

## TRIAL LICENSE AGREEMENT

### ("Agreement")

1. The Trial Period for the Trial Software (terms defined in the Delivery Note) will commence on the Effective Date stipulated in the Delivery Note. This is a legally binding Agreement between the Managed Service Provider and the End User. By way of signature hereunder, the End User agrees to all of the terms and conditions stated in this Agreement.
2. The Trial Software is owned by the Managed Service Provider and/or its suppliers and/or licensors and is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. THE TRIAL SOFTWARE IS LICENSED, NOT SOLD. The Trial Software is licensed to the End User free of charge during the Trial Period.
3. The following terms and conditions apply exclusively to the Trial Software:
  - 3.1. Definitions: "Agreement" means this agreement read together with the Managed Service Provider Use Rights. "Authorized Use" means the specified Licensed Level (term defined in the Delivery Note) at which End User is authorized to execute or run the Trail Software as stipulated in the Delivery Note. "Confidential Information" means, with respect to the Managed Service Provider, all information that the Managed Service Provider protects against unrestricted disclosure to others, including but not limited to the Managed Service Provider Materials, including without limitation the following information regarding the Trial Software: computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the Trial Software; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the Trial Software. "End User" shall have the meaning given to that term in the Delivery Note. "Documentation" means the Managed Service Provider's documentation that is delivered or made available to the End User with the Trial Software under this Agreement. "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired. "Managed Service Provider" shall have the meaning given to that term in the Delivery Note. "Managed Service Provider Materials" means any software, programs, tools, systems, data or other materials made available by the Managed Service Provider to the End User in the course of the performance under this Agreement including, but not limited to, the Trial Software and Documentation, as well as any information, materials or feedback provided by the End User to the Managed Service Provider relating to the Trial Software and Documentation. "Managed Service Provider Use Rights" means the use rights that are defined in the Managed Service Agreement for the Software on our online terms and conditions page.
  - 3.2. License:
    - 3.2.1. The Trial Software provided to the End User under this Agreement is subject to the End User's compliance with all the terms and conditions of this Agreement and the corresponding Managed

Service Agreement for the Trial Software found on our online terms and conditions page. The Managed Service Provider grants to the End User a limited, non-exclusive, non-transferable subscription-based license to use the Trial Software and the Managed Service Provider Materials solely as provided by the Managed Service Provider for the purpose of internal trial and evaluation of the Trial Software for the Trial Period. The use of the Trial Software by the End User is subject to the Licensed Levels stipulated in the Delivery Note.

- 3.2.2. The Managed Service Provider shall install or assist the End User to install the Trial Software on hardware that is owned or controlled and in any event operated by the Managed Service Provider via a private network or the internet (the "Hardware"). The End User shall be entitled to access and use the Trial Software using License Keys provided by the Managed Service Provider. The Trial Software will remain on the Hardware for the Trial Period.
- 3.2.3. The End User shall indemnify, defend and hold harmless the Managed Service Provider and its licensors and suppliers for any claim arising from the End User's use of the Trial Software: (i) in breach of this Agreement; or (ii) in breach or infringement of third party rights.
- 3.2.4. THE END USER'S RIGHT TO USE THE TRIAL SOFTWARE SHALL BE EFFECTIVE FROM THE EFFECTIVE DATE FOR THE TRIAL PERIOD. NOTICE OF EXPIRATION WILL NOT ACTIVELY BE GIVEN. THE END USER AGREES TO DESTROY THE MANAGED SERVICE PROVIDER MATERIALS, THE TRIAL SOFTWARE AND ALL COPIES MADE OF IT WITHIN 10 (TEN) DAYS OF THE END OF THE TRIAL PERIOD.
- 3.2.5. If the End User desires to use the Trial Software after the Trial Period, it will need to acquire a validly licensed copy of the productive use version of the Trial Software, to which a charge will apply. The TRIAL SOFTWARE is "NOT FOR PRODUCTION USE". The End User may not demonstrate, test, examine, evaluate or otherwise use the Trial Software in a live operating environment or with data that has not been sufficiently backed up. The Trial Software shall not be used for any purposes other than evaluation and testing of the Trial Software. Configurations created for non-productive use, evaluation and testing shall not be used for projects outside the Trial Period.
- 3.2.6. This license does not permit the End User to: (i) use the Managed Service Provider Materials to provide services to third parties (e.g. business process outsourcing, service bureau applications or third party training); (ii) lease, loan, resell, sublicense or otherwise distribute the Managed Service Provider Materials; (iii) distribute or publish keycode(s); (iv) make any use of or perform any acts with respect to the Managed Service Provider Materials other than as expressly permitted in accordance with the terms of this Agreement; (v) use software components other than those specifically identified herein as the Trial Software, even if it is also technically possible for the End User to access other software components; (vi) modify the Trial Software; (vii) use the Trial Software or the Managed Service Provider Materials for any purposes that are competitive with the Managed Service Provider; (viii) use the Trail Software for productive purposes or otherwise use, copy, modify or distribute the Trail Software except as expressly permitted in this Agreement; (ix) use any of the Managed Service Provider Materials or the Trial Software components, files, modules, audio-visual content, or related licensed materials separately from the Trail Software; (x) use the Trail Software for commercial application hosting; or (xi) benchmark or disclose the results of any benchmark test of the Trial Software to any third party without the Managed Service Provider's prior written

approval. This Agreement incorporates by reference any use restrictions, notices and pass-through terms with respect to the Trial Software set forth in the Managed Service Provider Use Rights. Any reference to 'the Agreement' shall include the relevant use restrictions, notices and pass-through terms contained in the Managed Service Provider Use Rights. The End User acknowledges it has had the opportunity to review the Managed Service Provider Use Rights prior to accepting this Agreement.

3.2.7. The Trial Software is licensed solely for Standalone Use. "Standalone Use" means the Trial Software may not be used to access, directly or indirectly, in any manner whatsoever, any other software and/or third-party software licensed from the Managed Service Provider, or an authorized reseller, distributor, OEM or other authorized partner of the Managed Service Provider or its licensor, unless such software or third-party software explicitly allows such access.

3.2.8. All rights not expressly granted are reserved by the Managed Service Provider. Trial Software used for other than the approved usage will be considered a breach of this Agreement.

### 3.3. Auditing and Reporting:

3.3.1. Upon reasonable notice, the Managed Service Provider may audit the End User's use of the Trial Software and the End User's compliance with the terms of this Agreement. The End User is responsible for a) ensuring that it does not exceed its Authorized Use, and b) remaining in compliance with the terms and conditions of this Agreement. Upon the Managed Service Provider's request, the End User agrees to provide all information reasonably necessary for the Managed Service Provider to conduct the audit. The audit will be conducted in a manner that minimizes disruption to the End User's business, and may be conducted on the End User's premises, during normal business hours. The Managed Service Provider may use an independent auditor to assist with such verification, provided the Managed Service Provider has a written confidentiality agreement in place with such auditor. The End User will cooperate reasonably with the Managed Service Provider's audit request and procedures.

3.3.2. The Managed Service Provider will notify the End User in writing if any such verification indicates that the End User has used any Trial Software in excess of its Authorized Use or is otherwise not in compliance with the terms and conditions of this Agreement. The End User agrees to promptly pay directly to the Managed Service Provider the charges that the Managed Service Provider specifies in an invoice for a) any such excess use, b) support for such excess use, and c) any additional charges and other liabilities determined as a result of such verification.

### 3.4. Warranty:

3.4.1. As the Trial Software is provided to the End User free of charge, the End User does not guarantee or warrant any features or qualities of Trial Software or give any undertaking with regard to any other quality. No such warranty or undertaking shall be implied by the End User from any description in the Trial Software or any available documentation or any other communication or advertisement for the Trial Software except to the extent that the Managed Service Provider has expressly confirmed a specific quality in writing. In particular, the Managed Service Provider does not warrant that the Trial Software will be available uninterrupted or permanently. All warranty

claims are subject to the limitation of liability stipulated below.

3.4.2. THE TRIAL SOFTWARE IS LICENSED TO THE END USER "AS IS", WITHOUT ANY WARRANTY, ESCROW, TRAINING, MAINTENANCE, OR SERVICE OBLIGATIONS WHATSOEVER ON THE PART OF THE MANAGED SERVICE PROVIDER. THE MANAGED SERVICE PROVIDER MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY TYPE WHATSOEVER, INCLUDING BUT NOT LIMITED TO THOSE RELATED TO NON-INFRINGEMENT, IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. THE END USER SHALL ASSUME ALL RISKS ASSOCIATED WITH THE USE OF THE TRIAL SOFTWARE, INCLUDING WITHOUT LIMITATION RISKS RELATING TO QUALITY, AVAILABILITY, PERFORMANCE, DATA LOSS, AND UTILITY IN A PRODUCTION ENVIRONMENT.

3.5. Liability:

3.5.1. Irrespective of the legal reasons, the Managed Service Provider shall only be liable for damages occurred under this Agreement if such damage (i) is caused by intentional misconduct of the Managed Service Provider; or (ii) consists of bodily injury. In all other cases, neither the Managed Service Provider nor its employees, agents, suppliers, licensors and subcontractors shall be liable for any kind of damage or claims hereunder.

3.5.2. The Managed Service Provider's entire liability for all claims in the aggregate arising from or related to each Trail Software or otherwise arising under this Agreement will not exceed the amount of any a) damages for bodily injury (including death) and b) other actual direct damages up to U.S. \$2,500 (or equivalent in local currency). This limit also applies to any of the Managed Service Provider's agents, suppliers, licensors and subcontractors. It is the maximum for which the Managed Service Provider and its agents, suppliers, licensors and subcontractors are collectively responsible.

3.5.3. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, UNDER NO CIRCUMSTANCES SHALL THE MANAGED SERVICE PROVIDER AND ITS AGENTS, SUPPLIERS, LICENSORS AND SUBCONTRACTORS BE LIABLE TO THE END USER OR ANY OTHER PERSON OR ENTITY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES.

3.6. Intellectual Property Rights:

3.6.1. Reservation of Rights. The Managed Service Provider Materials, and all Intellectual Property Rights embodied in the foregoing, shall be the sole and exclusive property of the Managed Service Provider or its or their licensors, subject to any rights expressly granted to the End User in terms of this Agreement. The End User is not permitted to modify or otherwise make derivative works of the Software. Any such unauthorized works developed by the End User, and any Intellectual Property Rights embodied therein, shall be the sole and exclusive property of the End User.

3.6.2. Protection of Rights. The End User shall not copy, translate, disassemble, or decompile, nor create or attempt to create the source code from the object code of the Trial Software in any manner.

Reverse engineering of the Trial Software and other Managed Service Provider Materials is prohibited, except to the extent that the foregoing restriction is expressly prohibited by applicable law notwithstanding this limitation. The End User is permitted to back up data in accordance with good information technology practice and for this purpose to create the necessary backup copies of the Trial Software. Backup copies on transportable discs or other data media must be marked as backup copies and bear the same copyright and authorship notice as the original discs or other data media. The End User must not change or remove any copyright and authorship notices.

- 3.6.3. Indemnification. The End User shall defend (at its sole expense) the Managed Service Provider and its affiliates and licensors against claims brought against the Managed Service Provider by any third party arising from or related to any use of the Trial Software or service used to host the Trial Software in violation of any applicable law or regulation; or (ii) an allegation that the End User's use of the Trial Software or service used to host the Trial Software in violation of this Agreement violates, infringes or misappropriates the rights of a third party. The End User will pay damages finally awarded against the Managed Service Provider (or the amount of any settlement the End User enters into) with respect to such claims and will pay reasonable attorney's fees in connection with such defense. The foregoing shall apply regardless of whether such damage is caused by the conduct of the End User or by the conduct of a third party using the End User's access credentials.
- 3.7. Export: The End User is prohibited from exporting the Trail Software. In addition, the Trial Software is subject to German, EU and US export control regulations. The End User confirms that: a) it will not use the Trial Software for, and will not allow the Trial Software to be used for, any purposes prohibited by German, EU and US law, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction, b) it is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, c) employees of the End User are not citizens, nationals or residents of, and are not under the control of, the governments of: Cuba, Iran, Sudan, Iraq, North Korea, Syria, nor any other country to which the United States has prohibited export, d) it will not download or otherwise export or re-export the Trial Software, directly or indirectly, neither to the above-mentioned countries nor to citizens, nationals or residents of those countries, e) employees of the End User are not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor listed on the United States Department of Commerce Table of Denial Orders or any other U.S. government list of prohibited or restricted parties and f) it will not download or otherwise export or re-export the Trial Software, directly or indirectly, to persons on the above-mentioned lists.
- 3.8. Support:
- 3.8.1. The Managed Service Provider has no obligation to provide maintenance and support for the Trial Software and no service level agreements apply. The Managed Service Provider may offer support for the Trial Software – at its sole discretion – by e.g. provisioning of updates, patches, bug fixes and new versions according to the Managed Service Provider's then current existing support offerings without notice to the End User.
- 3.8.2. To assist the Managed Service Provider in isolating the cause of a problem with the Trail Software, the Managed Service Provider may request that the End User a) allow the Managed Service Provider to remotely access the End User's system or b) send the End User information or system

data to the Managed Service Provider. However, the Managed Service Provider is not obligated to provide such assistance unless the Managed Service Provider and the End User enter a separate written agreement under which the Managed Service Provider agrees to provide to the End User that type of support, which is beyond the Managed Service Provider's obligations in this Agreement.

- 3.8.3. The End User remains responsible for a) any data and the content of any database the End User makes available to the Managed Service Provider, b) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data (including any personally-identifiable data), and c) backup and recovery of any database and any stored data. The End User will not send or provide the Managed Service Provider access to any personally-identifiable information, unless such data is masked, and will be responsible for reasonable costs and other amounts that the Managed Service Provider may incur relating to any such information mistakenly provided to the Managed Service Provider or the loss or disclosure of such information by the Managed Service Provider, including those arising out of any third party claims.

### 3.9. Term and Termination:

- 3.9.1. The Managed Service Provider shall be entitled to terminate the End User's licenses to use the Trial Software if the End User fails to comply with any of the terms of this Agreement. This Agreement terminates automatically upon the expiration of the Trial Period. In case of termination or expiration of this Agreement, the End User must immediately cease use of the Trail Software and destroy all copies of the Trial Software in its possession within 10 (ten) days of the end of the Trail Period, if any.
- 3.9.2. THE TRAIL SOFTWARE MAY CONTAIN A DISABLING DEVICE THAT WILL PREVENT IT FROM BEING USED AFTER THE TRAIL PERIOD ENDS. THE END USER AGREES NOT TO TAMPER WITH THE DISABLING DEVICE OR THE TRAIL SOFTWARE. THE END USER SHOULD TAKE PRECAUTIONS TO AVOID ANY LOSS OF DATA THAT MIGHT RESULT WHEN THE TRAIL SOFTWARE CAN NO LONGER BE USED.

### 3.10. Confidentiality:

- 3.10.1. Use of Confidential Information. The End User shall not reproduce the Managed Service Provider Confidential Information in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Managed Service Provider Confidential Information by the End User shall remain the property of the Managed Service Provider and shall contain any and all confidential or proprietary notices or legends that appear on the original. With respect to the Confidential Information the End User: a) shall take all Reasonable Steps (defined below) to keep all Managed Service Provider Confidential Information strictly confidential; and b) shall not disclose any Managed Service Provider Confidential Information of the other to any person other than its bona fide individuals whose access is necessary to enable it to exercise its rights hereunder. As used herein "Reasonable Steps" means those steps the End User takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care. Managed Service Provider Confidential Information disclosed prior to execution of this

Agreement shall be subject to the protections afforded hereunder.

3.10.2. Exceptions. The above restrictions on the use or disclosure of the Managed Service Provider Confidential Information shall not apply to any Confidential Information that: a) is independently developed by the End User without reference to the Managed Service Provider's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information; b) has become generally available to the public without breach of this Agreement by the End User; c) at the time of disclosure, was known to the End User free of restriction; or d) Managed Service Provider agrees in writing is free of such restrictions.

3.11. General. This Agreement may not be assigned, transferred or delegated by the End User to any entity. This Agreement constitutes the entire, conclusive and complete statement of agreement between the Managed Service Provider and the End User (the "Parties"). All previous representations, discussions and written communications are superseded by this Agreement and the Parties disclaim any reliance on such representations, discussion and/or written communications. This Agreement may not be amended or modified and any term or obligation may not be waived except in writing signed by a duly authorized representative of each Party. If any term of this Agreement is found to be invalid or unenforceable, the surviving provisions shall remain effective. Neither Party shall be liable to the other for its failure to perform any of its obligations hereunder during any period in which such performance is delayed due to circumstances beyond its reasonable control. This Agreement shall be governed by South African law. The exclusive place of jurisdiction for all disputes arising from or in connection with this Agreement is Johannesburg, South Africa. All notices or reports which are required to be given under and in terms of this Agreement will be in writing and will be deemed to be duly given when delivered to the address provided by each Party as set out in the Delivery Note. The End User authorizes the Managed Service Provider and its subsidiaries and their successors and assigns to store and use the End User's business contact information wherever they do business, in connection with the Managed Service Provider's products and services, or in furtherance of the Managed Service Provider's business relationship with the End User.

**FOR: END USER**

Signature

\_\_\_\_\_

Name:

\_\_\_\_\_

Date:

\_\_\_\_\_

Place:

\_\_\_\_\_

**FOR: MANAGED SERVICE PROVIDER**

Signature

\_\_\_\_\_

Name:

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Date:

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Place:

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