

# General Licensing Conditions for software

Delivered by Kamstrup A/S – CVR No. 21 24 81 18

## 1.0 General terms and conditions

1.1. These General Licensing Conditions (the “Conditions”) shall apply to any agreement (the “Agreement”) between Kamstrup A/S (“Kamstrup”) and Licensee for the use of the Software and relevant documentation (“Documentation”) provided by Kamstrup. Licensee terms of any form shall not apply unless specifically agreed.

## 2.0 Software License

2.1. Kamstrup hereby grants to Licensee the non-exclusive and non-transferable right to use the Software as defined in the Agreement. No further license or right to use is granted under these Conditions and any intellectual property contained in the Software shall remain Kamstrup’s property at all times. “Use” shall mean (i) install, store, read, run and display the Software for the purpose of executing the program instructions for data processing and (ii) make the required temporary copies necessary for this process. The license remains in force until the Licensee stops using the Software or until termination of the Agreement in accordance with these Conditions. The Parties agree that these Conditions shall also apply (i) to any Software and/or Documentation updates, upgrades, error corrections, enhancements etc. and (ii) to customer-specific adaptations and extensions to standard Software.

2.2. Conditions of Use:

2.2.1. The Software and Documentation shall only be Used in accordance with these Conditions and Licensee shall comply with the instructions given by Kamstrup (including, but not limited to the Documentation).

2.2.2. The license is limited to the number of metering points, number of users and/or use at the agreed server locations as agreed between the Parties.

2.2.3. Unless otherwise agreed in writing, Licensee is entitled to use the Software and the Documentation for its own business only and shall not use or permit the use by, on behalf of or for the benefit of any third party or company in any way whatsoever, either free of charge or against payment. Subject to Kamstrup’s written consent, Licensee shall be entitled to have the Software installed at an operations provider (outsourcing) provided that the provider is located in the country where the Software will be used and the provider’s use of the Software is strictly limited to

the purpose of Licensee being able to use the Software in accordance with these Conditions.

2.2.4. Licensee may make one backup copy of the Software solely for replacing the original Software if the original Software is not in working order. The copy may not be used at the same time as the original version of the Software. Otherwise, Licensee is not entitled to sub-license, copy, translate, alter, modify, produce derived forms of, disassemble, reverse engineer, decompile or use the Software and the Documentation other than in the contractually agreed manner or to the extent permitted by mandatory law, and shall prevent others from carrying out such prohibited activities.

2.2.5. All security matters of the IT-system on which the Software is used are Licensee’s sole and exclusive responsibility. Licensee shall implement the necessary measures such as a disaster recovery and business continuity plans and shall make regular backup copies of all stored data (including all reported measurement data, databases, computer records and computer programs) in accordance with best computing practices.

2.2.6. Use of the Software outside the documented hardware, peripheral and software configurations is permitted (i) if the configured hardware and software infrastructure is temporarily inoperable; in this case the license is temporarily and without additional charge extended to suitable replacement infrastructure until the failure is remedied, provided the replacement infrastructure is under Licensee’s direct control, or (ii) if the Software is used with suitable replacement infrastructure if the use of the infrastructure according to the original configurations is permanently discontinued. The use of the Software with temporary or permanent replacement infrastructure shall be at Licensee’s sole risk and responsibility. Licensee shall track and keep records on the use, copying, storage and disclosure of the Software.

2.2.7. Kamstrup, or an independent auditor appointed by Kamstrup, may inspect any systems, records, documents or copies at Licensee’s premises in order to audit the compliance with the obligations related to the Software. The costs for such inspection shall be borne by Kamstrup, unless it is determined that Licensee is in breach of its obligations under the Agreement, in which case Licensee shall

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bear the costs. Licensee shall make available such records to Kamstrup or its representative for this purpose.

## 3.0 Fee

- 3.1. The License Fee covers the delivery and use of the Software and the Documentation by Licensee in accordance with these Conditions. The License Fee is an one-time fee.
- 3.2. The Maintenance Fee covers the delivery and use of Patches and Releases. The Maintenance Fee is a yearly fee.

## 4.0 Invoicing and Terms of Payment

- 4.1. The agreed Fees shall be payable in advance, not in arrears. Except where otherwise agreed, all fees, costs and prices shall be payable in EUR. They shall be exclusive of any value added tax or other taxes and costs that may apply under the relevant jurisdiction. All payments shall be made in full without any deduction or set off to the bank account specified by Kamstrup no later than thirty (30) days after receipt of the invoice. If any sum payable under the Agreement is not timely paid in full, Kamstrup may charge interest at a rate of two (2) per cent per commenced month as from the due date (or, if lower, the maximum rate permitted by law) and/or, in case of failure to make payments within twenty (20) days after the due date, terminate the Agreement. Without limiting Kamstrup's right for late or non-payment, the User may not Use any new Data from the due date of the payment until to the date of actual payment.

## 5.0 Warranty

- 5.1. Kamstrup warrants that, if no maintenance or hosting contract has been concluded between the Parties for the software, for a period of 90 days, or otherwise, for the period of the maintenance or hosting contract, the Software materially fulfils the functionality as set out in the Documentation. Kamstrup further warrants the compatibility / interoperability of the Software with the tested and documented Kamstrup hardware; however, Kamstrup does not warrant that the Software will operate in all configurations and applications which Licensee may select for use.
- 5.2. In the event of a defect (i.e. breach of the warranty defined in this clause) during the warranty period, Licensee shall notify Kamstrup without undue delay in writing and provide all information to Kamstrup to analyse the defect. Kamstrup shall, within a reasonable time after receipt of the timely and substantiated defect notification, at its discretion (i) rectify such a defect by providing an adequate workaround solution, (ii) supply a replacement solution substantially fulfilling the same functional specifications or (iii) reimburse the reduction in value of the non-complying parts of the delivery.
- 5.3. This warranty is subject to Licensee's compliance with its obligations under the Agreement and does not apply to (i) third party software (ii) copies of the Software not originating from Kamstrup or not produced in the contractually agreed manner, (iii) Software used or installed on

other than approved hardware and software configuration, (iv) Software that was subjected to improper or negligent installation or use or that suffered an accident for which Kamstrup is not responsible, (v) Software modified, extended or combined with other programs by Licensee or a third party without previous written approval, or (vi) Software that was subjected to treatment not conforming with environment, energy supply or operational limitation requirements specified in the Documentation or (vii) defects resulting from interfacing to third party systems.

- 5.4. THE WARRANTIES AND REMEDIES STATED IN THIS CLAUSE SHALL BE LICENSEE'S SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES IN CASE OF SOFTWARE DEFECTS OR DEFAULTS; ALL WARRANTIES AT LAW ARE EXCLUDED.

## 6.0 Intellectual Property Rights

- 6.1. All rights, title and legal claims, including but not limited to copyright, trademarks and other intellectual property rights relating to the Software, Documentation and other deliveries made available hereunder to Licensee (including intellectual property rights to customer specific adaptations of standard Software, even if funded by Licensee), with the exception of the rights expressly granted in the Agreement, remain in their entirety the ownership of Kamstrup, its licensors or suppliers.
- 6.2. Kamstrup warrants that, to the best of its knowledge, the Software does not infringe third party intellectual property rights in a way prohibiting the use in the country where the Software is licensed for use.
- 6.3. In case the Software infringes third party intellectual property rights that Kamstrup should have been aware of, Kamstrup shall indemnify Licensee for all reasonable costs and fees, provided that Licensee (a) immediately notifies Kamstrup of any claim, (b) allows Kamstrup to conduct any proceedings or accept any settlement with the third party and (c) assists Kamstrup in defending such claims if required.
- 6.4. If the Software infringes third party intellectual property rights, Kamstrup shall, at its own cost and at its sole discretion, either (i) modify the Software and Documentation so that it no longer infringes the respective third party intellectual property right, (ii) supply to Licensee a replacement solution essentially fulfilling the same functional specifications, (iii) obtain at its own cost the authorization for Licensee to use the respective third party intellectual property right or (iv) reimburse to Licensee the reduction in value of the infringing parts of the Software or Documentation.
- 6.5. Kamstrup's warranty under this Clause does not apply for any infringement of third party intellectual property rights caused by implementing Licensee's specifications, or for any use or modification by Licensee which is not in accordance with the Documentation or Kamstrup's instructions.
- 6.6. THE WARRANTIES AND REMEDIES STATED HEREIN SHALL BE LICENSEE'S SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES IN CASE OF INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

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## 7.0 Liability

- 7.1. Notwithstanding any other provision in the Agreement
- 7.1.1. Kamstrup's aggregate liability under or in connection with the Agreement shall be limited to 50 % of the License Fee or (if applicable) the Maintenance Fee payable for the 12 month period in which any claim arises.
- 7.1.2. Kamstrup shall not be liable, whether by way of indemnity, breach of statutory duty, in contract or in tort (including negligence) or under any other legal theory for any operating loss, loss of profits or revenues, loss of production, loss of contract, cost of capital or for any financial or economic loss, loss of data or any indirect, incidental or consequential damage whatsoever.
- 7.1.3. The remedies set out in the Agreement are Licensee's sole and exclusive remedies for any claim arising out of or in connection with the Agreement.
- 7.1.4. The limitations of liability shall not apply in case of gross negligence or wilful misconduct.

## 8.0 Termination

- 8.1. Each Party may terminate the Agreement by written notice with immediate effect if (i) the other Party materially fails to perform or comply with the Agreement or the applicable laws relating to the subject matter of the Agreement and fails to cure such default within a period of 30 days or (ii) the other Party goes into involuntary dissolution or bankruptcy or has a receiver appointed. Kamstrup may also terminate the Agreement with immediate effect in case of a non-authorized transfer or assignment of the Software, Documentation, the Agreement or parts thereof by Licensee, or, if Licensee merges with, has substantially all assets or stock acquired by a third party or acquires substantially all assets or stock of a third party which is in direct competition with Kamstrup.
- 8.2. Upon termination of the Agreement, Licensee shall immediately and permanently discontinue the use of and delete on its IT system the Software and Documentation and shall return the Software and Documentation (including any modification, electronic and other copies and recordings thereof) to Kamstrup without delay. For avoidance of doubt, there shall be no refund of any element of the License Fee, Maintenance Fee or other fees by reason of termination.

## 9.0 Miscellaneous

- 9.1. End of Life
- 9.1.1. Kamstrup may, at its discretion, decide to cease to support Software. Kamstrup will provide the Licensee with at least 90 days' written notice of the last date of commercial availability of the affected product (the "End of Sale Date"). Kamstrup will continue to support such products for a period of 3 years after the End of Sale Date, on the terms of Kamstrup's software support agreement. Kamstrup will have no obligation to continue support of such products after such 3 year period has expired.
- 9.2. Delivery and Acceptance
- 9.2.1. Kamstrup shall deliver (transmit, hand over or otherwise make available) one (1) copy of the Software in object

code/machine-readable form on the appropriate media, the required license keys and one (1) set of the Documentation. Third party software and Documentation shall be delivered in the form and number as delivered by the third party supplier. In case a hosting contract is in place, the Software will be installed on a Kamstrup server and Licensee will be provided adequate access.

## 9.3. Confidentiality

- 9.3.1. All documents, information and data, whatever the medium, form or content, that Licensee receives from Kamstrup during the performance of the Agreement (i) shall be treated as confidential, (ii) shall not be transmitted or disclosed to third parties without Kamstrup's prior written consent. Licensee shall ensure that its employees and subcontractors receive such confidential information on a need-to-know basis only and comply with the confidentiality obligations as set out in this clause. This confidentiality obligation shall survive expiry or termination of the Agreement.

The confidentiality obligation does not apply to documents, information and data that (i) is generally available from public sources or in the public domain through no fault of Licensee, (ii) was received from a third party without breach of a nondisclosure obligation, (iii) is required to be disclosed by law subject to Licensee's obligation to notify Kamstrup of such disclosure in a timely manner; or (iv) approved for disclosure with Kamstrup's prior written consent.

## 9.4. Amendments

- 9.4.1. Modifications and amendments to the Agreement shall only be valid when made in writing and signed by authorized representatives of both Parties. This procedure may only be waived in writing.

## 9.5. Assignment

- 9.5.1. Licensee shall not assign, sub-license, lease or otherwise transfer, share or commercialize, whether in whole or in part, the Software and Documentation or any rights or obligations under the Agreement without the prior written consent of Kamstrup. Any breach of this obligation shall constitute a material breach and entitle Kamstrup to terminate the Agreement with immediate effect.

## 9.6. Force Majeure

- 9.6.1. Force Majeure shall be defined as an occurrence resulting from any cause beyond a Party's reasonable control, including blackouts, power failures, inclement weather, fire, explosions, natural disasters, epidemics, strikes, work stoppages, labour slow-downs, industrial disputes, sabotage, destruction of production facilities, riots or civil disturbances, acts of government or governmental agencies, including changes in laws or regulations that materially and adversely impact the Party, its suppliers or licensors or any virus, worm or other harmful computer program. The affected Party shall not be considered to be in breach of the Agreement during the Force Majeure event and its consequences. The affected Party shall inform the other Party in writing as soon as practicable after the Force Majeure event has occurred and provide information on

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the consequences of such Force Majeure event. Payment obligations shall never be impaired by Force Majeure.

## 9.7. Severability

- 9.7.1. Should any provision of the Agreement be invalid or unenforceable, the remaining provisions shall not be affected thereby and the invalid or unenforceable provision shall be substituted by a valid and enforceable provision reflecting as closely as possible the Parties' original intent and commercial effect.

## 9.8. Contractual Documents

- 9.8.1. In the event that the Agreement and the documents mentioned herein contain contradictory provisions, and provided that circumstances do not indicate otherwise, the provisions shall apply in the order as follows: 1. The Agreement; 2. Appendices to the Agreement.

## 9.9. Entire Agreement

- 9.9.1. The Agreement (with its Appendices) shall be the entire agreement between the Parties in respect of the subject matter hereof and shall supersede any prior agreement, whether in writing or any other form.

## 10.0 Applicable Law and Dispute Resolution

- 10.1. The parties shall seek to settle any dispute arising out of or in connection with the Agreement, including disputes relating to the existence or validity of the Agreement, through mediation administered by the Danish Institute of Arbitration in accordance with its rules on mediation in force at the time the request for mediation was submitted. The mediation shall take place in Aarhus, Denmark.
- 10.2. If the mediation has not resulted in a settlement within 45 days of the request for mediation having been submitted by either party, then the dispute shall be settled by arbitration administered by the Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by the Danish Institute of Arbitration and in force at the time when such proceedings are commenced. The arbitration shall take place in Aarhus, Denmark.
- 10.3. The laws of Denmark, excluding any choice of law rules, shall govern the Agreement and the settlement of disputes. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.