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## 6. License Fee and Highcharts Advantage Fee

Licensee shall upon purchase pay the agreed License Fee covering the purchase of Licensed Software and the included initial Advantage Period, or Fixed Advantage Period (if applicable), as detailed in the License Statement. Upon each Auto-Renewal of Licensee's enrollment in the Highcharts Advantage plan, Licensee shall pay the Highcharts Advantage Fee applicable at the time of Auto-Renewal. If Licensee has elected a Fixed Advantage Period at the time of purchase, and wishes to purchase an Extension, Licensee shall pay the applicable Highcharts Advantage Fee at the time of such Extension.

Highsoft shall invoice Licensee and Licensee shall pay all invoices by the agreed payment method timely, which shall be no later than thirty (30) days from invoice date. In case of payment delay, Highsoft may claim late payment interest at the rate stipulated in applicable law.

Licensee shall be responsible for ensuring that its usage of the Software is in accordance with the scope of the License granted, as detailed in the License Statement. Licensee hereby accepts and agrees that in the case of Licensee's usage of the Software which exceeds the agreed scope of the License, Highsoft may, following notice to Licensee, invoice Licensee corresponding to the exceeding usage and based on the applicable fees at the time of usage.

Each Party shall be fully and solely responsible for payment of any bank charges and/or local taxes imposed by the law of that Party's home country related to the purchase of Licensed Software or Highcharts Advantage, and each Party shall indemnify, defend and hold harmless the other Party from any taxes, claims, costs or other liabilities related to the indemnifying Party's taxes. Invoices from Highsoft will not include taxes, except VAT in the case of Norwegian customers. Licensee may not withhold any part of the invoiced amount as payment of taxes.

All Licenses and accompanying rights as well as Highcharts Advantage are granted to Licensee on the condition that all the due fees are paid to Highsoft in full and on time.

## 7. Delivery

During the term of this Agreement, Licensed Software shall be made available by Highsoft, and Licensee shall be authorized to download such Licensed Software from Highsoft Website. As set forth in sections 3.2.3 and 5 above, new Releases of Licensed Software shall only be available to Licensee as long as Licensee is validly enrolled in the Highcharts Advantage plan.

## 8. Marketing and descriptions of Licensed Software

Licensee may use Licensee's own descriptions of the functionality provided by Licensed Software for the purposes of marketing Licensee's own products, solutions or applications, including Licensee Products, if applicable, insofar as the descriptions are not misleading.

Licensee shall not do anything that might misrepresent the ownership of Software. Licensee undertakes not to brand Software as Licensee's own or declare or give the impression that Licensee owns the copyright in Software.

Each Party may use the other Party's name and logos in its marketing, promotion and website, in accordance with good business practice and as is reasonably necessary in order to describe and promote the Software or Licensee's Product(s), SaaS Application(s) or Web Application(s), as applicable, including naming Licensee as a reference and showcasing Licensee's publicly available charts which includes Licensed Software for the purposes of promoting or demonstrating the Software.

Licensee agrees that it will conduct its business in a manner that will not injure or jeopardize Highsoft's reputation.

## 9. Warranties and Representations

### 9.1 Scope

Highsoft's warranties and representations in this section 9 are limited to Licensed Software provided to Licensee under this Agreement. The warranties and representations provided herein does not cover and shall under no circumstances be deemed to cover any Official Wrappers and Add-ons or Optional Dependencies.

### 9.2 Highsoft's Warranties and Representations

Highsoft warrants and represents that:

- i. For a period of ninety (90) days following its Delivery Date, Licensed Software will perform substantially in accordance with Highsoft's written specifications, provided that it has been used in accordance with all documentation and specifications made available on Highsoft's Website,
- ii. Highsoft will perform its obligations under this Agreement in accordance with all applicable laws and regulations,
- iii. Highsoft has the full and unconditional ownership of Licensed Software,
- iv. This Agreement does not infringe the intellectual property rights of any Third Party,
- v. The Licensed Software does not include any Third-Party software,
- vi. Licensee may make full use of License granted to it in full knowledge of the above,
- vii. Highsoft has the requisite knowledge, personnel, resources and know-how to fully perform and deliver Licensed Software and associated services as stipulated by this Agreement in a professional manner,
- viii. Highsoft has not intentionally placed and will use its best efforts to avoid the placement of any Harmful Codes into Licensed Software provided under this Agreement. For the purpose of this section "Harmful Codes" shall be defined as any program that infects, damages and/or impairs another program or data, disables hardware or software, or permits or assists in the breach of data.

### 9.3 Licensee's Remedies

In the event of breach, or alleged breach of any of the warranties in section 9.2, Licensee shall promptly notify Highsoft and delete Software. Licensee's sole remedy in such an event shall be that Highsoft shall re-supply or correct the Licensed Software so that it operates according to the warranties set out in section 9.2. The warranties shall not apply if Licensee has modified, or used Software improperly, or on an operating environment not approved by Highsoft. Improper use and unapproved operating environments will be as set forth in the documentation provided to Licensee on or prior to Delivery Date.

## 10. Limitation of Liability

All Software and support services supplied by Highsoft are provided 'as is' and may have errors and omissions. Thus, remedies are only available to Licensee in the event of any breach of the warranties set out in section 9.2.

UNDER NO CIRCUMSTANCES, AND EVEN IF INFORMED THEREOF BY LICENSEE OR ANY OTHER PARTY, SHALL HIGHSOFT BE LIABLE FOR (i) LOSS OF, OR DAMAGE TO, DATA; (ii) SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES; OR (iii) LOST PROFITS, BUSINESS, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS.

Incorporation of Licensed Software into a SaaS Application or Web Application pursuant to sections 4.2, 4.4 and/or 4.4 of this Agreement shall not in any manner expand Highsoft's liabilities under the Agreement. Thus, Highsoft shall not under any circumstance be neither responsible nor liable for any aspects of such SaaS Application(s) or Web Applications(s), including but not limited to its reliability, uptime/downtime, functioning or fitness for purpose. Any obligations, liabilities or warranties undertaken by Licensee towards its customers with respect to such SaaS Application(s) or Web Application(s) shall apply only between mentioned parties, and Licensee hereby undertakes to indemnify and hold Highsoft harmless from and against any and all losses, claims and damages related to the reliability, uptime/downtime, functioning or fitness for purpose of such SaaS Application(s) or Web Applications(s).

In all events, Highsoft's liability for damages to Licensee for any cause whatsoever related to this Agreement, shall be limited to the sum of all fees paid or due by Licensee under this Agreement during the last twelve (12) months before the breach occurred.

## 11. Intellectual Property Infringement

Highsoft will defend, indemnify and hold Licensee harmless against any claim stating that Licensed Software is violating any Third-Party copyright provided that:

- i. Licensee promptly notifies Highsoft of the claim, such notice to be provided no later than ten (10) business days after receipt of said claim(s);
- ii. A copy of the notice(s) of copyright infringement is promptly sent to Highsoft in accordance with section 17.9;
- iii. Licensee in good faith cooperates with and assists Highsoft in the defense of the claim in question and meets reasonable requests from Highsoft in that respect;
- iv. Notwithstanding item iii. above, Highsoft shall have sole control of the defense and any related settlement negotiations in the case of legal proceedings; and
- v. Licensee timely provides Highsoft with all necessary assistance, information and authority to perform the above.

If Licensed Software is held by a final court ruling to be infringing any Third Party copyright Highsoft will at its option: (i) obtain the right for Licensee to continue to use such Software consistent with this Agreement; (ii) modify such Software so that it is non-infringing; or solely in the event that (i) and (ii) are not feasible, (iii) refund any and all invoiced amounts to Licensee and all of Highsoft's obligations under this Agreement shall terminate upon written notice.

Notwithstanding the foregoing, Highsoft's indemnity obligations under this section 11 shall under any circumstances be limited to the total amount invoiced to Licensee by Highsoft under this Agreement during



the last twelve (12) months prior to the day when Licensee provided notice to Highsoft of claim subject to this section 11.

## 12. Confidentiality

For the purpose of this section each Party shall be called Disclosing Party and Receiving Party respectively.

Each Party acknowledges that Confidential Information is proprietary, that it is valuable to Disclosing Party and that any disclosure or unauthorized use thereof may cause irreparable harm and loss to Disclosing Party.

Obligations of Receiving Party in regard to Confidential Information:

- i. In consideration of the disclosure to Receiving Party of Confidential Information, Receiving Party agrees to receive and to treat Confidential Information on a confidential and restricted basis and to undertake the following additional obligations with respect thereto,
- ii. To use Confidential Information for the sole purpose of fulfilling this Agreement, or for the purpose of enhancing or improving the services provided under Highcharts Advantage or the general customer experience when doing business with Highsoft and/or Highsoft's trusted partners, unless otherwise expressly agreed to in writing by Parties,
- iii. Not to duplicate, in whole or in part, any Confidential Information,
- iv. Subject to the next paragraph, not to disclose Confidential Information to Third Parties except on a need-to-know basis, and each such entity or individual person Receiving Confidential Information shall be notified of and required to abide by the terms and conditions of this Agreement,

Information stated in the License Statement provided by Highsoft to Licensee may be shared with Highsoft's officers, employees, Affiliates and trusted partners, provided that Highsoft holds an agreement with such entity or individual person committing them to same level of confidentiality as the Parties have agreed to in this Agreement.

Upon Expiration or Termination of this Agreement, however occasioned, each Party shall remove, delete or otherwise destroy any of other Party's material that it has received, copied or otherwise obtained, including but not limited to Confidential Information, except for information required to support any license, sublicense or maintenance obligations already granted or undertaken by Licensee towards any Third Party, or information required for tax purposes or otherwise required by mandatory law. A written confirmation that such deletion has been completed shall be sent to the other Party without undue delay. For the avoidance of doubt, this obligation to remove, delete or otherwise destroy materials shall not include the Releases of the Licensed Software to which Licensee has gained perpetual rights to in accordance with this Agreement, unless the Agreement is terminated by Highsoft for material breach by Licensee.

## 13. Term and Termination

### 13.1 Term

This Agreement shall come into force on the Delivery Date and shall stay in force for as long as Licensee is enrolled in the Highcharts Advantage plan. Upon an Opt Out by Licensee or the end of a Fixed Advantage

Period, the Agreement shall terminate automatically and without notice at the end of the applicable Advantage Period (“**Expiration**”).

### 13.2 Effects of Expiration

On Expiration of this Agreement, the following shall apply:

- i. Licensee may continue to utilize the Releases of the Licensed Software to which Licensee has gained perpetual rights, i.e. the Releases of the Licensed Software which were have been released during Licensees enrollment in Highcharts Advantage, in accordance with sections 3.2.3 and 5 (including subsections, as applicable) and the scope of the perpetual License as detailed in the License Statement;
- ii. Licensee is not entitled to use, and shall immediately cease all use and distribution of, any Releases of the Licensed Software to which Licensee has not gained perpetual rights;
- iii. Sections 2, 10, 12 and 15 of this Agreement shall survive.

### 13.3 Termination

Either Party may terminate this Agreement in the event of a material breach of this Agreement by the other Party and such material breach has not been cured within thirty (30) days after receipt of written notice of such breach by the breaching Party from the non-breaching Party.

Upon Highsoft’s termination for material breach by Licensee:

- i. Licensee shall immediately cease use and distribution of Licensed Software.
- ii. Sections 2, 10, 12 and 15 of this Agreement shall survive.

## 14. Non-assignment

Licensee may not assign or transfer all, or any part of its rights under this Agreement without Highsoft’s prior written consent. Notwithstanding the foregoing, either Party may assign this Agreement in its entirety to its Affiliate(s), or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. In such case, the assigning party shall notify the other in writing without undue delay, and unless otherwise agreed upon in writing, this Agreement shall bind, and inure to the benefit of Parties, their respective successors, and permitted assigns.

## 15. Applicable Law and Venue

This Agreement shall be governed by and construed in accordance with the laws of Norway.

Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof, Parties shall seek to solve amicably through negotiations. If the Parties do not reach an amicable solution within two (2) weeks, any dispute, controversy or claim shall be finally settled by the regular courts of Norway. Both Parties hereby agree to and accept Sogn and Fjordane District Court (Sogn og Fjordane tingrett) as exclusive legal venue.

## 16. Processing of Personal Data

To the extent any purchase under the Agreement involves processing by Highsoft of personal data about the Licensee or Licensee's customers or personnel, Highsoft shall be acting as a data controller. By law, Highsoft is required to provide the data subject with information about Highsoft and why and how Highsoft uses personal data, and about the data subject's rights in regard to such data. These matters are duly treated in Highsoft's privacy policy, available at Highsoft Website.

The Licensee hereby undertakes to provide any personnel which is or might be affected by the collecting of personal data under this Agreement with due information about Highsoft's privacy policy.

## 17. Miscellaneous

### 17.1 Relationship between Parties

The Parties are independent contractors, and this Agreement shall not constitute or be construed as constituting either Party as partner, joint venture, agency or fiduciary of the other, as creating any other form of legal association that would impose liability on one Party for the act, or failure to act, of the other Party, or as providing either Party with the right, power, or authority (express, or implied) to create any duty or obligation of the other Party. Neither Party shall directly or indirectly represent to the public that it has the right or the authority to create or accept obligations on behalf of the other Party. Except as otherwise expressly provided in this Agreement, each Party has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all work to be performed by it under this Agreement.

### 17.2 Audit

During the term of this Agreement and for a period of five (5) years thereafter, Highsoft shall have the right to review, audit and inspect Licensee's use of the Licensed Software in order to verify that Licensee complies with the grants and limitations set out in this Agreement. Such audit shall only be conducted under non-disclosure obligations, upon reasonable notice, which shall be no shorter than ten (10) calendar days and shall take place during Licensee regular business hours with minimal disruption to Licensee's ongoing operations. If the audit shows no discrepancies or unauthorized use of Highsoft's Software, Highsoft shall carry all of its costs associated with the audit.

### 17.3 Severability

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

### 17.4 Waiver

The waiver by either Highsoft, or Licensee of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. Except for actions for non-payment or an infringement of Highsoft's intellectual proprietary rights in Licensed Software, no action, regardless of form, arising out of this Agreement may be brought by Licensee more than one (1) year after the cause of action has occurred.

## 17.5 Entire Agreement

This Agreement is the entire agreement between Highsoft and Licensee relating to this relationship and supersedes all prior or contemporaneous oral or written communications, proposals and representations relating to that relationship.

## 17.6 Battle of Forms

Licensee's purchase of License shall be solely governed by the terms and conditions of this Agreement. Any terms or conditions introduced by Licensee either directly, indirectly by way of reference or otherwise are hereby explicitly rejected and shall not apply.

The Parties agree that any additional or differing terms or conditions in any other document or arrangement not forming part of this Agreement, including but not limited to any letter or terms of engagement or the like, purchase order, invoice, acknowledgment, delivery receipt, confirmation or other delivery or acceptance document issued by or on behalf of Highsoft, or by or on behalf of Licensee at the request of Highsoft, shall be void, and of no force or effect to the extent such are in breach of or contradiction with this Agreement.

## 17.7 Amendments

No amendment to, or modification of this Agreement shall be binding unless made in writing and signed by the Parties.

## 17.8 License Statement and Changes to the License

Highsoft shall confirm Licensee's purchase of License by issuing a License Statement, which is an automatically generated document provided as a link to Licensee, summarizing the agreed details of the License granted by Highsoft to Licensee.

The License Statement shall expressly state:

- i. The License owner
- ii. Licensee's point of contact (email address) to whom notices under this Agreement shall be sent
- iii. The chosen License type(s)
- iv. The Licensed Software included in the License
- v. The License identification number
- vi. Licensee's enrollment in Highcharts Advantage, hereunder the applicable option (Auto-Renewal or Fixed Advantage Period)
- vii. The number of authorized Developers
- viii. The Licensee Product(s), into which Licensed Software may be incorporated pursuant to an OEM License, if applicable,
- ix. The number of Customer Installations (with or without Developer Rights) Licensee shall be authorized to perform under an OEM License, if applicable
- x. The SaaS Application(s) and/or Web Application(s), into which Licensed Software may be incorporated pursuant to a SaaS License or a SaaS+ License, as applicable

- xi. The specific Licensee's Affiliates to which the License shall be extended, or, that the License shall extend to an unlimited number of Affiliates, if applicable.

In the event Licensee wants to make any changes to the License, such as Extension of Highcharts Advantage, or renaming of Licensee Product(s), SaaS Application(s) or Web Applications, or if Licensee wants to expand the scope of the License for example by adding new Licensee Products, SaaS Applications, Web Applications, Developer seats or Customer Installations (with or without Developer Rights), Licensee shall notify Highsoft in writing. Such changes may require a new License or changes to the existing License, depending on the changes requested by Licensee. If Licensee and Highsoft agrees in writing on any changes to the License and the payable fees, the License Statement will be updated accordingly.

## 17.9 Notices

All notices to be given under this Agreement to Highsoft shall be sent either by email to [sales@highsoft.com](mailto:sales@highsoft.com) or as a hardcopy to the following address: Highsoft AS, Sentrumsgata 44, 6893 Vik i Sogn, Norway.

Information from Highsoft to Licensee shall be sent by email to the email address Licensee has provided upon purchase. It is Licensee' responsibility to ensure that the e-mail address is correct. Highsoft does not take responsibility for lost communication.

All notices, demands or other communication given by a Party to the other shall be deemed to have been duly given when made in writing and sent to the registered e-mail address or when a hardcopy is received by the other Party at the stated address.