



**Licence Conditions and Terms of Use for Private and Academic
Use
(Version from 09.03.2017)**

1. Scope, general

(1) These Licence Conditions and Terms of Use (hereinafter "Terms of Use") describe the requirements and procedures for use of the free forms of use of the library **hermes** (hereinafter "Library") provided by Seadex GmbH (hereinafter also referred to as "Seadex") including the user documentation and the other accompanying material.

(2) The Library is provided to users as open source software. There are various ways of using the program code or the services we offer.

(3) The Terms of Use apply accordingly to the provision of new program versions of the Library (e.g. patches, bug fixes, updates, upgrades, etc.) as well as to the user documentation made available for download on the Seadex website.

(4) The Terms of Use apply exclusively. Deviating, opposing or supplementary general terms and conditions of the user shall only become components of the contract if Seadex has expressly consented to their application in writing. This consent requirement shall always apply, in particular even if Seadex starts to provide the service without reservation despite being aware of the general terms and conditions of the user.

(5) Individual agreements concluded with the user in the individual case (including collateral agreements, additions and amendments) shall always take precedence over these Terms of Use. A written agreement or Seadex's written confirmation shall be decisive for determining the content of such agreements.

(6) Declarations and notices which are significant from a legal point of view and which must be submitted to Seadex by the user after conclusion of the agreement must be in writing to be valid.

(7) Seadex offers the Library, the documentation and the information exclusively for private, non-commercial and academic use. The user declares that, when using the Library, he is neither acting as or for a company, i.e. is not carrying out commercial or self-employed professional activity.

Anschrift Seadex GmbH
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2. Rights of use

- (1) Seadex shall make the Library and information about the Library available free of charge for download on the Seadex website.
- (2) Seadex's Library is free open source software which is provided under the following Terms of Use:
- a) Permission is hereby granted, free of charge, to any user obtaining a copy of the Library and associated documentation, the rights to use, copy, modify, merge, publish, and/or distribute copies of the Library without restrictions, and to permit persons to whom the library is furnished to do so.
- The copyright notices in the Library and in the associated documentation as well as these Licence Conditions and Terms of Use shall be included in all copies or substantial portions of the Library and must not be removed.
- b) The rights granted only apply to acts, which are not aimed at gaining a commercial advantage or monetary remuneration ("non-commercial use").
- (3) You are not entitled to distribute, rent, lease, lend or sublicense the Library or parts thereof. Passing the Library on for a fee is expressly prohibited.**
- (4) The right of use shall be granted for all known types of use as well as for all types of use which are as yet unknown. It also includes the right to make modifications to the Library which are necessary from a technical point of view for certain types of use permitted by this licence.
- (5) Each user may install, extend and update the Library free of charge.
- (6) Seadex shall provide public tutorials to assist with installation of the Library. We offer limited support for general questions. Please note that the more comprehensive support for self-installation is subject to concluding a consultancy agreement. Open source stands for freedom but not necessarily for free.
- (7) All other rights which go beyond this section and are not expressly granted by Seadex remain the rights of Seadex alone. Personal rights remain unaffected.

3. Provision of the Library

- (1) The following applies with respect to remuneration for use of the Library:
- (a) Seadex offers the Library free of charge.

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(b) Seadex reserves the exclusive right to collect corresponding remuneration for the event that you use the Library for commercial purposes.

(2) You acknowledge that you are not permitted to remove, conceal or change references to rights of ownership contained in the Library or which are added to it. This also applies to copyright notices or trade marks.

(3) Irrespective of other rights of Seadex, the licence granted shall automatically expire if you breach the provisions of these Terms of Use. In such a case, the further use of the Library, copies of it and all of its components is strictly prohibited and Seadex reserves the right to claim corresponding remuneration for the event of use contrary to the provisions of these Terms of Use.

4. Third-party software, open source software

(1) The Library can contain components of third-party software and/or open source software governed by separate licence conditions. Where necessary for lawful use of the Library, the software licence conditions applicable to the respective third-party or open source software shall be listed in the appendix to these Terms of Use. You undertake to only install the Library if you agree to the software licence conditions applicable to this third-party or open source software which take precedence over these Terms of Use. If you reject these, you shall refrain from installing and using the Library.

5. Data protection

(1) By using the Library described herein, you agree to Seadex saving general and personal data on your instruction.

(2) Your use does not give us any rights in the data you use which are created with the Library. The scope, type and content of the data is your responsibility alone.

(3) Your data will be treated as private and confidential unless you make a separate request that we make certain data public.

(4) An exception to this rule is the fact that we reserve the right to select individual data for demonstration and advertising purposes and to display this data in our

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public gallery as examples. In doing so, we will always correctly reference the author and do not obtain any further rights in this content.

6. Warranty and liability

- (1) If the Library, information or documentation are provided free of charge, liability for material or legal defects in the information, software and documentation, especially for it being accurate, free from errors, free from property rights and copyrights belonging to third parties, complete and/or usable – apart from in cases of provable intent or fraudulent intent – is excluded.
- (2) Beyond the agreed services, use shall be at the user's own risk, especially in the case of free use and any self-installations of the Library.
- (3) Seadex shall make the entire Library available in good conscience observing the duty of care.
- (4) You declare your express consent to use of the Library "as is". There is no guarantee that the Library will always be available.
- (5) Seadex does not accept any liability for losses or risks of any kind arising from use of the Library. This includes damage to your computer system or another device as well as to losses of data resulting from use of or downloading the Library.
- (6) Seadex, our employees, members, representatives or other contracting partners shall, under no circumstances, be liable for direct, specific or indirect losses or damage, lost profit and the loss of data resulting, for example, from tortious acts (including but not limited to negligence).
- (7) The availability of the Library excludes times when our servers are not available via the Internet for technical reasons which lie outside of Seadex's sphere of influence. We shall not accept any liability for external events.
- (8) Seadex shall not accept any liability for malfunctions of services of third-party providers for server hardware, memory capacities or network services. We shall also not accept any liability for errors or delays in performance of the duties where the trigger is outside of our control. This includes, but is not limited to, fire, flooding, earthquakes, power cuts and Internet disturbances.

7. Amendments and additions to the Terms of Use

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- (1) We reserve the right to extend or amend these Terms of Use in order to cover new services and functions.
- (2) Amendments shall be published in advance on this website in order to give users sufficient time to acquaint themselves with these amendments.
- (3) We have the right, with your consent, to modify the content of these Terms of Use providing you can be reasonably expected to accept the amendment, taking account of our interests. Your consent to the amendment to the Terms of Use shall be deemed granted if you do not object to the amendment within one month of receipt of the amendment notification. We undertake to notify you of the consequences of not raising an objection in the amendment notification.

8. Applicable law, jurisdiction

- (1) The law of the Federal Republic of Germany applies to the provision of the Library and all related legal relationships between Seadex and the user. Application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- (2) Where (i) the user is a businessman within the meaning of the German Commercial Code (Handelsgesetzbuch), (ii) the user is a legal person under public law or a special fund under public law or (iii) the user does not have a general place of jurisdiction in the Federal Republic of Germany, Rottweil, Germany, is agreed as place of jurisdiction. However, Seadex remains entitled to file a claim or to institute other court proceedings at the general place of jurisdiction of the user.

9. Final provisions

- (1) Should one of the provisions of these Terms of Use be invalid, this shall not affect the validity of the other provisions.
- (2) Where these Terms of Use are translated into other languages, the German version shall remain the only legally binding version.

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