

# Anapaya Specific Terms and Conditions for Software

Version 2.0 – valid from 01.12.2023

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## 1. Software License Grant

### 1.1. Principles

- (a) Limited license. Customer may use the Software only in the contractually agreed scope and extent. The license is limited to the Software, even if it is also technically possible for Customer to access other software components of Anapaya.
- (b) Scope of license. The Software license shall include the right to download, install, transfer, convert, execute and/or reproduce the Software in machine-readable form for the purposes of executing program instructions within the scope set out in the Agreement, including temporary copies required for those activities, as well as the use of the related documentation.
- (c) Term of license. The license shall be limited to the term of the Order.
- (d) Prohibited use. Customer shall not be entitled to receive or use the source code (even if Customer has such source code in its possession for whatever reason). Customer shall not (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the Software available to any third party; (ii) modify, copy (in particular by the use of automated systems or software to systematically extract data), reverse engineer, decompile or create any derivative works based on the Software, the product description or other materials (except to the extent permitted by law); (iii) frame or mirror any content forming part of the Software, other than on Customer's own IT systems for its own internal business purposes; or (iv) use the Software in any manner that exceeds the scope of use permitted pursuant to the Agreement.

## 1.2. License Keys

- (a) Requirements. One or more license keys may be needed to enable the Software to be used. Each installation of the Software must be supplied with one or more valid license keys.
- (b) Installation ID. License keys may depend on a unique installation ID. Customer agrees, if requested to do so, to transmit a unique installation ID to Anapaya to get access to valid license keys.

## 1.3. Metrics and Volumes

- (a) License metrics. The Software license shall be granted in accordance with the metrics specified in the Agreement. The listed volumes shall refer to the factual use throughout the term of the Agreement and shall not imply any concurrent use of the Software.
- (b) Installations. Subject to the specifications set out in the Agreement, Customer has the right to install as many instances of the Software as technically required, provided that its right to use shall be limited to the volume of the metrics specified in the Order according to the license scheme described in the product description.
- (c) Increase. At any time, Customer may ask for an increase of the metrics of the Licensed Software or for an unlocking of optional features. This is materialized by an additional (set of) new License Key(s), replacing or complementing the actual License Key(s).
- (d) Reporting. Any increased or expanded use of the Software compared to the specifications set out in the Agreement, such as use on computer systems with greater capacity or higher performance, on auxiliary equipment, by a larger number of authorized users, at additional usage sites, by affiliated companies or for increased use based on type, scope and intensity, must be immediately reported by Customer to Anapaya. Anapaya may demand Customer to immediately cease such use or, in case of subsequent approval, retroactively (since of the beginning of the increased or expanded use) invoice to Customer the then applicable additional fees. Anapaya's audit rights remain reserved.
- (e) Flexibility. In case of upgrades to a metric before the end of a Software license subscription term (initial or renewal), Anapaya offers the following flexibility:
  - (i) Customer can reassign the then-current subscription to a new installation and get a new subscription for the new amount of metric for the actual installation; or
  - (ii) Customer can replace the then-current subscription with a new one, with a proration. In this case, the then-current residual value of the current subscription is deducted from the price of the new subscription, provided that Anapaya will not grant any reimbursement, e.g., if the then-current residual value would have been higher than the new subscription price; or
  - (iii) in addition to a proration, Customer can take advantage of a coterminous additional subscription by keeping the existing term. In such case, Customer must subscribe the new license with the immediate shorter term than the remaining term of the initial license subscription. The price of the subscription is prorated to the number of months remaining for the initial term.



*Illustration of the flexibility options for CORE*



*Illustration of the flexibility options for EDGE*

#### 1.4. Audits

- (a) **Audit right.** Anapaya is permitted to audit Customer's compliance with the Software license terms.
- (b) **Customer self-audit.** In the normal course of business, Customer will conduct the measurement itself using the procedures or tools provided by Anapaya for such purpose. These can include manual or automated notification of self-audit results to Anapaya.
- (c) **On site audit.** Anapaya shall be entitled to perform an on-site audit of Customer's compliance with the Software license terms by itself or through a commissioned third party (e.g., a consultancy firm), if Customer refuses to conduct the measurement itself, or if the measurement does not produce meaningful results and/or there are reasonable grounds to suspect a Customer non-compliance.
- (d) **Audit costs.** If Customer has requested an audit through a commissioned third party and the audit shows that the Customer was or is in breach of the Software license terms, the Customer shall pay the costs of the audit by the commissioned third party.

## 2. Software Delivery

- (a) **Supported version.** The Software is made available by Anapaya in a generally supported version. The support period is determined by Anapaya's Software release upgrade policy.
- (b) **Form of delivery.** At Anapaya's discretion, the Software and documentation can be transmitted on data carriers or by data transmission to Customer or can be made available to Customer online.
- (c) **Receipt.** Customer shall be obliged to accept delivery of the Software immediately upon Anapaya making it available.
- (d) **Replacement.** Should the Software be inadvertently damaged or destroyed by Customer, Anapaya will upon request by Customer replace such Software, to the extent that such replacement is possible and available. In such case, Customer shall bear the actual costs of replacing, delivering and, as applicable, installing the Software.

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### 3. Responsibilities of Customer

#### 3.1. Parameterization and Integration

- (a) Customer shall be entitled to parameterize the Software to Customer's requirements without modification of the Software and solely within the scope specified in the documentation, and to combine the Software with interoperable programs.

#### 3.2. SCION Specific Responsibilities

- (a) Connectivity. The Software is generally part of an architecture belonging to the SCION-Internet. It is the responsibility of Customer to procure a SCION-based connectivity service or to interconnect with the other participant(s) in the SCION-Internet to take advantage of the Software.
- (b) Metadata. Customer shall be responsible of implementing metadata (e.g., geolocation) in a transparent and sincere manner.
- (c) Numbering resources. Customer commits on requesting its SCION specific numbering resources from an officially accredited numbering authority.
- (d) Number assignment. Customer commits not to implement an ISD-number or SCION-AS number not assigned to itself.

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### 4. Remuneration

- (a) Software license and maintenance fees shall be invoiced for the first time at the earlier of (i) the first activation or use of the Software by Customer; or (ii) six (6) months after the effective date of the relevant Order.

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### 5. Software Warranty

- (a) Warranty period. The warranty period for Software shall be six (6) months from the provisioning date of Software.
- (b) Exclusions. Anapaya shall be released from its Software warranty obligations in case of use by Customer of a Software release no longer supported by Anapaya. Anapaya does not warrant that the Software will at all times run uninterrupted or error-free.

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### 6. Maintenance Services

- (a) Scope. Unless otherwise agreed, the standard Software maintenance Service includes the following:
  - (i) Support of Customer by e-mail or, as available, through a support portal regarding errors reported by Customer which threaten the proper functionality of the Software;
  - (ii) Bug fixing of reported and reproducible errors by providing workarounds, patches or updates; and
  - (iii) The provisioning of generally available updated versions of the Software that contain fixes and/or new functionality ("patch releases" of the Software) and the related documentation at Anapaya's discretion.

- (b) Compatibility. If Anapaya releases updated versions of the Software ("patch releases"), it is not always guaranteed that the installation of such an update is reversible, i.e., Customer must assume that Software can only be upgraded but not downgraded.
- (c) Exclusions. The Software maintenance Services do in particular not include:
  - (i) bug fixing at Customers' premises;
  - (ii) support of any third-party products and trial licenses;
  - (iii) support becoming necessary due to non-compliant use of the Software;
  - (iv) support of problem resolutions resulting from modifications by Customer or any third party;
  - (v) installation of workarounds or patch releases of the Software;
  - (vi) providing new versions, new functionality or new modules of the Software;
  - (vii) support of versions of Software no longer generally supported by Anapaya.
- (d) Optional maintenance services. The following services are not included in the standard Software maintenance Services:
  - (i) Preventive maintenance: periodical testing to maintain the permanent functionality, operating efficiency and serviceability of the Software;
  - (ii) Adaptative maintenance: adaptations of the Software to new situations or IT environments (e.g., changes of hardware platforms, operating systems, changes of variable parameters such as new tariffs, taxes, etc.);
  - (iii) Extended support: reach of the support outside the standard service hours, through additional communication channels (e.g., API, phone or video call) or in languages other than English.
- (e) Requirement analysis. Where Customer asks for extended Software maintenance Service, Anapaya will analyze Customer's requirement and make reasonable efforts to provide an offer.

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## 7. Software as a Service (SaaS)

- (a) Anapaya may grant to Customer the right to use the Software and during the term of the Agreement through a subscription service by means of remote network connection ("software as a service", SaaS), in which case the following provisions shall apply:
- (b) Remote access to Software functionality. The functionality of the Software, the computing power required for use of the Software as well as storage and data processing resources are provided by Anapaya in accordance with the product description. The Software is not installed on Customer's IT systems.
- (c) Client software license. The right to access and use the Software shall entail Customer's right to install and use, or have installed and used by Authorized End Users, Anapaya's software (if any) required for remote access to the Software through means of end user devices, as detailed in the product description. Such client software may be reproduced to the extent necessary for the permitted use of the Software by Customer.
- (d) Network connection. The establishment and maintenance of the network connection between Customer's IT systems and Anapaya's data centre access point is beyond Anapaya's

sphere of responsibility. The specifications and requirements pertaining to Customer's end user devices and software applications suitable for establishing network connections are set forth in the product description.

- (e) Software availability. Anapaya is committed to keep the Software available without interruption, subject to scheduled service downtimes and further limitations set forth in the Agreement. In case of unplanned service downtime, Anapaya shall endeavor to (i) notify Customer thereof as soon as possible; and (ii) to provide reasonable updates on the progress of restoring the service, including when the Software is available again.
- (f) Software access. Access to Software means direct access by an Authorized User or indirect access through any intermediary technology layer, where output of the Software is displayed or otherwise made available to the Authorized User in the frame of another application or user interface.
- (g) Authorized user accounts. Each authorized user is granted a personal, non-transferable user account to access the Software. User account credentials must not be shared or used by more than one individual at a time.
- (h) Unauthorized access. Customer shall ensure that authorized users (i) use the Software or services in compliance with the terms of this Agreement; (ii) keep user account credentials confidential; and (iii) treat their user account personal and prevent unauthorized access to or use of the Software by persons not qualified as authorized users. Customer shall notify Anapaya promptly if it becomes aware of any unauthorized access to or use of the Software.

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## 8. Service Operations

- (a) Service hours. Unless otherwise agreed, the Services are provided during the standard service hours of Anapaya from 8:00am to 5:00pm CET (respectively CEST during daylight saving time), excluding the bank holidays in Switzerland/Zurich.
- (b) Service levels. Depending on the Services Anapaya performs different operations for Customer according to a service level agreement (SLA). The SLA does only apply for tickets reported through Anapaya's service portal.
- (c) Service tickets. All incidents and service requests must be recorded by creating a ticket with Anapaya electronically. A ticket must contain qualified information that helps clearly identifying the concerned Service and the problem. No operation for which a ticket has not been created shall give rise to a claim.
- (d) Response time. The time of ticket acceptance is relevant for calculating the applicable response times.
- (e) Maintenance windows. Maintenance windows are slots when Anapaya is expected to perform preventive maintenance (e.g., updates or upgrades) that can affect service availability. Maintenance windows may be defined in the SLA. In the event of planned maintenance, Anapaya will provide Customer with reasonable advance notice. Downtimes occurring during maintenance windows are not taken into account in the calculation of any availability commitments.
- (f) Emergencies. Emergency maintenance may occur outside of maintenance windows.