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ii. Official Highcharts Integrations and Add-ons 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, (a) for the duration of the Advantage Period in which the applicable Release has been issued by Highsoft, or (b) until replaced by a newer Release,
iii. Highsoft will perform its obligations under the Agreement in accordance with all applicable laws and regulations;
iv. Highsoft has the full and unconditional ownership of Licensed Software;
v. The Annual License does not infringe intellectual property rights of any Third Party;
vi. The Licensed Software does not include any Third-Party software;
vii. Licensee may make full use of any license lawfully granted to it by Highsoft under these T&C in full knowledge of the above;
viii. Highsoft has the requisite knowledge, personnel, resources and know-how to fully perform and deliver Licensed Software and associated services as stipulated by these T&Cs in a professional manner;
ix. Highsoft has not intentionally placed, and will use its best efforts to avoid the placement of, any Harmful Codes into Licensed Software provided under the Annual License. For the purpose of this section 9.2, "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 upon notice from Highsoft delete any alleged infringing 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 Licensed Software improperly or on an operating environment not approved by Highsoft. Improper use and unapproved operating environments shall be as set forth in the documentation made available 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, and Highsoft is unable to re-supply and correct the Licensed Software in accordance with section 9.3.

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 an External Application pursuant to subscription to a SaaS License or SaaS+ License shall not in any manner expand Highsoft's liabilities under the Annual License. Thus, Highsoft shall not under any circumstance be neither responsible nor liable for any aspects of such External Application(s), including but not limited to any claims, losses or damages related 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 External 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 External Application(s).

In all events, Highsoft's liability for damages to Licensee for any cause whatsoever related to the Annual License and these T&Cs, shall be limited to the sum of the Annual License Fee.

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 15.10;
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 Licensed Software consistent with the Annual License; (ii) modify such Licensed 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 sum of the Annual License Fee.

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 as confidential and restricted and to undertake the additional obligations set forth in item ii to iv below with respect thereto;
ii. To use Confidential Information solely for the purpose of fulfilling its obligations under the Annual License, 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 any Confidential Information or any parts thereof;
iv. Not to disclose any Confidential Information to Third Parties except on a need-to-know basis, and provided that each receiving entity or person has been priorly notified of and required to declare its abidance to the relevant terms and conditions of these T&Cs.

Notwithstanding item iv above, 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 person committing them to same level of confidentiality as the Parties have agreed to in these T&Cs.

Upon expiration or termination of this Agreement, however occasioned, each Party shall remove, delete or otherwise destroy any 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 upon request be sent to the other Party without undue delay.

13. Applicable Law and Venue

The Annual License and these T&Cs shall be governed by and construed in accordance with the laws of Norway.

Any dispute, controversy or claim arising out of or relating to the Annual License and these T&Cs, or the breach, termination, or invalidity thereof, should first be addressed amicably through negotiations. If the Parties do not reach an amicable solution, either Party may bring any dispute, controversy or claim to 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, in the first instance.

14. Non-assignment

Licensee may not assign or transfer all, or any part of its rights or obligations under the Agreement without Highsoft's prior written consent. Notwithstanding the foregoing, either Party may assign the Annual License 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 (collectively, a "Transaction"). In such case, the assigning Party shall notify the other Party in writing without undue delay, and unless otherwise agreed upon in writing, the Agreement shall bind, and inure to the benefit of the Parties, their respective successors, and permitted assigns. Notwithstanding the above, Licensee's right, pursuant to the above, to assign this Agreement in connection with a Transaction shall be contingent upon the successor or assignee accepting, by written consent, that the assigned License(s) from that point onwards shall be governed by Highsoft's then current set of standard terms and conditions (at the time of assignment).

15. Processing of Personal Data

To the extent any purchase under these T&Cs 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 the Highsoft Website.

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

16. Miscellaneous

16.1 Survival

On termination or expiration of the Annual License, for whatever reason, sections 2, 10, 12 and 13 shall survive.

16.2 Relationship Between Parties

The Parties are independent contractors, and the Agreement shall not constitute or be construed as constituting either Party as partner, joint venture, agency or fiduciary of the other Party, 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.

16.3 Audit

During the term of the Annual License and once 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 these T&Cs. 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's regular business hours with minimal disruption to Licensee's ongoing operations. If the audit shows no discrepancies and no unauthorized use of Highsoft's Software, Highsoft shall carry all of its costs associated with the audit.

16.4 Severability

In the event that any provision of these T&Cs is held to be invalid or unenforceable, the remaining provisions of these T&Cs shall remain in full force.

16.5 Waiver

The waiver by either Highsoft or Licensee of any default or breach of these T&Cs 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 property rights in Licensed Software, no action, regardless of form, arising out of these T&Cs may be brought by Licensee more than one (1) year after the cause of action has occurred.

16.6 Entire Agreement

These T&Cs 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.

16.7 Battle of Forms

Licensee's purchase of an Annual License shall be governed solely by these T&Cs. 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 the agreement governing the Annual License, 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 either Party, shall be void, and of no force or effect to the extent such are in breach of or contradiction with these T&Cs.

16.8 Amendments

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

16.9 License Statement and changes to the Annual License

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

The License Statement shall expressly state:

i. The Licensee's business details;
ii. Licensee's point of contact (email address) to whom notices under this Agreement shall be sent;
iii. The chosen Annual License type;
iv. The Licensed Software product(s) included in the Annual License;
v. The Delivery Date and the commencement of potential Renewal Terms;
vi. The Annual License identification number;
vii. The number of authorized Developers;
viii. The External Application(s), into which Licensed Software may be incorporated pursuant to a SaaS License or a SaaS+ License, if applicable.
ix. The Specific Affiliate(s) approved by Highsoft to be included as Licensee(s) under the License (where applicable).

In the event Licensee wants to make any changes to the License, such as by adding additional software products to Licensed Software, change the name of Licensee's External Application(s) (if applicable), or if Licensee wants to expand the scope of the License for example by adding Developer seats, Licensee shall notify Highsoft in writing and Highsoft shall update the License Statement accordingly. If Licensee wants to make any other changes to the Annual License, Licensee must contact Highsoft, and the Parties shall seek to agree to any such change on a case-by-case basis.

For the avoidance of doubt, all License Statements issued by Highsoft under this Agreement remains valid and binding for Licensee, notwithstanding the absence of explicit mention of all details outlined in items i to viii above.

16.10 Notices

All notices to be given under the Annual License to Highsoft shall be sent either by email to sales@highsoft.com or, if email is not possible, 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 that Licensee has provided upon purchase. It is the sole responsibility of Licensee to maintain an accurate e-mail address in Highsoft's records at all times. Highsoft is not responsible for any 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.