

Agreed License Terms and Conditions between the Customer and Hemmersbach

1. Definitions:

In these Schedule A and the Agreement, the following terms shall have the meaning:

- a. Approved Purpose – as agreed in the main body of this Agreement (Section I(A)) above.
- b. Customer Content - information provided by the Customer in the course of receiving the License and the Services that Hemmersbach can use for limited purposes in accordance with this Agreement.
- c. Documentation - the user and technical documentation designed to enable the Customer and/or Authorized Users to properly use and operate the Software and includes any update of the documentation.
- d. Effective Date – the date of this Agreement specified above.
- e. End Date - the end date of the License Term as set out in Section V(A) of the main body of the Agreement.
- f. Force Majeure - an event that is beyond the reasonable control of a Party, excluding an event to the extent that it could have been avoided by a party taking reasonable steps or reasonable care.
- g. Individual Account - a unique collection of identity data for an individual user that will be granted access to the Software and the Services for the purposes of providing single sign-on, managing passwords or certifying user access.
- h. Intellectual Property Rights - includes copyright, and all rights existing anywhere in the world conferred under statute, common law or equity in relation to inventions (including patents), registered and unregistered trademarks and designs, circuit layouts, data and databases, confidential information, software, computer programs, know-how, and all other rights resulting from intellectual activity. Intellectual Property has a consistent meaning, and includes any enhancement, modification or derivative work of the Intellectual Property.
- i. License – license of the Software as described herein, received by the Customer in line with this Agreement.
- j. License Term – term of the License granted under this Agreement which shall automatically end on the termination/expiration day of this Agreement, as specified in the main body of the License Agreement (Section V(A)).
- k. Software Releases - improvements, new enhancements and features to the Software worked on continuously by Hemmersbach. Hemmersbach will schedule planned Software Releases to make the improved version of the Software available for the Customer.
- l. Software – as defined in the main body of the Agreement above (Section I(A)).

2. License Terms

- a. Customer (on behalf of itself and any Authorized User) shall:
 - i. use the Software and the Documentation only for the Authorized Purpose and not copy, reproduce, translate, decompile, reverse-engineer, resell, modify, vary, sub-license or otherwise deal in the Software or the Documentation except (i) as expressly provided for in this Agreement; or (ii) to the extent expressly permitted by any law where that law or treaty cannot be excluded, restricted or modified by this

- Agreement; or (iii) if it has been agreed upon in a written agreement between the Customer and Hemmersbach;
- ii. ensure the Software and the Documentation in its possession are protected at all times from misuse, damage, destruction or any form of unauthorised use, copying or disclosure;
 - iii. maintain all proprietary notices on the Software and the Documentation;
 - iv. not transfer, assign or otherwise deal with or grant a security interest in the Software, the Documentation or any Customer's rights under this Agreement;
 - v. not challenge Hemmersbach's ownership, or the validity, of the Software, the Documentation or any other item or material created or developed by or on behalf of Hemmersbach under or in connection with this Agreement; and
 - vi. notify Hemmersbach in writing immediately after it becomes aware of any circumstance which may suggest that any person may have unauthorised knowledge, possession or use of the Software or the Documentation.
- b. Notwithstanding anything contained herein, any (i) intellectual property existing prior to the effective date of the License; and/or (ii) intellectual property developed independently of the License shall remain the property of its current owner.

3. Intellectual Property

- a. Hemmersbach warrants that the Software is not subject of any claim or proceeding nor does it infringe any industrial or intellectual property rights of any third party. In case the Customer becomes aware of any such potential infringement, it shall: (i) promptly notify Hemmersbach in writing of any such infringement or infringement claims (hereinafter: "IP Claim"); (ii) make no admission of liability or prejudice or settle the IP Claim in any other way, without prior written approval of Hemmersbach; and (iii) give Hemmersbach complete and full authority to conduct or settle the dispute relating to such IP Claim, if any. For the avoidance of doubt, such responsibilities shall extend to the Customer becoming aware of any unauthorised use of the Software and/or any potential infringement of Hemmersbach's Intellectual Property rights by a third party.
- b. In the event of IP claims made against Customer with respect to the Software, Hemmersbach's liability and the Customer's remedy shall be for Hemmersbach to either: (i) substitute the infringing Software with the fully non-infringing one; or (ii) modify the Software so that it no longer infringes any intellectual property rights of third party while remaining functionally equivalent.

4. Confidentiality

- a. Except as expressly provided in this Agreement, neither Party may use or disclose the other Party's confidential information, including, but not limited to all information applicable to this Agreement, Software and Documentation as applicable herewith, any other information and procedures, documents, reports, data, records, forms and other materials of a confidential nature developed by one Party for the other Party or obtained or disclosed to such other Party in the course of License under this Agreement. Any further claims for damages as well as the assertion of injunctive relief shall remain reserved.
- b. Without limiting the generality of Sub-section 4(a) of this Schedule A, either Party may use the other Party's confidential information solely in the performance of its obligations or rights

provided under the terms of this Agreement and disclose the other Party's confidential information to its personnel or professional advisors on a need to know basis only and, in that case, ensure that any personnel or professional advisor to whom it discloses the other Party's confidential Information is aware of, and complies with, the provisions of this Section 4.

- c. Notwithstanding anything contained herein, confidential Information shall not include any information or material that: (i) is already known to the receiving Party at the time of disclosure; (ii) is or becomes publicly known through no wrongful act or failure of receiving Party; (iii) is independently developed by the receiving party without benefit or any use of the other Party's confidential Information, unless otherwise agreed in this Agreement.
- d. Subject to the Sub-section 4(b) of this Schedule A, each Party may not disclose confidential information unless to the extent that it is required to be disclosed pursuant to a statutory or regulatory provision or court order.
- e. This Section 4 shall survive termination or expiry of the License. Both Parties agree at the option of the other Party to return or to destroy confidential information of the other Party upon the end of the License, to the extent that such information still exists.

5. Data Protection

- a. Customer hereby acknowledges and agrees that Hemmersbach's performance of this Agreement may require Hemmersbach to process, transmit and/or store Customer's personal data. By submitting personal data to Hemmersbach, Customer agrees that Hemmersbach may process, transmit and/or store personal data only to the extent necessary for, and for the sole purpose of, enabling Hemmersbach to perform its obligations under this Agreement.
- b. In performing the Services, Hemmersbach will comply with the Hemmersbach Services Privacy Policy, which is available at <https://www.hemmersbach.com/en/informations/privacy-policy> and incorporated herein by reference. The Hemmersbach Services Privacy Policy is subject to change at Hemmersbach's discretion; however, changes in Hemmersbach policy will not result in a material reduction in the level of protection provided for Customer Data during Hemmersbach's direct possession of such data.

6. Customer Content

- a. Hemmersbach may collect and use information provided by the Customer or obtained by Hemmersbach or derived from the Services ("Customer Content"). Such information will be used solely for Hemmersbach internal purposes related to systems analysis and research, Customer segmentation and/or the manner or method in which Hemmersbach conducts business with the Customer.
- b. In connection therewith, Customer hereby:
 - i. grants to Hemmersbach (and its affiliates, if applicable) the right to use the Customer Content provided to Hemmersbach as necessary to render the Services and at all times in accordance with applicable data protection laws, including the regulations stipulated in the Hemmersbach Privacy Policy;
 - ii. grants to Hemmersbach a limited, non-exclusive, royalty-free and non-transferable license, to copy, store, configure, perform, display and transmit Customer Content solely as necessary to provide the Services to the Customer;
 - iii. shall ensure that it has at all times the appropriate rights to (including the right to provide to Hemmersbach) all Customer Content and other data, files, materials or

other information that the Customer provides to Hemmersbach in connection with Customer's use of the Software;

- c. Customer warrants that all Customer Content and other data, files, materials or other information, directions and other assistance provided to Hemmersbach will not infringe any rights of third parties and will not create any third party claims (whether alleged or actual) to Hemmersbach. Customer further warrants that Customer Content does not include or in any way contain anything that is obscene, defamatory, harassing, offensive or malicious.

7. Warranties

- a. Each Party warrants that: (a) it has full authority and is entitled to enter into and perform its obligations under this Agreement; (b) its performance under this Agreement, including without limitation, the development, delivery and/or use of Software, does not and shall not violate any applicable law, rule or regulation.
- b. Hemmersbach shall not be liable for any defective software or its part under Sub-section 3(a) or 7(a) of this Schedule A to the extent that the defect arises from or in connection with: (i) modification or alteration of the Software by the Customer or the Authorized Users; or (ii) a breach of this Agreement by the Customer, including use of the Software by the Customer or the Authorized Users in a manner or for a purpose not contemplated by this Agreement or not authorised in writing by Hemmersbach.
- c. Customer hereby agrees to indemnify, hold harmless and defend Hemmersbach against any claims, liabilities, losses, expenses (including attorney's fees and legal expenses related to such defence), fines, penalties, taxes or damages (collectively: "Liabilities") to the extent such Liabilities arise out of or result from breach by the Customer and/or Authorized Users of this Agreement and/or any of the License restrictions.
- d. Unless otherwise specified in this Agreement, Hemmersbach provides the Software to the Customer on an "as is" basis and without warranty of any kind, express, implied or otherwise, including without limitation any warranty of merchantability or fitness for a particular purpose.

8. Liabilities

- a. Customer shall not have the right to make claim against Hemmersbach, after a period of twelve (12) months from the date of the occurrence of the event giving rise to a claim ("Liability Period"). For the avoidance of doubt, after the expiry of such Liability Period, Hemmersbach shall not be held responsible for any liabilities arising out of the occurrence that the Customer would otherwise have sought to claim, whether in contract, tort (including negligence), breach of statutory duty or otherwise.
- b. In no event shall either Party be liable for any indirect or consequential, exemplary, punitive or special damages (including but not limited to loss of profits, loss of revenue, loss of reputation, loss of use or loss of contract), whether in contract or in tort (including breach of warranty, negligence and strict liability in tort), even if the Party has been advised of the possibility of such damages in advance.
- c. Hemmersbach shall not be liable for (i) loss of data and/or use howsoever arising other than directly and solely arising out of Software malfunction if any; (ii) any damage caused by any computer viruses, worms, software bombs, trojans or other similar items that are not caused and introduced to Customer system by Hemmersbach's Software.

- d. None of the terms of points (a) to (c) of Section 8 of this Schedule A shall apply to (i) tangible property damage; or (ii) personal injury or death.

9. Termination

- a. Either Party may, by notice to the other Party, terminate this Agreement (together at all times with the License), if the other Party commits a material breach of this Agreement and fails to cure such breach within thirty (30) days' period after written notice is provided to the breaching Party.
- b. Hemmersbach reserves the right to suspend delivery of the Services (including but not limited to suspending the access to the Software of any or all Authorized Users) if Hemmersbach reasonably concludes that the Customer or an Authorized User's use of the Software or the Services is causing immediate and ongoing harm to Hemmersbach or others. In such case if Hemmersbach must suspend delivery of the Services, Hemmersbach shall only do so provided that Hemmersbach immediately notifies the Customer of the suspension and the Parties diligently attempt to resolve the issue.
- c. Hemmersbach shall not be liable to the Customer or to any third party for any liabilities, claims or expenses arising from or relating to any suspension of the Services in accordance with this Section 9.

10. General

- a. Neither Party is liable to the other for any failure to perform its obligations under this Agreement to the extent caused by Force Majeure, provided that the affected Party (i) immediately notifies the other Party and provides full information about the Force Majeure; (ii) uses best efforts to overcome impact of the Force Majeure; and (iii) continues to perform its obligations to the extent practicable.
- b. Hemmersbach is an independent contractor of the Customer. No other relationship (e.g. joint venture, agency, trust or partnership) exists under this Agreement.
- c. A notice given by a Party under this Agreement must be delivered to the other Party via email to an email address notified by the other Party for this purpose.
- d. Any Dispute shall be dealt with in accordance with the dispute resolution procedure as set out herein ("Dispute Resolution Procedure"). The Parties shall attempt to resolve any Dispute in good faith by escalation or consultation with the joint management committee or senior executives and, if necessary, through proceedings as described herein. Consultations, settlement proposals and other communications will be confidential.
- e. Customer may not assign, novate, subcontract or transfer any right or obligation under this Agreement without the prior written consent of Hemmersbach. Notwithstanding any assignment, subcontracting or any other transfer of rights and/or obligations, Customer shall remain solely liable for the obligations of the Customer and Authorized Users.
- f. Customer hereby grants to Hemmersbach the right to use Customer's company logo in marketing, sales and public relations materials and other communications solely to reference Customer as a Hemmersbach customer. Hemmersbach hereby grants to the Customer the express right to use Hemmersbach's logo solely to reference Hemmersbach as a provider of services to the Customer. Customer may withdraw or limit such permission at any given point in time by notifying Hemmersbach in writing via email to legal@hemmersbach.com.