

NANOCOSMOS

SOFTWARE LICENSE AND SERVICES AGREEMENT

This Agreement is made as of the date of the execution/signature (Effective Date),

between

nanocosmos Informationstechnologien GmbH (Licensor),
Am Borsigturm 40, 13507, Berlin, Germany and

You (Licensee/Customer) details as defined in Exhibit

Recitals/ Subject Matter of this Agreement

Licensor delivers Licensee software components as found in **Exhibit B** or a separate quote or invoice document. By using the software components, you agree to these terms.

NOW, THEREFORE, Licensor and Licensee agree as follows:

1. Definitions.

Specifics to the definitions of Software and Programs may be found in Exhibit A, B, or C or on a separate quote or invoice in combination with this agreement.

1.1 Software

- a) **Software** means software that meets Licensor software and any related documentation provided by Licensor. The Software may be provided as
 - a1) installable software units for end user devices (e.g. PC, desktop, mobile), or server system
 - a2) web based software running in a browser (e.g. HTML/JS, Web Player)
 - a3) server based services (online services), for example dashboards, REST API

If custom development is added, it is part of the Software, if not otherwise specified.

- b) **Application Program(s) or Combination Product** means Licensee product(s) meant to be used in combination with or integration of the Licensor Software (1.1a)

- c) **Update** means a version of the Software that incorporates modifications necessary to maintain the functions, capabilities, and performance of the Software, including, but not exclusively limited to, bug fixes and modifications to improve quality, reliability, speed, ease of use, and ease of maintenance, provided by the unsolicited decision of the Licensor.

- d) **Upgrade** means a version of the Software that incorporates new features or functions, or includes revisions to the Software as necessitated by 1) new feature requests or by 2) the additional requirement to be integrated or made compatible with any software or specifications not part of the Software and not specified in the Exhibits A or B or a separate quote or invoice, that is owned or licensed by Licensee or a third party. This includes e.g. additional support for new types of video file compressions or streaming protocols. Upgrades are not integral part of this Agreement.

- e) **Custom Development or Project Work** means additional development services separate from the Software, provided by Licensor. Generally custom development is considered an Upgrade to the Software, covered by the same licensing terms, if not otherwise specified.

f) **Unit** means one installed copy of the Software meant to run on one machine or device, including a temporary downloaded software (e.g. desktop, mobile, web application in a browser)

g) **Server** means a Unit (PC, workstation or server machine) running in unattended “server” mode to provide services to other units, devices, PCs or servers.

h) **Support** means assistance and/or updates provided by Licensor to trouble shooting requests by Licensee for issues regarding installation and maintenance on Licensee’s computers. Support only includes support to Licensee, not including Licensee customers.

i) **Licensee Content or Customer Content or User Data** means content, software, data, files, video or information of Customer and/or End Users, including third-party content, software, data and equipment, provided or made available to Licensor for storage, delivery or otherwise in connection with Services.

j) **Licensee Data or Customer Data** includes all data that identifies Customer, or their respective End Users. Customer Data may include Customer name, employee contact information, End User Data, data necessary for account establishment, billing data or content transmission data when such data identifies Customer.

k) **Users** means any users that access Content or Data or that use the Licensor Software or Services under Customer’s Application or Login Credentials.

l) **Taxes** means any applicable foreign or domestic taxes, tax-like charges, tax-related charges and other charges or surcharges assessed in connection with Services, including all excise, use, sales, value-added and other fees, withholding tax, surcharges and levies.

m) A **Defect** occurs in the event that a Software or Service does not operate according to the applicable Service Levels or Specification or Accepted Use.

2. **License.**

Subject to the terms and conditions set forth in this Agreement, Licensor grants Licensee a non-exclusive, non-transferable limited license to do one or more of the following (the Permitted Uses):

2.1 Evaluation License: is a license for a limited time, allowing only the internal evaluation and demonstration of the Software with the purpose of testing against customer requirements and fitness. During Evaluation, the Software may not be used for commercial purposes beyond functional demonstration. If not otherwise specified, the evaluation period is limited to 7 days from the first use. Longer Evaluation periods or demonstrations to 3rd parties or other commercial use are not covered by an Evaluation License and are only possible with a commercial license after payment of a usage fee.

2.2 Commercial Usage and Redistribution:

a) End-user **Single Installation License**

use the **Software** in a runnable form (usually binary object code) in one running instance on one device

b) Redistribution License

b1) Combination Product License (SDK)

use the Software in binary object code form in order to produce and run one **Combination Product**

b2) Redistribution License (OEM)

market the Software, as embedded in the **Combination Product**; and distribute and grant licenses to distribute (directly or indirectly through any distribution channel) the Software to end-users, as **embedded in one Application Program (Combination Product)**.

(c) **Web based online license**

Run the software on a server or online web page with temporary download on client machines.

2.3 **Restricted License:** License may be restricted to:

- a) a certain expiration time
- b) a server, domain or service

Server License is a license to install and/or run the Software on one Server.

Service License or Domain License is a license allowing the usage of the software for one networking service or internet domain, e.g. mydomain.com

c) subscription model

In the renewed license model (subscription), any further usage beyond the subscribed time is forbidden.

d) concurrent use

the number of installed or concurrent uses may be limited

Specific usage limitations shall be specified in the Exhibits or separate written agreements such as written quote or invoice documents.

3. **Restrictions.**

3.1 The copies of Software provided to Licensee under this Agreement are licensed, not sold. Licensor reserves all rights not expressly granted.

3.2 Licensee will not

(i) reverse assemble, decompile, reverse engineer, or otherwise attempt to derive source code or the underlying ideas, algorithms, structure, or organization from the Software including binary object code or any script code or any other Licensor Confidential Information (as defined below),

(ii) export or re-export the same in violation of any applicable laws or regulations,

(iii) except as otherwise provided in this Agreement, cause or permit unauthorized copying, reproduction, or disclosure of any portion of the Software, or the delivery or distribution of any part thereof to any third person or entity, for any purpose whatsoever, without the prior written permission of Licensor, or

(iv) sell the Software as a stand-alone or repackaged product separate from the Combination Product without Licensor's prior written consent.

(v) seek to register the Software under any patent or copyright, or register Licensor's trade name or trademarks, except as may be requested by or consented to in writing by Licensor. Should Licensee register any patent, copyright or trademark of the Software without the written consent of Licensor, such registration shall automatically be deemed to inure to the benefit of Licensor.

3.3 The Software is not designed, licensed or intended for use in the design, construction, operation or

maintenance of any nuclear facility or any other dangerous environments or purposes which might be harmful to human health and the licensor disclaims any express or implied warranty of fitness for such uses.

3.4 The Software must not be used for illegal or illicit purposes for the place of jurisdiction of either license party.

3.5 The Software may contain sample source code in the form of example applications and code fragments (collectively the Sample Source Code). The Licensee may only use the Sample Source Code internally for the Permitted Use.

3.6 If not otherwise specified in a written quote, and purchase order, Licensor reserves the right at any time to alter the price, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Software.

3.7 Use by Contractors. Subject to the terms and conditions of this Agreement, Licensee's Contractors may use the licenses granted to Licensee, provided that (i) such use is only for Licensee's benefit, (ii) such parties are bound in writing to confidentiality obligations no less protective than those in this Agreement, (iii) you agree to remain responsible for each such Contractor's actions or omissions (including compliance with all of the terms and conditions of this Agreement) and (iv) you will identify each such Contractor to Licensor. "Contractor" means any third party employed by you to perform development services on your behalf.

3.7 Additional upgrades, features, additions, and custom development on top of the software license shall be paid additionally based on mutual agreement.

3.8 Licensee may not commercially use, sell, distribute or show the Software before the license fee is paid. Product royalty and licenses shall be paid by Licensee in advance of the licensing period.

4. Payment / Fee

4.1 Upon execution of the Agreement, Licensee shall pay Licensor a license fee as described in Exhibit D or based on a separate quote or invoice.

4.2 The license fee is respectively:

4.2.1 a one-time, non-refundable (NR) fee,

4.2.2 a distribution royalty

4.2.3 a time-limited renewed subscription fee

or a combination of these, as upon usage and distribution of the Combination Product or Service, as described in Section 2. and Exhibit or a separate quote or invoice

4.3 All payments are generally in advance if not otherwise specified in written form.

4.4 ACCEPTABLE PAYMENT METHODS: Licensor accepts major credit cards, wire transfers and Paypal payments. Subscribers who choose to pay with PayPal will be strictly limited to a single Licensor Account per PayPal account. Virtual credit cards and gift cards typically will not be accepted. Please note that any payment terms presented to you in the process of using or signing up for paid Services are deemed part of this Agreement.

4.5 Licensor uses third-party payment processors (the "Payment Processors") to bill you through a payment account linked to your Account on the Services (your "Billing Account") for use of the paid Services. The processing of payments may be subject to the terms, conditions and privacy policies of the Payment Processors in addition to this Agreement. We are not responsible for error by the Payment Processors. By choosing to use paid Services, you agree to pay us, through the Payment Processors, all charges at the prices then in effect for any use of such paid Services in accordance with the applicable payment terms and you authorize us, through the Payment Processors, to charge your

chosen payment provider (your "Payment Method"). You agree to make payment using that selected Payment Method. We reserve the right to correct any errors or mistakes that it makes even if it has already requested or received payment

4.6 BILLING AND TERMS:

The term of this Agreement shall be monthly renewed if the Subscriber signs up electronically for the Services by creating an Account with an email address. All invoices are denominated, and Subscriber must pay, in EUR or U.S. Dollars. Subscribers are typically billed monthly on or about the first day of each month, with payment due no later than seven (7) days past the invoice date. On rare occasions, a Subscriber may be billed an amount up to the Subscriber's current balance in an effort to verify the authenticity of the Subscriber's account information. This process ensures that Subscribers without a payment history are not subjected to additional scrutiny. Monthly fees and renewal fees will be billed at the rate agreed to at purchase.

4.7 At cancellation, your Account will be inactivated and you will no longer be able to log into our site and/or have any access to the Services. Except in the case of subscription commitments you have agreed to, which shall be nonrefundable, as permitted by law, if you cancel, you agree that fees for the first month of Services and any start-up costs associated with setting up your Account ("Start-up Costs") shall be nonrefundable, as permitted by law. With the exception of any subscription commitments agreed by you, if you paid fees in advance for any period longer than one month, then you may, with the exception of fees for the first month of Services and any Start-up Costs, obtain a refund on a pro rata basis for the period remaining after you cancel.

4.8 Subscribers are entirely responsible for the payment of all taxes.

4.9 Some of the paid Services may consist of an initial period, for which there is a one-time charge, followed by recurring period charges as agreed to by you. By choosing a recurring payment plan, you acknowledge that such Services have an initial and recurring payment feature and you accept responsibility for all recurring charges prior to cancellation. WE MAY SUBMIT PERIODIC CHARGES (E.G., MONTHLY) WITHOUT FURTHER AUTHORIZATION FROM YOU, UNTIL YOU PROVIDE PRIOR NOTICE (RECEIPT OF WHICH IS CONFIRMED BY US) THAT YOU HAVE TERMINATED THIS AUTHORIZATION OR WISH TO CHANGE YOUR PAYMENT METHOD. SUCH NOTICE WILL NOT AFFECT CHARGES SUBMITTED BEFORE WE REASONABLY COULD ACT. TO TERMINATE YOUR AUTHORIZATION OR CHANGE YOUR PAYMENT METHOD, GO TO <https://nanocosmos.de/contact> or sales@nanocosmos.de.

4.10 YOU MUST PROVIDE CURRENT, COMPLETE AND ACCURATE INFORMATION FOR YOUR BILLING ACCOUNT. YOU MUST PROMPTLY UPDATE ALL INFORMATION TO KEEP YOUR BILLING ACCOUNT CURRENT, COMPLETE AND ACCURATE (SUCH AS A CHANGE IN BILLING ADDRESS, CREDIT CARD NUMBER, OR CREDIT CARD EXPIRATION DATE), AND YOU MUST PROMPTLY NOTIFY US OR OUR PAYMENT PROCESSORS IF YOUR PAYMENT METHOD IS CANCELED (E.G., FOR LOSS OR THEFT) OR IF YOU BECOME AWARE OF A POTENTIAL BREACH OF SECURITY, SUCH AS THE UNAUTHORIZED DISCLOSURE OR USE OF YOUR USER NAME OR PASSWORD. IF YOU FAIL TO PROVIDE ANY OF THE FOREGOING INFORMATION, YOU AGREE THAT WE MAY CONTINUE CHARGING YOU FOR ANY USE OF PAID SERVICES UNDER YOUR BILLING ACCOUNT UNLESS YOU HAVE TERMINATED YOUR PAID SERVICES AS SET FORTH ABOVE.

ARREARAGES

4.11 Payments not made within ten (10) days of invoicing will be deemed in delayed arrears. For accounts in arrears, if any amount is more than ten (10) days overdue, without the requirement of providing notice of such arrears, nanocosmos may suspend service to such account and bring legal action to collect the full amount due, including any attorneys' fees and costs.

SUSPENSION FOR NONPAYMENT

4.12 If a Subscriber is past due on their balance, nanocosmos may send up to three (3) email notifications within a fifteen (15) day period before suspending the Subscriber's account. Servers will be temporarily powered off during the suspension period. nanocosmos reserves the right to delete the Subscriber's suspended machines after the final termination notice.

5. Term/Termination.

- 5.1 The term of this Agreement is for the time written in quote/invoice or at least 2 months from the Effective Date and will automatically renew for subsequent terms unless either party gives the other party at least 30 days to the end of next month advance written notice of its desire to terminate.
- 5.2 Upon expiration or termination of this Agreement for any reason, Licensee will
- (i) cease all usage and distribution and use of the Software promptly,
 - (ii) promptly return or destroy all Licensor Confidential Information and all copies of the Software and all backups;
 - (iii) pay all open fees due then to Licensor.
- 5.3 Licensor will not provide support or update services after expiration or termination notice.
- 5.4 Licensor shall notify Licensee if Licensee commits a material breach of any of the terms of this Agreement and Licensee shall be given 14 days within which to correct such breach. Should Licensee fail to correct this breach within the time period then Licensor may immediately terminate this Agreement.
- 5.5 Upon Termination due to legal breach of this Agreement, Licensee shall pay Licensor a penalty of at least the initial software license and one year usage and distribution fee, limited to EUR € 15000.
- 5.6 Notwithstanding any other provision of this Agreement, this clause and clauses 3, 4, 6, 7, 8, 10, 14, 15 survive the expiration or termination of this Agreement.
- 5.7 Licensor may, upon giving Notice to Licensee, without prejudice to any of Licensor's rights to terminate this Agreement or any Service Order hereunder, suspend provision of all or any of Services in the event that
- (a) if Licensee is in default with its payment obligations under any Service Order for more than 7 Days, and/or
 - (b) suspension of Services is required in order to comply with the directive of an authority and/or court;
 - (c) Licensor has grounds for suspecting that Licensee is committing any illegal or unlawful act in connection with the use of Services;
 - (d) any other provision within this Agreement or Service Order allows Licensor to suspend provision of all or any of Services.
- 5.7 If any Services are suspended as a consequence of Licensee's act or omission,
- (a) Licensee shall remain liable to pay the respective Fees as if Services had been properly provided by Licensor, and
 - (b) Licensee shall reimburse Licensor for any additional charges and expenses incurred due to the suspension and/or recommencement of Services.

6. Warranty.

- 6.1 Because of the diversity of conditions of hardware and software environments under which the Software or Service may be used, the parties agree that it is not possible to make software that is error-free for all conditions of use. A failure of or error in any part of the Software to be suitable for the Licensee's requirements will not give rise to any right or claim against the Licensor or its suppliers. According to this, Licensor warrants to Licensee for a period

of thirty (30) days from the delivery of the Software that the Software is in compliance with applicable laws and a professional and work-like manner, and will conform to and perform basically under normal use as verified by the licensee during Evaluation Use in accordance with the Specifications therefore set forth in Exhibit A or the separate document (quote or invoice with further details about the deliverables).

6.2 Licensor and its suppliers do not warrant that the Software will be free from all known viruses and defects. Licensee is solely responsible for virus scanning the Software.

6.3 The Licensor and its suppliers do not warrant that the Software will enable the Licensee to render its products compatible with the Licensor or its suppliers' products.

6.4 Licensor warrants that (i) Licensor has all rights and licenses necessary to grant the rights and licenses granted under this Agreement and the authority to enter into this Agreement; (ii) to the best of Licensor's knowledge neither the Software (including any of the content contained therein), nor the use thereof, shall infringe, violate or misappropriate the intellectual property rights of any third party and there are no claims in that regard of which Licensor is aware.

6.5 Licensee warrants to Licensor that (i) Licensee has the authority to enter into this Agreement; and (ii) Licensee is responsible for any and all warranties that it makes to its customers with respect to the Application or Combination Products and Programs.

6.6 Notwithstanding anything else in this Agreement or otherwise, Licensor does not make any warranties or representations with respect to the subject matter of this agreement, and disclaims all other warranties, express or implied, including but not limited to, warranties of merchantability and fitness for a particular purpose. Licensor will not be liable or obligated with respect to any subject matter of this Agreement or under any contract, negligence, strict liability or other legal or similar instrument for any special, indirect, incidental or consequential damages, including data loss. Notwithstanding anything else in this agreement or otherwise, except for indemnity obligations of a party under this Agreement, the total liability, in the aggregate, of each party with respect to any subject matter of this Agreement shall be limited to the total fees paid to Licensor hereunder in average per one year.

6.7 Licensee agrees to indemnify and hold Licensor harmless from any and all claims, damages, liabilities, settlements, attorneys' fees and expenses, as incurred, arising out of (i) any third party claim that the Combination Product (excluding the Software supplied under this contract) infringes, violates or misappropriates any intellectual property or other third party right, or (ii) any third party claim arising out of any breach of this Agreement by Licensee. Licensor shall not be responsible for any settlement it does not approve in writing.

6.8 Licensee shall not make any representations or warranties to its customers regarding the Software or sell the Software as a stand-alone product without Licensor's prior written consent.

6.9 Licensor does not guarantee Interoperability with any 3rd party components, hard- or software.. To the extent required or allowed, if Licensor makes available to Customer a Third Party Product in connection with Licensee's use of the Software or Services, such as server or device hardware, operating system or other software, Licensor will pass through to Customer any such manufacturer warranties related to such Third Party Products. Notwithstanding the foregoing, Licensee acknowledges that Licensor is not responsible for the availability or for the fulfillment of any Third Party Product warranty or for problems attributable to use of Third Party Products. ALL THIRD PARTY PRODUCTS ARE PROVIDED BY LICENSOR ON AN "AS IS" BASIS. Licensor reserves the right to suspend or terminate any Third Party Products at any time.

6.10 The license agreement covers license fees, but does not cover potential patent fees. Licensee is separately responsible for any fees payable to patent holding organizations based on the type of product that is distributed, and Licensee shall pay such fees separately from the consideration herein.

6.11 Source Code Escrow: Source code delivery is not included in this agreement. Subject to an additional agreement and at Licensee's expense, Licensor may put into place an Escrow Agreement with a reputable source

code escrow company. Licensor shall be entitled to receive a copy of the Source Materials upon the occurrence of a "release condition" as such term is defined in the Escrow Agreement, which, may include release upon Licensor's liquidation, ceasing to conduct operations in the ordinary course of business, insolvency or other reasons. The Escrow agreement involves an agreement with a 3rd party agency. Licensee shall bear all costs for an Escrow agreement and an additional handling fee to Licensee.

7. Copyright and Attribution.

7.1 Licensee acknowledges that the Software and all supporting documentation constitute valuable property of Licensor and that all title and ownership rights in the Software and related materials remain exclusively with Licensor.

7.2 When a rebranding license is added, the brand name of the product may be changed to a custom name. Rebranding does not affect the intellectual property rights of 7.1.

7.3 Licensee shall include the following copyright notice with each Application Program incorporating the Software: Portions based on nanocosmos Technology Copyright © nanocosmos, <http://www.nanocosmos.de>. This copyright notice may be placed with other copyright notices, including Licensee's own copyright notice, or in any reasonably visible location in the application's packaging, software, or documentation.

7.4 In respect to copyright and intellectual property rights, and if not otherwise agreed, Licensor has the right to reference to the Licensee's name and product in communication with 3rd parties and publicly available material (e.g. website for marketing purposes and customer references).

8. Licensee Obligations.

8.1 Licensee represents and warrants that (a) Licensee will use the Licensor Software & Services only for lawful purposes, and will comply with all Applicable Laws and (b) Licensee's access to and collection, use, relocation, storage, disclosure and disposition of User Data will comply with all Applicable laws, including without limitation, all privacy and data security laws.

8.2 Licensee will keep complete and accurate records of the usage of the Software duplicated and distributed based on the number of a licensed Combination Product installed or used.

8.3 In case of per-unit license fees, Licensee will make such records available as set forth herein upon thirty (30) business days' prior written notice by Licensor. Licensee will maintain such records for a period of at two (2) years after the duplication and distribution activities to which such records pertain occur. Licensee will permit an independent, nationally-recognized public accountant, as chosen by Licensor, at Licensor's own expense, to examine such records for the purpose of verifying the licensed usage of the software and/or the number of copies duplicated and distributed. All of Licensee's records shall be considered to be Confidential Information under Section 6. If such an audit uncovers a deficiency of more than five percent (5%) in payments, Licensee shall bear Licensor's reasonable auditing expenses.

8.4 Licensee shall make reasonable commercial efforts to communicate to Licensor any and all modifications, design changes or improvements of the Software suggested by any customer, employee or agent. Licensee further agrees that Licensor shall have and is hereby assigned any and all right, title and interest in and to any such suggested modifications, design changes, or improvements of the Software, without the payment of any additional consideration for either Licensee, or its employees, agents or customers. Licensee will also use commercially reasonable efforts to promptly notify Licensor of any possible infringement of any trademarks or other proprietary rights relating to the Software of which Licensee becomes aware.

8.6 Licensee shall provide up to 3 free NFR (not-for-resale) samples or access codes of the Combination Product to Licensor, or free access to a web service which includes the software, which Licensor shall use solely for internal purposes to maintain and/or enhance functionality of their software or services.

9. Technical Support and Maintenance.

9.1 Provided that Licensee is not in material breach of this Agreement, Licensor shall provide technical support for Defects of the Software to Licensee by electronic mail for a certain term, to assist and setup in maintenance on Licensee's computers. Support for Licensee's customers including 3rd party developers and client machines is not included. If not otherwise specified, the support term is 1 month after first use of the software. There is no guaranteed reaction time for support cases, if not otherwise specified. Additional fees for support might be required, as agreed in purchase terms.

9.2 In case of Support and Issue requests by Licensee to Licensor, Licensee is responsible to send a complete issue report and provide all required information and material to exactly reproduce the technical setup which leads to any reported issue and provide all access and information to Licensee setup or machines, including remote login support and 3rd party components with capability of installing or debugging software, creating log files and performing other configuration changes to Licensee machines.

9.3 Licensor is not obliged to remedy Defects caused without negligence by Licensor (each, an "Excluded Cause"), in particular in case the Defect was caused by: (a) third-party equipment or software not provided by Licensor, (b) Licensee's equipment or software, (c) any use of the Software or Services other than agreed with Licensor, in particular any use in violation of Licensor's Acceptable Use Policy, (d) the Licensee's actions or interventions, (e) any third party's actions or interventions (excluding actions or interventions by Licensor's affiliates and/or Licensor's subcontractors), (f) an event of Force Majeure, and/or (g) the suspension, interruption or termination of Services in accordance with the Agreement. Further to this, interruptions to the Software or Services in part or as a whole due to Scheduled Maintenance are not considered Defects.

9.4 Licensee acknowledges that Licensee shall reimburse Licensor for any Service provided by Licensor if Licensor was not obliged to provide this Service due to an Excluded Cause. In particular, Licensor reserves the right to charge Licensee for resources devoted by Licensor to the receipt, investigation, troubleshooting and/or clearance of Defects reported by Licensee that are not attributable to Licensor (e.g., no Defect is found or the reported Defect is caused by an Excluded Cause). If a Defect reported by Licensee is found not to be attributable to Licensor, then Licensee shall compensate Licensor at Licensor's then current hourly rates (depending on the level of technical qualification of Licensor's personnel that investigated the alleged Defect) and for any expenses Licensor may have incurred (e.g. for using Licensor's affiliates and/or Licensor's subcontractors) when investigating and/or remedying the alleged Defect. Licensor will invoice these charges for the Defect support and Licensee shall make payment in accordance with the terms of the Agreement.

9.6 Engineering fees and schedules for requested Support, Updates or Upgrades to the Software will be negotiated with Licensee at the time of Licensee's request at Licensor' standard consulting rates.

9.7 Each party will provide a person/means of communication with each other for business and technical reasons.

10. Product Registration/Activation:

10.1 For some parts in the Software, a product registration and/or activation technology might be required. Unregistered Software may be non-functional or subject to Evaluation. During registration, a serial number or activation code will be issued to Licensee for one or more components. Upon entering a valid serial number for a component (registering the component), the registered component will be released of its Evaluation and/or non-functional limitations. Licensee agrees not to disclose any serial number issued to Licensee to any third-party. The product registration for redistribution might need to be renewed regularly for protection reasons. If not otherwise specified in quote or invoice, the activation and unlocking may be done by a one-time or recurring web or other internet connection, which might require a network connection to a host within Licensee's or Licensor's organization.

11. Confidential Information

11.1 Each party agrees that all code, inventions, algorithms, know-how, ideas, and all business, technical and financial information it obtains from the other party are the confidential property of the other party and its suppliers (Confidential Information).

11.2 Except as permitted herein, each party will hold in confidence and not use or disclose any Confidential Information of the other party. Each party's non-disclosure obligation will not apply to information that (i) is or becomes (through no improper action or inaction by the receiving party) generally available to the public, or (ii) was in the receiving party's possession or known by it without restriction prior to receipt from the disclosing party, or (iii) was rightfully disclosed to the receiving party by a third party without restriction, or (iv) was independently developed by employees of the receiving party without use of or access to any Confidential Information of the disclosing party.

11.3 The receiving party may make disclosures required by law or court order provided the receiving party gives the disclosing party prior notice of such required disclosure and allows the disclosing party to participate in the proceeding. Each party acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this Section and that such breach would cause irreparable harm to the non-breaching party; therefore, the non-breaching party shall be entitled to seek immediate injunctive relief, without an obligation to post a bond in addition to whatever remedies it might have at law or under this Agreement.

12. Online Services

(only applicable when using Licensor's services on Licensor's infrastructure)

12.1 Licensor may provide Services to Customer as specified in a mutually Accepted Service Order, Exhibit, Quote or Invoice subject to the terms and conditions herein. Licensor will not be bound to provide Services until the applicable Service Order has been mutually accepted. However, if Customer begins using Services before the Service Start Date in an applicable Service Order, the provision and use of such Services nonetheless will be governed by the terms of this Agreement, Service Terms, SLA, and the Service Orders.

12.2. Limitations of use of the Services.

Customer will only use the LICENSOR Services with User Data to which it has full right, title or license. Customer represents, warrants and covenants that its use of the LICENSOR Services and related backup to and storage of User Data complies and will comply with all Applicable Laws, including those relate to data privacy, data security, international communication and the exportation of technical, personal or sensitive data. Customer is solely responsible for User Data. Except as provided in the Data Privacy Addendum, Customer is responsible for protecting the security of User Data, including any access to User Data that Customer provides to its employees, customers or other third parties, and when it is in transit to and from the LICENSOR Services. Customer must take and maintain commercially reasonable steps regarding the security, protection and backup of User Data, which might include the use of encryption technology to protect User Data from unauthorized access. Customer is responsible for providing any necessary notices to Users and for obtaining any legally-required consents from Users concerning their use of the LICENSOR Services. Customer is responsible for any losses or other consequences arising from Customer's failure to encrypt or back up User Data. Customer will have and maintain appropriate policies and procedures for cybersecurity and to ensure compliance with its regulatory or legal obligations.

Customer is not allowed to, and will take commercially reasonable steps to ensure not to:

- (a) Use any Service in a manner that violates any applicable law, statute, ordinance or regulation;
- (b) Use any Service in a manner that infringes any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy;
- (c) Use any Service to commit any act that is defamatory, threatening, harassing, or may create a risk of harm, loss, physical or mental injury, emotional distress, death, disability, disfigurement, or physical or mental illness to

anyone; or may create a risk of any other loss or damage to any person or property; or may constitute or contribute to a crime or tort; or contains any information or content that is illegal, unlawful, harmful, abusive, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libelous, threatening, or otherwise objectionable; or contains any information or content that you do not have a right to make available under any law or under contractual or fiduciary relationships.

(d) Use the Services to distribute unsolicited content, email, or SPAM

(e) Use the Service in a manner that interferes with, disrupts, or causes an excessive or disproportionate load on Licensor's infrastructure (or affiliates or subcontractors)

(f) Use the Services to commit, or attempt to commit, acts of non-authorized relays through any third-party systems;

(g) Use the Services to do heavy load testing, port scanning or other security scans,

(h) Use the Services to distribute viruses, Trojan horses, worms or other similar harmful or deleterious programming routines (including port scanning); and/or

(i) Use the Services in an effort to gain unauthorized access to, or attempt to interfere with or compromise the normal functioning, operation, or security of any network, system, account, computing facility, equipment, data, or information, or to use the Service to engage in any activities that may interfere with the ability of others to access or use the Service or the Internet.

12.3 Customer acknowledges that Licensor (a) does not own or control all local circuit links, leased co-location spaces, leased space cross-connects, Internet service providers ("ISP") providing connectivity to Licensor, other networks outside the connectivity to Licensor or ISPs, or the "Internet" and except as set forth in the SLA, Licensor will not be responsible for performance or non-performance within such networks or within non-Licensor operated interconnection points between the connectivity and other networks, (b) is a mere intermediary (i.e., mere conduit in accordance with article 12 of Directive 2000/31/EC on E-Commerce and the implementing article 60 of Luxembourg E-Commerce Act of 14 August 2000) for transmission of Customer Content and does not exercise editorial or other control over such materials and (c) will not be responsible for, and expressly disclaims any liability arising from, any such materials or other data accessible on the Internet or for any actions taken on the Internet.

12.4 Licensor may at any time, and without notice, use the services of one or more Affiliates, suppliers or sub-contractors or sub-processors in connection with the performance of its obligations under this Agreement, and Customer's obligations to Licensor extend to those parties when acting on Licensor's behalf.

12.5 Defects/Interrupts: The Parties acknowledge that it may be technically impracticable to provide Services free of any defects or interruptions. Therefore, Licensor cannot and does not guarantee that Services will be uninterrupted or error free. To be eligible for a Service Credit under any support or SLA, Customer must be in good standing with no delinquent invoices, in addition to any other SLA requirements. Licensor shall use commercially reasonable efforts to provide Services without interruptions (including the Service Levels) as set forth in the applicable SLA.

12.6 Scheduled Maintenance: Licensor or any of its subcontractors will from time to time carry out routine maintenance or improvements to the network, facilities, network equipment or other technical equipment required for the provision of the Software or Services ("Scheduled Maintenance"). Scheduled Maintenance may cause interruptions to the Services in part or as a whole. Licensor may carry out Scheduled Maintenance which is unlikely to affect the Services at its own discretion and without notice. For Scheduled Maintenance which will likely cause interruptions to the Services in part or as a whole or any other problems for the Customer, Licensor will notify Customer in advance for maintenance notifications. The notification will include time and date, duration and description of any such work. Notwithstanding the foregoing, if Licensor reasonably believes that timely providing such notice would result in an unacceptable risk of a Defect, damage or loss of integrity to the Licensor network, Licensor may perform such work and may serve notice to Customer of the need to perform emergency maintenance on the network with a notice period reasonable under the given the circumstances.

12.7 Service payments: online services are paid in advance per usage period. For volume-based usages, payments are based on estimated service usage. Overuse of the agreed volume will either be automatically

charged or pre-paid in advance. Licensor may limit its services for non-paid overuse of the service.

13. Customer Data

13.1 Customer acknowledges that Licensor, its Affiliates and their respective agents will, for the purpose of the provision of Services, come into processing of Customer Data. However, Customer shall remain the data controller for the purposes for the applicable data protection laws with Licensor, its Affiliates and their respective agents having only the functions of data processor acting on behalf of Customer.

13.2 Licensor will use reasonable technical and organizational measures to protect Customer Content and Customer Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against other unlawful forms of processing. Customer will provide Licensor with direction as to processing of the Customer Content and Customer Data in accordance with Customer's then current privacy policy and other privacy laws, rules and regulations applicable to Customer. Without prejudice to any legal constraint, all use of Customer Data by Licensor will be at Customer's direction and solely on behalf of Customer, including as set forth in this Agreement.

13.3 Customer acknowledges and agrees that Licensor, its Affiliates and their respective agents may use, process and/or transfer Customer Data (including transfers to entities in non EU countries that do not offer an adequate level of protection for the processing of personal data as required EU regulations like GDPR: (i) in connection with the provision of Services; and (ii) to incorporate Customer Data into databases controlled by Licensor and its Affiliates for the purpose of administration, provisioning, billing and reconciliation, verification of Customer identity and solvency, maintenance, support and product development, fraud detection and prevention, sales, revenue and Customer analysis and reporting, support, development, sales, marketing and Customer use analysis.

13.4 Customer warrants that it has obtained and will obtain all legally required consents and permissions from relevant parties (including data subjects) for the use, processing and transfer of End User Data and other Customer Data as described in this Section. Customer shall comply with all applicable data protection laws, specifically execute all respective Model Contracts for the transfer of personal data to third countries and take other actions required. This shall include inter alia making notifications or obtaining authorisation from authorities of the relevant jurisdictions regarding the transfer of End User Data and other Customer Data by Licensor outside the EU/EEA.

13.5 Customer will not provide to Licensor any Customer Content: (a) that is inappropriate or unlawful; (b) contains viruses, worms, corrupt files, Trojan horses and other forms of corruptive code or any other content, which may compromise the Services or Licensor's network; (c) that violates the property rights of others, including unauthorized images, programs, trademarks or other Intellectual Property Rights; or (d) that has any links or connections to any of the above.

14. Privacy / Data Protection

see separate document/attachment.

15. Force Majeure

15. Force Majeure: Either Party shall be excused from any delay or failure in performance required hereunder if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labor disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the Party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the Parties' respective obligations hereunder shall resume.

16. Miscellaneous.

16.1 Licensee may not assign this Agreement without the consent of the other party to another party, except to a subsidiary or to a successor to all or substantially all of its assets or business.

16.2 Neither party has the right or authority to assume or create any obligation or responsibility on behalf of the other.

16.3 Full customer details are mandatory: Full Name, Email, Web Page, Phone, Address of person or company, reg.no. Any notice, report, approval or consent required or permitted hereunder will be in writing via email, to a party at the addresses first set forth herein as contact persons in Exhibit.

16.4 Any action related to this agreement shall not be unreasonably delayed or withheld.

16.5 Any waivers or amendments will be effective only if made in writing. From time to time this Agreement, the Terms, "Legal Documents" can be modified by Licensor.

16.6 If any provision of this Agreement is unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

16.7 This Agreement will be construed under the laws of Germany with the place of jurisdiction Berlin, Germany, without regard to conflicts of law provisions thereof. Termination is not an exclusive remedy and all other remedies will be available whether or not termination occurs.

16.8 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes all previous written and oral agreements and communications relating to the subject matter of this Agreement.

Exhibit A – LICENSOR Specifications

Software and services as packaged with this agreement, or specified separately, or verified by Licensee based on Evaluation Use and within licensee’s testing environment.

[DETAILS MAY BE SPECIFIED IN A SEPARATE QUOTE / INVOICE / PURCHASE ORDER]

nanocosmos software components and supported system environments:

[DETAILS MAY BE SPECIFIED IN A SEPARATE QUOTE / INVOICE / PURCHASE ORDER]

Exhibit B – LICENSEE Application Programs and Combination Product(s)

Application Program or Web Application used as Combination Product for Integrating Software from Exhibit A

[DETAILS MAY BE SPECIFIED IN A SEPARATE QUOTE / INVOICE / PURCHASE ORDER]

Exhibit D – License Model and License Fees

License Model:

LICENSE FEE AND DETAILS - SPECIFIED IN A SEPARATE QUOTE, INVOICE OR PURCHASE ORDER

One or more of following options (strike or mark valid items):

- Developer License
- Software License:
 - o to install on one device
 - o Redistribution License (OEM) for one Combination Product (App)
 - o Domain / Service License: Run the Software in one app for one internet domain or internet service
 - o Subscription License: Additional Usage and Distribution License per unit per year
- Server License: Run the Software on one server
- Cloud License: online services
- Project/Event License for use at certain time and date(s)

Exhibit C – SUPPORT LEVEL (SLA)

There are several possible support options, based on our office hours 10.00 am – 6 pm CET

- 8/5: (8 hours per day / 5 days per week)
- 24/7: (24 hours per day / 7 days per week)
- 16/5: (16 hours per day / 5 days per week)

Usually included in the basic agreement: 8/5 support, “best effort”, target reply time < 48 hours

Consulting/Development possible based on daily rates or additional requirements specification

[DETAILS MAY BE SPECIFIED IN A SEPARATE QUOTE / INVOICE / PURCHASE ORDER]

Exhibit E – Data Processing Agreement

A Data Processing Agreement (“DPA”) is an addendum to this Customer Terms of Service (“Agreement”).

Exhibit F – Business Addresses and Contact persons

Licensor: Nanocosmos Gmbh, Oliver Lietz, CEO <lietz@nanocosmos.de>,

Licensee:

Business Name / Address / Web Page / Company Reg.No.:

Business Contact Name, Email, Phone:

Technical Contact Name, Email, Phone::

Agreement Execution / Signature

BY USAGE OF THE SOFTWARE OR SERVICES YOU AGREE TO THESE LICENSE TERMS

Licensee:

Licensor:

By: _____

By: _____ nanocosmos gmbh

Name: _____

Name: _____ Oliver Lietz

Title: _____

Title: _____ CEO

Date: _____

Date: _____

Signature / Stamp:
