

**DEFANTS SOFTWARE END-USER LICENSE AGREEMENT IN FORCE AS OF NOVEMBER 1<sup>st</sup>, 2023**

**IMPORTANT LEGAL NOTICE TO ALL USERS:** CAREFULLY READ THE TERMS AND CONDITIONS OF THIS END-USER LICENCE AGREEMENT (“**EULA**”) BEFORE ACCESSING OR USING THE SOFTWARE.

THE RIGHT TO USE THE SOFTWARE IS CONDITIONNED ON ACCEPTANCE OF AND COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS EULA, WHICH IS A LEGALLY BINDING CONTRACT BETWEEN THE END-USER AND THE LICENSOR.

IF THE END-USER DOES NOT AGREE TO THESE TERMS, THE END-USER SHALL NOT ACCESS OR USE THE SOFTWARE.

IF THE END-USER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THE END-USER REPRESENTS THAT IT HAS THE AUTHORITY TO BIND SUCH ENTITY TO THIS EULA.

THE EULA FORMS A PART OF AND SHOULD BE READ IN CONJUNCTION WITH DEFANTS' PRIVACY POLICY, AVAILABLE ON DEMAND AND ON LICENSOR'S WEBSITE.

**1. DEFINITIONS**

“**Authorized Sub-Licensors**” means the legal entity or company from whom the End-User has acquired the rights to use the Software and which has received all necessary rights from Licensor to do so.

“**Confidential Information**”: means all information that the Licensor and/or an Authorized Sub-licensor may communicate to the End-User or that it may be aware of, pursuant and in the execution to this EULA, in written or in nontangible form.

“**Documentation**” means the Licensor-provided user manuals, training materials, descriptions and technical specifications, technical manuals, supporting materials and other information relating to the Software.

“**End-User**” means a company or legal entity and/or the natural person, who is authorized by an Authorized Sub-Licensor to use the Software, to whom the License is granted for its own use of the Software, and not for resale or distribution.

“**End-User Content**” means any content that the End-User uploads to or transfers in or through the Software or provides in the course of using the Software. The End-User is responsible for all End-User Content that is uploaded, posted, transmitted, or otherwise made available through the Software.

“**Intellectual Property Rights**” means any and all copyrights, patents, design rights, trademarks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights, and all applications, renewals, and registrations with respect thereto applying to the Software, anywhere in the world.

“**License**” means the rights granted to the End-User to use the Software under this EULA.

“**Licensor**” means DEFANTS, a French company identified in footer.

“**Order**” means terms and conditions of use of the Software issued by the Licensor or the Authorized Sub-licensors, and expressly and wholly accepted by the End-User.

“**Software**” means the software product owned by Licensor and object of this EULA.

**2. CONFIDENTIALITY**

During the term of this EULA and during the five (5) years following its end for any reason whatsoever, the End-User shall keep confidential and shall not disclose or otherwise make available to any third party any Confidential Information provided by Licensor and/or by the Authorized Sub-Licensor under this EULA.

**3. LICENSE TERMS**

Conditioned upon End-User's compliance with the terms and conditions of this EULA, the Licensor grants to the End-User a limited, personal, revocable, non-exclusive, non-transferable, non-assignable, without right to sublicense, License to access and use the Software on the computer system or file server for local use within the End-User network, for the End-User's internal business purposes, exclusively in conformity with its intended use and in compliance with the Order, Documentation and applicable laws.

The Software can only be used (i) on the number of devices, (ii) on the territory, and (iii) during the term, agreed upon in the Order. Except if expressly agreed otherwise within the Order, the License does not include any additional services from Licensor (commissioning, support, bug correction, updates, upgrades, etc.).

End-User undertakes to use the Software in compliance with all laws, including local

laws of the country or region in which End-User resides or in which End-User use the Software.

Notwithstanding anything to the contrary under contractual agreements (notably but not limited to the Order) between Authorized Sub-Licensor and End-User, Licensor may terminate the License granted herein or suspend the access to the Software if Licensor determines that End-User use of the Software violates the terms of this EULA.

End-User shall have no right, and the End-User specifically agrees not to:

(i) transfer, assign, lease or sublicense granted rights under the License to any other person or entity, either on a temporary or permanent basis, and/or market, redistribute, encumber, sell, rent, lease, share, sublicense the Software,

(ii) make error corrections to or otherwise modify or adapt the Software or create derivative works based upon the Software or Documentation and/or upon any technical data, know-how, trade secrets, processes, techniques, specifications, protocols, methods, algorithms, interfaces, ideas, solutions, structures or other information embedded or used in the Software, or permit third parties to do the same without the prior written consent of Licensor,

(iii) reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Software to human-readable form, except to the extent otherwise expressly permitted under applicable law,

(iv) modify, translate or create any derivative works of the Software or Documentation,

(v) remove, alter or obscure any legal, proprietary or restrictive notices, labels or marks on the Software or within its code,

(vi) disable any security or controlling

measures that may protect portions of the Software or work around any technical limitations in the Software,

(vii) disclose, provide, or otherwise make available trade secrets contained within the Software in any form to any third party without the prior written consent of Licensor,

(viii) file applications or make declarations in order to be granted Intellectual Property Rights for works or creations before any authority or office in the world, which derive, in whole or in part, from the Software, the Documentation and/or the Confidential Information.

It is expressly agreed by the End-User that use of the Software (i) requires a permanent internet access and compatible hardware system (computer and internet server) not provided by the Licensor, and (ii) may be affected by these factors without any liability on the part of the Licensor.

The End-User grants the Licensor with the rights to use all or part of the investigation reports ("**Reports**") on the express and prior condition that the Licensor will process anonymized data whenever it is possible (*i.e.* without the possibility of identifying or tracing the End-User), solely and exclusively under the following conditions: the Licensor collects certain aggregated and statistical information from investigation reports and from the End-User use of the Software for, among other purposes, reports, research, statistics, improvements to the Software. The data collected may contain Personal Data (limited to name, surname, IP addresses, email addresses) but not Confidential Information. In such case, Personal Data processing is subjected to the terms and conditions of this EULA and of the Licensor's Privacy Policy.

End-User expressly agrees and authorizes Licensor to transfer Reports to a subcontractor in order to perform the above analysis.

#### 4. PRIVACY

Personal Data regarding individuals may be processed (the "**Personal Data**") during the operation of the Software, as stated in

the DEFANTS Privacy Policy, available on demand and on Licensor's website-

The Parties comply to execute the EULA fairly and lawfully in compliance with the provisions of the applicable law pertaining to Personal Data protection and according to the Privacy Policy. Each Party shall be individually liable for any violation of the said provisions. The End-User is entitled to gain access, correct and/or withdraw its Personal Data and any other rights irrevocably granted by applicable law.

End-User warrants that no Personal Data shall be upload through the Software, except Personal Data necessary to access the Software (name, surname, IP addresses, email addresses and passwords) and undertakes to indemnify Licensor of any damages suffered by the Licensor pertaining any third-party claim in this regard, notably but not limited to any penalties imposed by a regulatory authority and/or any damages claimed by any third party.

#### 5. INTELLECTUAL PROPERTY RIGHTS

The Licensor (or its licensors) shall retain all right, title, interests to and ownership in all Intellectual Property Rights pertaining to the Software (including the Documentation), including, where applicable, in any copies, portions, extracts, updates, improvements, enhancements, bug fixes, modifications and any other derivative works of the Software made by the Licensor.

End-User does not acquire any ownership to the Software under the EULA nor through accessing or using the Software. Nothing in this EULA can be construed as transferring any aspects of such Intellectual Property Rights to End-User or any third party.

End-User acknowledges that the Software contains trade secret and other valuable and confidential information of the Licensor and End-User may not act or fail to act, in any way or manner to intentionally or negligently harm Licensor's Intellectual Property Rights.

#### 6. DISCLAIMER OF WARRANTIES

The Licensor does not warrant that the use

of the Software will be uninterrupted or error-free. The End-User accepts responsibility for the selection of the Software to achieve its intended results and acknowledges that the Software has not been developed to meet the individual requirements of the End-User.

THEREFORE, THE END-USER ACKNOWLEDGES AND AGREES THAT USE OF THE SOFTWARE IS AT ITS SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORTS IS WITH THE END-USER.

THE SOFTWARE IS PROVIDED "AS IS" AND THE LICENSOR DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND GUARANTIES REGARDING THE SOFTWARE AND THIRD-PARTY CONTENT (IF ANY), EXPRESS, IMPLIED OR STATUTORY INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE FOR THE SOFTWARE AND ALL ACCOMPANYING WRITTEN MATERIALS AND/OR THE SOFTWARE SPECIFICATIONS, EVEN IF THE LICENSOR HAS BEEN MADE AWARE OF SUCH PURPOSE.

NOTHING IN THIS EULA WILL BE CONSTRUED AS AN INSURANCE, WARRANTY OR REPRESENTATION (A) THAT THE SOFTWARE OR ANYTHING MADE, USED, SOLD OR OTHERWISE DISTRIBUTED OR DISPOSED OF UNDER ANY LICENSE GRANTED HEREIN DOES NOT INFRINGE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES; OR (B) THAT THE COPYRIGHTS PERTAINING TO THE SOFTWARE WILL NOT BE FOUND INVALID OR UNENFORCEABLE FOR ANY REASON IN ANY ADMINISTRATIVE, ARBITRATION, JUDICIAL OR OTHER PROCEEDING.

#### 7. LIABILITY

The End-User acknowledges and agrees that Licensor has set the scope of the License and entered into this EULA upon

the disclaimers of warranty and the limitation of liability set forth herein, that the same reflect an allocation of risk between the Parties, and that the same form an essential basis of the bargain between the Parties.

It is expressly acknowledged and accepted by the End-User, that the Software is a decision-support tool, and that Licensor cannot be held liable for all or part of the decisions made by the End-User, and/or for all or part of the consequences of the implementation by the End-User of all or part of the recommendations made by the Software.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE LICENSOR BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL INCIDENTAL PUNITIVE OR SPECIAL DAMAGE, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF INCOME, LOSS OF OPPORTUNITY OR PROFITS, BUSINESS OR SERVICE INTERRUPTION, HARM TO BUSINESS REPUTATION OR OTHER DAMAGES OR COSTS ARISING OUT OR RELATED TO THE USE OR INABILITY TO USE THE SOFTWARE, REGARDLESS OF THE CAUSE OR FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE EVEN IF THE LICENSOR HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO A FINAL DECISION FROM A COURT OF COMPETENT JURISDICTION, LICENSOR'S TOTAL LIABILITY FOR ANY REASON WHATSOEVER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS EULA (INCLUDING THE USE OF THE SOFTWARE) SHALL NOT EXCEED IN THE AGGREGATE TEN THOUSAND (10 000 €HT) EUROS EX VAT.

THE LICENSOR DOES NOT REPRESENT NOR GUARANTEE THAT

USE OF THE SOFTWARE WILL BE FREE FROM INTERNET FAILURES, COMPUTER EQUIPMENT FAILURES, TELECOMMUNICATION EQUIPMENT FAILURES, OTHER EQUIPMENT FAILURES, ELECTRICAL POWER FAILURES, INTERRUPTION, LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSION SECURE AND DISCLAIMS ANY LIABILITY RELATING THERETO.

LICENSOR IS NOT RESPONSIBLE OR LIABLE FOR THE DELETION OF OR FAILURE TO STORE OR PROCESS ANY INFORMATION OR OTHER CONTENT PROVIDED BY END-USER OR TRANSMITTED IN THE COURSE OF USING THE SOFTWARE. END-USER IS EXCLUSIVELY RESPONSIBLE FOR SECURING AND BACKING UP ANY END-USER CONTENT.

THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT (I.E. THE EXISTENCE OF SEVERAL CLAIMS WILL NOT ENLARGE THIS LIMIT).

FOR AVOIDANCE OF DOUBT, LICENSOR IS NOT RESPONSABLE FOR END-USER'S USE OF THE SOFTWARE, OR OF INFORMATION PROVIDED BY THE SOFTWARE, OR OTHER HARM OR LOSSES ARISING FROM OR RELATING TO END-USER'S USE OF THE SOFTWARE.

The End-User may not bring a claim under this EULA more than twelve (12) months after the cause of action arises.

Licensor disclaims all warranties and liability for any damages incurred by the End-User or by any third party relating to use of the Software when caused by:

- the End-User's non-compliance with the terms and provisions of the EULA, the Documentation or applicable laws,
- the upload, use or display of the End-User Content,
- the decision, modalities and consequences of the implementation of

the deliverables and recommendations provided by the Software;

- decisions made by the Client of any nature whatsoever on the basis of the deliverables and recommendations provided by the Software;

- use of the Software in an improper or inappropriate operating environment which does not conform to the Documentation,

- use of the Software in combination with, in connection with or as integrated into software, hardware or equipment not previously expressly approved in writing by Licensor,

- use of the Software for a purpose other than that for which it is intended to,

- a weakness, flaw or breach in the security of End-User's architecture or system not directly and exclusively caused by the Software,

- support intervention by a third party not previously authorized by Licensor,

- delays, interruptions and disruptions of network and/or Internet transmissions,

- Force Majeure events.

THE END-USER SHALL INDEMNIFY AND SAVE HARMLESS LICENSOR FROM AND AGAINST ANY CLAIM, DEMAND OR LEGAL ACTION ALLEGING LOSS, COSTS, EXPENSES, DAMAGES OR INJURIES ARISING FROM OR RELATED TO THE END-USER'S USE OF THE SOFTWARE AND/OR THE END-USER CONTENT.

## 8. ASSIGNMENT – TRANSFER – DELEGATION

The Licensor may assign, or transfer this EULA, or part thereof, and/or delegate, partially or totally, its rights and/or obligations hereunder, to any third party without prior information to or consent from the End-User.

The End-User shall not rent, lease, lend, sub-license, assign, transfer, delegate, partially or totally, any of its rights and obligations under this EULA, to any third party without the prior written consent of



the Licensor.

## 9. TERM

The License granted herein is effective as of the date of acceptance of this EULA by the End-User (as acknowledge by its consent on first use of the Software) and shall remain in effect for the duration indicated in the Order.

## 10. TERMINATION

Either Party may terminate this EULA for cause upon thirty (30) days' prior written notice in the event the other Party is in material breach of the terms and conditions defined herein and fails to cure the curable default within the thirty (30) day period following written notice except in case of breaches of the provisions of **Articles 2, 3, 4, 5 and 8**, the non-breaching Party shall have the right to terminate this EULA immediately upon notice to the other Party.

Upon termination, the End-User shall (i) cease all use of the Software, (ii) erase all copies, full or partial of the Software, any and all Confidential Information, any accompanying documentation together with all copies thereof, as well as all related materials received from the Licensor and/or Authorized Sub-Licensor during the execution of the License and (iii) destroy or deliver the same to Licensor or Authorized Sub-licensor at their request and if destruction is required, provide an attestation of legal representative attesting of such destruction.

End-User acknowledges and agrees that Authorized Sub-Licensor is granted by Licensor with rights to distribute the Software. Notwithstanding anything to the

contrary within the Order or any other agreement between the End-User and the Authorized Sub-Licensor, in case the Sub-Licensor is no longer authorized by Licensor to distribute the Software, the License granted herein shall remain in effect for the duration indicated in Order. In such case, the End-User undertakes to contact the Licensor.

Upon termination of the EULA, End-User Account and End-User Contents shall be deleted without backup by Licensor.

Upon expiration or termination of this EULA, Licensor may retain information and data about End-User Software execution and performance as long as it is in a form that does not personally identify the End-user, its employees or agents.

Any terms of this EULA which by their nature should survive the termination of this EULA shall survive such termination. Termination will not limit any of Licensor's rights or remedies at law.

## 11. GENERAL

If any portion of this EULA shall be held invalid, illegal or unenforceable, the validity, legality, and enforceability of the remainder of this EULA shall not in any way be affected or impaired thereby.

This EULA is the complete and exclusive statement of the agreement between the End-User and the Licensor, with respect to the License or rights of use, of the Software, which supersedes all proposals or prior agreements, oral or written, and all other communications between the End-User and the Licensor, relating to the subject matter of this hereof, unless otherwise expressly agreed in writing by

the Parties in a prior agreement governing the use of the Software by the End-User.

Failure or neglect by the Licensor to enforce at any time any of the provisions hereof cannot be construed nor shall be deemed to be a waiver of the Licensor's rights hereunder nor in any way affect the validity of the whole or any part of the License nor prejudice the Licensor's rights to take subsequent action.

Any claim or cause of action End-User may have arisen out of or related to use of the Software or this EULA must be filed within twelve (12) months after such claim or cause of action rose, under penalty of forfeiture.

## 12. GOVERNING LAW AND JURISDICTION

This EULA and all matters arising out of or relating to this EULA, all transactions it contemplates, including, without limitation, its interpretation, construction, performance and enforcement shall be governed by the laws of France. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

Parties irrevocably agree that a competent court within the jurisdiction of the Court of appeal of RENNES (France) shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this EULA or its subject matter, formation or termination for any reason whatsoever (including non-contractual disputes or claims).

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