

## IT MILL SOFTWARE LICENSE AGREEMENT

### 1. Definitions. As used in this Agreement:

- (I) "**Server**" means a JVM (Java Virtual Machines) that delivers presentation logic using IT Mill Toolkit to a web browser. This definition implies that one computer can contain multiple Servers as well as that one Server can utilise multiple processors.
- (II) "**Documentation**" means all online and offline help files, reference documents and written instruction manuals regarding the use of the Software.
- (III) "**Revision**" means a set of the Software in which detected shortcomings are being remedied, i.e. 4.0.1 < 4.0.2.
- (IV) "**Minor Version**" means a set of the Software in which in addition to possible corrections of detected shortcomings, small functional enhancements have been included, i.e. 4.1 < 4.2.
- (V) "**Major Version**" means a set of the Software in which substantial new -but successor- functionalities or other substantial changes are introduced, i.e. 4.0 < 5.0.
- (VI) "**Software**" means the source - and object code of the computer program(s) as well as style and theme definition files and digital images packaged in product distribution package specified in the applicable Product Order Form and distributed by IT Mill.
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**8. Default.** A party who fails to perform any obligation under this Agreement by the date provided in or under the Agreement, shall only be in default if the other party has given it written notice of default by registered letter and no performance has taken place within the reasonable period specified in the notice.

**9. Confidential Information.** Confidential Information of the other party will be used solely for the purpose of this Agreement and will not be directly or indirectly disclosed, by action or omission to any third party without the other party's prior written consent. Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. Nothing herein prevents Licensee from participating in routine discussions in a "IT Mill Software user group" context or the parties from divulging Licensee's intended use of the Software. Either party may refer to the other as either supplier or customer, as appropriate.

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**10. Payments.** In consideration of the rights granted herein, Licensee agrees to pay IT Mill the amounts ("the Fees") specified in the applicable Product Order Form(s). IT Mill's pricing reflects the allocation of risks and limitation of liability. Except as otherwise provided in the warranties section, the Fees are non cancelable and non-refundable and due and payable in full within thirty (30) days as of the date of purchase. All charges and fees provided for in this Agreement are exclusive of and do not include any VAT-taxes, similar governmental charges and Licensee agrees to reimburse IT Mill for the aforementioned taxes and charges (if any). Any amounts due not paid within thirty (30) days will be subject to interest of one (1) per cent per month, of which the interest will be immediately due and payable.

**11. Term and Termination.** The license commences on the date of purchase stated in the Product Order Form and will remain in force. IT Mill may forthwith terminate this Agreement only if: (i) Licensee breaches this Agreement and such breach is not cured within thirty (30) days after Licensee has been given written notice of such breach; or (ii) if Licensee terminates its business activities or becomes insolvent, is unable to pay its debts as they mature, makes an assignment for the benefit of creditors or becomes subject to direct control of a trustee, receiver or similar authority. No termination on the basis of this provision will entitle Licensee to a refund of any portion of the fees paid to IT Mill.

Maintenance services will start at the date of purchase and remain in force until a period of 1 year. The Maintenance services will automatically renew for all available offerings at the end of the first Term and any subsequent Terms unless Licensee has provided IT Mill with a written termination notice of its intention not to renew the Subscriptions at least thirty (30) days prior to the expiration of the then current Maintenance Term. No termination on the basis of this provision will entitle Licensee to a refund of any portion of the Maintenance fees already paid to IT Mill. Termination will not affect either party's obligations regarding Confidential Information, payments, limitations of liability, and/or applicable law, which provisions will survive termination of this license. Upon termination of this license, Licensee agrees to forthwith discontinue any use of the Software, related Documentation, Confidential Information and derivative works or copies thereof. Licensee agrees to then supply IT Mill with a License Agreement signed by an executive officer of Licensee verifying that this provision has been complied with.

**12. Waiver.** Any waiver of the provisions of this Agreement, or rights of either party must be in writing to be effective. Failure or delay to

enforce any such rights, will not be construed as a waiver and will not affect the validity (in whole or in part) of this Agreement or prejudice such party's right to take subsequent action.

**13. Severability.** If any provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties will in good faith agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid provision will be severed from the remaining provisions, which will continue to be valid and enforceable to the fullest extent permitted by applicable Law.

**14. Standard terms.** No terms or conditions of any purchase order, acknowledgement or other business form that Licensee may use in connection with the acquisition or licensing of the Software and related services will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of IT Mill to object to such terms, provisions or conditions.

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