



LICENSE TERMS AND CONDITIONS SMARTBPA MARKETPLACE

1. **Scope**

These License Terms and Conditions are part of the Agreement between SmartBPA (Smart Business Process Automation ApS) and Customer and provide the terms and conditions pursuant to which Customer is licensed to use the Software. Capitalized terms not specifically defined in this document have the meanings given in other parts of the Agreement.

Grant of License

Subject to the terms and conditions of this Agreement, including but not limited to Customer's payment of all License Fees, SmartBPA grants to the Customer a non-exclusive, nontransferable, time-limited license to use the software specifically designated in the Schedule (the "Software"), and the accompanying documentation (the "Documentation") (the Software, the media embodying the Software and the Documentation together are referred to as the "Licensed Material") only within the scope of the Permitted Use specified in the Schedule. Customer may make one (1) copy of the Software for backup purposes only, provided that copy includes all proprietary notices contained in the original from SmartBPA. Customer may not copy the Documentation. Customer is permitted to use the Licensed Material only strictly in compliance with the authorized usage identified in the Schedule. The Licensed Material may be used only by Customer's employees for Customer's benefit and not for the benefit of any other person or entity. This license grant terminates upon any expiration or termination of this Agreement.

2. **Other Code**

Notwithstanding the foregoing, the Software includes certain third party and other code, including, but not limited to, free and open source software (collectively, "Other Code") covered by other licenses ("Third Party Licenses"), as identified in the Third Party and Open Source Code License Terms set forth in the thirdpartylicenses.txt file accompanying the Software, all as may be revised by SmartBPA from time to time. Customer's license to the Other Code is subject to the applicable Third Party Licenses, even if contrary to this Agreement.

3. **License Fees; Taxes**

Customer will pay the License Fees as set forth in the Schedule. Customer is responsible for any and all sales, use, excise and similar taxes (exclusive of the tax on SmartBPA's net income) relating to this Agreement, including the products, licenses, services and transactions under this Agreement.

4. **Inspection/License Compliance**

The Customer agrees that SmartBPA may, from time to time, upon reasonable advance written notice, audit Customer's use of the Software, to verify Customer's compliance with the terms of this Agreement.

5. **Ownership**

The Licensed Material and all intellectual property rights in and related to the Licensed Material are the sole and exclusive property of SmartBPA and its licensors and suppliers. Subject to the terms hereof, the Customer has a license to use the Licensed Material as long as this Agreement remains in full force and effect. Any other use of the Licensed Material by any person, business, corporation, government organization or any other entity is strictly forbidden and is a violation of this Agreement.

6. **Delivery & Acceptance**

SmartBPA will deliver the Software electronically to Customer. "Delivery" is deemed to occur upon SmartBPA's provision to Customer of a license key to enable the Customer to gain access to and possession of the Software. "Acceptance" is deemed to occur when the Customer has received electronic instructions included with the license key detailing the Software activation process. Acceptance is not dependent on activation of the license key to initiate the Software download, nor any services, conditions, or contingencies, and there are no other written or verbal agreements with respect to any Acceptance by Customer.

7. **Proprietary Rights**

The Licensed Material contains material that is protected by patent, copyright, trade secret law and other intellectual property rights, and by international treaty provisions. Customer may not remove any proprietary notices of SmartBPA or its licensors from the Licensed Material. All rights not granted to Customer in this Agreement are reserved to SmartBPA and, if applicable, its licensors. SmartBPA may make changes to the Licensed Material at any time without notice. Except as otherwise expressly provided, SmartBPA grants no express or implied right under SmartBPA patents, copyrights, trademarks, or other intellectual property rights.

8. **Protection and Restrictions**

Customer agrees to use its best efforts and take all reasonable steps to safeguard the Licensed Material to ensure that no unauthorized person will have access thereto and that no unauthorized copy, publication, disclosure or distribution, in whole or in part, in any form is made. Customer acknowledges that the Licensed Material contains valuable confidential information and trade secrets and that unauthorized use and/or copying would be harmful to SmartBPA. Customer may not, nor may Customer permit any third party to, (i) use or copy the Software except as expressly allowed in this Agreement; (ii) transfer, assign, publish, display, disclose, distribute, rent, lease, modify, loan, lend or use the Software for timesharing or service bureau purposes or otherwise for the benefit of any third party; (iii) modify, translate, adapt or create derivative works based on the Software or any part thereof or merge the Software with any other software; (iv) reverse engineer, decompile, disassemble or otherwise attempt to create or discern the source code from the object code for the Software; (v) tamper with the license key; (vi) transmit the Software over any network or between any devices, although Customer may use the Software to make such transmissions of other materials; or (vii) publicly disseminate performance information or analysis (including without limitation benchmarks) relating to the Software except with SmartBPA's prior written consent. The Licensed Material may not be exported or re-exported in violation of any export regulations of any applicable jurisdiction.

9. **Limited Warranty**

SmartBPA do not provide Warranty for software distributed via the SmartBPA Marketplace and disclaims any and all liability for the functionality of the software. The use of the software is at the customer's own risk.

Customer will be responsible for conducting Virus-checking procedures before allowing installation or using the software, and for each new version, upgrade or service pack. If a Virus is introduced into Customer's system from the software, it is Customer's effort to identify and neutralize such Virus and to mitigate any adverse effect of such Virus.

10. **Disclaimer**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, SMARTBPA DISCLAIMS ALL WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE LICENSED MATERIALS, THE OTHER CODE, OTHER DELIVERABLES, ANY SERVICES OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, COURSE OF DEALING OR USAGE OF TRADE. SmartBPA does not warrant that the functions contained in the Software will meet any requirements or needs Customer may have, or that the Software will operate error-free, or in an uninterrupted manner, or that any defects or errors in the Licensed Material will be corrected, or that the Software is compatible with any particular platform. SmartBPA shall have no obligation to provide any update, maintenance or other support to Customer with respect to the Other Code unless SmartBPA otherwise agrees in writing. Some jurisdictions do not allow the waiver or exclusion of implied warranties so some or all of the foregoing may not apply to Customer

11. **SmartBPA's Indemnification Obligations**

SmartBPA will have no obligation or liability for any Claim that arises. SmartBPA will not defend Customer from any claim or action ("Claim") brought or made by a third party against Customer, and will therefore not pay any settlements awarded against Customer in favor of the third party resulting from such Claim.

12. **Limitation of Liability**

THIS SECTION 11 STATES THE ENTIRE OBLIGATION OF SMARTBPA AND THE EXCLUSIVE REMEDIES OF CUSTOMER WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OR PROPRIETARY RIGHTS VIOLATIONS. UNDER



NO CIRCUMSTANCES WILL SMARTBPA HAVE ANY OBLIGATION OR LIABILITY UNDER THIS AGREEMENT FOR ANY INFRINGEMENT CLAIMS WITH RESPECT TO ALL CODE INCLUDING OTHER CODE.

CUSTOMER ASSUMES ALL RISK AS TO THE SELECTION AND USE OF THE LICENSED MATERIAL. IN NO EVENT WILL SMARTBPA OR ANY OTHER PARTY WHICH HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE LICENSED MATERIAL BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, OR FOR ANY CLAIM BY ANY OTHER PARTY, EVEN IF SMARTBPA OR SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT WILL SMARTBPA'S AND SUCH OTHER PARTY'S LIABILITY IN CONNECTION WITH THIS AGREEMENT EXCEED THE AMOUNT OF THE LICENSE FEE PAID BY CUSTOMER FOR THE LICENSED MATERIAL.

NOTWITHSTANDING THE FOREGOING, SMARTBPA WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND WITH RESPECT TO ANY CODE INCLUDING OTHER CODE.

13. Allocation of Risk

Customer acknowledges and agrees that the allocation of risk in this Agreement, including those specified in Sections 10 and 11, are reasonable in view of SmartBPA's lack of control over Customer's operations.

14. Term and Termination

This Agreement is effective from date of download of the Software and will terminate when the Software isn't being used.

15. Assignment

Customer may not transfer or assign any of Customer's rights to use the Licensed Material to another person or entity without first obtaining the prior written consent of SmartBPA, which consent will not be unreasonably withheld. Any transfer or assignment without SmartBPA's prior written consent will be null and void. If consent is granted, the transferee/assignee will be required to execute a new license agreement with SmartBPA.

16. Government Rights

If Customer is the U.S. Government or a contractor or subcontractor (at any tier) of the U.S. Government and is licensing the Licensed Material for use by the U.S. Government or in connection with any contract or other transaction with the U.S. Government, Customer acknowledges that by accepting delivery of the Licensed Material, the Licensed Material qualifies as commercial computer software and commercial computer software documentation within the meaning of the acquisition regulations and contract clauses applicable to this procurement. The terms and conditions of this Agreement are fully applicable to the Government's use and disclosure of the Licensed Material, and supersede any conflicting terms or conditions.

17. Notices

All notices permitted or required under this Agreement by a party must be directed to the other party at the address set forth on the Schedule or otherwise in this Agreement, or to such address as the other party may from time to time specify by written notice to the party (and if to SmartBPA, to the attention of Chief Financial Officer finance@SmartBPA.com, with a copy to Legal Department legal@SmartBPA.com). All notices must be transmitted in or more of the following ways: (a) in writing, delivered in person: effective upon delivery; (b) mailed by first class registered or certified mail, return receipt requested, postage prepaid; effective six (6) days after mailing; or, (c) sent by e-mail (with confirmation of receipt): effective upon receipt.

18. Governing Law; Disputes

This Agreement is to be governed by and construed under the laws of Denmark. The courts located in Denmark have exclusive jurisdiction and venue over any dispute arising out of or relating to this Agreement. Each party consents to the personal jurisdiction and venue of these courts. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.

19. **General**

This Agreement (including the Third Party and Open Source Code License Terms) constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. Any waiver or modification of this Agreement is effective only if it is in writing and signed by both parties. If any part of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement will be interpreted so as to reasonably affect the intention of the parties. Payment obligations under the Schedule and the provisions of Sections 4, 5, 6, 8, 9, 10, 11, 14 and 16 through 18 survive the expiration or termination of this Agreement. Customer may not export the Licensed Material in violation of applicable export laws and regulations. SmartBPA is not obligated under any other agreements unless they are in writing and signed by an authorized representative of SmartBPA.