

P2PKit Terms of Service and License Agreement

Version: Jan. 22nd, 2016

This Commercial P2Pkit Terms of Service and License Agreement (the “Agreement”) by and between Uepaa AG (“Uepaa”, “We,” “Us”) and You or the organization (“Organization”) on whose behalf You are undertaking the license described below (“You”, “Your”) governs your use of the Software and Services (defined below). By accessing, using, downloading, installing, or copying the Software and Services, or by executing an Order Form referencing this Agreement You accept the following terms and conditions. Moreover, this Agreement comprises the Order Form, the Acceptable Use and Privacy Policies referenced herein, all of which shall form an integral part of this Agreement. In the event of any conflict or inconsistencies among this Agreement, the Order Form and any policies referenced herein, the Agreement shall take precedence, except where any terms contained in the Order Form expressly state that such terms are to take precedence of this Agreement. If You do not agree with any of the terms or conditions of this Agreement, do not proceed with the accessing, using, downloading, copying, or installing of the Software Services or any portion thereof.

This Agreement is valid on the Effective Date and governs Your use of Our Software and Services and comprises the following sections:

1. Registration, Free Test Period and Usage of Services
2. Your Licence, Restrictions and Third party Software
3. Your Obligations
4. Acceptable Use and Privacy Policy
5. Fees and Payment Terms
6. Licence from You
7. Support
8. Confidentiality Information
9. Intellectual Property
10. Modification of Services
11. Term and Termination
12. Warranty
13. Limitation of Liability
14. General
15. Definitions

1. Registration, Fee Test Period and Usage of the Service

1.1. Registration: You must provide accurate and complete registration information any time You register to use the Service and keep such information updated. You should keep Your credentials such as, but not limited to, passwords and app key(s) (collectively, “Key” or “Keys”) confidential and agree to notify us immediately of any unauthorized use of Your Keys.

1.2. Free Test Period: If You register on Our website for a free test period, We will give You access to one or more of Our Services or Software free of charge so You can try out the Software or Service(s) until the earlier of (a) the end of the free test period for

which You registered, (b) the placement by You of a paid order for such Software or Service, or (c) a termination by You or Us in accordance with this Agreement. Additional terms and conditions may apply and will appear on the webpage where You register for Your test period. Any such additional terms and conditions are incorporated into this Agreement and are legally binding. NOTWITHSTANDING SECTION 12, DURING THE FREE TEST PERIOD, THE SOFTWARE AND SERVICES ARE PROVIDED “AS-IS” WITHOUT ANY WARRANTY OF ANY KIND AND THE WARRANTY PROVIDED IN SECTION 12 BELOW SHALL NOT APPLY. DURING THE FREE TEST PERIOD WE DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY AND ALL LIABILITY FOR THE SOFTWARE AND SERVICES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

1.3. Access to Service: Pursuant to this Agreement and applicable Order Form, upon registration We will make our Service available to You by providing You with the Software and the required Key to initialize the Software and access the Service and Support. You may use the Services for the Licence Term in accordance with the terms of this Agreement and the Order Form. As part of your licence grant as set out in Section 2 you may integrate the Software into your Application. The key provided by Us upon registration is a test key strictly for internal testing purposes within Your Organization or for non-commercial beta tests (“Test Key”). You are explicitly not permitted to distribute Your Application using the Test Key to any end user outside the Organization on whose behalf You have undertaken this license for any productive or commercial use. You acknowledge that this Test Key will be valid for a limited time. For a commercial product or Application targeted to End Users, You shall request Your commercial key (“Commercial Key”) by email to p2pkit@uepaa.ch.

1.4. Parts of the Software functionality on some OS versions such as, but not limited to, Android are provided through the Services App available through application stores, such as but not limited to the Google Play Store or directly from Us. When End Users launch Your Application for the first time, they will be required to download the Services App, which is required by Your Application to use the Software. You acknowledge that the Services App may be updated at any time by Us and that the End User can independently update the Service App directly (see below in Maintenance and Support).

2. Your License, Restrictions and Third Party Software

2.1. Your Licence: Uepaa grants You a limited, revocable, royalty-free, non-sublicensable, non-transferable and non-exclusive license during the applicable Licence Term and in accordance with the scope of use set out in the Order Form (“Scope”) and the terms and conditions of this Agreement to use the Service, including using, copying, storing and transmitting the Software in order to integrate the Software into your Application, as set out in the Order Form and, subject to Sections 3 and 6, make it available to Your End Users.

2.2. Restrictions: You may not (and You may not permit anyone else to):

(a) except as expressly permitted hereunder, modify, adapt, reverse engineer, decompile, disassemble or otherwise attempt to extract the source code of the Service(s), Software or any part thereof, unless this is expressly permitted or required by law, or unless You have been specifically told that You may do so in the Order Form or otherwise expressly in writing by Uepaa (e.g. through an open source software license);

(b) use the Software, Service, Documentation, or any of Uepaa’s confidential information to create any derivative work, service, software or documentation that is substantially the same or has similar functionality as the Service;

- (c) make the Service or Documentation available to any third party;
- (d) use the Service in any way that may subject the Software and/or Service(s) to any obligations under any open source software license, including, without limitation any license which imposes any obligation or restriction with respect to Our patent or other intellectual property rights in the Software and/or Service;
- (e) modify, remove, or obscure any copyright, trademark, patent or other notices or legends that appear on the Service or the materials or during the use and operation of the Service or the materials;
- (f) attempt to disable or circumvent any security mechanisms used by the Software and/or Service or any applications running on the Service;
- (g) request additional keys to circumvent Your Pricing Plan limits for Your Application and use the same Commercial Key for more than one commercial Application;
- (h) violate any of the terms of Service of the relevant application stores such as, but not limited to, the Apple App Store and Google Play Store; or
- (i) to collect discovery events without Application-level End User feature(s) visible to the End User of Your Application.

2.3. Third Party and Open Source Software Licence Terms

(a) The Software may contain third party software as set out in the Materials and such third party software will be governed by the terms and conditions of the third party software owners or licensors ("Third Party Agreement"). A copy of the relevant Third Party Agreement may either be provided to You by Us (which may be through our extranet site as notified to you from time to time) or directly by the third party software owners/licensors. We make no representations or warranties nor provides any indemnities in respect of any such third party software and shall have no other liabilities in respect of Your use of the third party software in your use of the Software, Services or Support.

(b) The Software may also contain open source software, freeware or shareware as set out in the Documentation ("Open Source Software"). Certain licence conditions ("Open Source Terms") may apply to the Open Source Software as specified in the Documentation. To the extent the Software does contain Open Source Software You hereby accept such Open Source Terms and acknowledges that, to the extent required by the relevant Open Source Terms, We exclude any warranties, indemnities and liabilities in respect of Your use of such Open Source Software.

3. Your Obligations

3.1. In addition to the obligations set out in section 2 above, You will (i) be responsible for the accuracy, quality and legality of the Content and the means by which You acquired the Content, (b) use commercially reasonable efforts to prevent unauthorized access to or use of Services and Software and notify Us promptly of any such unauthorized access or use, (c) not allow users of the Services to share their identification, password, or other authentication token with any other person, (d) use the Services and Software only in accordance with the Documentation and applicable laws and government regulations, and (e) comply with terms of service or other agreements of other applications (web-based, mobile-based or offline) that interoperate with a Service; (f) be responsible for the design, functionality, look-and-feel, support, upgrade and maintenance of any and all aspects of Your Application, including without limitation the integration of the Software, according to any Scope or other usage or integration requirements provided by Us, (g) You shall not share the Keys, Software, or any of its parts with any third party for any reason except third party providers

developing Application for You, in which case You shall ensure that such third party providers are bound by the terms of this Agreement and the applicable Order Forms, (h) integrate the latest version of the Software into Your Application with its next major release; (i) comply with Our Acceptable Use Policy; (j) include the statement "Powered by <http://p2pkit.io>" within Your Application (e.g. in the About section of Your Application); and (k) where We provide the Cloud Services or such other services to you in respect of the Application, You shall include in your own terms and conditions with Your End Users appropriate provisions for the End Users to acknowledge and accept (i) that We provide the Cloud Services or such other services in respect of the Application and (ii) terms that are substantially similar to the terms and conditions set out in this Agreement in respect of their use of such Cloud Services or other services.

3.2. IT IS YOUR RESPONSIBILITY TO TAKE WHATEVER STEPS YOU NEED TO ENSURE THAT THE USE OF YOUR APPLICATION USING OR ACCESSING OUR SOFTWARE AND/OR SERVICES DOES NOT HARM ANYONE IN ANY WAY. WE SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR THE CONTENT OR RESULTS OBTAINED FROM YOUR USE OR YOUR END USERS' USE OF THE SOFTWARE, SERVICES OR APPLICATION.

3.3. YOU SHALL INDEMNIFY US AGAINST ANY AND ALL CLAIMS AND ANY LIABILITIES, COSTS, EXPENSES, DAMAGES AND LOSSES WE MAY SUFFER OR INCUR FROM THIRD PARTY CLAIMS ARISING AS A RESULT OF OR IN CONNECTION WITH THE USE OF OUR SOFTWARE AND/OR SERVICES IN YOUR APPLICATION OR YOUR FAILURE TO COMPLY WITH THE TERMS OF THIS AGREEMENT AND ANY LAWS AND REGULATIONS APPLICABLE TO YOU IN YOUR USE OF THE SOFTWARE AND/OR SERVICES.

4. Acceptable Use and Privacy Policies

4.1. You agree to comply with the Acceptable Use Policy available at <http://p2pkit.io/policy.html> which is incorporated herein by this reference and which may be updated from time to time.

4.2. You agree that you will protect the privacy and legal rights of the End Users of Your Application in accordance with applicable data protection laws. You must obtain any licences and consents required by applicable data protection laws and provide legally adequate privacy notice, access, and protection for End Users.

4.3. Our Privacy Policy at <http://p2pkit.io/policy.html> describes how We use and protect publicly unavailable privacy-related data associated with Your and Your End Users' use of our Services. By using the Service(s) You consent to Our use of Your data and Your End User's data as described in p2pkit's Privacy Policies available at <http://p2pkit.io/policy.html>.

5. Fees and Payment

5.1. Subject to the Agreement, the Service is provided to You through different pricing options from free to paid ("Pricing Plans") with invoicing periods and payment instructions detailed at <http://p2pkit.io/pricing.html> (or such URL as Uepaa may provide) or in the relevant Order Form as applicable. Customised Pricing Plans may be agreed on a case by case basis and detailed in the applicable Order Form. Any invoices will be issued and sent to You and are payable by You as specified in the Order Form.

5.2. Charges are solely based on Uepaa's measurements of Your use of the Services, unless otherwise agreed to in an Order Form. Uepaa's measurements of Your use of the Services is defined per Application and can be based on, but not limited to, monthly active users, monthly active devices, monthly usage, discovery events, data traffic, one

time, or a fixed licence fee. The measurement applicable to You will be set out in the Scope section of the Order Form.

5.3. You acknowledge and agree that any credit card or other means of payment and related billing and payment information that You provide to Uepaa may be shared by Uepaa with companies who work on Uepaa's behalf, such as payment processors and/or credit agencies, solely for the purposes of checking credit, effecting payment to Uepaa and servicing Your account.

5.4. Overdue Charges. If any invoiced amount is not received by Us by the due date, We reserve the right to charge interest on the overdue amount at the maximum rate permitted by applicable law, but not exceeding 5% p.a., and pursue any other rights or remedies available to Us.

5.5. Suspension and Acceleration. We reserve the right to suspend Your access to and use of the Software and Services if any amount owed by You under this or any other agreement for Our services is 30 or more days overdue or if You exceed the Scope and have not paid for Your exceeded use of the Software or Services. We will notify You at least 10 days prior to any suspension, in accordance with this section.

5.6. Taxes. Our fees do not include any applicable taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible, We will invoice You and You will pay that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

5.7. Uepaa may change its fees and payment policies for the Service by notifying You at least fifteen (15) days before the beginning of the billing cycle in which such change will take effect. Changes to the fees or payment policies will be posted on the website at <http://p2pkit.io/pricing.html> (or such other URL Uepaa may provide from time to time).

5.8. Any outstanding balance becomes immediately due and payable upon termination or expiration of the Agreement for any reason.

5.9. You may not develop multiple Applications to simulate or act as a single Application or otherwise access the Services in a manner intended to avoid incurring or paying fees.

5.10. You agree Your order (as set out in the Order Form) for the use of Software and Service(s) is not contingent on the delivery of any future functionality or features.

6. License from You

6.1. You retain copyright and any other rights You already hold in Your Application (excluding the Software) and You and Your End Users as applicable retain copyright and any other rights You or Your End Users already hold in the Content and You are responsible and liable for Your Application and You and Your End Users as applicable are responsible and liable for all such Content and protecting those rights, as appropriate.

6.2. You grant Us a worldwide license, and shall procure from your End Users a licence for us to store, copy, transmit and display the Content, as necessary for Us to provide the Services in accordance with this Agreement. The license shall be valid for as long as We provide Services to You under an Order Form and for as long as You and your End Users use the Services. Subject to the limited licenses granted herein,

We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Content or Application

- 6.3. You agree that Uepaa, in its sole discretion, may use Your Application, trade names, trademarks, service marks, logos, domain names and other distinctive brand features in presentations, marketing materials, customer lists, financial reports and websites (including links to Your website) in accordance with any branding guidelines you provide Us, for the purpose of advertising or publicizing Your use of the Software and Services.

7. Support

- 7.1. Support: We will provide Support for the Software and Service(s) for the Licence Term in accordance with this section and as set out in Our then Current Support Policy.
- 7.2. Support Queries: will answer Your questions sent via email to p2pkit@uepaa.ch within typically five (5) working days on a "best effort basis" and in accordance with our then current Support Policy.
- 7.3. Bug Notification: You agree to provide Uepaa with details (information, screenshots, stack trace) regarding any bug, defect or failure in the Service.
- 7.4. Maintenance Upgrades, Updates and Fixes: Uepaa may provide You, from time to time, with Upgrades, and free Updates or free Fixes, as detailed herein and according to Our sole discretion and in accordance with our then current Support Policy. You hereby warrant to keep the Software up-to-date and install all relevant updates and fixes, and may, at Your sole discretion, purchase upgrades, according to the rates set by Uepaa. Nothing in this Agreement shall require Uepaa to provide future Updates or Upgrades for free. Uepaa may upgrade, update and amend the Service App. You acknowledge that the End User may update their Service App version independently directly without needing Your consent. You acknowledge that such updates by End Users may introduce a breaking change to your Application which causes your Application to stop working or performing as intended ("Breaking Change") and you must update Your Application accordingly to incorporate the up-to-date version of the Software. We will use reasonable commercial endeavours to provide you with prior notice of any such Breaking Change.

8. Confidential Information

- 8.1. Each party undertakes that it shall (i) take all reasonable measures to protect the secrecy of, and avoid disclosure or use of, Confidential Information of the other party except as permitted herein, (ii) notify the other in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of Confidential Information of the disclosing party which may come to the receiving party's attention, (iii) not at any time disclose to any person any Confidential Information of the other party except (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement and then in each case shall ensure any such person to whom it discloses the other party's Confidential Information complies with this clause, and (b) as may be required by law, court order or any governmental or regulatory authority.
- 8.2. Notwithstanding the foregoing, the receiving party shall have no liability to the disclosing party with regard to any Confidential Information which the receiving party can prove: (i) was in or has entered the public domain at the time it was disclosed through no fault of the receiving party, (ii) was known to the receiving party, without restriction, at the time of disclosure, (iii) is disclosed with the prior written approval of

the disclosing party, (iv) was independently developed by the receiving party without any use of the Confidential Information (v) becomes known to the receiving party, without restriction, from a source other than the disclosing party, without breach of this Agreement by the receiving party and otherwise not in violation of the disclosing party's rights, or (vi) is disclosed pursuant to an order of a court or other governmental or regulatory body; provided that the receiving party shall, to the extent permitted by law, provide the disclosing party with prompt notice of such court order to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure.

9. Intellectual Property

9.1. Ownership: We (or where applicable our Licensors) own and shall retain all intellectual property rights, title and interest inherent in or relating to the Service, Software, Documentation and Confidential Information, which include, but are not limited to, all copyright, patent rights, all rights in relation to registered and unregistered trademarks (including service marks), Confidential Information (including trade secrets and know-how) and all rights other than those expressly granted by this Agreement. You shall not take any action inconsistent with the rights granted herein and no rights are granted to You except as expressly set forth in this Agreement.

9.2. No Implied Licenses: There are no implied licenses under the terms set forth in this Agreement, and any rights not expressly granted hereunder are reserved by Us, Our suppliers or licensors.

9.3. Customers Feedback: Your Feedback shall be owned by Uepaa. You hereby assign all of Your rights, title and interest in and to any Feedback you provide to Uepaa and acknowledge that Uepaa has the unrestricted right to use and exploit such Feedback in any manner, with or without attribution, and without compensation or any duty to account to You for such use.

10. Modification of the Service

10.1. Uepaa is constantly innovating in order to provide the best possible experience for its customers. You acknowledge and agree that the form and nature of the Service which Uepaa provides may change from time to time without prior notice to You, subject to the terms in Section "Fees and Payment". Changes to the form and nature of the Service will be effective with respect to all versions of the Software and Service; examples of changes to the form and nature of the Software and Service include without limitation changes to fee and payment policies, security patches, added functionality, and other enhancements.

11. Term and Termination

11.1. This Agreement shall commence on the Effective Date and unless terminated earlier in accordance with this Agreement, shall continue in effect until all Licence Terms in the Order Forms have expired or are otherwise terminated in accordance with this Agreement. Unless otherwise agreed in the applicable Order Form, each Licence Term shall automatically renew for additional terms of twelve (12) months unless otherwise terminated by either party in accordance with this Agreement.

11.2. This Agreement may be terminated by either party immediately upon notice to the other party if the other party (i) becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors or analogous event or proceeding in any applicable jurisdiction, or (ii) breaches any of its obligations under this Agreement or any Order Form in any

material respect, which breach is not remedied within thirty (30) days following written notice to the breaching party.

11.3. You may terminate this Agreement at any time by cancelling Your account for the Services by sending an email to p2pkit@uepaa.ch. You will not receive any refunds if You cancel Your account.

11.4. You agree that Uepaa, in its sole discretion and for any or no reason, may terminate Your account or any part thereof upon fifteen (15) days written notice to you (which may be by email). You agree that Uepaa will not be liable to You or any third party for such termination.

11.5. Upon termination, You agree to immediately cease using the Service(s) and Software and destroy the Software, including all accompanying Documentation. All provisions of this Agreement which by their nature should survive termination, shall survive any termination of this Agreement. You will promptly pay any unpaid amounts including those covering the remainder of all Licence Terms. In no event will termination relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.

12. Warranty

12.1. Uepaa warrants that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care for the Licence Term (or such other warranty period as agreed in the Order Form).

12.2. The warranties provided above shall not apply to the extent of any non-conformance which is caused by (i) your Application (ii) use of the Services contrary to Uepaa's instructions or the Documentation, or (iii) modification or alteration of the Services by any party other than Uepaa or Uepaa's duly authorized contractors or agents. If the Services do not conform with the warranty provided above, Uepaa will, at its expense, use commercially reasonable efforts to correct any such non-conformance promptly, or provide You with an alternative means of accomplishing the desired performance; and if We cannot reasonably repair or replace the affected Services, then We will refund You any prepaid fees covering the remainder of the Licence Term(s) for the affected Software or Services and terminate Your right and license to use the Software and Services for which You have received the refund. Such correction, substitution or refund constitutes Your sole and exclusive remedy, and Uepaa's sole and exclusive liability for any breach of the warranty. Notwithstanding the foregoing, Uepaa:

(a) does not warrant that Your use of the Software or Services will be uninterrupted, free of viruses or error-free; or that the Software, Services, Documentation and/or the information obtained by You through the Services will meet Your requirements; and

(b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from Your access to and use of the Services through third party applications or the transfer of data over p2p communications, communications networks and facilities, including the internet, and You acknowledge that the Services and may be subject to limitations, interferences, delays and other problems inherent in the use of such communications facilities.

(c) is not responsible for any Software or Services limitations resulting from unexpected changes to the underlying functionality provided by future updates or new versions of OSes such as, but not limited to, iOS and Android.

12.3. EXCEPT AS OTHERWISE PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UEPAA AND ITS SUPPLIERS AND LICENSORS

HEREBY DISCLAIM ALL OTHER WARRANTIES OF ANY KIND, EXPRESS IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, SATISFACTORY QUALITY AND NON-INFRINGEMENT. NEITHER UEPAA NOR ITS SUPPLIERS AND LICENSORS, MAKES ANY WARRANTY THAT THE SERVICES WILL BE ERROR FREE OR THAT ACCESS THERETO WILL BE CONTINUOUS OR UNINTERRUPTED, AND YOU ACKNOWLEDGE THAT IT IS NOT TECHNICALLY PRACTICABLE FOR US TO DO SO.

13.LIMITATION OF LIABILITIES

13.1. LIMITATION OF LIABILITY: OUR AGGREGATE LIABILITY FOR OR IN RESPECT OF ANY LOSS OR DAMAGE SUFFERED BY YOU (WHETHER DUE TO CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY YOU IN THE 12 MONTH PERIOD PRECEDING THE DATE OF THE EVENT FOR WHICH THE LIABILITY ARISES.

13.2. EXCLUSION OF LIABILITY: IN NO EVENT SHALL WE OR OUR SUPPLIERS OR LICENSORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER OR FOR DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF ANTICIPATED SAVINGS, GOODWILL, LOSS OF BUSINESS INFORMATION, LOSS OF DATA (INCLUDING CORRUPTION OF OR DAMAGE TO DATA) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHETHER OR NOT SUCH LOSSES OR DAMAGES ARE FORESEEABLE; AND WHETHER THE SAME ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13.3. FORCE MAJEURE: WE SHALL HAVE NO LIABILITY TO YOU UNDER THIS AGREEMENT IF WE ARE PREVENTED FROM, OR DELAYED IN, PERFORMING OUR OBLIGATIONS UNDER THIS AGREEMENT OR FROM CARRYING ON OUR BUSINESS BY A FORCE MAJEURE EVENT.

13.4. LIABILITIES NOT EXCLUDED: THE EXCLUSIONS IN THIS LIMITATION OF LIABILITIES SECTION SHALL APPLY TO THE FULLEST EXTENT PERMISSIBLE AT LAW BUT NEITHER PARTY EXCLUDES LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, OR OF ITS OFFICERS, EMPLOYEES, CONTRACTORS OR AGENTS; FRAUD OR FRAUDULENT MISREPRESENTATION; OR ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED BY LAW.

14.General Legal Terms

14.1. Entire Agreement: Except to the extent You and Uepaa have entered into a separate written agreement that is expressly intended to supersede this Agreement either in whole or in part, this Agreement constitutes the whole legal Agreement between You and Uepaa and govern Your use of the Software and Services (but excluding any services which Uepaa may provide to You under a separate written agreement), and completely replace any prior agreements between You and Uepaa in relation to the Service. Unless otherwise expressly agreed in writing this Agreement applies in place of and prevails over any terms or conditions contained in or referred to in any correspondence or elsewhere or implied by trade custom or course of dealing. Any general terms of business or other terms and conditions of any order or other document issued by You in connection with this Agreement shall not be binding on Us unless specifically agreed by Us in writing.

14.2. NO REPRESENTATIONS: YOU AGREE THAT, IN ENTERING INTO THIS AGREEMENT, EITHER YOU DID NOT RELY ON ANY REPRESENTATIONS (WHETHER WRITTEN OR ORAL) OF ANY KIND OR OF ANY PERSON OTHER THAN THOSE EXPRESSLY SET OUT IN THIS AGREEMENT OR IF YOU DID RELY ON ANY REPRESENTATIONS, (WHETHER WRITTEN OR ORAL), NOT EXPRESSLY SET OUT IN THIS AGREEMENT, THAT YOU SHALL HAVE NO REMEDY IN RESPECT OF SUCH REPRESENTATIONS AND (IN EITHER CASE) NEITHER PARTY SHALL HAVE ANY LIABILITY OTHERWISE THAN IN ACCORDANCE WITH THE EXPRESS TERMS OF THIS AGREEMENT.

14.3. Changes to the Agreement: We are constantly updating our Software and Service, and we may make changes to the terms of this Agreement from time to time. If we change the terms in any substantive way, we will give You at least seven (7) days notice before the changes take effect. You understand and agree that if You use the Services after the date on which the Terms have changed, we will treat Your use as acceptance of the updated Agreement.

14.4. Assignment: You may not assign this Agreement, in whole or in part, without the prior written consent of Us, not to be unreasonably withheld. We may at any time assign or otherwise transfer this Agreement to our associated companies successors or assignees, except as provided herein, any attempt by either party to assign or transfer this Agreement without the prior written consent of the other will be null and void. We may at any time involve any of Our associated companies, successors or assigns as subcontractors under this Agreement.

14.5. Severability: If any provision or part of a provision in this Agreement is held to be illegal, invalid, or unenforceable by a court or other decision-making authority or competent jurisdiction, then the remainder of the provision will be enforced so as to effect the intention of the parties, and the validity and enforceability of all other provisions in this Agreement will not be affected or impaired.

14.6. Relationship between You and Us: The relationship between You and Us is that of independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, employment or any such similar relationship between You and Us. This Agreement shall not prevent Uepaa from entering into similar Agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

14.7. Compliance with Laws: You agree that You will comply with all applicable laws and regulations with respect to your use of the Software and Service, including without limitation all export and re-export control laws and regulations and data protection laws and regulations.

14.8. No waiver: No waiver by either party of any breach or default under this Agreement shall be deemed to be a waiver of any preceding or subsequent breach or default.

14.9. Notices: Except as otherwise specified in the Agreement, all notices, permissions, and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) two business days after sending by e-mail. E-mails to Us shall be directed to p2pkit@uepaa.ch, and e-mails to You shall be addressed to the administrative contact designated by You in your registration details.

14.10. Governing Law and Jurisdiction: This Agreement is governed by Swiss law and exclusive and sole jurisdiction is Zürich, Switzerland. If You use the Service, You are responsible for following applicable local laws.

15. Definitions

Any capitalized terms not otherwise defined in the Agreement shall have the meaning set out below:

Application: an application that is developed by You or Your Organization and distributed on mobile or other devices as specified in the Order Form and integrates the Software and/or Services.

Confidential Information: all confidential or sensitive information or data, whether obtained before or after the Effective Date in respect of products, services, software, developments, trade secrets, customers and suppliers of either party or any other information (whether commercial, financial, technical or otherwise) which is identified as confidential or proprietary information at the time of disclosure or which may reasonably be regarded as the confidential or proprietary information of that party and shall include without limitation Your Content and Our Software, Services, Documentation and Keys.

Cloud Services: means the hosting or other services relying on the cloud services made available by Us as part of the Service.

Content: the data and information submitted electronically by Your End Users, by You or for You to the Services or collected and processed by or for You in your use of the Services.

Documentation: the document(s) made available to You by Us which sets out a description of the Software and Services and the user instructions for the Services.

End User: means an end user customer of your Application.

Effective Date: the earlier of (i) the date you first download the Software or (ii) the date you execute an Order Form for the Services.

Force Majeure Event: acts, events, omissions or accidents beyond Our reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Us, Our associated companies or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, act of terror, Internet service provider failure or delay, denial of service attack, fire, flood or storm.

Key(s): has the meaning set out in section 1.3 of this Agreement.

Licence Term: the period you may use the Software and Services commencing on the date you execute the applicable Order Form and continuing for the period specified in the Order Form and any renewal of such Licence Term.

Order Form: an order form entered into between You and Us manually or by confirming Your order on Our website, detailing the Software and Services you have ordered and are to be provided hereunder, the fees You will pay and any additional terms.

OS: Android, iOS or any other mobile or stationary operating system;

Service App(s): the Android p2pkit services application and any other OS specific service software application kits made available by Us and downloaded from the applicable application store or provided by Us via our website;

Services: the use of the Software as a service and as applicable, access to use the Cloud Services and any other services made available by Us through our website, in accordance with this Agreement and as set out in the Order Form.

Software: the software We make available through Our website which is provided as a software as a service solution as further described on our website and as set out in the relevant Order Form which You license in accordance with this Agreement, including without limitation peer to peer (p2p) software developer kits, the binary versions of the p2pkit libraries made available by Us for the applicable OS, the p2pkit platform API and the Service Apps and any related Documentation.

Support: the standard support we provide for Our Software and Services, (including the provision of any standard maintenance updates we release for Our Software) in accordance with section 7 and the Support Policy, which will be provided to You after You execute an Order Form.

Support Policy: the then current Support and maintenance policy further detailing Uepaa's standard Support and maintenance offering, as may be amended from time to time by Uepaa at any time without prior notice.