

Table of Contents

- 1.1 DEFINITIONS ..... 2**
- 1.2 FREE TRIAL ..... 3**
- 1.3 RESPONSIBILITIES OF THE PARTIES ..... 3**
  - 1.3.1 Our responsibilities ..... 3
  - 1.3.2 Your responsibilities ..... 4
- 1.4 USE OF SERVICES ..... 4**
  - 1.4.1 Tokens..... 4
  - 1.4.2 Subscriptions ..... 5
  - 1.4.3 Usage Limits..... 5
  - 1.4.4 Usage Restrictions ..... 5
  - 1.4.5 Fees..... 5
  - 1.4.6 Invoicing and Payment ..... 5
  - 1.4.7 Overdue Charges ..... 6
  - 1.4.10 Suspension of Service and Acceleration..... 6
  - 1.4.11 Modifications..... 6
  - 1.4.12 Taxes..... 6
- 1.5 PROPRIETARY RIGHTS AND LICENSES ..... 6**
  - 1.5.1 Reservation of Rights..... 6
  - 1.5.2 Access to and Use of Service..... 6
  - 1.5.3 License to Use Feedback..... 6
- 1.6 CONFIDENTIALITY..... 7**
  - 1.6.1 Definition of Confidential Information ..... 7
- 1.7 REPRESENTATIONS, DISCLAIMERS AND LIMITATION OF LIABILITY..... 7**
  - 1.7.1 Representations..... 7
  - 1.7.2 Disclaimers..... 7
  - 1.7.3 Limitation of Liability ..... 8
- 1.8 TERM AND TERMINATION ..... 9**
  - 1.8.1 Term of Agreement ..... 9
  - 1.8.2 Term of Purchased Subscriptions ..... 9
  - 1.8.3 Surviving Provisions ..... 9
- 1.9 NOTICES AND GOVERNING LAW ..... 9**
  - 1.9.1 Manner of Giving Notice..... 9
  - 1.9.2 Agreement to Governing Law and Jurisdiction ..... 9

# Connecting Software SaaS Subscription Agreement

PLEASE READ THIS SUBSCRIPTION AGREEMENT CAREFULLY BEFORE ACCEPTING. THIS AGREEMENT GOVERNS YOUR ACQUISITION AND USE OF OUR SERVICES.

IF YOU REGISTER FOR A FREE TRIAL, THE APPLICABLE PROVISIONS OF THIS AGREEMENT WILL ALSO GOVERN THAT FREE TRIAL.

BY SUBSCRIBING TO ANY OF OUR ONLINE SERVICES YOU CONFIRM THAT YOU AGREE TO ALL THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES. UNLESS AND UNTIL COMPANY HAS AGREED TO BE BOUND BY ALL OF THE TERMS OF THE AGREEMENT, COMPANY HAS NOT BECOME A LICENSEE OF, AND IS NOT AUTHORIZED TO USE, THE CONNECTING SOFTWARE SAAS PRODUCTS.

You may not access the Services if You are Our direct competitor, except with Our prior written consent.

This Agreement was last updated on April 1, 2019. It is effective between You and Us as of the date of You accepting this Agreement.

## 1.1 DEFINITIONS

**"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Agreement"** means this Connecting Software SaaS Subscription Agreement.

**"Malicious Code"** means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

**"Order Form"** means form on which customer writes the details of Services they wish to order.

**"Services"** means the products and services that are ordered by You through an Order Form or provided to You under a free trial, and made available online by Us.

**“Subscription”** means business model in which a customer pay a recurring price at regular intervals for access to Services.

**“User”** means an individual who is authorized by You to use a Service, for whom You have purchased a subscription (or in the case of any Services provided by Us without charge, for whom a Service has been provisioned), and to whom You (or, when applicable, Us at Your request) have supplied a user identification and password (for Services utilizing authentication). Users may include, for example, Your employees, consultants, contractors and agents, and third parties with which You transact business.

**“We,” “Us” or “Our”** means the Connecting Software s.r.o. & Co. KG, Handelskai 340/5, 1020 Vienna, Austria, Company ID: 286896g.

**“You” or “Your”** means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity which have signed Order Forms.

**“Your Data”** means electronic data and information submitted by or for Customer to the Services.

## **1.2 FREE TRIAL**

If You register on Our website for a free trial, We will make one or more of our Services available to You on a trial basis free of charge for period of time specified for the Service. Free trial will be automatically terminated at the end of your trial period unless You purchase a paid plan.

Where this Agreement provides that You will pay fees specified in Order Forms, or similar, for Free Trial this Fee means 0\$.

ANY DATA YOU ENTER INTO THE SERVICES INCLUDING SETTINGS AND ANY CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR YOU DURING THE FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION AND ACTIVATE THE SAME SERVICES WITH TOKEN BEFORE THE END OF YOUR TRIAL PERIOD.

## **1.3 RESPONSIBILITIES OF THE PARTIES**

### **1.3.1 Our responsibilities**

#### *1.3.1.1 Provision of Purchased Services*

Upon filling our Order Form and paying a fee (except free trial) we will make our Services available to You in the shortest reasonable time period. We will use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for planned downtime and unavailability caused by circumstances beyond Our reasonable control including for instance act of government, flood, fire, earthquake, act of terror, Internet Service Provider failure, etc.

#### *1.3.1.2 Protection of Your Data*

All Your Data, settings and customizations will be hosted in Azure cloud by Microsoft (please read Microsoft privacy statement <https://privacy.microsoft.com/en-us/privacystatement> ). We take measures to protect Your Data from being lost, damaged, stolen or misused (such as extra security layers, SSL encryption,.. ). All Your Data is properly encrypted and none of our employees or any other third person have unencrypted access to it. Our Services do not permanently store any of Your Data on our servers.

We store only data necessary to process Your order as name, business name, address, telephone, email address, VAT number, encrypted personal login information that you provide (hash), log files, credentials, mutual communication or other details. For more information about how we store this data, please read <https://www.connecting-software.com/privacy-policy/> .

#### *1.3.1.3 Our Personnel*

We are responsible for the performance of Our personnel (including Our employees and contractors) and their compliance with Our obligations under this Agreement.

#### *1.3.1.4 Support (Help Desk)*

We provide Email support for You at <https://saas.connecting-software.com/Support/Contact> Monitored Monday – Friday, normal working hours: 7:00 – 18:00 CET (Central European Time). During this time we'll respond usually within 4 hours at the very latest next working day.

#### *1.3.1.5 System Health Check*

Every 1 hour we do preventive monitoring of the system that leads to early detection of system failures.

### **1.3.2 Your responsibilities**

#### *1.3.2.1 Pay for Services*

You shall pay the fees to Us for the use of Services in accordance with this Agreement.

#### *1.3.2.2 Provide Valid Information*

You shall provide Us with valid information we need to provide a Service for You in accordance with this Agreement.

#### *1.3.2.3 Reasonable availability when resolving incident*

You shall provide Us reasonable availability when resolving a service related incident or request.

## **1.4 USE OF SERVICES**

### **1.4.1 Tokens**

Upon receiving your payment, We will provide You with Token codes for the products You have paid for. Upon creating Your account at <https://saas.connecting-software.com/> You will have access to activate your Subscription using your token codes.

### **1.4.2 Subscriptions**

Unless otherwise stated, all of our Services are purchased as Subscriptions which are NOT automatically renewed. You need to manually re-purchase your Subscription towards the end of your current Subscription, otherwise your Subscription will be automatically cancelled and you may lose Your Data, settings and customizations.

### **1.4.3 Usage Limits**

The usage of our Services may be limited by the amount of users, time period, data traffic, amount of servers of the target systems, etc. All these limitations are specified separately for each of our Services. If you get close to exceeding your contractual usage limit, we will electronically notify you. Upon exceeding your contractual usage limit, the Service may stop. The Service will continue to work when a new plan or upgrade of the Service is purchased (and activated by new token).

### **1.4.4 Usage Restrictions**

You may not sell, resell, license, sublicense, distribute, make available or lease any Service that we provide. You may not use our Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights. You may not use our Service in order to store or transmit Malicious Code. You may not interfere with or disrupt the integrity or performance of any Service or third-party data contained therein. You may not attempt to gain unauthorized access to any Service or its related systems or networks. You may not permit direct or indirect access to or use of any Service in a way that circumvents a contractual usage limit, or use any of Our Services to access or use any of Our intellectual property except as permitted under this Agreement or the documentation. You may not copy a Service or any part, feature, function or user interface thereof. You may not frame or mirror any part of any Service, other than framing on Your own intranets or otherwise for Your own internal business purposes or as permitted in the documentation. You may not access any Service in order to build a competitive product or service. Any use of the Services in breach of this Agreement, Documentation or Order Forms, by You that in Our judgment threatens the security, integrity or availability of Our services, may result in Our immediate suspension of the Services, however, We will use commercially reasonable efforts under the circumstances to provide You with notice and an opportunity to remedy such violation or threat prior to such suspension.

### **1.4.5 Fees**

You will pay all fees specified in Order Forms. Fees are based on Services Subscriptions purchased and not actual usage. Payment obligations are non-cancelable and fees paid are non-refundable. Quantities purchased cannot be decreased during the relevant subscription term.

### **1.4.6 Invoicing and Payment**

You will provide Us with valid and updated credit or debit card information. If You provide credit or debit card information to Us, You authorize Us to charge such credit card for all Purchased Services listed in the Order Form. Such charges shall be made in advance prior to us providing the Service. If the Order Form specifies that payment will be by a method other than a credit card, We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 14 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

#### **1.4.7 Overdue Charges**

If any invoiced amount is not received by Us by the due date, then without limiting Our rights or remedies, those charges may accrue late interest at the rate of 2% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.

#### **1.4.8 Suspension of Service and Acceleration**

If any amount owing by You under this or any other agreement for Our services is 14 or more days overdue (or 10 or more days overdue in the case of amounts You have authorized Us to charge to Your credit card), We may accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full.

#### **1.4.9 Modifications**

We reserve the right to make modifications to Our Product or particular features or components of Our Product, from time to time, at its sole discretion. We will exercise reasonable commercial efforts to notify You of any such material modifications to Our Product, provided however, that We will not have any liability for failure to provide such notice.

#### **1.4.10 Taxes**

All prices on our webpage are quoted without VAT unless otherwise specified. We will charge you VAT in case:

- You order Our Services as a person (not company) and You are located within EU (European Union)
- You order as a company which is located in EU and You don't have a valid VAT number

In all other cases We won't charge You VAT.

### **1.5 PROPRIETARY RIGHTS AND LICENSES**

#### **1.5.1 Reservation of Rights**

Subject to the limited rights expressly granted hereunder, We and Our licensors reserve all of Our/their right, title and interest in and to the Services, including all of Our/their related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

#### **1.5.2 Access to and Use of Service**

You have the right to access and use applicable Service subject to the terms of applicable Order Forms, this Agreement and the Documentation.

#### **1.5.3 License to Use Feedback**

You grant to Us and Our Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Our and/or Our Affiliates' services any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Users relating to the operation of Our or Our Affiliates' services.

## **1.6 CONFIDENTIALITY**

### **1.6.1 Definition of Confidential Information**

“Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your Data; Our Confidential Information includes the Services; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including your pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party’s prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate’s, legal counsel’s or accountant’s compliance with this “Confidentiality” section.

Notwithstanding the foregoing, We may disclose the terms of this Agreement and any applicable Order Form to a subcontractor to the extent necessary to perform Our obligations to You under this Agreement, under terms of confidentiality materially as protective as set forth herein.

## **1.7 REPRESENTATIONS, DISCLAIMERS AND LIMITATION OF LIABILITY**

### **1.7.1 Representations**

Each party represents that it has validly entered into this Agreement and has the legal power to do so.

### **1.7.2 Disclaimers**

Vendor does not warrant that the Software will perform without error or that it will run without immaterial interruption. Vendor provides no warranty regarding, and will have no responsibility for, any claim arising out of: (a) a modification of the Software made by anyone

other than Vendor, unless Vendor approves such modification in writing; or (b) use of the Software in combination with any operating system not authorized in the Documentation or with hardware or software specifically forbidden by the Documentation.

### **1.7.3 Limitation of Liability**

#### **1.7.3.1 *NO CONSEQUENTIAL DAMAGES***

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES INCLUDING WITHOUT LIMITATION, INTERRUPTION OF BUSINESS, LOST PROFITS, LOST OR CORRUPTED DATA, LOST REVENUE ARISING OUT OF THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE SERVICE, THE USE OF THE SERVICE OR THE INABILITY TO USE SERVICE), EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **1.7.3.2 *DIRECT DAMAGE LIMITATIONS***

1.7.3.2.1 IN NO EVENT SHALL THE AGGREGATE LIABILITY OF VENDOR OR ANY THIRD PARTY VENDORS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY LICENSE, USE, OR OTHER EMPLOYMENT OF THE SERVICE, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNTS ACTUALLY PAID BY CUSTOMER IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. THERE SHALL BE ONLY ONE AGGREGATE LIABILITY CAP UNDER THIS AGREEMENT EVEN IF THERE ARE MULTIPLE CLAIMS; EACH CLAIM SHALL REDUCE THE AMOUNT AVAILABLE IN THE AGGREGATE LIABILITY CAP.

1.7.3.2.2 EXCEPT FOR A FAILURE OF VENDOR TO COMPLY WITH ITS OBLIGATIONS WITH RESPECT TO BACKUP SERVICES, AND SUBJECT TO SECTION 1.7.3.2.1 ABOVE, VENDOR SHALL NOT BE LIABLE FOR ANY DAMAGES RESULTING FROM THE LOSS OR CORRUPTION OF ANY DATA WHETHER RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES, SERVICE INTERRUPTIONS OR OTHERWISE.

#### **1.7.3.3 *EXCLUSIONS***

THE LIMITATIONS OF LIABILITY SET FORTH IN SECTIONS 1.7.3.1 AND 1.7.3.2 SHALL NOT APPLY WITH RESPECT TO: (I) DAMAGES TO PERSONS AND/OR TANGIBLE PROPERTY OCCASIONED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF A PARTY, (II) BREACHES BY CUSTOMER OF LICENSE TERMS APPLICABLE TO VENDOR PROVIDED SOFTWARE AND THIRD PARTY PRODUCTS, (III) CUSTOMER'S UNAUTHORIZED USE OF VENDOR'S OR THIRD PARTY VENDOR'S INTELLECTUAL PROPERTY, MATERIALS OR ASSETS; (IV) DAMAGES INCURRED AS A RESULT OF A BREACH BY A PARTY OF ITS OBLIGATIONS THAT RESULT IN THE DISCLOSURE OF CONFIDENTIAL INFORMATION OF THE OTHER PARTY, OR (V) CLAIMS THAT ARE THE SUBJECT OF INDEMNIFICATION (WHICH ARE SUBJECT TO THE LIMITS, IF ANY CONTAINED THEREIN). DAMAGES AS LIMITED BY THIS SECTION ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IF ANOTHER REMEDY IS PROVIDED AND SUCH REMEDY IS DEEMED TO FAIL OF ITS ESSENTIAL PURPOSE.



#### 1.7.3.4 *FORCE MAJEURE AND UNPREDICTED SITUATIONS*

1.7.3.4.1 A party shall not be liable for any failure of or delay in the performance of this agreement for the period that such failure or delay is:

- a) beyond the reasonable control of a party,
- b) materially affects the performance of any of its obligations under this agreement, and
- c) could not reasonably have been foreseen or provided against, but

will not be excused for failure or delay resulting from only general economic conditions or other general market effects.

1.7.3.4.2 We shall not be liable for any loss or damage whatsoever arising from unpredicted changes of the API's or functionality of the systems we are dealing with from third party vendors.

### **1.8 TERM AND TERMINATION**

#### **1.8.1 Term of Agreement**

This Agreement commences on the date You first accept it and continues until all Subscriptions hereunder have expired or have been terminated.

#### **1.8.2 Term of Purchased Subscriptions**

The term of each Subscription shall be as specified in the applicable Order Form.

#### **1.8.3 Surviving Provisions**

All section of this agreement will survive any termination or expiration of this Agreement.

### **1.9 NOTICES AND GOVERNING LAW**

#### **1.9.1 Manner of Giving Notice**

All notices related to this Agreement will be in writing or electronic form and will be effective upon (a) personal or electronic delivery, (b) the second business day after mailing. Billing-related notices to You will be addressed to the relevant billing contact designated by You. All other notices to You will be addressed to the relevant Services system administrator designated by You.

#### **1.9.2 Agreement to Governing Law and Jurisdiction**

You are contracting with Us under this Agreement. In case of any dispute or lawsuit arising out of or in connection with this Agreement, the jurisdiction for such case will be in Austria regardless where You are domiciled.