

SOFTWARE AS A SERVICE (SaaS) TERMS FOR PRE-RELEASE PURPOSES

BY CLICKING “ACCEPT” or “AGREE” WHEN PROMPTED, ACCESSING OR USING ANY SERVICES OR OTHERWISE INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MAY NOT USE ANY SERVICES. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU. IF YOU ARE USING ANY SERVICES AS AN EMPLOYEE, CONTRACTOR, OR AGENT OF A CORPORATION, PARTNERSHIP, OR SIMILAR ENTITY, THEN YOU MUST BE AUTHORIZED TO ACCEPT, SIGN FOR AND BIND SUCH ENTITY, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO DO SO. THE RIGHTS GRANTED UNDER THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON ACCEPTANCE BY SUCH AUTHORIZED PERSONNEL. “YOU” SHALL MEAN SUCH ENTITY AND AUTHORIZED USERS ACCESSING AND USING THE SERVICE AS A RESULT OF YOUR FREE BETA TRIAL REQUEST.

These Software as a Service Terms (“SaaS Agreement”) is by and between Enfocus BV (“Enfocus”) and You. The term “Agreement” includes this SaaS Agreement, and any other document which is incorporated herein by reference. In case of conflicting terms, the following order of precedence shall apply: (i) the terms of this SaaS Agreement; (ii) any other document incorporated by reference. It is effective as of the date on which You accept this Agreement (the “Effective Date”).

1. Defined Terms

(a) “Acceptable Use Policy” or “AUP” refers to the Acceptable Use Policy published at Enfocus’s website <https://www.enfocus.com/en/enfocus-general-terms-conditions-and-eula> (if any), considered incorporated herein by reference.

(b) “Access Credentials” refers to user names and password or similar credentials enabling access to the Services.

(c) “Authorized Users” means individuals or processes assigned by You to use the Services, which may include, as far as individuals are concerned, Your officers, employees and/or consultants and agents performing services for You or on Your behalf.

(d) “Customer Data” refers to any information, data and/or files You transmit, upload or store to or on the Hosted Infrastructure in association with Your use of the Services.

(e) “Hosted Environment” refers to the common integrated hardware and software components (including but not limited to hardware, software, servers, networks and technology installed within such environment, but excluding the particular software licensed as a hosted service) used by Enfocus to provide the Services, excluding any hardware, software or telecommunication networks outside the scope of Enfocus’s span of control (such as but not limited to the internet and telecommunication networks used to connect to the Hosted Infrastructure).

(f) (Enfocus) “Security Policy” refers to the Enfocus security terms and conditions published at Enfocus’s website <https://www.enfocus.com/en/enfocus-general-terms-conditions-and-eula> which is then considered incorporated herein by reference.

(h) “Services” means the services of (i) hosting the software requested by You and providing for associated data storage through the Hosted Infrastructure, (ii) providing Authorized Users access to such software and (iii) operating the Hosted Infrastructure for the purpose of (i) and (ii).

2. Services Provided.

(a) *Provisioning of Services.* During the Term of this Agreement, Enfocus grants to You a non-exclusive, non-transferable, non-sublicensable, limited and revocable right to access and use the Services. Services are provided for in accordance with the provisions set forth herein.

The use of the Services is strictly limited to testing and evaluation purposes.

You explicitly acknowledge that the Services are provided for within the scope of a pre-release testing program, and therefore may contain bugs and errors, and that the same are delivered to and accepted on an “AS IS” basis without any warranties of any kind, either express or implied, including, without any limitation, any warranties of merchantability or fitness for a particular purpose.

(b) *Excluded.* The Services do not include, and Enfocus will not provide for any client-side hardware or software, programming, training, hardware or software not set forth in this Agreement.

(c) *Delegation/subcontracting.* You acknowledge that Enfocus for the provisioning of the Services uses the services of third party subcontractors, including but not limited to third-party datacenters, and you consent to the corresponding subcontracting of Enfocus’s obligations under this Agreement. Enfocus shall be responsible for any act or omission by said third party subcontractors which, if performed by Enfocus, would constitute a breach of Enfocus’s obligations under this Agreement.

(d) *Account.* Only Authorized Users appointed by You in accordance with the terms set forth herein are entitled to use the Services under the terms of this Agreement. You are responsible for the use of the Services by any Authorized User. You are responsible for implementing Your own security measures in order to safeguard your Access Credentials and to prevent disclosure of the same to any third party not designated as an Authorized User, and to keep Your billing, contact, and other account information up to date. Except pursuant to a written authorization from Enfocus, You are not entitled to resell, transfer, assign, or sublicense Your rights under this Agreement to any third party, to use the Services to run an outsourcing business or for any purpose other than the purpose stated herein.

(e) *Security.* In relation to the provisioning of the Services, Enfocus implements the security measures detailed in the Security Policy. Enfocus disclaims any liability for unauthorized access, use or release of any Customer Data, unless such access, use or release results from Enfocus’s failure to meet its security obligations set forth by the Security Policy.

You will use reasonable security precautions in light of Your use of the Services, including encrypting any information while in transit to or from the Services which comprises any personal data (as defined below). You will reasonably cooperate with any of Enfocus’s investigations into Service outages, security problems, and/or suspected breaches of the Agreement.

(f) *Customer Data.* You may transmit or upload Customer Data to the Hosted Environment. Enfocus agrees to only process Customer Data for the performance of the Services and in accordance with the terms set forth herein. In case You upload Customer Data, You (not Enfocus) have control over such Customer Data.

To the extent that any Customer Data comprises personal data (as defined in Directive 95/46/EC of the European Parliament and of the Council or any successor directive or regulation) (such as user names, passwords, e-mail addresses or other types of access credentials), Each Party, in its respective capacity as data controller or data processor, as the case may be, agrees to

comply with all applicable laws and regulations pertaining to the processing of personal data including but not limited to the GDPR, and with those provisions set forth in the “Enfocus DPA” published at <https://www.enfocus.com/en/enfocus-general-terms-conditions-and-eula>”.

License Management Routines. The Services provided may include technical means designed to limit the functionality of the same to the licensed functionality and/or to prevent the use of the Services outside the scope of the licenses procured and to cause the Services to become inoperable or inaccessible at the end of the Term (“License Management Routines”). In order to implement the same, certain information (such as Access Credentials and other information as stated in Enfocus’s Privacy Policy published at Enfocus’s website www.enfocus.com) may be processed by Enfocus in geographical areas inside or outside the European Economic Area (including but not limited to the United States of America). The processing of such data is subject to the terms of the Enfocus Privacy Policy published at Enfocus’s website (<https://enfocus.com/en/privacy>) and considered incorporated herein by reference. You acknowledge consenting to the above.

(g) **Back-up.** You acknowledge to be aware that Enfocus, within the scope of pre-release programs, does NOT provide for any backup service related to any Customer data stored at the data center in the furtherance of this Agreement. You remain responsible for maintaining back-up copies of any Customer Data transmitted to the data center in the furtherance of this Agreement.

(h) **Regulatory compliance.** Enfocus represents and warrants that the performance of the Services will be in compliance with any and all applicable laws, rules and regulations. You represent and warrant that Your use of the Services will be in compliance with any and all applicable laws, rules and regulations. You specifically warrant that You have sufficient rights, title and interests in and to any Customer Data for uploading and using the same within the scope of the Services, and for granting Enfocus the authorization set forth in subsection (f) above.

(i) **Viruses and Malicious Code.** In the performance of the Services, Enfocus implements industry standard anti-virus software. You also agree to implement commercially reasonable actions and precautions to prevent the introduction and proliferation of Malicious Code into the Hosted Infrastructure through Your use of the Services. “Malicious Code” will mean (i) any code, program, or sub-program the knowing or intended purpose or effect of which is to damage or maliciously interfere with the operation of a computer system containing the code, program or sub-program, or to halt, disable, or interfere with the operation of the software, code, program, or sub-program, itself, or (ii) any device, method, or token that permits any person to circumvent without authorization the normal security of any software or System containing the code.

3. Fees

Unless set forth otherwise in this Agreement, each party shall bear its own costs in the performance of this Agreement.

4. Service Level Agreement (SLA) Feedback / AUP

(a) **SLA.** Within the scope its pre-release programs, Enfocus does not commit to any Service Level Agreement.

During the Term of the Agreement, Enfocus shall, at its own expense and on a reasonable business effort basis,

(i) collect from You relevant Feedback (as defined below);

(ii) provide for bug fixes, assistance in problem definition and responses to recommendations and suggestions made by you;

Enfocus may, at its sole discretion, modify the Services and/or provide You with updated versions of the same. In such case, the rights and licenses granted herein, and the parties’ associated rights and obligations, shall equally apply to such modified or updated versions.

(b) **AUP.** In using the Services, You agree to comply with Enfocus’s Acceptable Use Policy. Enfocus will provide You with a notification in case any material changes to the AUP are made. Any change to the AUP shall become applicable upon the date set forth in the corresponding notification, provided that, in case of such change adversely impacting Your use of the Services, You may (i) request Enfocus to waive such change in relation to your use of the Services, and (ii) in case of Enfocus refusing to do the same, terminate this Agreement by means of a written notice.

(c) During the Term of this Agreement, You agree to provide Enfocus with the following, at Your own expense and on a reasonable business effort basis,

(i) to assign qualified personnel to ensure active use of Services, and to make personnel available for training;

(ii) regular feedback to Enfocus on the performance and usage of the Services in an user environment, on any bugs or malfunctions detected, and suggestions for modifications or improvements to the Service (jointly “Feedback”);

Any Feedback provided shall be considered Enfocus’s Confidential Information to which the provisions set forth by Section 8 apply. Enfocus shall be free to use, modify and adapt such Feedback for any all purposes (including but not limited to the improvement of the Services or any product, service or material commercialized by Enfocus), and to sell, offer to sell, make, have made, import, distribute or otherwise license such Feedback and any product, service and material incorporating or using such Feedback, on a worldwide and royalty free basis, and without the further consent of and without accounting to you in any way. However nothing set forth in this Agreement shall be of nature to impose onto Enfocus any obligation to use any Feedback provided by you in any way or for any purpose.

5. Warranty and Disclaimer of Warranty.

(a) **Warranty.** Enfocus warrants that (i) it has the power, and has obtained all permits, regulatory licenses, registrations and authorizations required to provide for the Services procured under this Agreement; (ii) the Services shall be provided with all professional diligence, skill and care and corresponding to good industry practice.

(b) **Warranty disclaimer.** Enfocus provides for the Services through the Hosted Infrastructure, and does not control, and does not accept any liability in relation to any event occurring outside the scope of said Hosted Infrastructure. THE WARRANTIES SET FORTH HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY THAT THE SERVICES OR THE SOFTWARE HOSTED AS PART OF THE SERVICES, WILL BE UN-INTERRUPTED OR COMPLETELY ERROR OR BUG FREE, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.

(c) **Minimum Standards.** Enfocus’s obligations to provide for the Services, and any associated warranties provided are conditional upon you maintaining all hardware, software and network connectivity needed to connect to and use the Services.

6. Intellectual property rights

(a) You retain all rights, title and interests in and to any Customer Data. Nothing set forth herein shall be of nature to assign or transfer any rights in the Customer Data to Enfocus. Enfocus retains all rights, title and interests in and to the Services, any software hosted as part of the Services, and the Hosted Environment. Nothing set forth herein shall be of nature to assign or transfer any rights in the Services, the software hosted as part of the Services, or the Hosted Environment to You.

(b) You agree, except subject to Enfocus's prior written consent (i) not to copy, download, modify or translate any software hosted as part of the Services ; (ii) not to be reverse engineer, decompile, or disassemble any software hosted as part of the Services, or to attempt to discover the underlying source code, except to the limited extent expressly allowed by applicable law; (iii) not to tamper with, bypass or alter the security features of the Services or Hosted Infrastructure.

7. Term, Termination and Suspension.

(a) *Term.* This Agreement shall be in effect from the Effective Date until October 21, 2025, subject to early termination.

(b) *Termination by Enfocus.* Enfocus reserves the right to terminate this Agreement, the rights granted hereunder, and the availability and use of the Services at any time upon 14 days prior notice to be either sent personally and/or specifically to you or generally posted on Enfocus websites (in which event the Enfocus shall not be required to provide Customer with any personal or further notice of such termination).

(c) *Termination for cause.* Either party may terminate this Agreement by means of a written notification in case of the other party failing to perform any material obligation under this Agreement, with such breach (if capable of being remedied) remaining uncured following a ten (10) days written notice. In case such breach is not capable of being remedied, termination may occur forthwith by means of a written notification.

(d) *Suspension of Services.* Enfocus may suspend the Services in case of: (i) Enfocus becoming aware of what it deems a credible claim that Your use of the Services violates any applicable law, rules or regulations or infringes upon third party rights; (ii) Your use of the Services violating the AUP or interfering with the normal operation of the Services or Hosted Infrastructure; (iii) the security of the Services, of the Customer Data, or of the Hosted Infrastructure or Your access rights being compromised or in any event Enfocus decides that suspension of the Services is needed to protect the integrity of the Services or Hosted Infrastructure; or (iv) in any event where Enfocus is entitled to terminate this Agreement for cause. In each case of suspension as per above, Enfocus will give You an advance twelve (12) hours' notice, unless Enfocus reasonably determines that giving a shorter or no notice is necessary to protect the interests of Enfocus, of you or of any third party.

(e) *Results of termination.* Following termination of this Agreement, (i) your access rights shall lapse and Enfocus shall no longer be required to provide for any Services, and (ii) the parties shall return to each other, or destroy, within sixty (60) days from such termination, any Confidential Information received. Termination of this Agreement will not relieve a party from any accrued payment obligations. The provisions which are identified for such purpose or which by their nature are meant to survive (including but not limited to Sections 4, 5(b), 6, 8, 9 & 11), shall survive the termination or expiration of this Agreement.

8. Confidentiality

(a) *Confidentiality.* Each party, as a recipient, agrees, by using measures equal to the measures used in protecting its own confidential information, not to disclose any Confidential Information received except to Authorized Recipients, and to use any Confidential Information received solely for the purpose of performing this Agreement. For the purpose of the above, Authorized Recipients are a party's and a party's corporate affiliates' officers, employees and consultants who require access to the Confidential Information for the purpose of performing this Agreement and who are bound by confidentiality obligations at least as stringent as those set forth herein.

(b) *Survival.* The obligations set forth in this Section 8 shall survive until five (5) years from the termination or expiration of this Agreement.

(c) *"Confidential Information"* refers to any information or data marked as such, or which, reasonably determined, constitutes information/data of a proprietary or confidential nature. Confidential Information does not include information which: (i) was, as evidenced by the recipient, already known to the recipient prior to the time that it is disclosed; (ii) is or has entered the public domain through no breach of this Agreement; (iii) has rightfully been received from a third party without breach of any duty of confidentiality; (iv) has been approved for release by written authorization of the disclosing party; (v) is independently developed by the recipient without use of the disclosing party's Confidential Information or (vi) is required to be disclosed pursuant to the order of a court or governmental agency provided that the disclosing party has, if permitted by law, been given reasonable notice of the order and the opportunity to contest disclosure.

9. Limitation of Liability

IN NO EVENT WILL ENFOCUS, REGARDLESS OF LEGAL THEORY, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, SUCH AS BUT NOT LIMITED TO ANY LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR ANY OTHER ECONOMICAL ADVANTAGE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT.

IN NO EVENT WILL ENFOCUS'S LIABILITY, REGARDLESS OF LEGAL THEORY, EXCEED, FOR ALL CLAIMS IN AGGREGATE, AN AMOUNT EQUAL TO ONE THOUSAND EURO.

10. Miscellaneous.

(a) *Export Matters.* You agree to abide and conform to any and all export regulations in force during this Agreement that are applicable to You or the Services provided, including but not limited to any export rules and regulations of the United States of America. You understand that these regulations may prohibit the export or re-export of documentation, and any information or technical data related to the Services.

(b) *Governing Law; Venue.* All disputes arising from or related to this Agreement will be governed by the laws of Belgium, without reference to its conflicts of law principles. Each party hereby consents to the exclusive personal jurisdiction and venue of the courts of Ghent, Belgium. The parties expressly exclude the United Nations Convention on Contracts for the International Sale of Goods from application to this Agreement.

(c) *Assignment.* Neither party may assign this Agreement without the express written consent of the other party, except that either party may assign this Agreement to any of its corporate affiliates or pursuant to a merger, consolidation, reorganization, change-in-control or sale of all or substantially all of the assets or business to which this Agreement relates. Any attempted assignment in violation of this provision will be void.

(d) *Severability*; If any part of the Agreement is found unenforceable by a court of competent jurisdiction, the remainder of the Agreement will remain in full force and effect. This Agreement may be amended only in a writing signed by both parties. The parties' relationship is that of independent contractors. This Agreement constitutes the entire agreement of the parties and supersedes all previous communications between the parties relating to this Agreement and to the subject matter herein.

(e) *Force Majeure*. Neither party will be responsible for, nor be in default under this Agreement due to any delays or failure of performance resulting from acts or causes beyond its reasonable control, including without limitation, acts of war, export regulations, third-party labor strikes, power failures, natural disasters or other similar events ("Force Majeure Events"). In the event that either party is unable to perform any of its obligations under this Agreement because of a Force Majeure Event, the party who has been so affected will promptly give notice to the other and will exercise all reasonable efforts to resume performance.