



## WEM No-Code GENERAL Terms and Conditions

*Last updated July 19, 2023*

By using the products and (online) services of WEM (collectively the “Service”), You signify and agree to be bound by these General Terms and Conditions. Conditions of purchase or other conditions of You and/or third parties or additions to or deviations from these General Terms and Conditions shall only apply when explicitly agreed in writing between the Parties. These General Terms and Conditions apply to all Services of WEM and all Services included therein.

If You are entering into these General Terms and Conditions on behalf of a company or other legal entity, You represent that You have the authority to bind such entity to these General Terms and Conditions or any other terms and conditions, in which case the terms “You” or “Your” shall refer to such entity.

For reference, a Definitions section is included at the end of these General Terms and Conditions.

### **1. License**

WEM hereby grants You a limited, non-exclusive, non-transferable right to use the Service, (without the right to sublicense) solely and exclusively for Your own internal business purposes, subject to these Terms and Conditions and subject to the limitations set forth in any applicable Order Form and/or License Agreement during the Subscription Term. All rights not expressly granted to You are reserved by WEM and its licensors.

#### **Restrictions of Use:**

You may not use the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes, or disclose the results of any such benchmark to any third party.

You shall not:

(i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit the Service in any way; (ii) modify or make derivative works based upon the Service; (iii) remove or modify any markings or notices of proprietary rights in the Service; (iv) reverse engineer the Service; (v) store and/or send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (vi) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (vii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (viii) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (ix) attempt to gain unauthorized access to the Service or its related systems or networks. (x) Provide, disclose or permit the use or make the Service available to any third party without WEM’s prior written consent (xi) use the Services in any way that is in contrary to these General Terms and Conditions, the terms specified in an Order Form or the terms under any License Agreement.

#### **Usage Limits:**

You consent to use the Service subject to any limitations specified in a License Agreement, in an Order Form and/or in accordance with any technical- and usage limitations, including (but not limited to) the number of users/concurrent users, number of applications/portals, disk storage,



RAM, number and type of integrations, geography and traffic.

**WEM Audit rights:**

During the term of the Agreement and for a period of three years following its termination, WEM may, after 30 days advance written notice, inspect and audit Your records to verify compliance with the Agreement, these General Terms and Conditions and other terms and conditions. You agree to cooperate with the audit, provide us with reasonable assistance and access to information. In case WEM is informed that You are violating any of the foregoing restrictions, WEM will inform You, and You commit to immediately take any necessary actions to stop such violation(s). If You do not stop such violation, WEM has the right (but not obliged) to take any necessary remedial steps and actions including (but not limited to) disabling the Services, disabling your access to the Services, removal of materials, etc...WEM shall have no liability to You in such event.

**License Keys:**

A WEM License Key is necessary to publish and/or continue to use a project. This means that you must obtain a LICENSE KEY or you will not be able to publish and/or continue to use your project. If you are on a Trial Period, you will receive a License Key that is valid until the end of the Trial Period. Once License Key is no longer valid your access to the project will be ceased and your license will expire, for all that this implies. In case you have signed an Agreement for a paid license/subscription, upon signing the Agreement you will receive a License Key that will be valid as long as your Agreement is valid and subject to payment of the full fees to WEM. WEM Runtime always checks for a valid license key and the Portal is unavailable without it. The License Key is only valid for portals within predetermined workspace(s).

The License Key is used to control limitations agreed upon in the Agreement and related license model (like number of users, API access or number of portals) and can be added to a portal in the modeler. You are responsible for adding the key to the correct portal.

**2. Support Services:**

2.1 WEM shall provide Support Services to You with Authorized access to WEM Platform all in accordance with the WEM Standard Service Level Agreement (“SLA”), as published on the [www.wem.io](http://www.wem.io) website – [link](#).

2.2 Special Support. In case Your needs require an Advanced & Extended Platform Support levels with additional contact methods and extended availability times, these are available at an additional extra charge, to be determined by WEM in a separate price quote and to be agreed upon in your Agreement with WEM.

**3. Service Levels:**

**3.1** The WEM Platform Service Level Agreement (the “SLA”) with a detailed description is set forth in [Appendix A](#) hereto. The SLA sets forth Your sole remedies for availability or quality of the Services including any failure to meet any guarantee set forth in the SLA.

**3.2** In case Your needs require an Advanced & Extended Platform service levels with additional contact methods and extended availability times, these are available at an additional extra charge, to be determined by WEM in a separate price quote.



#### **4. Your Responsibilities**

You are solely responsible for all activity occurring under Your accounts/workspaces/portals/applications/API's etc.

**4.1 Assistance.** You commit to provide commercially reasonable access, information and assistance to WEM to enable WEM to deliver the Services to you. In case of need for assistance, upon request from WEM, You will promptly assist/deliver/allow access to any Customer Content to WEM in a format specified and accessible by WEM. You acknowledge that WEM's ability to deliver the Services in the manner provided in this Agreement may depend upon the accuracy and timelines of such information and assistance.

Subject to the terms and conditions of this Agreement, You will grant WEM a limited, non-exclusive and non-transferable license, to copy, store, configure, perform, display and transmit Customer Content solely as necessary to provide the Services to You.

**4.2 Compliance with Laws.** You commit to comply with all applicable local, international, national and foreign laws and Regulations applicable in connection with its use of the Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data. You acknowledge that WEM exercises no control over the content of the information transmitted by You or any on your behalf through the Services. You will not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights.

**4.3 Unauthorized Use; False Information.** You shall: (a) notify WEM immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (b) report to WEM immediately and use reasonable efforts to stop any unauthorized use of the Services that is known or suspected by You or any on your behalf, and (c) not provide false identity information to gain access to or use the Services.

**4.4 Administrator Access.** You are solely responsible for the acts and omissions of the agents/users on your behalf. WEM shall not be liable for any loss of data or functionality caused directly or indirectly by You or any on your behalf.

**4.5 Your Input.** You are solely responsible for collecting, inputting and updating all Customer Content stored on the Host, and for ensuring that the Customer Content does not:  
(i) include anything that actually or potentially infringes or misappropriates the copyright, trade secret, trademark or other intellectual property right of any third party, or (ii) contain anything that is obscene, defamatory, harassing, offensive or malicious.

You shall: (i) notify WEM immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (ii) report to WEM immediately and use reasonable efforts to stop any unauthorized use of the Service that is known or suspected by You or any Authorized user, and (iii) not provide false identity information to gain access to or use the Service.



## **5. Your Intellectual Property Rights**

As between WEM and You, You own all rights, title and interest, including all related intellectual or industrial property rights, in and to any Customer Data & Customer Deliverables and WEM hereby assigns and transfers to You any rights, title or interest WEM may acquire in any Customer Deliverables upon receipt of payment in full from You. Subject to these General Terms and Conditions, and during the term for which You have a right to use the Service, WEM hereby grants You a limited, non-exclusive, non-transferable, and terminable license to use any Content incorporated in the Customer Deliverables, solely in connection with Your authorized use of the Service.

## **6. WEMs Intellectual Property Rights**

WEM alone, and its licensors where applicable, shall own all right, title and interest, including all related intellectual or industrial property rights, in and to all Services of WEM (including all its algorithms, software, code, ideas, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) and any feedback. These General Terms and Conditions are not a sale and does not convey to You any rights of ownership in or related to the Service or the intellectual property rights owned by WEM. The WEM name, the WEM logo, and the product names associated with the Service are trademarks of WEM or third parties, and no right or license is granted to use them. WEM may use Your logos and reference Your name and the nature of the Services provided hereunder in WEM marketing efforts, including on the WEM website.

## **7. Privacy & Security**

WEM's privacy and security policies may be viewed at [the Privacy Policy Page](#). WEM reserves the right to modify its privacy and security policies in its discretion from time to time. By providing WEM Your email address You consent to our using the email address to send You Service-related notices, including any notices required by law, changes to features of the Service and special offers. WEM's implementation, development and operations teams shall have the right to access and use Your account information, and Customer Data for the purpose of delivery of the Service, respond to service or technical problems, on Your request, or to provide Professional Services. WEM shall be entitled to change the account, access and identification codes assigned.

The Services policies referenced in this Agreement specify WEMs respective responsibilities for maintaining the security of Customer Data in connection with the Services. WEM reserves the right to provide the Services from Host locations worldwide. WEM will only process Customer Data in a manner that is reasonably necessary to provide Services and only for that purpose. WEM will only process Customer Data in delivering WEM Services. You agree to provide any notices and obtain any consent related to WEM's use of the data for provisioning the Services, including those related to the collection, use, processing, transfer and disclosure of personal information. You have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and retains ownership of all of Customer data.

## **8. Trial Period**

WEM may (but is not committed) offer a portion or specific editions of the Service free of use for a maximum period of **30 days** ("Trial Period") unless agreed upon differently in writing by WEM. It is under sole discretion of WEM to specify the conditions for free use and WEM deems the right to modify these conditions of free use at any time. Once the free trial period is over, WEM may, at its sole discretion suspend and /or disable your access to the Services. It is Your own responsibility to make sure you keep records of your data or sign a paid License Agreement or Order Form for the



WEM Services, before the Trial Period ends.

For non-free portions or features of the service, the Service may be made available to You for an initial free trial period of up to 30 (thirty) days from Your acceptance of these General Terms and Conditions. If You do not purchase a paid subscription for the Service from WEM prior to the conclusion of the free trial period, Your access to these non-free portions of the Service may be suspended or disabled and any Customer Data that is uploaded to these non-free portions of the Service may be deleted. If You wish to continue using the Service, You must contact WEM and purchase a paid subscription for Your continued use of such Service.

## **9. Term and Termination**

**9.1 Term of this Agreement.** The Term of this Agreement shall begin on the Effective Date and will continue until outlined in the signed Order Form or License Agreement.

An Agreement concluded for a fixed term shall be tacitly renewed on expiry of the contractual term by one year, unless a Party has terminated the Agreement by giving written notice 3 (Three) months prior to expiry of the initial contractual term or renewal period.

An Agreement concluded for an open-ended term may be terminated by either Party, subject to prior consultation, through written notice that states the reasons for termination. Termination will take place on the first day of the month following the written notice and cannot take place until after expiry of the minimum term if one has been agreed.

**9.2 Termination.** Either party may terminate this Agreement with an immediate effect upon a material breach by the other party that has not been cured within Thirty (30) days after receipt of notice of such breach or if the other Party becomes insolvent.

WEM shall be entitled to terminate any Agreement and/or the providing of Services in part or in full, with immediate effect, in writing, without notice of default if (i) You are granted a moratorium of payments, provisionally or otherwise, (ii) a winding-up petition is filed in respect of You, (iii) Your company is wound up or terminated for reasons other than reconstruction or the merger of companies (iv) You are violating these General Terms and Conditions, any Agreement or any other applicable terms or conditions. WEM shall under no circumstances be obliged to reimburse any sums of money that have already been received or to pay any compensation in the event of such termination. You agree that WEM may terminate the providing of any gratuitous Services at any time, for any reason and without prior notice. You agree that WEM shall not be liable to You and/or any third party for any modification, suspension, or termination of the Service.

**9.3 Suspension for Non-Payment.** WEM reserves the right to suspend delivery of the Services if You or an agent on your behalf fail to timely pay any amounts due to WEM under this Agreement, but only after WEM notifies You of such failure and such failure continues for Fifteen (15) days.

Suspension of the Services shall not release You from your payment obligations under this Agreement or the Order Form or the License Agreement. You agree that WEM shall not be liable to You or to any third party for any liabilities, claims, damages, or expenses arising from or relating to suspension of the Services resulting from Your non-payment.

**9.4 Suspension for Ongoing Harm.** WEM reserves the right to suspend delivery of the Services if WEM reasonably concludes that Your or any on your behalf use of the Services is causing immediate and ongoing harm to WEM or others. In the extraordinary case that WEM must suspend delivery of the Services, WEM shall immediately notify You of the suspension and the parties shall diligently attempt to resolve the issue. WEM shall not be liable to You or to any third party for any liabilities, claims, damages, or expenses arising from or relating to any suspension of the Services in



accordance with this Section 9.4. Nothing in this Section 9.4 will limit WEM's rights under Section 9.5 below.

#### **9.5 Effect of Termination.**

(a) Upon termination of this Agreement or expiration of the Subscription Term, WEM shall immediately cease providing the Services and all usage rights granted under this Agreement shall terminate.

Upfront paid fees are non-refundable.

(b) If WEM terminates this Agreement due to a breach by You, then You shall immediately pay WEM all amounts then due under this Agreement and to become due during the remaining term of this Agreement, but for such termination. If You terminate this Agreement due to a breach by WEM, then WEM shall immediately repay You all pre-paid amounts for any unperformed Services scheduled to be delivered after the termination date.

(c) Upon termination of this Agreement and upon subsequent written request by the disclosing party, the receiving party of tangible Confidential Information shall immediately return such information or destroy such information and provide written certification of such destruction, provided that the receiving party may permit its legal counsel to retain one archival copy of such information in the event of a subsequent dispute between the parties.

(d) **Recovery of Data.** Upon Termination, You will have 30 days starting from the date of termination, to retrieve any of data that You wishes to keep. After 30 days WEM has no obligation to keep the Data and Data will be removed from WEM's servers.

( e ) The following Sections shall survive the termination and/or expiration of this Agreement – 1,5,6,7,9,10,11,12,13,17.

## **10. Confidentiality**

**10.1 Definition.** "Confidential Information" means any information disclosed by a party to the other party, directly or indirectly, which, (a) if in written, graphic, machine-readable or other tangible form, is marked as "confidential" or "proprietary," (b) if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and is confirmed in writing to the receiving party to be "confidential" or "proprietary" within 30 days of such disclosure, (c) is specifically deemed to be confidential by the terms of this Agreement or any Order Form or License Agreement, or (d) reasonably appears to be confidential or proprietary because of the circumstances of disclosure and the nature of the information itself. Confidential Information will also include information disclosed by third parties to a disclosing party under an obligation of confidentiality. Subject to the display of Customer Content as contemplated by this PaaS Agreement, Customer Content is deemed Confidential Information of Customer. WEM Modeler Platform software and Documentation are deemed Confidential Information of WEM or ZOOMBIM.

**10.2 Confidentiality.** During the term of this Agreement and for 5 years thereafter (perpetually in the case of software), each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except to exercise its rights and perform its obligations under this Agreement, and shall not disclose such Confidential Information to any third party. Without limiting the foregoing, each party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other party. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of the





other party's Confidential Information. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder. Each party may disclose Confidential Information of the other party on a need-to-know basis to its contractors who are subject to confidentiality agreements requiring them to maintain such information in confidence and use it only to facilitate the performance of their services on behalf of the receiving party.

**10.3 Exceptions.** Confidential Information excludes information that: (a) is known publicly at the time of the disclosure or becomes known publicly after disclosure through no fault of the receiving party, (b) is known to the receiving party, without restriction, at the time of disclosure or becomes known to the receiving party, without restriction, from a source other than the disclosing party not bound by confidentiality obligations to the disclosing party, or (c) is independently developed by the receiving party without use of the Confidential Information as demonstrated by the written records of the receiving party. The receiving party may disclose Confidential Information of the other party to the extent such disclosure is required by law or order of a court or other governmental authority, provided that the receiving party shall use reasonable efforts to promptly notify the other party prior to such disclosure to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. Each party may disclose the existence of this Agreement and the relationship of the parties but agrees that the specific terms stated in the Order Form or License Agreement will be treated as Confidential Information; provided, however, that each party may disclose the terms of this Agreement to those with a need to know and under a duty of confidentiality such as accountants, lawyers, bankers and investors.

## **11. Representations & Warranties**

WEM shall implement commercially reasonable technical and organizational measures to secure availability, confidentiality and integrity with respect to the Services, the Customer Data and personal information. However, unless explicitly otherwise agreed in writing between Parties, the Services are provided on an "as is" and "as available" basis, without warranties of any kind and the Services are accessed or used by You at Your own risk and without any right to support, maintenance, updates or any other services. WEM and its licensors make no representation, warranty, or guaranty as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the Service. WEM and its licensors do not represent or warrant that (a) the use of the Service will be secure, timely, uninterrupted or error-free or operate in combination with any hardware, software, system or data (b) the Service will meet Your requirements or expectations, (c) any stored data will be accurate or reliable, (d) the quality of any products, services, information, or other material purchased or obtained by You through the Service will meet Your Requirements or expectations, (e) errors or defects will be corrected, or (f) the Service or the server(s) that make the Service available are free of viruses or other harmful components. All conditions, representations and warranties, whether express, implied statutory or otherwise, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third-party rights, are hereby disclaimed to the maximum extent permitted by applicable law by WEM and its licensors. The Service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. WEM is not responsible for any delays, delivery failures, or other damage resulting from such problems.

WEM shall not be responsible for any Customer Data. You, not WEM, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and WEM shall not be responsible or liable for the



deletion, correction, destruction, damage, loss, or failure to store any Customer Data. WEM reserves the right to establish or modify its general practices and limits relating to storage of Customer Data. You represent and warrant that You have not falsely identified yourself nor provided any false information to gain access to the Service.

## **12. Limitation of Liability**

IN NO EVENT SHALL WEM'S LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATING TO THE SERVICE AND/OR THESE GENERAL TERMS AND CONDITIONS AND/OR ANY AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY YOU TO WEM TO USE THE SERVICE DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE CLAIM. IN NO EVENT SHALL WEM AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OR COSTS OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, GOODWILL, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE AND/OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF WEM AND/OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR COULD HAVE REASONABLY FORESEEN THEM. THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS.

## **13. Indemnification**

You shall defend, indemnify and hold harmless WEM, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a (alleged) claim that You violate any third-party right, including without limitation any right of privacy, publicity rights or intellectual property rights; (ii) a claim arising from the breach by You or Your Users of the Agreement or these General Terms and Conditions or any law, rule, regulation or treaty; (iv) third-party claims on account of product liability due to a deficiency in a Service delivered by You to a third party that consisted in part of hardware, software, websites, databases or other materials supplied by WEM.

## **14. Notice**

WEM may give You notices by means of a general notice on the Service, electronic mail to Your e-mail address on record in WEM's account information, or by written communication sent by first class mail or pre-paid post to Your address on record in WEM's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). In case of change in your contact details You are responsible to report such a change to WEM so that you allow WEM to maintain communication with You via e-mail, post, telephone and any other relevant means. You may give notice to WEM (such notice shall be deemed given when received by WEM) at any time by any of the following: letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to WEM at the following address: WEM, Hogehilweg 24, 1101CD, Amsterdam, The Netherlands, addressed to the attention of: Chief Executive Officer.

## **15. Assignment; Change in Control**

Neither Agreements nor (the rights delivered from) these General Terms and Conditions may be transferred or assigned by You without the prior written approval of WEM. The obligations arising





from these General Terms and Conditions and/or Agreements may be assigned by WEM without notice to You and without Your consent. Any transfer or assignment in violation of this section shall be null and void. Any actual or proposed change in control of You that results or would result in a direct competitor of WEM directly or indirectly owning or controlling 50% or more of You shall entitle WEM to terminate the Agreement or (any rights delivered from) these General Terms and Conditions for cause immediately upon written notice.

## **16. Force Majeur**

WEM shall not be bound to fulfill any obligation if prevented from doing so by force majeure. Insofar as not already included, force majeure shall further mean instances of strikes, company sit-ins, blockades, embargoes, government measures, war, revolution and/or any similar state, power failures, faults in electronic communication lines, cable breaks, fires, explosions, water damage, lightning damage, natural disasters, flooding and/or earthquake, shortage of and/or sickness of personnel and non-fulfillment by suppliers of WEM or force majeure on the part of suppliers of WEM.

## **17. Pricing, Payment Terms & Delivery Times**

All agreed Fees, prices and rates may be increased according to terms specified in the signed Order Form or License Agreement, however if You do not have a signed License Agreement nor an Order Form or in case no specification for pricing changes appears in the Order Form or the License Agreement, WEM is entitled (not obliged) to change the Pricing (and/or the Price List) subject to a 90 days prior written notice sent to You by your registered email in the WEM system. In case no official price increase has taken place, on each 1<sup>st</sup> January, your Services price will increase in accordance with the most recently published Consumer Price Index published by Statistics Netherlands (CBS). Price increases (either by written notice or by index) give You no right to cancel the Agreement. WEM reserves the right to increase the agreed prices and rates once a year over and above the annual price index-linking subject to notification of You at least four weeks in advance.

All delivery times, cost estimates and budgets issued by the WEM shall be merely indicative, unless explicitly otherwise agreed in writing between the Parties.

**Expenses.** You will reimburse WEM for its reasonable, out-of-pocket expenses including (but not limited) travel and related expenses incurred in performing the Services. WEM shall notify You prior to incurring any such expense.

### **Payment Terms:**

You commit to pay WEM the full agreed Fees as set forth in the signed License Agreement or Order Form. All Fees exclude sales taxes, duties, vat, levies, bank commissions or any other related taxes by any applicable law.

All Fees are payable to WEM in Euros unless otherwise agreed in writing.

All Fees are due within the Term defined in the applicable License Agreement or Order Form and in the absence of such documentation, all Fees are due within the start date of the Services and should be paid within up to 30 days.

Except as otherwise agreed in writing in an applicable Order Form or License Agreement, all Fees are non-refundable and all Order Forms and/or License Agreements are non-cancelable.

Overdue Payments shall bear interest which is the maximum rate allowed under the applicable law and with a minimum of 1.5% per month. You agree that nonpayment of an invoice within the applicable timeframe will be considered as a breach of this Agreement or any other signed



document and subject to a 15 days prior notice WEM will have the right to suspend your right to access the WEM Platform and/or de-activate your License or disable the Services.

## 18. Modification to Terms

WEM reserves the right to modify these General Terms and Conditions and its policies relating to the Service at any time and without notice, effective upon posting of an updated version of these General Terms and Conditions on the Service. You are responsible for regularly reviewing these General Terms and Conditions. Continued use of the Service after any such changes shall constitute Your consent to such changes.

## 19. Final Provisions

**19.1** Dutch law shall govern Agreements and these General Terms and Conditions. The application of the United Nations Convention on Contracts for the International Sale of Goods 1980 is excluded under all circumstances. Any disputes between Parties arising from or related to Agreements or these General Terms and Conditions shall be exclusively submitted to a court of law with jurisdiction in Amsterdam, The Netherlands.

**19.2** These General Terms and Conditions, together with any other legal notices and Agreements shall constitute the entire Agreement between You and WEM concerning the delivery of Services. In case of a conflict between these General Terms and Conditions and a specific signed Order Form or a License Agreement, the latter shall prevail, however, in any matter which has not been dealt with in a specific Order Form or License Agreement the terms specified in this Agreement shall apply.

**19.3** If (parts of) provisions in these General Terms and Conditions, Agreements or annexes are or become unlawful, invalid or unenforceable, the surviving provisions or the valid part of the invalid provision shall remain fully in force and enforceable, without any consequences for the other obligations of Parties. The unlawful, invalid, or unenforceable provision shall be deemed replaced by a provision that as far as possible has the same legal and commercial purpose.

## 20. Definitions

**“Agreement”**, **“Contract”**: the arrangements agreed in an order/subscription form or a document or in some other way, under which WEM will deliver the Services or any other products or services defined therein.

**“Content”**: the audio and visual information, documents, software, products, services, proprietary tools, source code samples, generic templates and reusable components, App Store content, libraries, know-how, techniques, and expertise, (i) contained or made available to you in the course of using the Service, or (ii) used or developed by WEM in the course of developing or delivering Customer Deliverables.

**“Customer Data”**: any data, information or material, including posts, comments, documents, project information, models, applications, templates, code, widgets, themes, application data, user information and account information, provided, submitted, created, saved, added, uploaded or made available by You to the Service in the course of using or accessing the Service, except Services (or parts thereof) and Feedback.

**“Customer Deliverables”**: means deliverables that are provided by WEM as part of Professional Services that: (i) constitute Customer Data, or a modification, translation, abridgment or adaptation



of Customer Data, or (ii) are expressly identified as being owned by You in the applicable Order Form or SOW, The term “Customer Deliverable(s)” does not include Content.

“**Feedback**”: any suggestions, ideas, enhancement (requests), recommendations or other feedback provided by You or any other party relating to the Services.

“**WEM**”, “**Us**”, “**Our**”, “**We**”: Zoombim Solutions BV (a corporation under the law of the Netherlands Kvk. 33296884) and/or any affiliated company or parent company or subsidiary company.

“**Party**”, “**Parties**”: You or WEM individually (‘Party’) or together (‘Parties’).

“**Professional Services**”: fee based consulting, quality assurance or training services WEM may perform pursuant to a statement of work (“SOW”) or Order Form issued pursuant to these General Terms and Conditions. Each SOW or Order Form shall be deemed part of and subject to these General Terms and Conditions.

“**Service**”, “**Services**”: means all products and services of WEM ordered in an Order Form or a License Agreement , including but not limited to websites, Modeler, Content (as defined above), applications, other software, My WEM Portal, platform as a service, documentation and manuals, except Customer Data.

“**Services**” exclude Non-WEM Applications and refer to the specific WEM modeler Platform internet-accessible service identified in a Schedule that provides use of WEM’s Platform no code application development and deployment Platform that is hosted by WEM or its services providers and made available to Customer over a network on a term-use basis

“**Fees**” means the fees (as specified in each Order Form) payable by Partner to WEM for the re-sale of the Services to Customers based on Services defined in above or in an Order Form or a License Agreement.

“**General Terms and Conditions**”: these Terms of Use, together with the documents referred to in these General Terms and Conditions also may be determined as this Agreement.

“**You**”, “**User(s)**”: anyone who entered into a License Agreement or signs an Order Form with WEM or uses or accesses a Service of WEM, including Your employees, representatives, consultants, contractors or agents who are authorized to use or access the Service of WEM or have been supplied user identifications and passwords by You (or by WEM at Your request), even if no charge is due or registration is needed.

“**Customer Content**” means all data and materials provided by You to WEM for use in connection with the Services, including, without limitation, customer applications, data files, and graphics.

“**Standard WEM SLA** “ – means the standard WEM document defining the Service Level provided by WEM to Partner and/or Customer attached as **Exhibit A**.

## 21. Questions or Additional Information

If You have questions regarding these General Terms and Conditions or wish to obtain additional information, please contact us via [wem.io/contact-us](https://wem.io/contact-us).