

Fonto END USER LICENSE AGREEMENT

Preamble

This Fonto End User License Agreement (hereinafter “**EULA**”) applies to the use of and the product support for the Fonto Software licensed by Fonto Group B.V., a private company with limited liability, incorporated and existing under Dutch law, having its registered office at Polakweg 7 (2288 GG) Rijswijk, the Netherlands, registered with the trade register of the chamber of commerce under number 60730013, (hereinafter: “**Fonto**” or “**we**”). This EULA together with any order form or ordering document signed or otherwise accepted by you form the agreement entered into by the end user (hereinafter “**Customer**” or “**you**”) and Fonto.

Use of the Fonto Software (including any updates or upgrades thereof) (hereinafter the “**Software**”) by Customer is subject to Customer’s timely payment of the applicable license and support and maintenance fees (“**Fees**”) and to the terms and conditions of this EULA. Please read this EULA carefully before ordering, downloading, installing or using the Software. You indicate your acceptance of and you agree to be bound by this EULA by signing the order form or ordering document, downloading, installing, or using the Software. If you do not accept or agree to this EULA, do not order, download, install, or use the Software and return the Software to your reseller or to Fonto. If you are accepting this EULA on behalf of any corporation, partnership or other entity, you represent and warrant that you are authorized to legally bind such entity to this EULA.

1. Software license

- 1.1. Subject to Customer’s compliance with this EULA and payment of the Fees, Fonto hereby grants Customer a non-exclusive, non-transferable right for the sole purpose of using the Software for the type and maximum number of users, for the term as specified in the order form or ordering document and for its own internal business purposes.
- 1.2. Except as expressly permitted under this EULA, Customer is not entitled to (a) rent, lend, lease, assign, sub-license, resell, redistribute or otherwise make available, alter, modify or translate the Software or any copy of it in any form to any third party nor create any derivative works from it; (b) remove from or change in the Software any designation concerning copyrights, trademarks or other intellectual and / or industrial property rights, including any indications concerning the confidential nature of the Software (c) decompile, reverse engineer, disassemble, or seek to reconstruct or discover any humanly readable form of code of the Software except to the extent allowed by applicable law (d) use the Software to operate a services bureau or to provide hosting services, use the Software to operate as an outsourcer, use the Software in a time-sharing arrangement; (e) attempt to disable or circumvent any of the licensing mechanisms or restrictions within the Software.
- 1.3. Under a named user license Customer's right to use the Software is limited to the number of registered individuals specified in the order form or ordering document who may access and use the Software. Under a concurrent user license Customer may allow multiple individuals to access and use the Software but the total number of users accessing the Software at any given time may not exceed the total number of Concurrent Users specified in the order form or ordering document.
- 1.4. Customer may only make copies of the Software in a reasonable number and only for backup or archival purposes consistent with this EULA. Customer shall include Fonto’s copyright, trademarks and other proprietary rights notices, as contained in the original copy of the Software, on every copy Customer makes of the Software. Customer may not under any

circumstance, and may not permit any third party to, prepare any derivative work of the Software or remove any product identification, copyright, trademark or other notice from the Software.

- 1.5. Customer undertakes to (a) monitor and control the use of the Software in accordance with the terms of this EULA and (b) to maintain accurate and up-to-date-records of number of registered named or concurrent users of the Software.
- 1.6. Customer undertakes to comply with the technical instructions provided by Fonto relating to the (a) minimum configuration required (b) the recommended environment as set forth in Appendix B and (c) in relation to installing any patches and updates for the Software. Because the recommended environment is likely to change frequently as a result of technical improvements, Customer is recommended to regularly access and review the updated recommendations on Fonto's Support Portal at <http://documentation.FontoXML.com>.
- 1.7. Third Party Materials. The Software may include certain open source software and/or other third party software, data or other materials ("**Third Party Materials**") that are separately licensed to Customer by the respective owners or licensors. Customer's use of such Third Party Materials is subject to the applicable open source or third party license terms and conditions. The applicable license terms and conditions and other information relating to such Third Party Materials (including any available source codes) are made available in an addendum to this EULA, the Software, the documentation or at <https://fontoxml.com/>. In the absence of any applicable open source or third party license terms and conditions Customer is allowed to use such Third Party Materials subject to the restrictions and limitation of this EULA. Third Party Materials are provided "as-is" and Fonto makes no representation, warranty, or other commitment regarding Third Party Materials, and hereby disclaims any and all liability relating to Customer's use thereof.
- 1.8. Feedback. If Customer chooses to provide Fonto with ideas or suggestions regarding the Software, Customer agrees that Fonto is free to use any such ideas and suggestions for any purpose, including, without limitation, developing, improving and marketing the Software, without any liability or payment of any kind to Customer.

2. Fees and payment

- 2.1. In consideration of the licence granted under this EULA, Customer shall pay Fonto or its reseller if Customer ordered the Software via a reseller the applicable fees as specified in the order form or ordering document. The fees shall be due and payable by Customer to Fonto or its reseller thirty (30) days after the date of invoice. The fees include Product Support as specified in clause 7.
- 2.2. In the event Customer exceeds the maximum number of registered named or concurrent users, Customer shall pay the additional Fees set forth in the then current price list of Fonto or of its reseller for the term of Customer has exceeded the maximum number of registered named or concurrent users.
- 2.3. All fees and any other charges described in this EULA are exclusive of local taxes and duties, are exclusive of VAT and will be invoiced to and payable by the Customer.
- 2.4. If Customer fails to pay due invoices, Fonto or its reseller is entitled to charge interest at the then current statutory commercial interest rate ex Section 6:119a of the Dutch Civil Code.
- 2.5. In the event of non-payment, Fonto shall have the right to suspend or revoke Customer's right to use the Software until full payment has been made.

- 2.6. Fonto may change the prices for the Software license and product support annually on 1 January in accordance with the price index for business services as published from time to time by the CBS (Central Statistics Netherlands; [CBS Consumer Price Index \(CPI\)](#)) by sending a written notice with the new prices to Customer and with a term of thirty (30) days.

3. Intellectual Property Rights

- 3.1. All copyrights and all other intellectual and/or industrial property regarding the Software as well as all parts and copies thereof shall remain solely vested in Fonto or its licensors and shall not be assigned to Customer or any third party. Customer acknowledges these rights and shall refrain from any form of direct or indirect violation of these rights and shall not remove from or change in the Software any designation concerning copyrights, trademarks or other intellectual and / or industrial property rights, including any indications concerning the confidential nature of the Software.
- 3.2. Fonto shall indemnify Customer against third party claims that the use of the Software infringes the intellectual property rights of such third party, provided that Customer (a) promptly notifies Fonto in writing of any infringement or alleged infringement; (b) makes no admissions without Fonto's prior written consent; (c) allows Fonto to conduct any negotiations or litigation and/or settle any claim; and (d) provides Fonto all reasonable assistance with regard to such claim.
- 3.3. Fonto shall have no liability for any claim of infringement of any intellectual property rights that is based on: (i) the use of other than the latest version of Software, if such infringement could have been avoided by the use of the latest version; (ii) the use or combination of the Software with software, hardware or other materials not approved by Fonto, (iii) use of the Software in a manner other than that for which it was designed or contemplated; (iv) any modification of the Software made by Customer or a third party; or (v) any Third Party Materials.
- 3.4. If Customer's use of the Software is or, to the judgment of Fonto, could be prohibited by a judgement or an injunction, Fonto shall, at its expense and option, promptly (i) replace the Software with a compatible, functionally equivalent, non-infringing software product; (ii) modify the Software or take other action so that the Software becomes non-infringing while maintaining the equivalent functionality; (iii) procure the right of Customer to continue using the Software; or (iv) terminate the license and Customer's use of the Software and offer Customer a pro-rata refund of the license fee paid by Customer with respect to the Software depreciated on a three-year straight line basis commencing on the first date of use of the Software.
- 3.5. Any further liability of Fonto regarding the infringement of third party intellectual property rights is explicitly excluded.
- 3.6. Escrow. Fonto has deposited a copy of the source code corresponding to the most recent version of the Software at the escrow agent as specified at the website of Fonto. Upon request of Customer and payment by Customer of the applicable fees, Fonto will name Customer as a beneficiary to the escrow arrangement between Fonto and the escrow agent. Upon the occurrence of any of the events as defined in the escrow arrangement, subject to the terms and conditions of that escrow arrangement and provided Customer is in compliance with the terms and conditions of the EULA, the escrow agent will provide to Customer a copy of the source code of the then current version of the Software.

4. Confidentiality

- 4.1. The Software and documentation are and contain valuable confidential information of Fonto. Confidential Information means non-public technical and non-technical information relating to the Software and documentation, including, without limitation, trade secret and proprietary information, and the structure and organization of the Software and any other information that has been designated as confidential and/or regarding which the Customer knows or should reasonably understand that such information is confidential.
- 4.2. Customer shall keep confidential the Software and documentation or any part or any copy thereof and Customer shall not disclose the same to third parties without the prior written consent of Fonto.
- 4.3. Customer shall take all necessary measures to safeguard the confidentiality of the Software and documentation or any part or any copy thereof and to prevent the disclosure, use, copying, publication or dissemination of the same to a third party.
- 4.4. Customer agrees that, in the event any person or party seeks to obtain the Confidential Information of Fonto through involving Customer by any means, including demand, discovery request or court order, Customer shall immediately notify Fonto prior to disclosing the requested Confidential Information and will cooperate with each other in responding to such demand, discovery requests or court order so as to minimize the disclosure of such Confidential Information.
- 4.5. Customer shall impose the confidentiality obligations upon its respective employees and authorized third parties by written agreement and shall see to it that its employees and authorized third parties shall at all times fully comply with such obligations.

5. Audit rights

- 5.1. Self-audit by Customer. During the term of this EULA, upon request of Fonto, Customer shall conduct a self-audit of its use of the Software and, within ten (10) business days after receipt of such request, submit a written statement to Fonto verifying that it is in compliance with the terms and conditions of this EULA.
- 5.2. Audit by reseller. Customer agrees that the relevant reseller, upon instruction of Fonto, may instruct an independent third party to perform an audit, on behalf of the relevant reseller, at Customer's facilities during normal business hours, in order to ascertain Customer's compliance with this EULA. Customer agrees to cooperate with Reseller and the instructed independent third party during such an audit and to provide reasonable access to Customer's information and systems. If an audit reveals that Customer has breached any term of this EULA, then Customer shall pay the Fees due as from the date of the breach and reimburse all reasonable costs of conducting the audit.
- 5.3. Audit by Fonto. Customer agrees that Fonto, at its sole discretion, may instruct an independent third party to perform an audit, on behalf of Fonto, at Customer's facilities during normal business hours, in order to ascertain Customer's compliance with this EULA. Customer agrees to cooperate with Fonto and the instructed independent third party during such an audit and to provide reasonable access to Customer's information and systems.
- 5.4. If a self-audit or an audit reveals that Customer has breached any term of this EULA, then Customer shall pay the Fees due as from the date of the breach and reimburse all reasonable costs of conducting the audit incurred by Fonto, without prejudice to Fonto's rights and remedies under this EULA or at law including the right to claim damages and to terminate this EULA with immediate effect.

6. Limited Warranty

- 6.1. Subject to the exceptions provided in clause 6.4, Fonto warrants to Customer that, for a period of 3 months from the date the Software has been downloaded, the Software will substantially conform to the documentation accompanying the Software and that during this period Fonto will, through the relevant reseller and upon written notice within such time from the relevant reseller, use commercially reasonable efforts to correct or to provide a workaround for any material non-conformance of the Software to the material specifications set forth in the documentation, as long as Customer has installed and used the Software in conformance with such specifications and has not modified it.
- 6.2. Fonto does not guarantee that any error or other non-conformance can or will be corrected. Customer shall cooperate with its reseller and provide its reseller with all available information in written or electronic form so as to enable the reseller and/or Fonto to reproduce and attempt to correct such non-conformance of the Software. In the event that Fonto is unable to correct a material non-conformance in the Software and if in Fonto's opinion such correction is not reasonably feasible, Fonto shall refund any license fee paid for such Software upon Customer's de-installation and return of the Software and all documentation to the relevant reseller or upon Customer's written certification that the Software and documentation have been destroyed.
- 6.3. The obligations set forth in this clause 6 constitute Fonto's exclusive obligations and liability and provide Customer's sole and exclusive recourse with respect to non-conformance of the Software to specifications. Fonto does not warrant that the Software will operate error free or uninterrupted or that it will meet Customer's requirements. Except for the express provisions stated in this clause 6, the Software and documentation are each licensed "as is" and "without warranty", and Fonto hereby specifically excludes and disclaims the implied warranties of merchantability and fitness for a particular use and all other warranties, whether express or implied by law, statute or course of dealing.
- 6.4. Fonto will have no warranty obligations with respect to and is not liable for (i) Software which has been modified by Customer or on behalf of Customer; (ii) malfunctions caused by the use or operation of the Software with any hardware, software or media not authorized by Fonto; (iii) malfunctions resulting from operator error or incorrect use of the Software; (iv) malfunctions attributable to the equipment and programs used in conjunction with the Software or to any other reason external to the Software; (v) if any previous patches or error corrections of the Software have not been implemented by Customer or the instructions of Fonto have not been followed; (vi) or any Third Party Materials.

7. Product Support

- 7.1. Product Support includes the following: (a) diagnosis of problems and/or performance deficiencies of the Software; (b) possible resolution of a problem and/or performance deficiencies of the Software; and (c) providing Minor Versions, Major Versions and/or Patch Versions, along with other generally available technical material.
- 7.2. For the purpose of this clause the following terms have the following meanings:
Error: means a: (a) failure of the Software to conform to the specifications as set forth in the documentation, resulting in the inability to use, and/or restriction in the use of the Software; or (b) problem requiring new procedures, clarifications, additional information and/or requests for product enhancements.

Major Version: a Major Version makes incompatible application programming interface changes to the Software.

Minor Version: a Minor Version adds functionality to the Software in a backwards-compatible manner.

Patch Version: a Patch Version makes backwards compatible Error fixes to the Software.

- 7.3. Customer shall install Minor Versions, Major Versions and/or Patch Versions, which are provided by Fonto or a reseller. Fonto is not liable in any way if the Minor Versions, Major Versions and/or Patch Versions are not installed in the order in which they are provided. Customer acknowledges that installing Minor Versions, Major Versions and/or Patch Versions before the previous versions have been fully installed, may result in malfunctions for which Fonto may not be held liable under any circumstances.
- 7.4. Customer explicitly agrees that Product Support does not include (cumulative): (a) installation and/or implementation of the Software; (b) configuration of the Software; (c) integration of the Software with other ICT systems or with OEM Partner developed and/or third-party developed software; (d) customization of the Software; (e) Errors as a result of the foregoing sub-clauses (a) to (d) of this clause; and (f) user training.
- 7.5. In relation to the activities mentioned in clause 7.4 Customer may enter a separate agreement - including new, separate price arrangements - with any third party that is approved by Fonto and provides Customer maintenance services for implementations, integrations, configurations and customizations with respect to the Software ("**Service Provider**").
- 7.6. Unless otherwise agreed in writing by the Parties, all Product Support is offered by Fonto during normal business hours 9:00 AM - 5:00 PM in Central European Time zone from Monday to Friday.
- 7.7. Fonto shall make reasonable efforts to provide Minor Versions, Major Versions and Patch Versions designed to solve and/or by-pass a reported Error.
- 7.8. If a question arises as to whether a Software offering is a Minor Version, Major Version and/or Patch Version and/or a new Software product and/or feature, Fonto's opinion will prevail, provided that Fonto treats the Software offering as a new Software product and/or feature for its end user customers generally.
- 7.9. Fonto will provide Product Support when Customer uses the latest version of the Software, or at least a version that is not older than one year.
- 7.10. Fonto and/or the relevant reseller have no support obligations under Product Support in the events as specified in clause 6.4 above. Fonto's obligation to provide Product Support is dependent on the continued existence of the license to use the Software and if the license expires or is terminated for any reason, Fonto's obligations to provide Product Support will cease automatically on the occurrence of such event.
- 7.11. Product Support is included in the fees as specified in the order form or ordering document.

8. Termination or suspension of Product Support

- 8.1. Fonto reserves the right to discontinue the Product Support in case Fonto, in its sole discretion, determines that continued support for (any part of) the Software is no longer economically practicable or justified. Fonto will give Customer at least three (3) months prior written notice of any such discontinuance of Product Support and will refund a prorated part

of the fees Customer may have prepaid with respect to the Product Support it has not received.

- 8.2. Fonto reserves the right to suspend performance of the Product Support if Customer fails to pay any amount that is payable to Fonto or a reseller under the EULA within 30 days after such amount becomes due.

9. Limitation of liability

- 9.1. Fonto shall be liable only for direct damages incurred by Customer caused by Fonto' breach of this EULA. Such liability shall be limited to the fees paid by Customer under this EULA in the six (6) months prior to the event giving rise to the liability occurred. For the purpose of this EULA "direct damages" shall mean exclusively and exhaustively all the costs of: (a) damage to the Software, computer hardware and other material property, (b) reasonable expenses incurred by Customer in order to prevent or reduce damage that could be expected as a result of the event causing liability; (c) reasonable expenses incurred by Customer in order to assess the cause of damage, the liability, the direct damage and the means of repair. The liability of Fonto to Customer for damages and any liability arising out of or in connection with this EULA or in connection with the Software, on whatever ground, other than the direct damages mentioned above (including but not limited to, indirect or consequential damages, loss of turnover, loss of profit, loss of computer usage time, loss of revenues, loss of opportunities, and damage to, or loss of use of, data or programs) shall be excluded. The limitations of liability set out in this clause 9 shall not apply if and insofar as damages are a result of intentional acts or omissions (*opzet*) or gross negligence (*grove schuld*) by Fonto. Any action against Fonto must be brought within twelve (12) months after the cause of action arises. It is the responsibility of Customer to always install the latest update available. Fonto shall in no event be liable for damages or loss resulting from not having installed the latest update available.
- 9.2. Customer shall (a) comply with all applicable laws and regulations in its use of the Software; (b) not misuse the Software in any way; and (c) not use the Software for any purpose or in any way that might harm, infringe the rights of or cause loss to any relevant party or any other person. Customer shall defend, indemnify and hold Fonto harmless from and against any and all losses, expenses, damages, and liabilities arising from or out of any breach by Customer of this EULA, other laws, regulations or restrictions.

10. Term and Termination

- 10.1. This EULA will start on the date of downloading the Software for the initial term specified in order form or ordering document. If no initial term is specified in the order form or the ordering document, the initial term shall be one (1) year. After the initial terms this EULA will automatically renew for subsequent terms of one (1) year unless either party terminates this EULA at the end of the then current period by giving a three (3) months written notice.
- 10.2. If Customer (i) fails to comply with any of the provisions of this EULA and has not remedied such failure within 14 days after having been notified by Fonto identifying the failure, or (ii) commits an act of bankruptcy or has receiving order made against it or shall present its petition in bankruptcy or shall make an arrangement with or assignment in favour of its creditors or goes into liquidation, or (iii) is controlled by others than those exercising control at the time of entering into this EULA, Fonto shall be entitled at its own discretion to terminate this EULA forthwith written notification to Customer.

- 10.3. In the event of expiration or termination of this EULA, Customer shall (a) immediately discontinue all use of the Software and uninstall all copies of the Software; and (b) within fourteen (14) days following the date of termination provide Fonto with a written notice verifying that the Software has been uninstalled and that all copies, forms and parts of the Software and documentation, have either been destroyed or returned to Fonto and no copies, forms or parts thereof remain in the possession of Customer.
- 10.4. Expiration or termination of this EULA, for whatever reason shall not prejudice the provisions which by their nature must be deemed to survive expiration or termination, including but not limited to clauses regarding intellectual property, confidentiality, limitation of liability, applicable law and governing law and disputes.

11. Export

- 11.1. Customer shall not directly or indirectly, export or re-export, or knowingly permit the export or re-export of the Software or documentation to any country except in full compliance with all applicable laws and regulations.

12. Governing law and disputes

- 12.1. This EULA and all disputes arising from it will be governed by the laws of the Netherlands.
- 12.2. Parties shall use their best efforts to negotiate in good faith and settle amicably any dispute that may arise out of or relate to this EULA or breach thereof. If the Parties cannot reach an amicable settlement, all disputes arising in connection with this EULA shall be referred to the competent civil court of The Hague in the Netherlands.
- 12.3. Parties hereby agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to the EULA.

13. General

- 13.1. Severability and invalidity. If any term or provision of this EULA shall be held illegal or unenforceable in whole or in part, under any rule of law, such term or provision or part shall to that extent be modified or deemed modified to conform to such rule of law. The validity and enforceability of the remainder of this EULA shall not be affected.
- 13.2. Entire agreement. This EULA together with any order form or ordering document constitute the entire agreement between Fonto and Customer regarding the use of the Software and supersedes all prior agreements and understandings. No distributor, reseller, partner, sales person, employee or other person is authorized to modify this EULA or to make any representation, warranty or promise that is different from, or in addition to, this EULA. Fonto is not in any way or manner bound by any promises, statements, warranties and/or agreements made by any reseller or any other third party regarding the Software.
- 13.3. Order of precedence. If there is a conflict between the terms of this EULA and the terms of an order form or ordering document, the terms of this EULA shall prevail.
- 13.4. No waiver. No delay or omission by either party to exercise any right or power under this EULA or pursuant to applicable law shall impair such right or power or be construed as a waiver thereof. A waiver by any party of any covenant or breach shall not be construed to be a waiver of any other covenant or succeeding breach.

- 13.5. Changes to EULA. Fonto may change this EULA from time to time in its sole discretion. Customer's continued use of the Software after notification of any changes has been provided to Customer or posted on Fonto's website constitutes Customer's acceptance of such changes.
- 13.6. No assignment. Customer shall not assign or delegate or otherwise deal with all or any of its rights or obligations under this EULA. Fonto shall have the right to assign or otherwise delegate all or any of its rights or obligations under this EULA to any person or entity.
- 13.7. Publicity. Fonto is entitled to use Customer's name, logo and trademark to refer to Customer as a customer of Fonto along with other customers in marketing materials such as the Fonto web site, presentations and press releases.

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APPENDIX A - TECHNICAL RECOMMENDATIONS

Preferred browser

The Software works optimally in Chrome because it offers the best overall support for the latest web standards as well as superior performance. We guarantee error-free behavior and a non-broken visual interface in its two latest stable major versions, only with the exception of known browser bugs which we will try to work around.

With ‘error-free behavior’ we mean that every function of the application will meet the acceptance criteria of the issue in which it was created or changed. The user will always be able to reach their goals within the scope of the agreed functionality, although the exact way in which they do so may differ slightly from environment to environment.

With ‘non-broken visual interface’ we mean that the interface will nowhere be obviously distorted (incorrect layout, unreadable text, etc). Decorative effects may be rendered differently between combinations of operating system and browser versions.

Other browsers

We also support the two latest stable major versions of Firefox and the latest stable major version of Microsoft Edge and Safari. They may however present the user with non-blocking differences in visual appearance and perform slower than Chrome.

Currently, we don’t actively support any other browsers or versions. Fonto will notify users if they try to open the application in an environment we don’t support.

We encourage users to download Chrome if they hadn’t already; it is a free and lightweight browser with a large worldwide market share that’s available for all major operating systems.

Operating systems

We don’t exclude specific operating systems. Fonto will work on recent versions of Microsoft Windows and Mac OS X and on many distributions of Linux. One thing to consider, especially for Windows, is that older machines may come with poor performance which is not ideal for a state of the art application like Fonto.

Devices

Fonto is a responsive web application that adapts to the size of the screen it is viewed on. However, we do recommend using a display at least 1280 pixels wide.

We support direct keyboard input only; this excludes input method editors (IME). Fonto cannot be used on tablets, smartphones and doesn’t work with touch interfaces.

Document size

We impose no specific limit on the number or size of documents that can be concurrently loaded in Fonto. Obviously, smaller documents will perform better than very large ones but the actual limits depend on the machine and browser used.

Other provisions of Appendix A

These information and recommendations are provided for the Fonto Software as specified in the order form or ordering document.

It is the Customer's responsibility and liability to stay up to date with the latest technical changes by consulting the portal: <http://documentation.FontoXML.com>.

APPENDIX B – THIRD PARTY MATERIALS

[TBD]