The Maintenance Services do not extent to computer programs developed by the Customer or a third party which uses the Service Provider Interfaces to interact with the Software or to defects reported that cannot be attributed to the Software or the Maintenance Services, in particular in the event

- Defects are caused by third parties;
- Defects are caused by non-observance of operating instructions.

8 Subscription Fee

8.1 Subscription Fee

Customer will pay a single, annual, or monthly Subscription Fee set out in the Annex.

The Supplier is entitled to adjust the amounts of the Subscription Fee at the beginning of each calendar year to take account of cost developments. Any such adjustments must be communicated in writing or per e-mail at least four months before they come into effect.

8.1.1 Perpetual license

A single Subscription Fee for the first year is payable in advance.

8.1.2 Yearly Subscription

The Subscription Fee is payable yearly in advance.

8.1.3 Monthly Subscription

The Subscription Fee is payable monthly in advance.

8.2 Payment Terms

The amount payable by Customer is exclusive of Value Added Tax, any relevant local sales taxes and customs duties and other charges assessed on such importation, for which Customer shall be responsible. All invoices of the Supplier are due and payable thirty (30) days after the invoice date unless otherwise provided in this Agreement.

8.3 Maintenance Services not included in Subscription Fee

The Subscription Fee includes the number of Support Tickets set out in the Annex. The Supplier is entitled to charge for any additional Support Ticket on a time and material basis based on the hourly rates defined in the Annex.

Onsite services are not included in the Subscription Fee and will be charged additionally.

If the Supplier provides Maintenance Services in relation to a defect and it is found that the defect cannot be attributed to the Software or the Maintenance Services as further set out in Section 7.5, the Supplier may charge for all such services according to the hourly rates set out in the Annex.

9 Cooperation Obligations

Customer shall fulfil the following cooperation obligations:

- installation of the Software;
- operation of the Software with the Java Development Kit version 6 or a later version thereof if notified accordingly by the Supplier;
- reporting of the Defects comprehensibly and immediately using the Support Ticket system of the Supplier;
- remote access to the Software operated by the Customer or, if the remote access is not available, access to the office spaces and provision of a working place reasonably equipped to fulfil the Maintenance Services in case the Supplier is providing the Maintenance Services onsite;
- installation and use of the latest Major or Minor Releases within one year after its issuance by the Supplier;
- installation and use of the latest Patch Release as soon as reasonably practical after its issuance by the Supplier;
- carrying out Supplier's recommendations designed to implement a Workaround.

10 Intellectual Property Rights and Audit

10.1 Intellectual Property Rights

All title, trademarks and copyrights in and to the Software and the Work Products and any copies thereof are owned by the Supplier or its licensors. The Customer may not copy, distribute, modify or publish the Software or the Work Products unless expressly stated in this Agreement. Apart from the rights vested in the Software, the Supplier is not claiming any rights to the part of the End-user Application developed or modified by the Customer or its licensor(s).

10.2 Proprietary Notices

Customer may not remove any proprietary notices or labels on the Software.

10.3 Auditing

Upon reasonable notification, the Supplier may inspect Customer's premises and records necessary to check the number of Workstations. The inspection shall take place during normal business hours and shall not interfere unreasonably with Customers' business activities. The Supplier is entitled to charge a third party with the inspection.

10.4 Duty to provide information

Customer shall immediately provide in writing all information relevant to the Subscription Fee, such as the increase of the number of Workstations, or the types of Database Programs.

11 Involvement of third parties

The Supplier is entitled to commission subcontractors or other third parties to fulfil its contractual obligations.

12 Default and Warranty

Should the Supplier fail to deliver the Software at the delivery date, fail to rectify a Defect within a reasonable time limit, provide inadequate Maintenance Services or not begin to rectify the Defect within the Response Time, the Customer may fix in writing an appropriate time limit for subsequent performance of the service concerned. Should the Supplier fail to perform the service by this time limit, the Supplier shall be in default. Should the Supplier fail to meet a second appropriate time limit specified in writing for subsequent performance of the service concerned, the Customer shall be entitled to withdraw from the Agreement, and demand repayment of any Subscription Fee paid since the Supplier was found to be in default. In the case of Defects of Severity Level "Major" or "Minor", the Customer shall only be entitled to an appropriate reduction of the Subscription Fee. No other remedies shall be provided under this Agreement. Substitute performance by a third party is specifically excluded.

13 Confidentiality

All data and information such as files, studies, offers, business documents, concepts or meeting minutes exchanged between the Parties may only be

used by the recipient to fulfil its contractual obligations, and may not be made available to third parties unless such parties are involved in the fulfilment of such contractual obligations. All data and information which are publicly known at the time the Agreement is concluded or become publicly known without any violation of the contractual agreements during the validity of the Agreement shall not be regarded as confidential under the terms of this provision. Both Parties undertake to impose the above confidentiality provisions on their own personnel and any third parties involved.

14 Protection of personal data (data protection)

The Customer undertakes, when using the Maintenance Services, to comply with all applicable data protection provisions and to impose the same obligation on its employees and any third parties authorized to obtain the Maintenance Services. Any authorizations required for the establishment and use of databases containing personal data and the transfer of personal data abroad shall be obtained by the Customer from the relevant authorities.

15 Defence of infringement claims

The Supplier shall defend the Customer against any claims relating to the infringement of intellectual property rights such as copyright, patent or trademark rights arising from the use of the Software or the Work Products in compliance with the contractual agreements, provided the Customer

- notifies the Supplier in writing within ten (10) calendar days of the actual or alleged infringement of intellectual property rights;
- provides the Supplier with all the information required to settle the claim, together with all reasonable cooperation and support;
- gives the Supplier the sole authority to conduct the legal case and settle the claim in court or out-of-court.

Under the above conditions, the Supplier shall conduct the legal case at its own expense.

Should the intellectual property rights of third parties be violated, or should the Supplier regard such infringement as likely, the Supplier may choose to obtain for the Customer the right to continue to use the Software or the Work Products, to replace or modify them so that they become non-

infringing, or to withdraw from the Agreement and reimburse the portion of the Subscription Fee paid since the Customer reported the infringement claim. The foregoing states the Supplier's entire warranty with respect to any infringement claims.

16 Disclaimer of Liability

The Supplier is not liable for any damages, including direct and indirect, incidental or consequential damages, or for loss of profits, revenue, data, for incorrect or corrupted data, Customers' additional expenses or personal costs, non-realised savings, non-availability of the Maintenance Services or for damages caused by late delivery, subcontractors or auxiliary persons, whether in an action in contract, tort, statute or otherwise, unless otherwise provided by mandatory provisions of law.

17 Termination

17.1 Ordinary Termination

Notice of termination must be submitted in writing or per e-mail.

17.1.1 Ordinary Termination of a yearly Subscription

This Agreement shall be valid for twelve (12) months upon Delivery of the Software and shall be renewed for an additional twelve (12) months period, if neither Party terminates it observing a three (3) months' notice period.

17.1.2 Ordinary Termination of a monthly Subscription

This Agreement shall be valid for one (1) month upon Delivery of the Software and shall be renewed for an additional one (1) months period, if neither Party terminates it observing a one (1) months' notice period.

17.2 Partial Ordinary Termination

The Customer shall be entitled to terminate the Agreement for a part of the Workstations at the end of each Subscription Period by observing a notice period of one (1) month. Provided the Subscription Fee was based on a discount scheme offered by the Supplier and should the Customer no longer fulfil their conditions required for a discount, the Supplier shall be

entitled to adjust the new Subscription Fee accordingly. Notice of termination must be submitted in writing or per e-mail.

17.3 Extraordinary Termination

Both Parties shall have the right to terminate this Agreement with immediate effect by giving written notice to the other Party, if

- the other Party becomes insolvent;

- the other Party enters into a composition agreement or similar proceedings under bankruptcy laws;

- the other Party ceases to carry out its business operations; or

- in the event of a material breach of any obligations under this Agreement by the other Party and if such breach has not been remedied within a time period of thirty (30) calendar days. Other terms concerning the breach of contract shall take precedence over this provision.

17.4 Effects of Termination

Upon termination of this Agreement Customer will delete the Software and all Work Products and confirm per e-mail that it did so successfully within ten (10) Working Days.

All provisions of this Agreement that are expressed or intended to survive termination, together with those provisions necessary for the interpretation or enforcement of this Agreement, shall survive its termination, and shall continue in full force and effect.

18   Final Provision

18.1   Entire Agreement

This Agreement constitutes the entire agreement between the Parties regarding this subject matter. All amendments or additions to the Agreement must be made in writing and signed by both Parties.

18.2   Severability

Should one or more provisions of this Agreement prove invalid or unenforceable, the remaining provisions of the Agreement shall remain in force. In such cases, both Parties undertake to replace the invalid or

unenforceable provision with another valid and enforceable regulation which comes as close as possible to the invalid or unenforceable provision in its legal and business content and implications. This principle and procedure shall also be applied to the rectification of open terms or omissions in the Agreement.

18.3   **Applicable law and place of jurisdiction**

This Agreement shall be governed exclusively by Swiss law (excluding the United Nations Convention on Contracts for the International Sale of Goods).

The place of jurisdiction shall be exclusively Zurich, Switzerland.

ANNEX

1 Annex

The Annex shall be integral part of the License and Maintenance Agreement. In the case of contradiction between the Annex and the Agreement the Annex shall prevail.

The prices, services, restrictions and definitions in this Annex shall amend the terms and conditions set out in the Agreement for Your specific Subscription.

2 Price Plans

Available price plans include:

- jOOQ Trial Edition ("Trial Edition" or "Trial")
- jOOQ Express Edition ("Express Edition" or "Express")
- jOOQ Professional Edition ("Professional Edition" or "Professional")
- jOOQ Enterprise Edition ("Enterprise Edition" or "Enterprise")

2.1 Subscription

	Trial	Express	Professional	Enterprise
Perpetual Fee	Free of charge	EUR 219 excl. VAT per Workstation	EUR 899 excl. VAT per Workstation	EUR 1799 excl. VAT per Workstation
Yearly Subscription Fee	Free of charge	EUR 99 excl. VAT per Workstation per year	EUR 399 excl. VAT per Workstation per year	EUR 799 excl. VAT per Workstation per year
Monthly Subscription Fee	Free of charge	EUR 12 excl. VAT per Workstation per month	EUR 49 excl. VAT per Workstation per month	EUR 99 excl. VAT per Workstation per month
Termination	30 days after Delivery	As set out in Agreement	As set out in Agreement	As set out in Agreement

2.1.1 Workstation

All of the above price plans charge a Subscription Fee only for developer Workstations, not for server Workstations. A developer Workstation may only be accessed by one user at a time.

2.1.2 Express Edition Workstations

You (meaning the legal entity you represent) may purchase at most 3 (three) licenses for the Express Edition.

2.1.3 Termination of Trial Edition

The Trial Edition Subscription shall be automatically terminated 30 days after Delivery onto a Workstation, after which it must be immediately removed from such Workstation. Without the written consent of the Supplier, Customer is not entitled to install the same Major Release of the Software on the same Workstation again under the terms of the Trial Edition Subscription.

2.2 Maintenance Services

	Trial	Express	Professional	Enterprise
Incidents	None	None	3 incidents per Workstation per year	10 incidents per Workstation per year
Response Time	Best effort (No guarantee)	Best effort (No guarantee)	3 Working Days	1 Working Day
Support Hours	Best effort (No guarantee)	Best effort (No guarantee)	9am – 5pm CET	9am – 5pm CET
Support Languages	English, German, French	English, German, French	English, German, French	English, German, French

2.2.1 Perpetual license

If Customer chooses a perpetual license, one year of Maintenance Services are included. After this year, Maintenance Services may be purchased on a time and material basis as set out in 2.5 of the Annex.

2.2.2 Monthly Subscription

If Customer chooses a monthly Subscription, the amount of incidents included in the Subscription per month is the amount of incidents per year divided by twelve (12). In the event of Termination of such Subscription, excess incidents issued thus far are billed by Supplier on a time and material basis as set out in 2.5 of the Annex.

2.2.3 Disclaimer of Warranty for Trial Edition

The Supplier provides the Software on an "AS IS" basis, without Warranties or conditions of any kind, either express or implied, including, without limitation, any warranties or conditions of title, non-infringement, merchantability, or fitness for a particular purpose.

2.3 Databases

	Trial	Express	Professional	Enterprise
Open Source Database Support	- CUBRID 8.4 - Derby 10.10 - Firebird 2.5 - H2 1.3 - HSQLDB 2.2 - MariaDB 5.2 - MySQL 5.5 - PostgreSQL 9.0 - SQLite	- CUBRID 8.4 - Derby 10.10 - Firebird 2.5 - H2 1.3 - HSQLDB 2.2 - MariaDB 5.2 - MySQL 5.5 - PostgreSQL 9.0 - SQLite	- CUBRID 8.4 - Derby 10.10 - Firebird 2.5 - H2 1.3 - HSQLDB 2.2 - MariaDB 5.2 - MySQL 5.5 - PostgreSQL 9.0 - SQLite	- CUBRID 8.4 - Derby 10.10 - Firebird 2.5 - H2 1.3 - HSQLDB 2.2 - MariaDB 5.2 - MySQL 5.5 - PostgreSQL 9.0 - SQLite
Commercial Database Support	- Microsoft Access 2013 - SQL Server 2008 (All editions) - Oracle 11g (All editions) - Ingres 10.1 - DB2 9.7 - Sybase ASE 15.5 - Sybase SQL Anywhere 12	- Microsoft Access 2013 - SQL Server 2008 Express - Oracle 11g Express	- Microsoft Access 2013 - SQL Server 2008 (All editions) - Oracle 11g (All editions)	- Microsoft Access 2013 - SQL Server 2008 (All editions) - Oracle 11g (All editions) - Ingres 10.1 - DB2 9.7 - Sybase ASE 15.5 - Sybase SQL Anywhere 12

2.3.1 Applicability

The above listing of supported Database Programs applies to jOOQ 3.3 and newer releases. Future Major and Minor Releases may amend this Annex to add support for more Database Programs.

2.3.2   Other Databases

Without the written consent of the Supplier, no other Database Programs, and no earlier versions of Database Programs than the ones listed above shall be used with the Software by the Customer.

2.4   Delivery

	Trial	Express	Professional	Enterprise
Major Releases	Latest Release only	1 Release in 2 years	1 Release in 2 years	1 Release in 2 years
Minor Releases	Latest Release only	4 Releases in 1 year	4 Releases in 1 year	Upon availability
Patch Releases	Latest Release only	12 Releases in 1 year	12 Releases in 1 year	Upon availability

2.4.1   Approximity

All Delivery dates are approximate. Actual Delivery date planning is at the sole discretion of the Supplier.

2.4.2   Availability

Customers purchasing the Enterprise Edition may profit from early access to Minor and Patch Releases upon availability of such Releases. Such access may be requested in writing by e-mail.

2.4.3   Pre-releases

Pre-releases can be ordered on a time and material basis as set out in 2.5 of the Annex.

2.5   Hourly Rates

Hourly rates for extra work not included in the Agreement or in the Annex amount to EUR 180 excl. VAT.