



License to Use Agreement

THIS AGREEMENT is entered into as of this January 22, 2024 between GAUSSIAN, INC., having its principal place of business at 340 Quinnipiac Street, Building 40, Wallingford, Connecticut 06492 ("GAUSSIAN"), and

TUBITAK ULAKBIM
("LICENSEE")

having a place of business at

**Yüzüncüyıl, İşçi Blokları Mahallesi
Muhsin Yazıcıoğlu Caddesi, No:51/C
06530 Ankara, TURKEY**

WHEREAS, GAUSSIAN desires to grant to LICENSEE and LICENSEE desires to acquire from GAUSSIAN a non-exclusive license to install and use certain software on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. Subject to the terms and conditions hereof, GAUSSIAN hereby grants to LICENSEE, for the term specified in Paragraph 15 hereof, a non-exclusive, nontransferable license to install and use, solely at LICENSEE's places of business specified below ("INSTALLATION ADDRESSES"), and on computers owned, operated by, and under the supervision of LICENSEE at such addresses, the following computer programs:
 - **binary version of the Gaussian 16 system of programs**, licensed for use on an unlimited number of **currently supported UNIX** computer systems,
 - **binary version of GaussView Version 6**, licensed for use on an unlimited number of **x86-64/Linux** computer systems, and
 - **binary version of the Fortran Linda 9 software system of Revolution Analytics ("FORTRAN LINDA")**, licensed for an unlimited number of **x86-64/Linux** computer systems.

The computer programs, any updates provided by GAUSSIAN in its sole discretion, and the media on which the programs are delivered, and any related documentation, are referred to collectively as the "SOFTWARE." In addition to the terms of this Agreement, the provisions of the END-USER SOFTWARE LICENSE AGREEMENT of Revolution Analytics attached hereto as Exhibit A and incorporated herein (the "REVOLUTION LICENSE") shall apply to LICENSEE'S use of FORTRAN LINDA. In the event of any conflict between the terms of the REVOLUTION LICENSE for FORTRAN LINDA, and the terms of this Agreement, the terms of this Agreement shall prevail as between GAUSSIAN and LICENSEE.

INSTALLATION ADDRESSES are as follows:

- **TÜBİTAK ULAKBİM Ağ Teknolojileri Birimi, Üniversiteler Mahallesi Dumlupınar Bulvarı ODTÜ Kampüsü MODSIMMER Binası, 06800 Ankara, TURKEY**
2. For and in consideration of the license granted in Paragraph 1 hereof, LICENSEE will execute and deliver this Agreement, and will pay a license fee in the amount of Fifty Two Thousand Five Hundred Dollars (\$52,500.00 U.S.). In the event that GAUSSIAN, in its sole discretion, ships the SOFTWARE to LICENSEE prior to GAUSSIAN's receipt of the license fee for the SOFTWARE, LICENSEE shall pay the license fee within thirty (30) days of the date of the invoice for the SOFTWARE.

GAUSSIAN and LICENSEE acknowledge and agree that the license fee provided herein is exclusive of local, state, or federal use, sales, excise, personal property, or other similar taxes or duties which may be assessed in connection with this license, and that the payment of any such taxes or duties will be borne by and be the sole responsibility of LICENSEE. If applicable, LICENSEE will provide a tax exemption certificate to GAUSSIAN, subject to the express understanding that LICENSEE will indemnify and hold harmless GAUSSIAN from and against any such taxes, including penalties and interest accrued thereon, arising from claimed exemptions that are disallowed by the applicable government authority.

3. Upon the execution and delivery of this Agreement by the parties hereto and LICENSEE's payment of the license fee in compliance with the provisions of Paragraph 2 hereof, GAUSSIAN will deliver to LICENSEE one binary copy of the SOFTWARE for the purposes recited above. Shipping terms are C.P.T., destination. GAUSSIAN will arrange payment for shipping with the carrier, but such costs are the responsibility of LICENSEE. Risk of loss is

upon LICENSEE once the carrier delivers the SOFTWARE to the LICENSEE. Delivery times are estimates only and GAUSSIAN will not be liable for delays.

4. LICENSEE expressly recognizes and agrees that the license granted hereunder is personal to LICENSEE, and LICENSEE will not under any circumstances sell, give, disclose, lend, or otherwise distribute the SOFTWARE, in any form, to third parties. If LICENSEE receives any requests to furnish to a third party all or a portion of the SOFTWARE, it will immediately refer such requests to GAUSSIAN. LICENSEE further agrees to maintain the confidentiality of the SOFTWARE and warrants to GAUSSIAN that access to the SOFTWARE will only be given to its employees whose confidentiality obligations to LICENSEE include the SOFTWARE. Notwithstanding anything contained herein to the contrary, LICENSEE will not use or permit any person or third party to use the SOFTWARE in any manner or way that will (a) compete with the business of GAUSSIAN or (b) provide assistance to any competitor of GAUSSIAN.
5. GAUSSIAN retains all ownership rights in the SOFTWARE delivered to LICENSEE, and LICENSEE recognizes and agrees that it does not acquire by this Agreement any ownership rights, including copyright rights, in the SOFTWARE delivered to LICENSEE by GAUSSIAN.
6. LICENSEE may not provide access to the SOFTWARE to third parties. Notwithstanding the above, LICENSEE may allow access to the SOFTWARE by its employees whose confidentiality obligations include the SOFTWARE, such access being subject to all of the restrictions set forth in this Agreement. If LICENSEE desires to provide access to the SOFTWARE to third parties, the providing of such access will be governed by a separate written agreement. Further, under no circumstances will LICENSEE quote any performance data to third parties except on computer platforms officially supported by GAUSSIAN.
7. LICENSEE may make a reasonable number of copies of the SOFTWARE, solely for the purposes of backup and maintenance of the SOFTWARE. Any such additional copies will be controlled by this Agreement and will be owned by GAUSSIAN. Such additional copies will be delivered to GAUSSIAN, or destroyed by LICENSEE, if so directed by GAUSSIAN, upon termination of this Agreement.
8. Certain proprietary rights notices, including copyright notices, will be affixed to the SOFTWARE delivered to LICENSEE. LICENSEE shall not remove, alter, obliterate, or in any way change the form or placement of such notices, which LICENSEE shall ensure appear on any copies made of the SOFTWARE.
9. GAUSSIAN is not required to provide any services under this Agreement in the installation or maintenance of the SOFTWARE, it being expressly acknowledged that, if GAUSSIAN agrees to furnish such services to LICENSEE, the providing of such services will be governed by a separate written agreement.
10. If the SOFTWARE is used to obtain a result, and that result is published in the public literature, then LICENSEE agrees to acknowledge its use of the SOFTWARE in an appropriate citation. The citation should include:
 - a. the name of the product (Gaussian 16);
 - b. the source (Gaussian, Inc., 340 Quinnipiac Street, Building 40, Wallingford, CT 06492);
 - c. the authorship as designated by GAUSSIAN.

Alternatively, the citation may be made in the form of a reference to a published scientific journal article as designated by GAUSSIAN.

11. LICENSEE agrees not to accept or use any version of the SOFTWARE other than the SOFTWARE delivered to LICENSEE by GAUSSIAN pursuant to Paragraph 3 hereof.
12. The SOFTWARE is provided on an "as is" basis. GAUSSIAN represents and warrants that it has the right to grant the license granted herein. OTHERWISE, GAUSSIAN MAKES NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF FITNESS OF PURPOSE OR OF MERCHANTABILITY, OR OF RESULTS OBTAINED FROM LICENSEE'S USE OF THE SOFTWARE.

LICENSEE represents and warrants that: (a) this Agreement constitutes a legally binding agreement of LICENSEE, fully enforceable in accordance with all of its terms and conditions; (b) LICENSEE possesses the requisite power and authority to execute and deliver this Agreement and to perform and comply with all of the obligations and restrictions imposed on LICENSEE herein; and (c) the individual signing this Agreement on behalf of LICENSEE has been duly authorized, empowered and directed to sign this Agreement on behalf of LICENSEE.

13. LICENSEE hereby agrees to indemnify and hold harmless GAUSSIAN from and against all damages, liabilities, attorney fees, and costs incurred by GAUSSIAN: (a) in defending against third party claims or threats of claims against GAUSSIAN arising out of LICENSEE'S use of the SOFTWARE, excluding, however, any third party claims or threats of claims against GAUSSIAN arising out of any alleged copyright, trade secret or trademark infringement by the SOFTWARE caused by GAUSSIAN, or (b) as a result of the breach of any LICENSEE'S obligations, covenants or representations under this Agreement.
14. LICENSEE HEREBY ACKNOWLEDGES AND AGREES THAT GAUSSIAN'S AGGREGATE TOTAL LIABILITY, IN ANY EVENT, FOR ANY COST, LOSS, OR DAMAGE, OR OTHER POTENTIAL OR ACTUAL EXPENSE WHICH IS IN ANY WAY RELATED TO THE EXECUTION, PERFORMANCE, OR SUBJECT MATTER OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF THE LICENSE FEE PAID BY LICENSEE TO GAUSSIAN HEREUNDER, REGARDLESS OF THE FORM OF THE ACTION EMPLOYED. IN NO EVENT, SHALL GAUSSIAN BE LIABLE TO LICENSEE FOR INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, SUCH AS LOSS OF PROFITS, INABILITY TO USE THE SOFTWARE, OR LOSS OF DATA.
15. This Agreement and the license granted to LICENSEE under Paragraph 1 hereof will be effective as of the date the last signature below and will continue for a term of twenty (20) years from such effective date; provided, however, that GAUSSIAN will have the right to immediately terminate this Agreement by delivering written notice thereof to LICENSEE at any time after the occurrence of any of the following events of default:
 - a. the failure of LICENSEE to observe any of the restrictions imposed on LICENSEE under this Agreement;
 - b. the failure of LICENSEE to perform, observe or comply with any of its obligations, covenants or representations under this Agreement or under any ancillary agreement between the parties hereto relating to the subject matter hereof;
 - c. the discovery that any representation or warranty made by LICENSEE herein was incorrect in any material respect when such representation or warranty was made or given;
 - d. the filing of a voluntary petition in bankruptcy by LICENSEE; the institution of any bankruptcy, reorganization or insolvency proceeding against LICENSEE; LICENSEE's execution of an assignment for the benefit of creditors; LICENSEE's admission in writing of its inability to pay its debts as they mature; or the appointment of a trustee or receiver for a substantial part of LICENSEE's property; or
 - e. the liquidation or dissolution of LICENSEE; the discontinuation of the business conducted by LICENSEE relating to the subject matter of this license; any change in the controlling interest of LICENSEE; or any sale of substantially all of the assets of LICENSEE.

Upon the expiration of the Agreement, the license granted herein will automatically terminate, and the SOFTWARE and all materials relating to the SOFTWARE delivered to LICENSEE, will be returned to GAUSSIAN, or destroyed by LICENSEE, if so directed by GAUSSIAN, all without prejudice to or impairment of the provisions of this Paragraph 15 and Paragraphs 5, 12, 13 and 14 hereof, all of which will survive the termination of this Agreement and will continue thereafter to be binding upon LICENSEE and GAUSSIAN.

16. LICENSEE will not assign or transfer this Agreement, or any rights and obligations hereunder, without obtaining the prior written consent of GAUSSIAN, which consent may be withheld by GAUSSIAN in its sole discretion for any reason whatsoever.
17. LICENSEE may not, nor permit others to, reverse engineer, decompile, decode, disassemble, or in any way derive source code from the SOFTWARE.
18. The failure of either party to insist upon the strict enforcement of any of the provisions of this Agreement will not be construed as a waiver or relinquishment of the right to assert or rely upon any such provisions on any future occasion. If any provision of this Agreement is held to be unenforceable, that provision shall be enforced to the maximum extent permitted to effect the parties' intentions hereunder, and such decision will not affect the validity or enforceability of any or all of the remaining provisions of this Agreement.
19. Any notice required or permitted to be made or given by either party under this Agreement shall be made in writing and delivered by Federal Express or any other comparable courier service, or mailed by certified mail, postage prepaid, addressed to the party at the address first set forth above or to such other address as a party shall designate by written notice given to the other party in compliance with this paragraph.

20. LICENSEE acknowledges that the SOFTWARE is licensed to LICENSEE for use at LICENSEE's INSTALLATION ADDRESSES. The export or re-export of the SOFTWARE is subject to the requirements of the United States including the Department of Commerce and the Office of Foreign Assets Control of the United States Treasury Department. Any export or re-export of the SOFTWARE by LICENSEE in violation of the laws of the United States is strictly prohibited.

The SOFTWARE will not be used in or sold for use in i) development or production of nuclear, chemical, or biological weapons contrary to Export Administration Regulations (EAR), ii) missile technology products/applications contrary to EAR, or iii) military intelligence end uses contrary to EAR; nor will it be sold to, nor for use by, any U.S. sanctioned country, company, or military intelligence end user, as defined in the Export Administration Regulations.

For the purpose of clarification, under U.S. export law, "use" and "export or re-export" also refers to providing access to the SOFTWARE to users of the SOFTWARE. Notwithstanding anything contained herein to the contrary, if LICENSEE provides access to the SOFTWARE to anyone who is not a citizen of the licensed site's country, such access must also be in accordance with the laws of the United States and restrictions stated above. Transfer of the SOFTWARE to another site is forbidden without the express written consent of GAUSSIAN. Any user of the SOFTWARE, as a condition of that use, agrees to comply with all of the provisions hereof.

21. This Agreement shall be governed, construed, and enforced in accordance with the internal substantive laws of the Commonwealth of Pennsylvania, without regard to its conflicts of laws provisions and, to the extent applicable, the copyright laws of the United States of America and all other applicable federal laws and regulations. The parties specifically agree that the provisions of the U.N. Convention on the International Sale of Goods shall not apply.
22. This Agreement constitutes the complete and exclusive statement of the agreement between the parties and supersedes all proposals, oral or written, and all other prior or contemporaneous communications between the parties relating to the subject matter of this Agreement. Only the terms and conditions of this Agreement shall apply to the license of the SOFTWARE. All terms and conditions of any purchase order or other document issued by LICENSEE in connection with the SOFTWARE, or any that might be issued in the future for minor revisions to the SOFTWARE, shall not apply. This Agreement may be amended only by a written agreement executed by duly authorized officers or representatives of both parties.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

TUBITAK ULAKBIM

GAUSSIAN, INC.

Signature

By: _____
James S. Hess, Operations Manager

Type or Print Name

Date

Title/Position

Date

**Bu doküman bilgi amaçlıdır.
Lütfen bu alanı imzalamayınız.**

TRX 74 35.1-3984
(3/9/2023)

EXHIBIT A

LINDA END-USER SOFTWARE LICENSE AGREEMENT FOR USE WITH *Gaussian*[®] SOFTWARE

The enclosed media contains Fortran Linda[®] software ("*Fortran Linda*") which is to be used only to enable parallel operation of *Gaussian*[®] software from Gaussian, Inc., 340 Quinnipiac Street, Building 40, Wallingford, CT ("GAUSSIAN"), on certain designated computer equipment. Revolution Analytics, a company incorporated in Delaware, with a place of business at 2570 W. El Camino Real, Suite 222, Mountain View, CA 94040 ("REVOLUTION") hereby grants to you ("Licensee") a license to use the *Fortran Linda* software, subject to the terms that follow.

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2. The Licensee acknowledges and agrees that *Fortran Linda* consists of proprietary unpublished works of REVOLUTION, protected under U. S. copyright law and trade secret laws of general applicability; that all right, title, and interest in and to *Fortran Linda* are and shall remain with REVOLUTION; and that the Licensee will not decompile or disassemble, or reverse-engineer *Fortran Linda* in whole or in part. The Licensee further acknowledges and agrees not to reproduce, sell, distribute, or commercially exploit *Fortran Linda*, or any portion thereof, or any derivative work incorporating all of *Fortran Linda* or any portion thereof without the written consent of and appropriate license from REVOLUTION.
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4. The Licensee acknowledges and agrees that REVOLUTION's cumulative liability to the Licensee or any other party for any loss or damages resulting from any claims, demands, or actions arising out of or relating to the License Agreement shall not exceed the license fee paid for the use of *Fortran Linda*. In no event shall REVOLUTION be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits, even if REVOLUTION has been advised of the possibility of such damages. Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to the Licensee.
5. These terms constitute the entire agreement between the Licensee and REVOLUTION with regard to *Fortran Linda*, and such agreement may not be modified except in writing. If any provision of this License Agreement is invalid or unenforceable under applicable law, it is to that extent deemed omitted and the remaining provisions will continue in full force and effect.