

AIMMS SOFTWARE LICENSE AGREEMENT

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1. Definitions

"Affiliate" means any entity that, directly or indirectly, is controlled by one of the parties at the time of signing of this Agreement. Such an entity will be deemed to be an "Affiliate" only as long as such control exists. The term "control" means possession, directly or indirectly, of the power to direct management or policies (whether through ownership of securities, partnership or other ownership interests, by contract or otherwise). Upon request, each party agrees to confirm to the other the Affiliate status of a particular entity.

"Agreement" means this Software License Agreement, all Order Forms, the Service Level Statement and any amendments, annexes or supplements thereto.

"AIMMS" means the AIMMS legal entity as specified in the applicable Order Form.

"Authorized User" means an individual who is (a) an employee, a consultant, a contractor, an agent of Customer or an Affiliate, (b) authorized by Customer to access and use the Software and/or Service on behalf of Customer for Customer's internal business purposes, (c) assigned unique user identification and login credentials, and (d) bound by confidentiality, use and restriction obligations no less protective than those in this Agreement.

"Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and/or the circumstances of disclosure. AIMMS' Confidential Information includes, without limitation, the Services and the Software; Customer's Confidential Information includes, without limitation, its supply chain data. Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a bona fide third party without breach of any obligation owed to the Disclosing Party, (iv) was independently developed by the Receiving Party, or (v) is disclosed pursuant to legal requirements or order.

"Change of Control" means any transaction or series related transactions resulting in: (i) any person or entity acquiring, directly or indirectly more than fifty percent (50%) of the outstanding voting securities or ownership interests of Customer; (ii) a merger, consolidation, spin-off or reorganization of Customer in which the shareholders of Customer immediately prior to such transaction hold less than fifty percent (50%) of the outstanding voting securities of the surviving entity immediately after such transaction; or (iii) the sale or transfer of all or substantially all of the assets of Customer to a third party.

"Customer" means the customer entity as specified in the applicable Order Form.

"Data Protection Legislation" means laws and regulations applicable to the processing of personal data under this Agreement, including (without limitation) the General Data Protection Regulation (EU) 2016/679; and any other applicable national implementing laws, regulations and secondary legislation, as amended or updated from time to time. "Data Subject", "Controller", "Processor" and "Personal Data" shall each have the meanings as defined in the Data Protection Legislation.

"Documentation" means materials, in written or other tangible form (including on magnetic media) provided by AIMMS that describe the Software's functional and/or technical specifications, which may include user guides, installation instructions, and operation guides.

"Effective Date" means the date this Agreement is signed by the parties, or if unsigned, the date set forth in the applicable Order Form.

"End Beneficiary" means a third-party for whom Customer collects, analyses and reports data via the Software. For the avoidance of doubt, Customer may not make the Software or Service available to End Beneficiaries.

"Non-Production Environment(s)" means any system environment that is made available solely for testing, validation and configuration purposes. The Non-Production Environment is intended to allow users to test system settings, integrations, and workflows prior to deployment in a live, operational environment.

"On Premise Software" means Software delivered by AIMMS to Customer for installation and operation on Customer's own hardware or infrastructure, licensed under the terms of this Agreement and the relevant Order Form.

"Order Form" means the ordering documents for Customer's purchases from AIMMS entered into between parties or AIMMS quotation accepted by the Customer, specifying the Software, Services and/or other deliverables provided under this Agreement. Each Order Form shall reference and be deemed incorporated into this Agreement.

"Service / Hosted Service (SaaS)" means the provision by AIMMS of access to and use of the Software (excluding On Premise Software) via hosting on infrastructure made available to Customer through the internet or by other means of access designated by AIMMS.

"Software" means the AIMMS software products (including any updates or new releases) as specified in the applicable Order Form and made available to Customer provided either as an On Premise Software or as Service. The Software may incorporate Third Party Data or open-source components, which remain subject to their respective license terms.

"Subscription" means the temporary, revocable, non-exclusive and non-transferable right to use the Software and/or Service, granted pursuant to the Order Form, which shall distinguish between (i) an On Premise Software license and (ii) access to AIMMS hosted Software as a SaaS.

"Subscription Term" means the agreed period during which the Customer is entitled to use the Software and/or Service under a Subscription, as specified in the applicable Order Form.

"Third Party Data" means any data, content, or information that are sourced from external data providers, databases, APIs or feeds not owned or controlled by AIMMS and incorporated into or made available through the Software or Service.

2. Access to Software and Service

- 2.1 Subject to the terms of this Agreement, AIMMS grants to Customer a temporary, revocable, non-exclusive and non-transferable subscription-based license to access and use the Software for analyzing and optimizing Customer's own assets and data during the Subscription Term, and as specified in the applicable Order Form. In particular, the following shall apply:

For Service: AIMMS provides remote access to the Software through hosting on AIMMS' infrastructure, enabling access via the internet. All maintenance, uptime, and support services of AIMMS are governed by the Service Level Statement and applicable Order Form.

For On Premise Software: Customer is licensed to install and operate the Software solely on its own infrastructure. AIMMS delivers installation files and Documentation. Therefore, Customer is responsible for installation, configuration, implementation of updates, and technical requirements, except as otherwise provided.

- 2.2 Where the Customer purchases both On Premise Software and Service, the applicable terms apply separately to each delivery model, unless stated otherwise in the Order Form or this Agreement.
- 2.3 If Customer has ordered the Service, AIMMS shall host the Software at locations as may be designated by AIMMS from time to time and allow Customer and its Authorized Users to access and use the Software according to the terms of this Agreement.
- 2.4 Customer may permit its Affiliates to access and use the Software in accordance with the terms of this Agreement and Order Form and solely for Customer's own internal projects and business purposes, provided that Customer shall be responsible for compliance by such Affiliate with this Agreement.
- 2.5 When relevant, Customer may allow consulting and/or implementation firms to access and use the Software in accordance with the terms of this Agreement and solely for the purpose of servicing Customer's projects, provided that Customer shall be responsible for compliance by such consulting and/or implementation firms with this Agreement.
- 2.6 Limitations with respect to users, accounts, licensed scope and other matters regarding Customer's use of the On Premise Software and/or Service shall be set forth in the applicable Order Form.
- 2.7 If Customer provides consulting or implementation services to its own End Beneficiaries, Customer may access and use the Software for analyzing and optimizing data solely for the business purposes of such End Beneficiaries.

3. Intellectual Property Rights

- 3.1 All rights, titles and interests in and to the Software and Service, Documentation and any Confidential Information made available by AIMMS to the Customer pursuant to this Agreement, including without limitation, all registered intellectual property rights (including all applications to register them) and all unregistered intellectual property rights (including patents, logos, trademarks, trade names, inventions, recipes, trade secrets, (technical) know how, and other similar rights related thereto, shall remain exclusively with AIMMS and its licensors, as applicable. Nothing in this Agreement shall operate to transfer or assign any intellectual property rights from AIMMS to Customer.
- 3.2 For the avoidance of doubt, all underlying software, source code, object code, architecture, algorithms, databases, user interfaces, APIs, Documentation and know-how of the Software or Service, and any improvements, enhancements, modifications, updates or new features to the Software or Service, whether developed in response to Customer feedback or otherwise, shall remain the exclusive intellectual property rights of AIMMS.
- 3.3 Customer shall, upon AIMMS's reasonable written request, execute all documents and take all actions reasonably necessary to give full effect to AIMMS's ownership of its intellectual property rights, including for the purposes of registration or enforcement under applicable law.

4. Use of Software and Service

- 4.1 Customer is responsible for its Authorized Users' compliance with this Agreement. Customer shall: (i) use reasonable efforts to prevent unauthorized access or use, and notify AIMMS promptly of any such unauthorized access or use; and (ii) comply with all applicable laws in using the Software and Service including without limitation all applicable export control regulations of the European Union and the United States of America and specifically it shall not permit users to access the Software in a EU or USA embargoed country or in violation of any EU or USA export law or regulation. Each party represents that it is not named on any government denied party list.
- 4.2 Customer shall use the Software and Service solely for its internal business purposes and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Software or Service available to any third party, other than to Authorized Users or as otherwise contemplated by this Agreement; (ii) attempt to gain unauthorized access to the Software, Service or its related systems or networks; or (iii) use the Software and Service outside or in excess of the licensed scope as set out in the applicable Order Form.

4.3 To the extent Customer has purchased from AIMMS:

(1) the Service. Customer shall not and shall not permit any Authorized User, or third party to:

- (i) access, use, reproduce, or create derivative works of the Service and/or Documentation except as expressly permitted under this Agreement;
- (ii) frame, mirror, scrape, or otherwise reproduce any portion of the Service, except as necessary for Customer's own internal business purposes as contemplated by this Agreement;
- (iii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code or underlying ideas, algorithms, structure, or know-how of the Service, except and only to the extent that applicable law expressly permits such activity;
- (iv) access the Service in order to (a) build a competitive product or service, or (b) copy any ideas, features, functions, or graphics of the Service;
- (v) use the Service for any purpose other than as expressly provided in this Agreement;
- (vi) remove, modify, or obscure any copyright, trademark, or other proprietary rights notices that appear on or in the Service and/or Documentation; or
- (vii) except as expressly permitted under Section 2, allow any third party to access or use the Service for any reason.

(2) On Premise Software. Customer shall not and shall not permit any Authorized User or third party to:

- (i) modify, adapt, translate, or create derivative works based on the On Premise Software, except as expressly permitted for Customers under Annex 1 (Bespoke Applications) of this Agreement;
- (ii) copy the On Premise Software, except for a reasonable number of copies solely as necessary for installation and archival/backup purposes as expressly permitted under this Agreement;
- (iii) distribute, sublicense, rent, lease, lend, sell, transfer, assign, timeshare, host, or otherwise make the On Premise Software available to any third party (including on a service bureau basis) except as expressly permitted under this Agreement;
- (iv) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or underlying ideas or algorithms of the On Premise Software, except and only to the extent that applicable law expressly permits such activity notwithstanding this restriction;
- (v) remove, modify, or obscure any copyright, trademark, or other proprietary rights notices that appear on or in the On Premise Software, Documentation, or any copies thereof;
- (vi) use the On Premise Software for any purpose or in any manner except as expressly authorized by this Agreement, including exceeding any licensed scope, metric, or usage restrictions;
- (vii) copy, reproduce, or distribute the Documentation or other written materials accompanying the On Premise Software, except strictly for Customer's internal use in connection with authorized use of the On Premise Software; or
- (viii) access or use the On Premise Software in order to (a) build a competitive product or service, or (b) copy any ideas, features, functions, or graphics of the On Premise Software.

4.4 Customer shall be responsible for the purchase, set-up, operation, maintenance and support of any and all software, hardware or other computer systems used by it to access and use the Software and Service, including without limitation maintenance of a local internet service provider. To the extent Customer requires an internet connection for proper use of the Software and Service, Customer shall be solely responsible for such internet connection, including without limitation all hardware, software and other equipment necessary to access the internet. The Service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. AIMMS shall not be responsible for any delays, delivery failures, or other damages resulting from such problems.

4.5 Customer acknowledges and agrees that Non-Production Environments may be used solely to test system integrity, configurations, and technical behavior. Customer shall not use any Non-Production Environment for production purposes, live operation or to derive business value.

5. Fees and Payment

5.1 Customer shall pay AIMMS all fees payable for the use of the Service, the Software and any other services purchased from AIMMS, as specified in the applicable Order Form. Payment obligations are non-cancellable, and fees paid are non-refundable, except (i) as explicitly set out in this Agreement or (ii) as required by mandatory applicable law. All fees are due and payable within the time as specified in the applicable Order Form. Fees will be invoiced by AIMMS as specified in the applicable Order Form. Any payment not made when due will bear interest from the date due until paid in full, at the maximum rate allowed under applicable law.

- 5.2 If any amount payable by Customer is thirty (30) days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies (including, without limitation, the right to charge interest pursuant to Section 5.1), AIMMS reserves the right to suspend the right to use or access the Software and the Service provided to Customer, without liability to Customer. Interest shall continue to accrue during any period of suspension. Suspension shall continue until all outstanding amounts (including accrued interest) are paid in full.
- 5.3 Customer has no right to set off any amounts owed to AIMMS against amounts claimed by Customer, except where such set-off rights arise from mandatory applicable law.
- 5.4 All prices are exclusive of taxes, if any, on the Software and the Service; all sales and use taxes required to be remitted by AIMMS shall be payable by Customer upon invoice by AIMMS. For multi-year orders, the fees will be yearly adjusted for inflation based on the Consumer Price Index published for The Netherlands (if AIMMS is invoicing in Euros) or for the USA (if AIMMS is invoicing in US Dollars).

6. Confidentiality

- 6.1 The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Authorized Users who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein.
- 6.2 Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this Section 6. Notwithstanding the foregoing, AIMMS may disclose the terms of this Agreement and any applicable Order Form to a subcontractor to the extent necessary to perform its obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein.
- 6.3 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- 6.4 Each Party's obligations under this Section 6 shall survive expiration or termination of the Agreement for a period of three (3) years.

7. Data Protection

- 7.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Section 7 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and AIMMS is the Processor. AIMMS Processes Personal Data for Customer to provide the Software, Service and related services as set forth in this Agreement, for as long as this Agreement is in effect.
- 7.2 Without prejudice to the generality of Section 7.1 above, Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to AIMMS for the purposes of this Agreement. Customer warrants that its processing instructions comply with applicable law and shall indemnify AIMMS against any claims arising from processing carried out in accordance with Customer's instructions.
- 7.3 Without prejudice to the generality of Section 7.1 above, AIMMS shall, in relation to any Personal Data Processed under this Agreement:
 - (i) process that Personal Data only on the written instructions of Customer, unless AIMMS is required by applicable laws to otherwise Process that Personal Data. Where AIMMS is relying on applicable laws as the basis for Processing Personal Data, AIMMS shall promptly notify Customer of this before performing such Processing, unless those applicable laws prohibit AIMMS from notifying Customer;
 - (ii) implement appropriate technical and organizational measures to protect Personal Data against unauthorized or unlawful Processing and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorized or unlawful Processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (iii) ensure that all personnel who have access to and/or Process Personal Data are obliged to keep the Personal Data confidential;
 - (iv) not transfer any Personal Data outside of the European Economic Area unless the written consent of Customer has been obtained, except that AIMMS may transfer Personal Data to any of its Affiliates and AIMMS's and its Affiliates' authorized data sub-processors if AIMMS has provided appropriate safeguards in relation to such transfer. AIMMS will notify Customer if AIMMS changes data sub-processors and Customer can object within fourteen (14) days to any changes;

- (v) assist Customer in responding to any request from a Data Subject and in ensuring compliance with Customer's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators. Customer shall reimburse AIMMS' reasonable costs for such assistance at AIMMS' then-current rates;
 - (vi) notify Customer without undue delay on becoming aware of a Personal Data breach;
 - (vii) at the written direction of Customer, delete or return Personal Data and copies thereof to Customer on termination of this Agreement, unless AIMMS is required by applicable law to store the Personal Data longer; and
 - (viii) maintain records to demonstrate its compliance with this Section 7.
- 7.4 AIMMS shall remain liable for acts or omissions of its sub-processors. AIMMS' liability arising under or in connection with this Section 7 shall be subject to the limitations set forth in Section 14 (Limitation of Liability).

8. Warranty

8.1 Each party represents and warrants that it has the legal power to enter into this Agreement. AIMMS represents and warrants that (i) it will provide the Service and other services as specified in an Order Form in a manner consistent with general industry standards reasonably applicable to the provision thereof; and (ii) it owns or otherwise has sufficient rights in the Software to grant to Customer the rights to use the Software granted herein.

8.2 To the extent Customer has purchased from AIMMS:

- (1) the Service: AIMMS warrants that, during the Subscription Term (the "Warranty Period" for Service), the Service will be provided substantially in accordance with the applicable Documentation and the service levels set forth in the Service Level Statement.

If the Service fails to conform to this warranty, Customer shall notify AIMMS in writing, providing reasonable details of the non-conformance sufficient to enable AIMMS to assess the issue. AIMMS shall use reasonable efforts to restore conformance.

If AIMMS is unable to remedy the non-conformance within a reasonable period, Customer may terminate the applicable Order Form upon fourteen (14) days' prior written notice to AIMMS. Upon such termination for cause, AIMMS shall refund any prepaid fees covering the period after the effective date of termination, calculated on a pro-rata basis.

- (2) On Premise Software: AIMMS warrants to Customer that, for a period of three (3) months from the date Customer first downloads the Software from the applicable website or otherwise receives the Software (the "Warranty Period" for On Premise Software), the Software will perform substantially in accordance with the Documentation.

If the Software fails to perform substantially in accordance with the Documentation during the Warranty Period, Customer shall notify AIMMS in writing within the Warranty Period, providing reasonable detail of the non-conformance sufficient to enable AIMMS to reproduce and assess the issue. Upon receipt of a valid warranty claim, AIMMS shall use reasonable efforts to repair or replace the Software to perform substantially in accordance with the Documentation.

If, after using reasonable efforts, AIMMS is not able to repair or replace the Software within a reasonable period, Customer may terminate the applicable Order Form upon fourteen (14) days' prior written notice to AIMMS. Upon such termination for cause, AIMMS shall refund Customer for the fees paid by Customer for the non-conforming Software. The foregoing are Customer's sole and exclusive remedies for breach of this warranty.

8.3 The warranties in this Section 8 do not apply, and AIMMS shall have no liability for, any non-conformance or issue arising from or related to: (a) issues arising from Customer's misuse of the Software or Service, or failure to comply with the Documentation (including proper installation) or AIMMS' reasonable instructions, (b) any modification, alteration, configuration change of the Software or Service by Customer or any third party not authorized by AIMMS, (c) use of the Software or Service in conjunction with non-AIMMS systems or third-party integrations not supported or approved by AIMMS; (d) any Third Party Data or (e) circumstances beyond AIMMS' reasonable control, including but not limited to failures of third-party infrastructure, internet connectivity issues, or Force Majeure events (Section 18.11).

8.4 EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, AIMMS MAKES NO WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE SOFTWARE, SERVICE OR OTHER SERVICES PROVIDED UNDER AN ORDER FORM, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION THAT THE SOFTWARE, SERVICE OR SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF OR ACCESS THERETO WILL BE ERROR FREE. TO THE GREATEST EXTENT ALLOWED BY APPLICABLE LAW, AIMMS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, EXCEPT TO THE EXTENT THAT ANY WARRANTIES OR REPRESENTATIONS IMPLIED BY APPLICABLE LAW CANNOT BE VALIDLY WAIVED.

8.5 AIMMS disclaims all warranties and liabilities arising from or related to any third-party products or services, or open-source products (regardless of whether obtained from AIMMS or another source).

9. Technical Support

- 9.1 AIMMS shall use reasonable efforts to maintain the service levels and uptimes as set out in the [Service Level Statement](#). AIMMS shall provide maintenance and technical support services as set out in the Service Level Statement updated from time to time to reflect new developments, technologies, changes in industry standards or applicable legal or regulatory requirements. AIMMS will communicate any material changes to Customer with at least sixty (60) days' prior written notice. The support and maintenance services described in the Service Level Statement are included in the fees payable for the use of the Service and/or the Software. If Customer desires to receive maintenance and support services outside of the services described in the Service Level Statement, such services may be arranged according to terms and conditions separately agreed between AIMMS and Customer.
- 9.2 AIMMS continuously develops, improves, and releases new versions of the Software. In order to ensure optimal performance, security, and access to the latest functionality, Customer acknowledges and agrees that it is responsible for maintaining its use of the Software on a reasonably recent version as further specified in the Service Level Statement.
- 9.3 AIMMS is not obligated to provide any technical support or maintenance for third-party products or services, or open-source products (regardless of whether obtained from AIMMS or another source), including without limitation Customer's networks or installation of networks.
- 9.4 To the extent AIMMS is providing any other services to Customer in connection with the Software or Service under an Order Form, including training or professional services, the terms and conditions of Annex 3 shall apply to the provision of such services.
- 9.5 Customer acknowledges and agrees that AIMMS's employees are a valuable asset to AIMMS and are difficult to replace. Accordingly, Customer agrees that, during the term of this Agreement and for a period of one (1) year thereafter, Customer shall not solicit, recruit or offer employment or engagement (whether as an employee, independent contractor or consultant) to, or hire, any of AIMMS's employees. Customer agrees that if it violates the terms of this Section 9.5, it will immediately pay AIMMS, as liquidated damages and not as a penalty, a sum equal to the gross annual salary most recently paid by AIMMS to the employee solicited or hired by Customer. An individual's response to a broad and general advertisement or solicitation not specifically targeting or intending to target employees of AIMMS or any Affiliates shall not be deemed a violation of this Section 9.5.

10. Verification

- 10.1 AIMMS may audit Customer's use of the Software and the Service in order to verify compliance with the terms of this Agreement, including, without limitation, electronic auditing means, at any time during the term of this Agreement. Customer shall reasonably cooperate with any such audit and provide access to relevant records and systems. If an audit yields any deficiency in the amounts paid to AIMMS, AIMMS shall notify Customer in writing and Customer shall pay such amounts within thirty (30) days of such notice. Any amount not paid within this period shall bear interest from the due date until paid. In case Customer does not pay any such amount within thirty (30) days, in addition to any of its other rights or remedies, AIMMS reserves the right to suspend the right to use or access the Software and the Service provided to Customer, without liability to Customer, until such amounts are paid in full. If an audit reveals underpayment exceeding five percent (5%) of the amounts due for the audited period, Customer shall also reimburse AIMMS' reasonable audit costs.

11. Fair Use Policy

- 11.1 The use of Software and Service by Customer is subject to AIMMS' Fair Use Policy, which defines reasonable usage thresholds and related measures to ensure equitable use of Software and Service. The applicable Fair Use Policy shall be documented in Annex 4 (Fair Use Policy) and updated by AIMMS from time to time.

12. Use of AI systems

- 12.1 Use of AI systems by AIMMS: AIMMS may use AI technologies as part of the Service and Software to operate, support, and improve the functionality of the Service and Software, and to generate outputs in response to Customer inputs, as further specified in Annex 5 (Use of AI by AIMMS).
- 12.2 Use of AI systems by Customer and Authorized Users: certain features of the Software and Service are powered by artificial intelligence and large language models (LLM) technology. The use of such AI systems by Customer and its Authorized Users is subject to the Terms of Use set out in Annex 6 (Terms of Use of AIMMS AI Systems by Customer and Authorized Users).

13. IP Infringement

- 13.1 AIMMS shall, at its sole cost and expense, defend and settle any claim brought by a third party against Customer alleging that the Software infringes any patent, trade secret, trademark or copyright of any third party ("**Infringement Claim**"), provided that Customer: (a) notifies AIMMS promptly in writing of the claim; (b) gives AIMMS the sole and exclusive right to defend and settle any Infringement Claim; and (c) provides reasonable cooperation to AIMMS.
- 13.2 In the event of an Infringement Claim, AIMMS shall also have the right, at its sole cost and expense, to (i) repair or replace the Software so that it is non-infringing (providing the repaired or replacement software has the same or substantially similar functionality as the Software); or (ii) acquire a license for Customer to continue to use the Software. If neither (i) nor (ii) are reasonably possible to AIMMS, then AIMMS may terminate the applicable Order Form upon written notice and pay to Customer an amount equal to the total fees paid by Customer for the affected Software in the twelve (12) month period immediately preceding such termination. This Section states Customer's sole and exclusive remedy, and AIMMS's sole and exclusive obligation, with respect to an Infringement Claim.

13.3 AIMMS shall have no obligations under this Section 13 to the extent that Customer modifies (or has modified on its behalf) the Software, or combines the Software with other software, hardware or other technology not provided or authorized by AIMMS, or the claim arises from the use of the Software outside the scope of this Agreement.

14. Limitation of Liability

14.1 AIMMS SHALL NOT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOSS OF REVENUE, PROFITS, OR DATA, OR ANY BUSINESS INTERRUPTION IN CONNECTION WITH THE SOFTWARE OR SERVICE OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT, EVEN IF AIMMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14.2 AIMMS'S MAXIMUM CUMULATIVE LIABILITY FOR ANY AND ALL DAMAGES, COSTS, LOSSES, LIABILITIES AND EXPENSES OF ANY KIND AND NATURE ARISING OUT OF OR RELATED TO THIS AGREEMENT INCLUDING INDEMNITIES SHALL NOT EXCEED THE TOTAL FEES PAID BY CUSTOMER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE.

14.3 THE EXCLUSIONS IN THIS SECTION SHALL APPLY TO THE FULLEST EXTENT PERMISSIBLE AT LAW, BUT AIMMS DOES NOT EXCLUDE LIABILITY CAUSED BY ITS WILFUL INTENT OR GROSS NEGLIGENCE OR FOR ANY OTHER LIABILITY WHICH MAY NOT BE EXCLUDED BY LAW.

15. Term and Termination

15.1 This Agreement commences on the Effective Date and will remain in force unless earlier terminated in accordance with Section 15.3. Termination of this Agreement will not affect any Order Forms that were already signed before such termination. These Order Forms will be executed in accordance with, and will remain subject to, the terms of the Agreement.

15.2 Unless otherwise agreed by the Parties, an Order Form shall automatically terminate without any notice being due at the end date of the Subscription Term, unless earlier terminated in accordance with Section 15.3.

15.3

(a) AIMMS may terminate this Agreement or an Order Form immediately upon written notice if Customer directly or indirectly discloses or provides the Software or the Service available to any third party not authorized under the terms of this Agreement.

(b) Customer may terminate the Agreement or an Order Form for cause in accordance with Section 8.2 of this Agreement.

(c) AIMMS may terminate the Agreement or an Order Form upon thirty (30) days prior written notice if Customer materially breaches this Agreement or an Order Form and fails to cure such breach within the thirty (30) day notice period, including without limitation Customer's failure to pay the then-current fees when due.

(d) Either party may terminate this Agreement or an Order Form immediately upon written notice if the other party: (i) permanently ceases to operate its business, (ii) makes an assignment for the benefit of its creditors, (iii) has a petition of bankruptcy filed by or against it, (iv) has a receiver, trustee in bankruptcy, or similar officer appointed to take control of all or part of its business, or (v) is adjudicated bankrupt or insolvent.

15.4 Upon termination or expiration of this Agreement or the applicable Order Form:

(a) Customer shall immediately cease using the Software and the Service,

(b) Customer shall return or destroy all of the copies of AIMMS' Confidential Information (including the Software) residing on its computers, networks and/or systems and certify in writing that it has done so and has not retained any copies,

(c) AIMMS shall delete the data stored and/or updated by Customer within the AIMMS hosted cloud environment through which AIMMS provides the Service within thirty (30) days,

(d) in the event of termination of an Order Form by Customer in accordance with Section 15.3(b) and thus Section 8.2, Customer has the right to request a pro-rata refund of any prepaid fees covering the remainder of the Subscription Term after the effective date of termination (for Service), or a refund of the fees paid for the non-conforming Software (for On Premise Software).

(e) AIMMS's obligations thereunder shall cease.

15.5 The provisions of Sections 1 (Definitions), 3 (Intellectual Property), 4.3 (Restrictions on Use of Software and Service), 5 (Fees and Payment), 6 (Confidentiality), 7 (Data Protection), 8 (Warranty), 9.5 (Non-Solicitation), 11 (Fair Use Policy), 14 (Limitation of Liability), 15.4 (Effects on Termination), 15.5 (Survival), 16 (End of Life), and 18 (Miscellaneous) shall survive any termination or expiration of this Agreement.

16. End of Life

AIMMS reserves the right, at its sole discretion and as part of its ongoing product lifecycle management, to modify, replace, or discontinue any Software, Service, feature, module, component, or functionality, in whole or in part, at any time (“End of Life” or “EOL”).

- 16.1 AIMMS will use reasonable efforts to inform Customer of any material End of Life decision at least twelve (12) months in advance of the effective EOL date. Such notice will be provided through reasonable commercial means, including written communication or publication on AIMMS’ customer or support portals. Notwithstanding the foregoing, AIMMS reserves the right to deviate from this notice period where reasonably necessary in its reasonable discretion due to technical, legal, security, regulatory, commercial or other business circumstances.
- 16.2 Where reasonably practicable, AIMMS intends to propose a commercially reasonable alternative, replacement, or migration path for any Software or component subject to End of Life. Any such alternative may consist of a substantially similar feature, successor functionality, or revised architecture. Unless expressly agreed otherwise in writing, AIMMS does not warrant functional parity, compatibility, or suitability for Customer’s specific use case, and Customer acknowledges that alternatives may differ materially from discontinued Software or components.
- 16.3 For Software or components designated as business-critical, AIMMS may, at its sole discretion, offer extended maintenance or support beyond the End of Life date under separate terms and conditions and against a deviating service or maintenance fee. AIMMS is under no obligation to offer such extended support.
- 16.4 Unless otherwise specified, AIMMS’ maintenance and support obligations during the EOL notice period shall be limited to generally available maintenance and support as defined in the current applicable Support Policy of AIMMS and may exclude new feature development for Software or components approaching End of Life.
- 16.5 If the End of Life of a Software component materially reduces the value of the licensed Software as a whole and no reasonable alternative is made available, the Customer’s sole and exclusive remedy shall be limited to the rights expressly set out in this Agreement (Sections 8.2 and 15.3(b)), if any, and AIMMS shall have no further liability arising from such End of Life.
- 16.6 End of Life of any Software or component shall not entitle Customer to any refund, credit, or price reduction, unless expressly agreed otherwise in writing.
- 16.7 If End of Life is caused by or related to the discontinuation, modification, or unavailability of any third-party product, service, or component, AIMMS shall have no liability therefor.
- 16.8 AIMMS shall not be liable for any direct, indirect, incidental, consequential, or special damages arising from or related to any End of Life decision, including without limitation loss of data, business interruption, or costs of migration to alternative solutions. Customer’s sole remedy is set forth in Section 16.5.

17. Applicable Law and Forum

- 17.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with:
 - (i) the laws of the Netherlands in the event that the AIMMS entity on the applicable Order Form is AIMMS B.V. or AIMMS Pty Ltd.; or
 - (ii) the laws of the State of New York in the event that the AIMMS entity on the applicable Order Form is AIMMS Inc.
- 17.2 Any dispute arising out of or in connection with this Agreement that cannot be amicably resolved between the parties shall be settled:
 - (i) in the event that the AIMMS entity on the applicable Order Form is AIMMS B.V. or AIMMS Pty Ltd., in accordance with the Arbitration Rules of the Netherlands Arbitration Institute. The arbitral tribunal shall be composed of one arbitrator; or
 - (ii) in the event that the AIMMS entity on the applicable Order Form is AIMMS Inc., in accordance with the rules of Judicial Arbitration and Mediation Services, Inc. (“JAMS”).
- 17.3 The United Nations International Convention on Contracts for the International Sale of Goods is expressly excluded from applicability to this Agreement.

18. Miscellaneous

- 18.1 This Agreement, including the applicable Order Form(s), constitutes the entire agreement between the parties, superseding all prior oral or written representations, agreements or understandings with respect to the subject matter hereof and thereof. There are no representations, warranties, conditions, guarantees or agreements relating to such subject matter except those expressly stated in this Agreement. To the extent there is any conflict between the terms of this Agreement and the applicable Order Form(s), the terms of the Order Form shall prevail.
- 18.2 Customer shall not sell, transfer, sublicense, assign or otherwise convey this Agreement, or any of Customer’s rights or obligations hereunder without the prior written consent of AIMMS, which consent shall not be unreasonably delayed or withheld.

- 18.3 Customer shall provide AIMMS with written notice of a Change of Control no later than ten (10) business days prior to the closing of such transaction, or, if prior notice is not practicable, as soon as practicable upon closing but no later than thirty (30) days after the closing of such transaction. Continued use of the Software and/or Service following a Change of Control shall require the prior written consent of AIMMS, which consent shall not be unreasonably delayed or withheld. AIMMS may condition its consent on execution of a new or amended agreement, including adjustments to fees and scope of use. If AIMMS does not provide its written consent within sixty (60) days following receipt of Customer's notice, AIMMS shall be entitled to terminate this Agreement upon thirty (30) days' written notice to Customer.
- 18.4 AIMMS reserves the right to assign, transfer, subcontract or delegate all or any part of its rights or obligations under this Agreement to any of its Affiliates at any time with or without notice to Customer. AIMMS agrees to be responsible for the acts and omissions of its Affiliates to the extent AIMMS assigns, transfers, subcontracts or delegates any of its obligations hereunder to them.
- 18.5 Neither party shall make any disclosure to any other person or issue any press release or other public announcement regarding this Agreement or any relationship between AIMMS and Customer or use the name, trademarks or other proprietary identifying symbol of the other party, without the other party's prior written consent, except that AIMMS may identify (by name and/or logo) Customer as a customer of AIMMS in a mere list of customers on its website and in related marketing materials, unless and until Customer revokes such consent.
- 18.6 Nothing in this Agreement is intended to or shall be construed as creating an agency, partnership, joint venture, franchise, or employment relationship between Customer and AIMMS or any person or entity affiliated with or employed by AIMMS.
- 18.7 Customer agrees that certain breaches of this Agreement by it may result in irreparable harm to AIMMS, the extent of which would be difficult and/or impracticable to assess, and where money damages would not be an adequate remedy for such breach. Accordingly, AIMMS shall be entitled to seek any and all remedies available at law or in equity, including without limitation injunctive relief or specific performance.
- 18.8 This Agreement may not be amended except in a writing signed by authorized representatives of both parties.
- 18.9 The failure of either party to enforce any provision or condition contained herein at any time will not be construed as a waiver of that provision or condition nor will it operate as a forfeiture of any right or future enforcement of the provision or condition.
- 18.10 If any provision of this Agreement, or the application of any provision to any party or circumstance, is held invalid, the remainder of this Agreement, and the application of the provision other than to the extent it is held invalid, will not be invalidated or affected.
- 18.11 AIMMS will not be in breach of this Agreement if its performance is prevented or delayed for circumstances beyond its control, including but not limited to acts of God, inclement weather, flood, lightning or fire, strikes or other labour disputes or industrial action, act or omission of government or other competent authority, pandemic, terrorism, war, riot, or civil commotion, unavailability of supply or power outage, hackers, viruses, disruption in transmission, or disruption in telecommunications services ("Force Majeure").
- 18.12 No one other than a party to this Agreement shall have any right to enforce any of its terms.

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ANNEX 1 BESPOKE APPLICATIONS

If Customer has purchased licenses for AIMMS Development (or equivalent functional product if the name changes) as part of On Premise Software, then the following supplemental terms to the Agreement shall apply:

1. Subject to the limitations stated in the Agreement, Customer may use the On Premise Software to create, either itself or by an authorized AIMMS implementation partner, one or more models and bespoke applications that address a specific Customer issue (hereinafter "Bespoke Application").
2. All right, title and interest in and to the Bespoke Application shall vest in Customer. However, the aforesaid shall in no event imply a transfer to Customer of rights, title and interest in and to the On Premise Software or to any materials, (development-) products, methods, techniques that enables the creation and publishing of the Bespoke Application(s).
3. AIMMS SHALL HAVE NO LIABILITY OR OBLIGATION ARISING FROM OR WITH RESPECT TO ANY BESPOKE APPLICATION.
4. Customer shall indemnify, defend and hold AIMMS harmless from and against any and all losses, damages, costs and expenses (including reasonable attorneys' fees) incurred by it in connection with claims made or brought against AIMMS alleging that the Bespoke Application infringes any patent, trade secret, trademark or copyright of any third party.
5. For the avoidance of doubt, nothing prevents AIMMS to develop and to bring to the market, (by means of its own independent development efforts and in response to generic market opportunities), standard software applications that include functions and capabilities that happen to also be present in a Bespoke Application.

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ANNEX 2 Open-Source Solvers

If AIMMS makes available to Customer means of access to embedded third-party supplier components such as additional mathematical solvers in the form of opensource software ("OS Solvers"), such availability is to be regarded a service convenience to Customer and the below conditions apply to the OS Solvers and any use thereof and are accepted and approved by Customer and by all persons accessing or using any of the OS Solvers pursuant to this Agreement.

Customer's use of the OS Solvers is subject to the OS Solvers contractual terms referenced in or accompanying such OS Solvers. AIMMS can at any time discontinue or stop making the OS Solvers available to Customer.

If Customer does not agree to all of the following terms and conditions (both accompanying the OS Solvers and those following below), neither Customer nor any person acting by, for or through Customer may use, access, or distribute the OS Solvers in any way. Customer further agrees to indemnify, defend and hold harmless AIMMS and any of AIMMS's suppliers for any loss, injury or damage sustained by AIMMS and/or such supplier as a result of Customer's breach of any of the terms or conditions of this Section or of any license agreement or conditions of use pertaining to the use of any such OS Solvers.

- i. The OS Solvers are separate from and not part of the Software;
- ii. No assurances, express or implied, are provided by AIMMS or by the originator of or any contributor to any of the OS Solvers regarding whether any of the OS Solvers does or does not infringe the patent or intellectual property rights of any other person or entity;
- iii. Any liability for claims brought by any person or entity alleging infringement of intellectual property rights or otherwise relating to or arising from use or presence of any of the OS Solvers is expressly and specifically disclaimed both by AIMMS and by the originator thereof;
- iv. As a condition to exercising the right to access and use the OS Solvers, both Customer and user of the OS Solvers assume sole responsibility to secure any intellectual property rights needed, if any, for use of the OS Solvers beyond the rights to use the OS Solvers in conjunction with Customer's use of the Software; for example (but not by limitation on the foregoing), if a third party patent license is required to allow Customer or any Authorized User of the Software to use or distribute the OS Solvers or any derivative work based thereon, it is the sole responsibility of Customer or such user to acquire such license.
- v. Customer, by accessing or using the OS Solvers irrevocably acknowledges and agrees that AIMMS and all persons or entities that have distributed the OS Solvers (including such persons and entities who have distributed the OS Solvers to AIMMS) fully and unconditionally disclaim all warranties and conditions, express and implied, including warranties or conditions of title and non-infringement, and implied warranties of merchantability and fitness for a particular purpose, and Customer and all persons accessing or using the OS Solvers accept and agree to such disclaimers, acknowledging that, but for their acceptance of such disclaimers, the OS Solvers would not be made accessible in conjunction with AIMMS' delivery of the Software;
- vi. Customer and all users of the OS Solvers further irrevocably agree they shall have no claim against AIMMS or against any person or entity contributing or providing the OS Solvers or any part thereof any liability of any nature, for damages, including direct, indirect, special, incidental and consequential damages such as lost profits;
- vii. Customer irrevocably agrees for itself and any person using the OS Solvers that it shall not remove or alter any copyright notices contained within the OS Solvers;
- viii. Neither Customer nor any person accessing the OS Solvers through Customer shall modify any of the OS Solvers;
- ix. THE OS SOLVERS ARE PROVIDED STRICTLY ON AN "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Each user of the OS Solvers is solely responsible for determining the appropriateness of using and, if applicable, distributing the OS Solvers and assumes all risks associated with his, her or its exercise of rights under this Agreement pertaining to the OS Solvers, including but not limited to the risks and costs of program errors, compliance with applicable laws, damage to or loss of data, programs or equipment, and unavailability or interruption of operations;
- x. CUSTOMER ACKNOWLEDGES AND AGREES THAT NEITHER AIMMS NOR ANY ORIGINATOR OF OR CONTRIBUTOR TO THE OS SOLVERS SHALL HAVE ANY LIABILITY FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OR DISTRIBUTION OF THE OS SOLVERS OR THE EXERCISE OF ANY RIGHTS GRANTED IN THE OS SOLVERS UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES;
- xi. For the avoidance of doubt, Customer's indemnification obligations under this Agreement shall apply for any breach of this Section or any matters arising hereunder;
- . Each and all of the foregoing terms and conditions shall survive termination or expiration of this Agreement or the license.

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ANNEX 3 Professional Services

1. Additional Definitions

(a) Capitalized terms used in this Annex that are not otherwise defined herein have the meaning set forth in the Agreement.

2. Services

(a) The parties anticipate that Customer may desire to engage AIMMS to perform certain services in connection with the licenses or access rights granted to Customer by AIMMS under the Agreement, including, by way of example, training, installation, data cleansing and validation, configuration and/or customization of the Software. Subject to the terms and conditions set forth in this Annex, AIMMS shall use commercially reasonable efforts to perform the services as set forth in any Order Form.

(b) In the event that Customer requests that AIMMS performs services, the applicable Order Form shall describe the services and the fees, costs and expenses payable by Customer to AIMMS in connection with the performance of such services.

(c) Customer may at any time request a modification to the services to be performed pursuant to any particular Order Form by written request to AIMMS specifying the desired modifications. AIMMS shall, within a reasonable time following receipt of such request, submit an estimate of the cost for such modifications and a revised estimate of the time for performance of the services pursuant to the Order Form. If accepted in writing by Customer, such modifications in the Order Form shall be performed under the terms of this Annex. Modifications in any Order Form shall become effective only when a written change request is executed by authorized representatives of both parties.

(d) In case the applicable Order Form states that the services are subject to an acceptance procedure, the following shall apply. Upon AIMMS' completion of the services or Deliverables (as defined in Section 5 below), AIMMS shall notify Customer in writing and Customer shall have five (5) business days to either accept the services or Deliverables or reject them by providing AIMMS with a written notice of exceptions ("Notice of Exceptions"). If Customer fails to provide AIMMS with a Notice of Exceptions within such period, the services and/or Deliverables will be deemed accepted without any further act required by either party. Within ten (10) business days of receiving a Notice of Exceptions from Customer, AIMMS shall submit a plan to correct any deficiencies in the services/Deliverable and shall use commercially reasonable efforts to correct and re-submit the Deliverable/re-perform the services for acceptance in a timetable agreed to by the parties. Re-performed services and/or re-submitted Deliverables shall be subject to the same acceptance procedures set forth in this section.

3. Personnel

(a) AIMMS shall assign employees and subcontractors with qualifications suitable for the work described in the relevant Order Form. AIMMS may replace or change employees and subcontractors in its sole discretion with other suitably qualified employees or subcontractors.

(b) Customer shall make available in a timely manner at no charge to AIMMS all technical data, computer facilities, programs, files, documentation, test data, sample output, or other information and resources required by AIMMS for the performance of the services. Customer shall be responsible for, and assumes the risk of, any problems resulting from, the content, accuracy, completeness and consistency of all such data, materials and information supplied by Customer. Customer shall be responsible for preparation of its facilities and all reasonable costs thereof as required for proper installation of the Software. Customer shall be responsible for ensuring that the system requirements set out in the sales proposal / quotation for installation and implementation of the Software are in place and for maintaining a proper operating environment for the Software.

4. Fees; Payments

(a) In consideration of the services, Customer shall pay AIMMS such fees as required by the applicable Order Form or as set forth in the applicable sales proposal / quotation. If services are performed at the Customer site, AIMMS' travel related expenses incurred will be billed to and paid by Customer. All fees are due and payable within the time as specified in the applicable Order Form. Fees will be invoiced by AIMMS as specified in the applicable Order Form.

(b) For any services that are provided on a subscription basis, AIMMS may increase the fees for such services as specified in the applicable Order Form.

5. Intellectual Property Rights

(a) Except to the extent that the same constitutes or embodies Customer's Confidential Information, ownership of all work product, developments, inventions, technology or materials (collectively, the "Deliverables") resulting from services performed in connection with this Annex shall be solely owned by AIMMS, including without limitation all intellectual property rights therein and thereto; provided, however, that Customer shall have a limited right and license to use such Deliverables consistent with its license rights set forth in the Agreement.

6. Limitation of Warranties and Liability

(a) AIMMS warrants that the services performed under this Annex will be performed in a professional and workmanlike manner and further warrants that it has the required skills and experience to perform the services set forth in the specific Order Form. Any claim for breach of this warranty must be made in writing within thirty (30) days of completion of the service.

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(b) Except as set out in this section 6, AIMMS makes no further representations or warranties regarding the services performed in connection with this Annex or any Deliverables resulting therefrom, and Customer acknowledges that this Annex is subject to all disclaimers and limitations on liability set forth in the Agreement.

7. Term; Termination

(a) This Annex commences on the Effective Date and shall remain in effect so long as the Agreement is in effect.

(b) Either party may, at its sole option and for its own convenience, terminate the services as set out in an Order Form in effect upon thirty (30) days prior written notice. Upon such termination, AIMMS shall inform Customer of the extent to which performance has been completed through such date. Customer shall pay AIMMS for all work performed and expenses incurred through the date of termination. Customer shall also promptly pay AIMMS all amounts due and outstanding up to the effective date of termination.

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ANNEX 4 Fair Use Policy

1. Fair Use of Cloud Resources

Customer's use of cloud-based resources provided under this Agreement is subject to a fair use allowance ("**Fair Use Limit**").

The Fair Use Limit will be specified in the applicable Order Form and is determined based on the total Annual Recurring Revenue ("**ARR**") of the Agreement. Unless otherwise agreed in writing, the Fair Use Limit shall be set at eight percent (8%) of the ARR, expressed as an equivalent monetary value of cloud consumption costs.

For illustrative purposes only:

- An ARR of €100,000 includes a Fair Use Limit equivalent to €8,000 in cloud consumption costs.
- Based on an indicative rate of €0.30 per GB-hour, this corresponds to approximately 160,000 GB-hours of usage.

Cloud consumption in excess of the Fair Use Limit may be subject to additional fees at the rates specified in the Order Form or otherwise agreed between Parties.

AIMMS reserves the right to monitor usage and to notify Customer when consumption approaches or exceeds the Fair Use Limit.

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ANNEX 5 Use of AI systems by AIMMS

1. Definitions

“**Artificial Intelligence**” or “**AI**” means any technology that enables systems to perform tasks that typically require human intelligence, including generating content, predictions, recommendations, or decisions based on input data. AI includes, without limitation, machine learning, deep learning, generative AI, natural language processing, and large language models.

“**AI system(s)**” means a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.

“**AI Inputs**” means Customer Data provided to the Service and Software, including data input into AI systems.

“**AI Outputs**” means any result generated by an AI system in response to AI inputs.

“**Customer Data**” means any data or information that Customer or its Authorized Users upload, submit, transmit or otherwise make available to AIMMS through or in connection with the Software or Service under this Agreement, excluding (i) usage data and (ii) any data, templates or configurations provided by AIMMS. Customer Data may include Personal Data, which is subject to the applicable Data Processing Agreement.

2. Use of AI in the Service and Software

AIMMS may use AI technologies and AI systems as part of the Service and Software, including processing Customer Data as necessary to operate, support, and improve the functionality of the Service and Software, and to generate outputs in response to Customer inputs. Such use includes, without limitation:

- a) responding to user queries;
- b) generating insights, recommendations, or content;
- c) enabling automation, search, or decision-support features.

AIMMS shall, prior to deployment and upon any material change thereto, provide Customer with a written overview of the AI Systems used in the performance of the Service and Software, including: (i) the identity of the AI Systems and its provider; (ii) the intended purpose of the AI Systems; and (iii) the risk classification of the AI Systems under the AI Act (including whether it constitutes a High-Risk AI System).

3. Restrictions on Use of Customer Data

Except as expressly permitted in this Agreement, AIMMS shall not:

- a) Use Customer Data to train, retrain, fine-tune, or otherwise improve any AI system that is not dedicated solely to Customer;
- b) Incorporate Customer Data into any general-purpose datasets, models or AI system;
- c) Use Customer Data for any purpose other than providing the Service and Software.

4. AI Inputs and Outputs

- a) Customer Data provided to the Service and Software, including AI Inputs and AI Outputs, shall be treated as Customer Data under this Agreement;
- b) AI Inputs and AI Outputs may be used by AIMMS solely to provide and support the Service and Software;
- c) AIMMS retains ownership of its underlying AI models, algorithms and technologies, provided that such models do not include or disclose Customer Data.

5. Service Improvement

AIMMS may use aggregated and anonymized data derived from the use of the Service and Software to improve its products and services, including AI functionality, provided that such data:

- does not identify Customer or any individual; and
- cannot reasonably be used to reconstruct Customer Data.

6. Compliance and Responsible Use

AIMMS shall use commercially reasonable efforts to:

- a) comply with applicable laws and regulations relating to AI, data protection and security;
- b) implement appropriate safeguards to protect Customer Data used in connection with AI;
- c) apply reasonable measures to identify and mitigate material risks of bias, error, or unintended outcomes in AI-generated outputs;
- d) maintain appropriate governance and oversight over its use of AI in the Service and Software;
- e) ensure that no AI system used in the Service and Software falls within the categories of prohibited AI practices under the AI Act.

7. Audit and Security

Upon reasonable prior notice, Customer may request information reasonably necessary to verify AIMMS' compliance with this Annex. AIMMS shall implement appropriate technical and organizational measures to safeguard Customer Data in connection with its use of AI.

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ANNEX 6

Terms of Use of AIMMS AI Systems by Customer and Authorized Users

1. About AIMMS AI Systems

Certain features of the Software and Service, such as SC Navigator and Optimization Tooling, are powered by artificial intelligence and large language models (LLMs) technology (“AIMMS AI System(s)”). These AIMMS AI Systems are designed to help Customer and Authorized Users work more efficiently by explaining functionality, answering questions, and, where enabled, supporting the execution of actions within the Software and Service.

Within the product interface, AIMMS AI Systems are identified as follows: “SENSAI” and “SENSAI PRO” in SC Navigator and “AI Companion” in Optimization Tooling. AIMMS AI Systems provide suggestions and perform actions only when explicitly instructed. They do not make autonomous decisions. Customer and its Authorized Users always remain fully in control.

Each AIMMS AI System constitutes an AI system within the meaning of the EU AI Act. AIMMS acts as the provider of these AI systems. Customer, as the entity deploying an AIMMS AI System in an operational context, qualifies as a deployer. The applicable risk classification and supporting documentation are maintained in AIMMS' technical documentation and are available upon request. Authorized Users will be notified at the start of each session, through a clearly visible notice, that they are interacting with an AI system. Where an AIMMS AI System is used to execute autonomous or semi-autonomous actions, Customer must ensure that appropriate human oversight measures are in place.

2. Scope of Use

Each AIMMS AI System is intended for use within the Software and/or Service only, limited to the specific domain and use cases for which it has been made available. It may not respond to, or be used for, requests or purposes outside that scope. Furthermore, the AIMMS AI Systems must not be used for purposes that fall within the scope of prohibited AI practices as listed in Article 5 AI Act. Features are made available exclusively on an opt-in basis, and Customer acknowledges that by enabling AIMMS AI Systems it is activating AI-assisted functionality within the products.

3. Consent

By enabling an AIMMS AI System, Customer acknowledges and agrees to (i) the processing of its inputs, (ii) the storage of session data and (iii) the use of telemetry data for system improvement. Consent may be withdrawn at any time by contacting AIMMS User Support. The processing of telemetry data is carried out based on legitimate interests, not consent. Customer may object to this processing. Withdrawal of consent does not affect the lawfulness of processing prior to withdrawal.

4. User Control and Oversight (Advanced/Agentic Functionality)

Where an AIMMS AI System includes advanced or agentic capabilities (e.g. the ability to autonomously or semi-autonomously execute actions within the Platform), the following principles apply. All actions are:

- **Initiated by the Authorized User** — effective human oversight must be maintained at all times
- **Transparent and auditable** — a log of executed actions is maintained
- **Reversible** — via undo functionality where technically feasible
-

Customer is responsible for reviewing and validating any actions taken by an AIMMS AI System. Customer must designate a natural person with sufficient competence, authority, and resources to exercise human oversight over the use of advanced or agentic functionality.

5. How Data Is Used

AIMMS AI Systems process the following categories of data:

- Authorized User inputs (prompts and instructions)
- System-generated responses
- A temporary session identifier
- Operational telemetry data)

Data is used solely to:

- Generate responses to user queries
- Execute instructions within the Platform (where applicable)
- Monitor and improve system performance and reliability (via anonymized telemetry)

6. AIMMS AI Systems are not designed to process personal data

Customer and Authorized Users are requested not to enter personal data or special categories of personal data into any AIMMS AI System. To the extent that personal data is nonetheless incidentally submitted, Customer should refer to the AIMMS Privacy Policy at AIMMS Privacy Policy and the applicable Data Processing Agreement. Where telemetry data constitutes personal data, it is processed on the basis of legitimate interests. Customers may object to such processing at any time by contacting the Data Protection Officer at privacy@aimms.com.

7. Data Storage and Retention

Data Category	Retention
Chat / session interactions	6 months
Telemetry data	6 months

Upon expiry of the applicable retention period, data is securely deleted or anonymized in accordance with applicable mandatory law. A full retention schedule is available on [AIMMS' privacy policy](#).

8. Data Security

All data is processed within AIMMS' secure Azure environment. Data is encrypted both in transit and at rest and is not shared outside this environment, except as set out in this section. AIMMS has implemented appropriate technical and organizational security measures, including:

- Access controls and multi-factor authentication
- Logging and audit trails of executed actions
- Regular penetration testing and vulnerability assessments
- Data breach notification procedures (notification to the competent supervisory authority within 72 hours of becoming aware of a breach; notification to affected parties where a high risk to their rights and freedoms is established).

9. Third-Party AI Technology and International Data Transfers

AIMMS AI Systems may use third-party AI infrastructure, including Azure OpenAI operated by Microsoft, to generate responses. This service processes data solely to generate output and does not use Customer Data for training or sharing with third parties, in accordance with applicable Microsoft product terms.].

10. Accuracy and Limitations

AIMMS does not warrant the accuracy, completeness or fitness for purpose of any AI output and:

- Outputs should be verified before use
- AIMMS AI Systems should be used as a support tool, not as the sole basis for decisions
- Customer and Authorized Users are responsible for independently verifying any AI-generated output before relying on it for operational, strategic or commercial decisions

AIMMS conducts ongoing monitoring of its AI Systems' performance and accuracy, in accordance with its obligations as provider under the EU AI Act. Monitoring reports are maintained in AIMMS' technical documentation.

11. Beta and General Availability Status

Where an AIMMS AI System is offered as a beta or in a limited availability phase, the following applies:

- Functionality may change without prior notice
- Availability is not guaranteed
- Feedback and anonymized usage data may be used to improve the system, solely on a valid legal basis and in accordance with applicable policy
- Anonymized and aggregated usage data may be used for model improvement, provided re-identification is not reasonably possible

AIMMS will notify Customer in advance of any transition from beta to general availability or material changes to functionality.

12. Customer Responsibilities

By enabling an AIMMS AI System, Customer agrees and warrants that it (i) remains responsible for all decisions and actions taken on the basis of AI-generated outputs and (ii) uses the AIMMS AI System in accordance with applicable laws and its organization's internal policies. Furthermore, as a deployer, Customer must:

- Ensure each AIMMS AI System is used solely in accordance with AIMMS' instructions for use
- Ensure that Authorized Users are sufficiently informed about the system's functioning, capabilities, and limitations
- Designate a responsible natural person to oversee the use of advanced or agentic AI functionality
- Establish internal policies and procedures for managing risks associated with the use of AI systems, to the extent required by law
- Notify AIMMS without undue delay — and in any event within 48 hours of becoming aware, if abnormal functioning, serious incidents, or misuse are identified, by contacting support@aimms.com.

AIMMS will in turn fulfil its own reporting obligations to the relevant national market surveillance authority in accordance with applicable EU AI Act provisions.

13. Data Act – Access, Portability and Interoperability

Customer has the right to easy, secure, and free access to the data generated through its use of AIMMS AI Systems in conformity with the EU Data Act. AIMMS shall make such data available upon request in a commonly used, machine-readable format. AIMMS may not use user-generated data to compete with customers in markets where such data provides a strategic advantage. Commercial use of user-generated data by AIMMS is only permitted with prior explicit consent.

14. Limitation of Liability

To the maximum extent permitted by applicable law, AIMMS shall not be liable for any loss or damage arising from Customer's reliance on AI-generated outputs without independent verification. This limitation applies in addition to the general limitations of liability set out in Section 14 of this Agreement.

15. Updates Terms of Use AIMMS AI Systems by Customer and Authorized Users

AIMMS reserves the right to update this Annex 6 to reflect changes in applicable law, regulatory guidance, or product functionality. Customer will be notified of material changes in advance. Continued use of an AIMMS AI System following notification of material changes constitutes acceptance of the updated Terms of Use.