

## Leviat AG

Registered office: Grenzstrasse 24 | 3250 Lyss | Schweiz | T. +41 (0)31 750 30 30 | E. info.ch@leviat.com

Sales office Wallisellen: Hertistrasse 25 | 8304 Wallisellen | Schweiz | T. +41 (0)44 849 78 78 | E. info.ch@leviat.com

# License Agreement for the Use of Services Relating to the “Design Software” and “BIM Model Elements” of Leviat AG for Aschwanden brand products

(Version 01.07.2021 / 1 of 3)

## 1. General, Scope of Agreement

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- Leviat AG (hereinafter referred to as Leviat) grants to the Client under the following conditions a non-transferable and non-exclusive right to use the Leviat services relating to the design software (hereinafter referred to as the “Leviat Project Manager”) and model elements (hereinafter referred to as BIM model elements) owned by Leviat AG.
- This license agreement is valid within Switzerland and the Principality of Liechtenstein. To the extent the designs permit or are expressly specified, this license agreement is also valid in the member states of the EU and the EEA.
- Licensed programmes in the context of this agreement are the “Leviat Project Manager” and BIM model elements, and associated Leviat programmes and/or data sets in machine readable format, including related documentation, hereafter jointly referred to as “License Material of the product brand Aschwanden”.
- The “License Material of the product brand Aschwanden” is developed and archived country-specific, and may only be used for that country for which the “License Material of the product brand Aschwanden” is intended.

## 2. Content of the “License Material of the product brand Aschwanden”

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- The “License Material of the product brand Aschwanden” is an aid for civil engineers and master builder (or persons holding an equivalent qualification).
- The “Leviat Project Manager” is a dedicated design tool, currently available for the following product ranges:
  - Punching shear reinforcements (DURA/RINO)
  - Shear load design in reinforced concrete slabs and reinforced concrete beams (DURA-S)
  - Preliminary design of reinforced concrete columns ORSO-V
  - Reinforced concrete columns (ORSO-B)
  - Thermally insulated reinforcement elements and shear load connectors (ARBO/CRET)
- The BIM model elements for digital 3D/BIM planning are currently available for the following product ranges:
  - Punching shear reinforcements (DURA)
  - Shear load transmission in movement joints (CRET)
  - BIM model elements for further product ranges and CAD/BIM programs may be added at any time.
- It is a requirement that licensees using the License Material are familiar with their country-specific codes (e.g. for Switzerland SIA262 as well as SIA261 and SIA260), and has the necessary knowledge to correctly input the parameters and, if need be, to reconstruct a design result.
- The Client is exclusively responsible for the selection, installation and use of the “License Material of the product brand Aschwanden”, including the results generated with it. The Client is also responsible for ensuring that the “License Material of the product brand Aschwanden” is only used in the country for which the “License Material of the product brand Aschwanden” is intended.
- The “Leviat Project Manager” can be complemented at any time with further design tools and services.
- Leviat expressly reserves the right to amend, supplement or to delete any sections of the pages or the entire offering without prior notice, or to temporarily or finally discontinue the publication.

## 3. Using the Software, the App and the BIM Model Elements

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- The “Leviat Project Manager” and BIM model elements are to be used in accordance with the conditions of our documentation that are published in the download section of the Internet site of the product brand Aschwanden ([www.aschwanden.com](http://www.aschwanden.com)).
- This aforementioned documentation constitutes an integral element in the use of our products and services.
- The following fundamental ideas for use are the concept on which the application programmes “Leviat Project Manager” and BIM model elements are based. The “Leviat Project Manager” helps civil engineers to dimension the products with detailed data on a proven practical level. The BIM model elements assist in digital 3D planning with informed, three-dimensional building models.
- The Client is only entitled to those rights to the “License Material of the product brand Aschwanden” that are expressly granted to the Client within the scope of this Agreement for a specific country.
- All other rights, in particular relating to title and copyright, remain the property of Leviat.
- Use in the context of this Agreement is any complete or partial storage of machine-readable “License Material of the product brand Aschwanden” for the purpose of processing by the Client of the instructions or data contained therein.
- The Client is permitted to install machine-readable “License Material of the product brand Aschwanden” on the Client’s IT platform (server/PC/iPad/tablet/iPhone/Smartphone, etc., provided this is necessary for the contractually agreed usage of the “License Material of the product brand Aschwanden”).
- Following installation of physically provided “License Material of the product brand Aschwanden” such as CDs and printed documentation on the Client’s IT platform, the Client shall carefully store those hard formats.
- In all other cases, the Client is responsible for ensuring that the latest valid version of the “License Material of the product brand Aschwanden” has been downloaded onto the Client’s IT platform.
- The “License Material of the product brand Aschwanden” may not be duplicated, copied, leased or loaned, or otherwise passed on to any third party. This does not apply for BIM model elements which are used within the scope of project planning and may be passed on for the purposes of project coordination.
- The Client is not authorised to modify the “License Material of the product brand Aschwanden” for the Client’s own purposes or to link it to any other programmes. This does not apply for BIM model elements which the user may adapt to office and project standards at their own risk.
- The technical framework conditions for using the “License Material of the product brand Aschwanden” are compliant with the respective conditions stated in the download section. Registration is necessary to use certain functions of the “License Material of the product brand Aschwanden”. Hence, users must be on-line clients of Leviat.

## 4. Free and Clear of Third Party Rights

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- Leviat guarantees that the “License Material of the product brand Aschwanden” is clear of third-party copyrights and, to the best of Leviat’s knowledge, no other rights exist that would exclude or limit the usage of the “License Material of the product brand Aschwanden” by the Client.
- The Client and Leviat shall inform each other immediately and in writing about any possible claims by third parties relating to proprietary rights.

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#### **4. Free and Clear of Third Party Rights**

- Should the Client be prohibited or impeded in its contractual use of the "License Material of the product brand Aschwanden" through proprietary rights of third parties, Leviat shall not be obliged to modify the "License Material of the product brand Aschwanden". In such cases, Leviat is authorised to immediately recall the entire "License Material of the product brand Aschwanden" from the Client to avoid any infringement of the third party's proprietary rights. Leviat is also entitled to reach as far as possible agreements with the owner of the proprietary rights that would allow unlimited, contractual use of the "License Material of the product brand Aschwanden" at no extra cost.

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#### **5. Updates/Patches**

- When using the "License Material of the product brand Aschwanden", the Client shall always deploy the current, and hence binding, version. Clients will find the appropriate information on the [www.aschwanden.com](http://www.aschwanden.com) homepage.
- Currently valid updates for the "Leviat Project Manager" can be downloaded from the [www.aschwanden.com](http://www.aschwanden.com) homepage. If the Client requests that these updates be provided physically as CDs and printed documentation, then the Client shall return the "License Material of the product brand Aschwanden" used hitherto (CDs and printed documentation) to Leviat without being specifically requested to do so.
- The Client accepts that patches, i.e. amendments and/or improvements to the programmes of the "Leviat Project Manager" will be automatically installed on the Client's server at each restart.
- The currently valid updates for the BIM model elements can be downloaded from the [www.aschwanden.com](http://www.aschwanden.com) homepage.
- See also parag. 13 in the following.

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#### **6. Client's Obligation to Cooperate**

- Leviat strives to consistently update the "License Material of the product brand Aschwanden" and to adapt it to Clients' requirements.
- The Client is obliged to inform Leviat as early as possible about all circumstances that can affect the use of the "License Material of the product brand Aschwanden", peculiarities of the individual applications, any occurrence of anomalies, necessary special provisions, etc. and to document them.
- The Client shall generally support Leviat in all aspects that can lead to an improvement of the "License Material of the product brand Aschwanden".

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#### **7. No-Fee License**

- Leviat places the "License Material of the product brand Aschwanden" and the "Leviat Project Manager", at the disposition of its Clients free of charge. The costs of using mobile Internet are in accordance with the tariffs of the respective service providers.

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#### **8. Contractual Penalty**

- Should the Client act against the terms and conditions of this License Agreement, a penalty for breach of contract amounting to CHF 5'000.00 shall be payable.
- Leviat reserves the right to claim for actual and further damages.
- Payment of a contractual penalty does not discharge the Client from continued compliance with the terms and conditions of the License Agreement.

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#### **9. Liability exclusion**

- Where use is made of the possibility to send emails, this is done at the Client's risk as no encryption is implemented.
- Leviat does not assume any liability for the functional integrity and security of data transfer operations.
- Leviat does not assume any liability, either expressly or implicitly, either legally or in any other form, for direct or indirect damages, or any consequential damages that can arise from the use of the "License Material of the product brand Aschwanden", or through inability to use the "License Material of the product brand Aschwanden", or from possible errors it may contain.
- Leviat does not assume any responsibility if unauthorised designing with the country-specific "License Material of the product brand Aschwanden" is undertaken for any country other than that for which it is intended.
- Leviat is not liable for direct personal or material damages, or any consequential damages that the Client and/or third parties may incur through using the "License Material of the product brand Aschwanden".
- Leviat does not accept any liability relating to possible revocations or limitations of the use of the "License Material of the product brand Aschwanden" stemming from third party rights (see Clause 4 above of the License Agreement).

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#### **10. Acceptance by the Client**

- With the use or installation of the "License Material of the product brand Aschwanden" on the Client's computer(s)/tablets/Smartphones, the licensee Client implicitly accepts all the terms and conditions of this License Agreement.
- Within the framework of installation preparation for this purpose, the Client shall submit an appropriate statement of confirmation.

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#### **11. Fax/Email**

- As with other means of communication, transmissions by fax, email or other means of communication carry the risk that confidential material can inadvertently be sent to wrong addresses, or not reach the addressee at all.
- The Client accepts that the Internet is not safe and that risks are involved when confidential data are transmitted by email. Should Leviat receive fax numbers or email addresses to which data should be sent, then Leviat assumes (if the Client does not explicitly state otherwise) that the Client agrees to the use of fax and email, that the system used by the Client is sufficiently secure and confidential to protect the Client's interests, and that the Client has taken precautions to ensure the integrity of the data, in particular protection against viruses.

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#### **12. Website [www.aschwanden.com](http://www.aschwanden.com)**

- For the use of the website [www.aschwanden.com](http://www.aschwanden.com), we expressly refer to the terms and conditions of the IMPRINT.

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#### **13. Content and Amendments to the License Agreement**

- The currently binding version of the License Agreement can be seen and printed out from, inter alia, the product brand Aschwanden website, [www.aschwanden.com](http://www.aschwanden.com).
- Leviat reserves the right to amend the License Agreement at any time.
- Such amendments will be announced to Clients in an appropriate manner (e.g. online via the website [www.aschwanden.com](http://www.aschwanden.com)).

**14. Termination**

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- Clients can relinquish their rights under this License Agreement to use the "License Material of the product brand Aschwanden" at any time in writing.
- Conditional upon an immediate revocation in the event of infringement of third party rights (see Clause 4 above of the License Agreement) Leviat can revoke the Client's rights under this Agreement by observing a 30-day notice period.
- Upon termination of the License Agreement – irrespective of the grounds for termination, or which party initiated the termination – the Client is obliged to return the "License Material of the product brand Aschwanden" in its entirety to Leviat within 30 days of termination without being specifically requested to do so.

**15. Partial Nullity**

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- Should any individual provisions or parts of a provision of the License Agreement be declared invalid, this shall not affect the validity of the other provisions or the remaining partial provisions.
- This License Agreement, together with all our other legal documents, are translations of the German-language originals. In the event of discrepancies, the German versions are binding.

**16. Governing Swiss Law, Place of Jurisdiction**

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- All legal relations between the Client and Leviat are exclusively governed by and construed in accordance **with Swiss law** to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention).
- Exclusive place of jurisdiction is the legal domicile of Leviat AG. Leviat reserves the right to also take legal action against the Client at the Client's legal domicile.

Location / Date: \_\_\_\_\_ The Client: \_\_\_\_\_  
(Company stamp with legally valid signature)