

# End User License Agreement

## Adaptavist EULA

Adaptavist End User License Agreement

Date of issue: 27 March 2024

**IMPORTANT:** THESE TERMS AND CONDITIONS CONTAIN EXCLUSIONS AND LIMITATIONS OF LIABILITY AND DISCLAIMERS OF WARRANTY.

This Adaptavist End User License Agreement (the “**Agreement**”) is between you and Adaptavist Ventures Limited (company number 10550338) and its affiliates (“**Adaptavist**”). If you are agreeing to this Agreement not as an individual but on behalf of your company, then “**Customer**”, “**Licensee**”, “**your**” or “**you**” means your company, and you are binding your company to this Agreement. Adaptavist may modify this Agreement from time to time, subject to the terms in section "Changes to this Agreement" below.

Terms applicable to specific Adaptavist Products may be defined in an annex or appendix to this EULA; such appendices or annexes will incorporate the terms of this EULA and the terms in an appendix or annex to this EULA will take precedence over the terms set out in this EULA.

By clicking on the “I agree” (or similar button) that is presented to you at the time of your Order, or by ordering, using or accessing Adaptavist Products (as defined below), you indicate your consent to be bound by the terms of this Agreement and the terms of any document referenced herein. If you do not agree to the terms of this Agreement, you may not install, copy, download or otherwise use the software.

### 1 Definitions

“**Affiliate**” means an entity which, directly or indirectly, owns or controls, is owned or is controlled by or is under common ownership or control with a party, where “control” means the power to direct the management or affairs of an entity, and “ownership” means the beneficial ownership of 50% (or, if the applicable jurisdiction does not allow majority ownership, the maximum amount permitted under such law) or more of the voting equity securities or other equivalent voting interests of the entity.

“**Licensed Content**” means a range of digital content and media such as images, audio, video provided by Adaptavist and other content providers to use in our Products.

Definitions for Products, Software, Hosted Services are given below in section 3.

### 2 Scope of the Agreement

This Agreement governs your downloads, initial purchase as well as any future purchases made by you that reference this Agreement. This Agreement includes our [Privacy Policy](#), our [DPA](#), our [Terms and Conditions](#), Product Support Service Level Agreement and any other referenced policies and attachments. This Agreement applies to Adaptavist Products that you purchase or access from channels which include, without limitation:

- The Atlassian Marketplace
- Adaptavist’s own marketplace or website
- Adaptavist sales or client services team
- Atlassian Experts or other partners and resellers who have the capacity to sell Adaptavist products
- Power-Ups for Trello
- Slack Marketplace
- Monday.com Marketplace
- ScriptRunner Connect
- Venue.sh
- Other marketplaces, websites, or other mechanisms which sell Adaptavist products and may refer to this Agreement.

### 3 Types of Adaptavist Products

This Agreement governs Adaptavist's commercially available and in some cases downloadable software products and services ("Software") as well as cloud-based products and services ("Hosted Services"), and any related support or maintenance services provided by Adaptavist.

Software and Hosted Services (as further described below) are referred together as "**Products.**"

Please note, elements of Software may be available via Hosted Services and vice-versa. In such cases, all relevant terms in this Agreement still govern such elements.

### 3.1 Software

Software includes products which may be downloaded in their entirety, or have downloadable software components or applications. Software also includes computer software and source code, as well as associated media, icons, images, text files, pdfs or other static non-code assets contained within any form of software, printed materials, and online and electronic documentation and internet-based services.

In the Atlassian context, Software includes (without limitation) categories of Adaptavist products (including add-ons) for Atlassian's Server (with a perpetual license) and Data Center (under a subscription license) applications.

### 3.2 Hosted Services

Hosted Services includes products and services which are commercially available via a cloud-based platform (or SaaS mechanism). Within the Atlassian context, this includes Cloud variants of Adaptavist products available via Atlassian Cloud platforms. Furthermore, this includes for example, Adaptavist's ScriptRunner Connect service and Venue.sh, available as a SaaS. This also includes Slack and Trello apps, which are made available via cloud-based SaaS platforms provided by those vendors.

## 4 Orders

**"Order"** means an online order page(s), or the invoice or other ordering document provided by Adaptavist or 3rd party partner or marketplace (including for example Atlassian's Marketplace) describing the Products, licenses and services you are ordering from us and, as applicable, their permitted scope of use. As applicable, the Order will identify items such as: (i) the Products, (ii) the number of Authorised Users, Subscription Term or License Term, domain(s) that may be associated with your use of the Products, and any other scope of use parameters and (iii) (for paid Orders) the amount or rate you will be charged, the billing and renewal terms, applicable currency, and form of payment. Orders may also include description of additional services such as support and No-Charge Products.

## 5 Account Registration

5.1 You may need to register for one or more of the following, so that you may place Orders, or access or receive any Products:

- an Adaptavist account
- an Atlassian account
- a Slack account
- a Monday.com account
- an account of other third party providers

Any registration information that you provide to us or a third party must be accurate, current and complete. You must also update your information so that we may send notices, statements and other information to you by email or through your account. You are responsible for all actions taken through your accounts and to review and agree with the applicable third party terms.

## 6 Authorized Users, Integrated Partner's EULAs, and third party services terms

Unless agreed otherwise in writing with us, only the specific individuals for whom you have paid the required fees and whom you designate through the applicable Product ("**Authorised Users**") may access and use the

Products. Authorised Users may be you or your Affiliates' employees, representatives, consultants, contractors, agents, or other third parties who are acting for your benefit or on your behalf. Some Software may allow you to designate different types of Authorised Users, in which case pricing and functionality may vary according to the type of Authorised User. You may increase the number of Authorised Users permitted to access your instance of the Product by placing a new Order or, in some cases, directly through the Product. In all cases, you must pay the applicable fee for the increased number of Authorised Users. You are responsible for compliance with this Agreement by all Authorised Users. All use of Products by you and your Authorised Users must be within the scope of use and solely for the benefit of you or your Affiliates.

## 6.1 Integrated Partner terms

Please note, certain Products may be add-on products or products otherwise deeply integrated with third party applications and platforms ("Integrated Partners"). Examples of such Integrated Partners include Atlassian, Trello, Monday.com or Slack. For such Products, the number, rights, and scope of Authorised Users cannot exceed or conflict with those which are described in the Integrated Partners' EULA or any other applicable Integrated Partners' terms and conditions associated with the Integrated Partners' application. The terms of this Agreement shall be limited, mutatis mutandis, to ensure harmony with the Integrated Partner's EULA or terms and conditions.

ScriptRunner Connect provides support for you to connect with Integrated Partners' APIs. As a condition of your use of ScriptRunner Connect, you acknowledge that you have read, understood and agreed to the terms and conditions of such Integrated Partners (including without limitation, EULAs and API and Developer terms), which can be found at <https://docs.adaptavist.com/src/latest/connectors>.

## 6.2 Third party services terms

Products may have features and functionality which integrate with and use products and services provided by third party services providers; these are identified in our [Privacy Policy](#) and our [DPA](#). The terms of this Agreement shall be limited, mutatis mutandis, for alignment with such third party services providers' EULA or terms and conditions.

Some of our Products such as ScriptRunner Connect and Venue.sh provide support for you to connect with third-party services or APIs. As a condition of your use of our Products, you acknowledge that you have read, understood and agreed to the terms and conditions of such third parties (including without limitation, EULAs and API and Developer terms). It is your responsibility to locate such third party terms and to check for any updates thereto from time to time. Nothing herein amends your rights under such third party terms. Adaptavist accepts no liability or responsibility for your use of third party services or APIs.

## 7 Software Terms

The following terms, unless otherwise stated, apply to Software (and not Hosting Services).

### 7.1 Your License Rights

Subject to the terms and conditions of this Agreement, Adaptavist grants you a non-exclusive, non-sublicensable and non-transferable license to install and use the Software during the applicable License Term in accordance with this Agreement.

The term of each Software license ("**License Term**") will be specified in your Order. Notwithstanding anything to the contrary in the Order:

- Your License Term will end upon any termination of this Agreement, even if it is identified as "perpetual" or if no expiration date is specified in your Order.
- If not otherwise stated in the Order, the License Term will be 12 months upon your receiving license keys, gaining access, or otherwise being provided the ability to install the Software.

### 7.2 Number of Instances

Unless otherwise specified in your Order, for each Software license that you purchase, you may install one production instance of the Software on systems owned or operated by you (or your third party service providers so long as you remain responsible for their compliance with the terms and conditions of this Agreement).

### 7.3 Attribution

In any use of the Software, where such attribution is provided as part of the product, you must include the following attribution to Adaptavist on all user interfaces in the following format: “Powered by Adaptavist,” which must in every case include a hyperlink to <http://www.adaptavist.com>, and which must be in the same format as delivered in the Software.

In your use of the Software, you must not remove, obscure, or modify any other attribution to any party that is included within the Software.

### 7.4 Evaluation Licenses

See section “No-Charge Products” below.

### 7.5 System Requirements

You are solely responsible for ensuring that your systems meet the hardware, software and any other applicable system requirements for the Software. You are responsible for determining that any systems you have in place are sufficient for any Software you use.

## 8 Hosted Services Terms

### 8.1 Right to Access

Subject to the terms and conditions of this Agreement, Adaptavist may grant you a non-exclusive right to access and use the Hosted Services during the applicable Subscription Term (as defined below) in accordance with this Agreement and your applicable scope of use & other criteria such as number of users as defined in your Order (together, the “Subscription Specification”). If Adaptavist offers client software (for example, a desktop or mobile application) for any Hosted Service, you may use such software solely with the Hosted Service, subject to the terms and conditions of this Agreement. You acknowledge that our Hosted Services are on-line, subscription-based products and that we may make changes to the Hosted Services from time to time.

### 8.2 Subscription Terms and Renewals

Hosted Services are provided on a subscription basis for a set term specified in your Order (“**Subscription Term**”). If not specified clearly on your Order, the Subscription Term is 30 days.

Except as otherwise specified in your Order, all subscriptions will automatically renew for periods equal to your initial Subscription Term and the same Subscription Specification (and you will be charged at the then-current rates) unless you cancel your subscription by written notice received by Adaptavist at least 30 days prior to the end of the Subscription Term. If you cancel, your subscription will terminate at the end of the then-current billing cycle, but you will not be entitled to any credits or refunds for amounts accrued or paid prior to such termination unless noted otherwise in your Order.

### 8.3 Evaluation Licenses

See section “No-Charge Products” below.

### 8.4 Credentials for Authorised Users

You must ensure that all Authorized Users keep their user IDs and passwords for the Hosted Services strictly confidential and not share such information with any unauthorised person. User IDs are granted to individual, named persons and may not be shared. You are responsible for any and all actions taken using your accounts and passwords.

You agree to immediately notify us of any unauthorised use of which you become aware.

#### 8.5 Your Data and Generated Content.

**“Your Data”** means any data, content, code, video, images or other materials of any type that you upload, submit or otherwise transmit to or through Hosted Services. You will retain all right, title and interest in and to Your Data in the form provided to Adaptavist. Subject to the terms of this Agreement, you hereby grant to Adaptavist a non-exclusive, worldwide, royalty-free right to (a) collect, use, copy, store, transmit, modify and create derivative works of Your Data, in each case solely to the extent necessary to provide the applicable Hosted Service to you and (b) for Hosted Services that enable you to share Your Data or interact with other people, to distribute, publicly perform and display Your Data as you (or your Authorized Users) direct or enable through the Hosted Service. Adaptavist may also access your account or instance in order to respond to your support requests.

**“Generated Content”** means output(s) to You from the Hosted Services, including from use of artificial intelligence techniques and algorithms, and which may be generated by us or third party providers of content and/or artificial intelligence services, all based on the inputs provided by You to the Hosted Services. Adaptavist is not responsible or liable for the Generated Content created, its accuracy or uniqueness, the impact of the artificial intelligence features, techniques and services used in the Hosted Services, or Generated Content on your success in your business activities and your commercial outcomes and any consequences related to your use of the artificial intelligence features or Generated Content.

#### 8.6 Security

Adaptavist implements security procedures to help protect Your Data from security attacks. However, you understand that use of the Hosted Services necessarily involves transmission of Your Data over networks that are not owned, operated or controlled by us, and we are not responsible for any of Your Data lost, altered, intercepted or stored across such networks. We cannot guarantee that our security procedures will be error-free, that transmissions of Your Data will always be secure or that unauthorized third parties will never be able to defeat our security measures or those of our third party service providers.

#### 8.7 Storage Limits

There may be storage limits associated with a particular Hosted Service. These limits are described in the services descriptions on our websites or in the documentation for the particular Hosted Service. We may impose new, or may modify existing, storage limits for the Hosted Services at any time in our discretion, where such limits materially alter the terms of your Order, we will provide you with 30 days prior written notice thereof.

#### 8.8 Fair Use Policy

If the Licensee is using Hosted Services, the Licensee understands and agrees to Adaptavist’s Fair Use for Hosted Services Policy as follows:

The Fair Use for Hosted Services Policy outlines constraints in the volume of use of the Hosted Services. In providing this service, Adaptavist incurs costs that vary depending on the Licensee’s use of the Hosted Service itself, and draws upon resources intended for the use of our broad base of clients. Costs include payment for resources such as IT infrastructure (including processing power) on which the Hosted Service runs, and associated network connectivity. In order to provide a service at a fixed price to the Licensee, Adaptavist must contain overall costs, and therefore usage, to a certain level. Adaptavist must also ensure that inappropriate usage from one client does not negatively affect the experience of other clients.

### 8.8.1 Appropriate and inappropriate use

Adaptavist understands that requirements and usage vary for users. Activities which are more likely to be judged non-compliant may include, for example and without limitation:

- Automating the creation, updating, or deletion of a thousand or more records (such as “issues” on Jira) at once, and in a recurring manner;
- Probing, stress loading, or testing Software;
- Repeatedly drawing upon 300% per-user normal levels of network bandwidth.

### 8.8.2 Breach and resolution

Adaptavist will monitor use of the Hosted Services and, based solely on its judgement, determine whether the Licensee is in compliance with this Fair Use for Hosted Services Policy. If the Licensee is not in compliance, the Licensee will then be in "Breach of Fair Use".

If the Licensee is in "Breach of Fair Use" Adaptavist will be entitled (without prejudice to any other right or claim that Adaptavist may have against Licensee):

- At its discretion suspend or terminate a Licensee’s access (right to use) the relevant Hosted Services.
- Charge Licensee, in addition to any other Fees payable by Licensee under this EULA, a fee calculated based on the volume of use which is in Breach of Fair Use, up to triple the fees already payable by Licensee. This additional fee will be used to cover additional costs of resources incurred by the Licensee’s inappropriate usage, as well as associated administration costs.

Adaptavist may also approach the Licensee in the interest of designing a customised service that could accommodate the Licensee’s usage requirements.

## 9 Responsibility for Your Data

### 9.1 General

You must ensure that your use of all Your Data is at all times compliant with all applicable local, state, federal and international laws and regulations (“**Laws**”). You represent and warrant that:

9.1.1 You have obtained all necessary rights, releases and permissions to provide all Your Data to Adaptavist and to grant the rights granted to Adaptavist in this Agreement; and

9.1.2 Your Data and its transfer to and use by Adaptavist as authorized by you under this Agreement does not violate any Laws (including without limitation those relating to export control and electronic communications) or rights of any third party (including without limitation any intellectual property rights), rights of privacy, or rights of publicity, and any use, collection and disclosure authorized herein is not inconsistent with the terms of any applicable privacy policies. Adaptavist assumes no responsibility or liability for Your Data, and you shall be solely responsible for Your Data and the consequences of using, disclosing, storing, or transmitting it.

Some Products may have features and functionality (for example integration and automation with third party services and APIs) which uses your credentials, such as in the form of keys, which you provide as input to the Products. You acknowledge and agree to use such Product features and functionality and to provide to the Products your credentials solely at your own risk and at your own liability, and Adaptavist has no responsibility or liability with respect to third party services and APIs (such as charges incurred) through use of your credentials by the Products.

### 9.2 Sensitive Data

You will not submit to the Hosted Services (or use the Hosted Services to collect or generate):

9.2.1 any patient, medical or other protected health information regulated by HIPAA or any similar federal

or state laws, rules or regulations; or

9.2.2 any other information subject to regulation or protection under specific laws such as the Gramm-Leach-Bliley Act (or related rules or regulations); or

9.2.3 special category data as defined by UK DPA 2018 (GDPR), (unless otherwise authorised in writing by Adaptavist).

The above information mentioned in this clause "Sensitive Data" will be collectively referred to as "**Sensitive Data**". You also acknowledge that Adaptavist is not acting as your Business Associate or Subcontractor (as such terms are defined and used in HIPAA) and that the Hosted Services are not HIPAA compliant. "**HIPAA**" means the Health Insurance Portability and Accountability Act, as amended and supplemented. Notwithstanding any other provision to the contrary, Adaptavist has no liability under this Agreement for Sensitive Data.

### 9.3 Indemnity for Your Data

You will defend, indemnify and hold harmless Adaptavist from and against any loss, cost, liability or damage, including attorneys' fees, for which Adaptavist becomes liable arising from or relating to any claim relating to Your Data, including but not limited to any claim brought by a third party alleging that Your Data, or your use of the Hosted Services is in breach of this Agreement, or infringes or misappropriates the intellectual property rights of a third party or violates applicable law.

### 9.4 Removals and Suspension

Adaptavist has no obligation to monitor any content uploaded to the Hosted Services, not your use thereof, other than as expressly set out herein. Nonetheless, if we deem such action necessary based on your violation of this Agreement, we may (1) remove Your Data from the Hosted Services or (2) suspend your access to the Hosted Services. We will generally alert you when we take such action and give you a reasonable opportunity to cure your breach, but if we determine that your actions endanger the operation of the Hosted Service or other users, we may suspend your access immediately without notice. You will continue to be charged for the Hosted Service during any suspension period. We have no liability to you for removing or deleting Your Data from or suspending your access to any Hosted Services as described in this section.

### 9.5 Deletion at End of Subscription Term

We may remove or delete Your Data within a reasonable period of time after the termination of your Subscription Term subject to the terms of this Agreement.

## 10 Support and Maintenance

Adaptavist will provide the support and maintenance services where specified for the Products ("Support and Maintenance") during the period for which you have paid the applicable fee. You shall provide Adaptavist with reasonable access to your materials, systems, personnel or other resources (including your instances of the Software) as reasonably necessary for Adaptavist's provision of Support and Maintenance; if you do not provide such access, Adaptavist's provision of Support and Maintenance will be excused until you do so.

This Agreement applies to updates, supplements, add-on components, or Internet-based services components which includes use of "cloud" based applications, of the Software ("Supplementary Software") that Adaptavist may provide to the Licensee or make available to the Licensee after the date the Licensee obtains its initial copy of the Software, unless Adaptavist provides other terms along with any Supplementary Software. Adaptavist reserves the right to discontinue any Internet-based services provided to the Licensee or made available to the Licensee through the use of the Software. Any support services provided by Adaptavist and described separately in documentation to the Licensee specifically may be subject to the payment of additional Fees.

## 11 Financial Terms



You shall pay any invoices submitted to you by Adaptavist within thirty (30) days of the date of invoice, or as otherwise specified in the Order.

#### 11.1 Atlassian Apps Delivery and Payment

We will deliver the applicable license keys (in the case of Software) or login instructions (in the case of Hosted Services) to the email addresses specified in your Order when we have received payment of the applicable fees. All deliveries under this Agreement will be electronic. For the avoidance of doubt, you are responsible for installation of any Software, and you acknowledge that both Adaptavist and Atlassian have no further delivery obligation with respect to the Software after delivery of the license keys. The delivery of license keys shall be made by Atlassian through the Atlassian Marketplace on behalf of Adaptavist, unless other arrangements have been made directly with Adaptavist outside the scope of this Agreement.

You can request a refund or exchange/upgrade of your commercial or academic server license up to 30 days after the original date of purchase or as otherwise specified in your Order. After the 30-day period, standard pricing for upgrades will apply and refunds/exchanges will not be available. Refunds for any Adaptavist products that are sold to work with Atlassian Cloud (i.e. a Hosted Service) are only available within the first paid month after the evaluation period for monthly subscriptions and within 30 days of payment for annual subscriptions, or as specified in your Order.

In making payments, you acknowledge that you are not relying on future availability of any Products beyond the current License Term or Subscription Term or any Product upgrades or feature enhancements. If you add Authorised Users during your License Term or Subscription Term, you will be charged for the increased number of Authorised Users pursuant to the then-currently applicable rates in your next billing cycle. You agree that we may bill your credit card for renewals, additional users, and unpaid fees, as applicable.

#### 11.2 Trello Apps, Slack Apps, ScriptRunner Connect and Venue.sh Payment

To obtain access to the appropriate Product, you must pay the fee ("Fee") advertised in consideration of Adaptavist granting a license.

Our Trello related Products or Slack related Products, and ScriptRunner Connect and Venue.sh, may be purchased on the (as applicable) Adaptavist or Kolekti website(s) or ScriptRunner Connect or Venue.sh, via <https://stripe.com/gb>. To process the transaction, you warrant that you have familiarized yourself with and agree to be bound by the [Stripe Privacy Policy](#) and [Terms](#). It is your responsibility to check for any changes to Adaptavist payment terms and conditions from time to time.

#### 11.3 Monday.com Apps

Our Products for use with Monday.com ("Monday.com Apps") may be purchased on the Monday.com marketplace for apps <https://monday.com/marketplace> subject also to its terms. The Monday.com Apps are considered to be Hosted Services under this Agreement and are hence subject to the terms for Hosted Services set out in this Agreement.

Refunds for our paid Monday.com Apps are only available within 30 calendar days after first purchase.

#### 11.4 Hosted Services Payment Terms

You may purchase a license subscription to one of our Hosted Services, subject to the then-current subscription pricing plan for that Hosted Service, which may include No-Charge Products.

##### 11.4.1 Changes to the Subscription Specification

###### 11.4.1.1 Additions/increments/increases to the Subscription Specification



You may add users, increase storage limits, or otherwise increase your use of a Hosted Service by placing a new Order or modifying an existing Order. Unless otherwise specified in the applicable Order, we will charge you for any increased use at our then-current subscription plan rates, prorated for the remainder of the then-current Subscription Term.

#### 11.4.1.2 Removals/decrements/reductions to the Subscription Specification

The Subscription Specification for a Subscription cannot be decreased (for instance, a reduction in the number of end users) during the applicable Subscription Term, unless otherwise agreed in writing with Adaptavist or unless the Hosted Service permits this as defined in the subscription pricing plan for that specific Hosted Service.

### 11.4.2 Changes to subscription pricing plans for Hosted Services

11.4.2.1 Adaptavist may update or amend the subscription pricing plan for a Hosted Service, including No-Charge Products from time to time and we will make every reasonable effort to notify you of such changes, providing no less than 30 days advance notice.

11.4.2.2 In the event that you do not provide written rejection of such change on or before expiry of the notice period, the change will become binding. In the event you notify Adaptavist that you do not wish to accept such price change, either party may elect to terminate the Agreement having provided 30 days written notice to the other party.

## 12 Taxes

### 12.1 Regarding taxes relating to your payments of Products to us.

Your payments under this Agreement exclude any taxes or duties payable in respect of the Products in the jurisdiction where the payment is either made or received. To the extent that any such taxes or duties are payable by Adaptavist, you must pay to Adaptavist the amount of such taxes or duties in addition to any fees owed under this Agreement. Notwithstanding the foregoing, you may have obtained an exemption from relevant taxes or duties as of the time such taxes or duties are levied or assessed. In that case, you will have the right to provide to Adaptavist any such exemption information, and Adaptavist will use reasonable efforts to provide such invoicing documents as may enable you to obtain a refund or credit for the amount so paid from any relevant revenue authority if such a refund or credit is available.

## 13 Malicious use

### 13.1 You shall not use or allow use of the Products for “Malicious Reasons.” Malicious Reasons shall include, without limitation:

13.1.1 use that causes, or may cause, damage to the Product or interference with the availability, functioning, security or accessibility of the Product;

13.1.2 use of code, files, scripts, agents or programs that cause or are intended to cause harm, including without limitation, spyware, viruses, worms, time bombs and Trojan horses;

13.1.3 use which is, or is connected with:

- unlawful, illegal, fraudulent or harmful purposes, or
- misrepresentation, or
- breach of Adaptavist’s or any third party’s intellectual property rights; or
- abusive, threatening or obscene behaviour towards others; or
- defamation, libel or rights infringement.

13.1.4 use which by its nature or the circumstances of its use, a person exercising reasonable business judgment would understand to be malicious;

13.1.5 use that does comply with relevant Laws in your jurisdiction.

You shall defend and indemnify and hold harmless Adaptavist from and against any and all liabilities, damages, settlements, penalties, losses, fines, costs or expenses (including without limitation reasonable legal fees) arising out of any actual or suspected claim that you have used or you have allowed use of the Products for Malicious Reasons.

Adaptavist shall have the right to immediately terminate or suspend your access to the Product if Adaptavist determines in its sole opinion, acting reasonably, that you have used or allowed use of the Product for Malicious Reasons. In this event, no refund shall be due to you as a result of such termination or suspension.

#### 14 No-Charge Products and Beta Versions

We may at our sole discretion offer certain Products to you at no charge and/or without full functionality, including free accounts, for evaluation purposes, trial use, and access to Beta Versions as defined below (“**No-Charge Products**”). Your use of No-Charge Products is subject to this EULA and may also be subject to any additional terms that we specify upon providing you with the No-Charge Products and is only permitted for the period designated by us (or for 30 days if not otherwise specified).

No-Charge Products may not have full functionality. If the No-Charge Product is only provided for evaluation purposes the rights of the Licensee are limited to this evaluation license which permits the Licensee to (where applicable) download, install, use and operate the No-Charge Product for a limited period (“Evaluation Period”) and be accessed by a limited number of temporary users only, as determined by Adaptavist (“Evaluation Licence”). On the expiry of the Evaluation Period the No-Charge Product will cease to function or be accessible and the Licensee must remove and irrevocably delete all copies of the No-Charge Product in its possession. If the Evaluation Period is not otherwise specified, it shall be 30 days.

You may **not** use No-Charge Products for competitive analysis or similar purposes. We may terminate your right to use No-Charge Products at any time and for any reason in our sole discretion, without liability to you. You understand that any pre-release and beta products we make available (“**Beta Versions**”) are still under development, may be inoperable or incomplete and are likely to contain more errors and bugs than generally available Products. We make no promises that any Beta Versions will ever be made generally available. In some circumstances, we may charge a fee in order to allow you to access Beta Versions, but the Beta Versions will still remain subject to this section “No-Charge Products”. All information regarding the characteristics, features or performance of Beta Versions constitutes Adaptavist’s Confidential Information. To the maximum extent permitted by applicable law, we disclaim all obligations or liabilities with respect to No-Charge Products, including any Support and Maintenance, warranty, and indemnity obligations. The terms of this EULA are applicable to No-Charge Products.

#### 15 Restrictions

15.1 Except as otherwise expressly permitted in this Agreement, you will not:

15.1.1 rent, lease, reproduce, modify, adapt, create derivative works of, distribute, sell, sublicense, transfer, or provide access to the Products to a third party, or

15.1.2 use the Products for the benefit of any third party without prior written authorisation from Adaptavist.

15.1.3 incorporate any Products into a product or service you provide to a third party, or

15.1.4 interfere with any license key mechanism in the Products or otherwise circumvent mechanisms in the Products intended to limit your use, or

15.1.5 reverse engineer, disassemble, decompile, translate, or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to any Products, except as permitted by law, or

- 15.1.6 remove or obscure any proprietary or other notices contained in any Product, or
  - 15.1.7 publicly disseminate information regarding the performance of the Products, or
  - 15.1.8 encourage, permit or assist any third party to do any of the foregoing, or
  - 15.1.9 use the Products in any way that compromises any terms and conditions to which you have also agreed that govern other products or technology with which the Products are integrated.
- 15.2 At our request, you agree to provide a signed certification that you are using all Products pursuant to the terms of this Agreement, including the scope of use.
- 15.3 You further agree to indemnify Adaptavist against all costs (including legal fees), claims and damages arising from your breach of this Section 15.

## 16 Ownership and Feedback

Products are made available on a limited license or access basis, and no ownership right is conveyed to you, irrespective of the use of terms such as “purchase” or “sale”. Adaptavist and its licensors have and retain all right, title and interest, including all intellectual property rights, in and to the Products (including all No-Charge Products), their “look and feel”, any and all related or underlying technology, and any modifications or derivative works of the foregoing created by or for Adaptavist, including without limitation as they may incorporate Feedback (“**Adaptavist Technology**”). From time to time, you may choose to submit comments, information, questions, data, ideas, description of processes, or other information to Adaptavist (“**Feedback**”), which may or may not be in the course of receiving Support and Maintenance. Adaptavist may in connection with any of its products or services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. No Feedback will be considered your Confidential Information, and nothing in this Agreement limits Adaptavist’s right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

Adaptavist and its Affiliates reserve the right to identify your company as a Customer in promotional materials and websites, you may, at any time, submit a written request using our [Contact page](#) to remove your name from such promotional material. We will never identify individual users.

## 17 Confidentiality

- 17.1 Except as otherwise set forth in this Agreement, each party agrees that all code, inventions, know-how, business, technical and financial information disclosed to such party (“Receiving Party”) by the disclosing party (“Disclosing Party”) constitute the confidential property of the Disclosing Party (“Confidential Information”), provided that it is identified as confidential at the time of disclosure, or can otherwise be classified as Confidential Information as indicated in this Agreement, or which a reasonable person should deem to be Confidential Information due to the nature of the information and/or the circumstances of disclosure. Any Adaptavist Technology and any performance information relating to the Products shall be deemed Confidential Information of Adaptavist without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information
- 17.2 The Receiving Party’s nondisclosure obligation shall not apply to information which the Receiving Party can document:
- 17.2.1 was rightfully in its possession or known to it prior to receipt of the Confidential Information and was not subject to an obligation of confidentiality;
  - 17.2.2 is or has become public knowledge through no fault of the Receiving Party;
  - 17.2.3 is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or

17.2.4 is independently developed by employees of the Receiving Party who had no access to such Confidential Information.

17.2.5 The Receiving Party may also disclose Confidential Information if so required pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party).

17.3 The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law. For the avoidance of doubt, this section shall not operate as a separate warranty with respect to the operation of any Product.

17.4 Nothing herein prevents either party from disclosing Confidential Information to the minimum extent required by law. Where the Receiving Party is required to make such disclosure, it shall use all commercially reasonable efforts to promptly notify the Disclosing Party where legally so permitted

## **18 Term and Termination**

Either party may terminate this Agreement before the expiration of the “Term” (which is defined as the License Term for Software, and the Subscription Term for Hosted Services) if the other party materially breaches any of the terms of this Agreement (including a party’s failure to pay its debts to the other party) and (i) does not cure the breach within thirty (30) days after written notice of the breach, or (ii) the breach is irreparable. Either party may also terminate the Agreement before the expiration of the Term if the other party ceases to operate, declares bankruptcy, or becomes insolvent or otherwise unable to meet its financial obligations.

Either Party may terminate this Agreement at any time for convenience with 30 days written notice to the other Party, but you will not be entitled to any credits or refunds as a result of your convenience termination for prepaid but unused Software, Hosted Services subscriptions unless noted otherwise in your Order, or Support and Maintenance, and any fees invoiced and unpaid prior the date of termination shall remain due.

Adaptavist may terminate this Agreement at any time for convenience with 30 days written notice to you, either for your non-payment of fees or for Product end of life (withdrawal from general availability and use of the Product).

Except where an exclusive remedy may be specified in this Agreement, the exercise by either party of any remedy, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise. Once the Agreement terminates for any reason, you (and your Authorised Users) will no longer have any right to use or access any Products, or any information or materials that we make available to you under this Agreement, including Adaptavist Confidential Information. You are required to irrevocably delete any of the foregoing from your systems as applicable (including any third party systems operated on your behalf) and provide written certification to us that you have done so at our request, provided that you may retain minimal copies (which must be kept confidential) of information required for legal and regulatory purposes.

Any provisions that by their nature are intended to survive termination or expiration of this Agreement shall so survive; including without limitation; Warranty and Disclaimer, Limitation of Liability and Exclusion of Consequential Loss.

## **19 Warranty and Disclaimer**

### **19.1 Due Authority**

Each party represents and warrants that it has the legal power and authority to enter into this Agreement, and that, if you are an entity, this Agreement and each Order is entered into by an employee or agent of such party with all necessary authority to bind such party to the terms and conditions of this Agreement.

### **19.2 Warranty Disclaimer**

All Products are provided “as is,” and Adaptavist and its suppliers expressly disclaim any and all warranties and representations of any kind, including any warranty of non-infringement (apart from 3rd party intellectual property infringement), title, fitness for a particular purpose, functionality, or merchantability, whether express, implied, or statutory. You may have other statutory rights, but the duration of statutorily required warranties, if any, shall be limited to the shortest period permitted by law. Adaptavist shall not be liable for delays, interruptions, service failures and other problems inherent in use of the internet and electronic communications or other systems outside the reasonable control of Adaptavist. To the maximum extent permitted by law, and unless otherwise expressly indicated in this agreement, neither Adaptavist nor any of its third party suppliers makes any representation, warranty or guarantee as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of any Products or any content therein or generated therewith (such as Generated Content), or that:

- the use of any products will be secure, timely, uninterrupted or error-free;
- the products will operate in combination with any other hardware, software, system, or data;
- the Products (or any products, services, information, or other material purchased or obtained by you through the Products) will meet your requirements or expectations);
- any stored data or Your Data will be accurate or reliable or that any stored data or Your Data will not be lost or corrupted;
- errors or defects will be corrected; or
- the Products (or any server(s) that make a Hosted Service available) are free of viruses or other harmful components.

Any disclaimers of warranty or liability under this Agreement shall extend to affiliates, employees, consultants and other third party service providers.

### 19.3 Virus Warranty

Adaptavist warrants that it will take reasonable commercial efforts to ensure that Software, in the form and when provided to you, will be free of any viruses, malware, or other harmful code. For any breach of the foregoing warranty, your sole and exclusive remedy, and Adaptavist’s sole, exclusive and aggregate liability, is (i) to provide a replacement copy of the Software after receipt of your written notice, or (at Adaptavist’s choice) (ii) to refund the Software at the price you paid.

## 20 Limitation of Liability and Exclusion of Consequential Loss

20.1 Neither party (nor its suppliers) shall be liable for any loss or interruption of use, loss of profits or revenue, wasted expenditure, anticipated savings, costs of cover or substitute goods or services, lost or inaccurate data, failure of security mechanisms, interruption of business, costs of delay or any indirect, special, incidental, reliance or consequential damages of any kind, regardless of the form of action, whether in contract, tort (including negligence), breach of warranty, statutory duty, strict liability or otherwise, even if informed of the possibility of such damages in advance.

20.2 Neither party’s aggregate liability to the other, regardless of the form of action, whether in contract, tort (including negligence), breach of warranty, statutory duty, strict liability or otherwise, even if informed of the possibility of such damages in advance, shall exceed the amount actually paid by you to us for Products and support and maintenance in the 12 months immediately preceding the claim. Notwithstanding anything else in this agreement, our aggregate liability to you in respect of No-Charge products shall be USD\$20.

20.3 This section "Limitation of Liability and Exclusion of Consequential Loss" shall not apply to (1) amounts owed by you under any Orders, (2) either party’s express indemnification obligations in this Agreement, or (3) your breach of section "Restrictions", or (4) liability that cannot be excluded or limited under applicable law, or (5) Adaptavist’s liability under Clause 22 Intellectual Property.

20.4 To the maximum extent permitted by law, no suppliers of any third party components included in the Products will be liable to you for any damages whatsoever.

20.5 Adaptavist shall have no greater liability to you than a third-party has to Adaptavist under the applicable third party terms which are listed or referenced in this Agreement or its Schedules or attachments or annexes,

or in the section “Terms for Licensed Content”, or terms for sub-processors in the DPA <https://www.adaptavist.com/dpa>.

20.6 The parties agree that the limitations specified in this section "Limitation of Liability and Exclusion of Consequential Loss" will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

## 21 Terms for Licensed Content and Generated Content

21.1 Licensed Content is subject to terms set out in this Agreement; by entering into this Agreement, you expressly agree to the terms for Licensed Content which are set out herein.

Definitions:

- Pexels License means the terms found at <https://www.pexels.com/terms-of-service/>
- Creative Commons Zero means the license terms found at: <https://creativecommons.org/publicdomain/zero/1.0/legalcode>

21.1.1 You agree to the terms of the Pexels License.

21.1.2 You agree not to use any Licensed Content which is identified as being subject to the terms of the Creative Commons Zero license.

21.2 Generated Content

To the extent permitted under applicable laws or subject to terms listed in the “**Annex for Products with AI features**”, you are granted rights, title and interests in and to the Generated Content. The Generated Content may be used for lawful purposes, at your sole risk.

## 22 Intellectual Property

Adaptavist’s liability for infringement of third-party intellectual property rights shall be limited to an aggregate amount of USD\$1,000,000). However, Adaptavist shall have no liability to you for infringement of third-party intellectual property rights:

22.1 If the total aggregate fees received by Adaptavist with respect to your licenses to Software in the 12 month period immediately preceding the claim is less than US\$50,000; or

22.2 If the Product is modified by any party other than Adaptavist , but solely to the extent the alleged infringement is caused by such modification; or

22.3 If the Product is used in combination with any non-Adaptavist product, software or equipment, but solely to the extent the alleged infringement is caused by such combination; or

22.4 If you have engaged in or permitted unauthorised use of Products; or

22.5 With regard to any Claim arising as a result of Your Data or any third-party deliverables or components contained with the Products; to any unsupported release of the Software; or if you settle or make any admissions with respect to a claim without Adaptavist’s prior written consent; or

22.6 Which arise from a third-party breaching intellectual property rights in relation to Licensed Content used or incorporated or made available in or by the Products

This section "Intellectual Property" states our sole liability and your exclusive remedy for any infringement of intellectual property rights in connection with any Product or other items provided by Adaptavist under this agreement

## 23 Improving Our Products



We are always striving to improve our Products. In order to do so, we need to measure, analyze, and aggregate how users interact with our Products, such as usage patterns and characteristics of our user base. We collect and use analytics data regarding the use of our Products as described in our Adaptavist Privacy Policy.

## **24 Dispute Resolution**

### **24.1 Dispute Resolution; Arbitration**

In the event of any controversy or claim arising out of or relating to this Agreement, the parties hereto shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties through mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. No party may commence any court proceedings or arbitration proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute under mediation. If the parties do not reach settlement within a period of 60 days, arbitration proceedings may commence only in London, England unless mutually agreed otherwise between the parties. The laws of England and Wales are applicable for all arbitration proceedings. All negotiations and arbitration proceedings pursuant to this section will be confidential and treated as compromise and settlement negotiations for purposes of all similar rules and codes of evidence of applicable legislation and jurisdictions. The language of the arbitration shall be English.

### **24.2 Governing Law; Jurisdiction**

This Agreement will be governed by and construed in accordance with the applicable laws of England and Wales and shall be submitted to the exclusive jurisdiction of the English courts. Notwithstanding the foregoing, Adaptavist may bring a claim for equitable relief in any court with proper jurisdiction.

### **24.3 Injunctive Relief; Enforcement**

Notwithstanding the provisions of section "Dispute Resolution; Arbitration," nothing in this Agreement shall prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction.

### **24.4 Exclusion of UN Convention and UCITA**

The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this Agreement. The Uniform Computer Information Transactions Act (UCITA) shall not apply to this Agreement regardless of when or where adopted.

## **25 Export Restrictions**

### **25.1 For the purposes of this Clause the following definitions shall apply:**

- "Export Products" shall mean Products that are exported or re-exported under this Agreement;
- "Export Laws" shall mean any export control, regulations and/or laws in force at the time of export in the country of export, and/or, in the case or re-export, in force at the time of re-export in the country of origin of the re-exported Export Products, including without limitation those issued by the US Bureau of Industry and Security and the US Export Administration Regulations, or the UK government or the EU Commission;
- "Sanctions" shall mean any trade or economic sanctions imposing embargoes in force at the time of export in the country of export, and/or, in the case or re-export, in force at the time of re-export in the country of origin of the re-exported Export Products, including without limitation the US Office of Foreign Assets Control Regulations, or the UK government or the EU Commission.

### **25.2 Adaptavist shall export or re-export any Export Products in accordance with all Export Laws. You expressly acknowledge and agree that you will not:**



- divert, use, export or re-export any Export Products contrary to any Export Laws; and/or
- export, re-export, or provide any Export Products to any entity or person within any country that is subject to any Sanctions; and/or
- export, re-export, or provide any Export Products to entities and persons that are ineligible under Export Laws.

25.3 Any breach of this clause 25 shall be considered an irreparable material breach.

## **26 Changes to this Agreement**

We may update or modify this Agreement from time to time, including any referenced policies and other documents; the date of the last update is provided in the Agreement heading. You acknowledge and agree that we have the right, in our sole discretion, to modify these Terms from time to time, and that modified terms become effective on posting. You are responsible for reviewing and becoming familiar with any such modifications. If a revision meaningfully reduces your rights, we will use reasonable efforts to notify you (by, for example, sending an email to the billing or technical contact you designate in the applicable Order, posting on our blog, through your Adaptavist account, or in the Product itself). Your continued use of the Service after the effective date of the modifications will be deemed acceptance of the modified terms.

If you object to the updated Agreement, as your exclusive remedy, you may choose not to renew, including cancelling any terms set to auto-renew.

## **27 Assignment**

### **27.1 Assignment by Adaptavist**

Adaptavist may assign its rights and obligations under this Agreement without Your consent or notifying You and the assignee agrees to be bound by the terms and conditions contained in this Agreement.

### **27.2 Assignment by You**

You may assign your rights and obligations under this Agreement only in the following circumstances:

- You undergo a merger, acquisition, asset sale or change of control; or
- You are a supplier to a government agency

, in which event

- You will notify us in writing ninety (90) days prior to such assignment; and
- The assignee agrees to be bound by the terms and conditions contained in this Agreement and
- Upon such assignment the assignor makes no further use of the Products licensed under this Agreement and shall remove and irrevocably delete all copies of the Software in its possession.

## **28 General Provisions**

### **28.1 Notices**

Any notice under this Agreement must be given in writing. We may provide notice to you via email or through your account with Adaptavist should you have one. Our notices to you will be deemed given upon the first business day after we send it. You may provide notice to us by post to FAO Commercial Operations, Adaptavist Group Ltd at Adaptavist 25 Wilton Road, Victoria, London, United Kingdom, SW1V 1LW Attn: Legal Counsel. Your notices to us will be deemed given upon our receipt.

### **28.2 Force Majeure**

Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events which are beyond the reasonable control of such party, which may include without limitation a strike which is not limited to the employees of either

party, blockade, war, act of terrorism, riot, natural disaster, epidemic, pandemic, failure or diminishment of power or telecommunications or data networks or services, failure by a third-party hosting provider or third-party APIs, or refusal of a license by a government agency.

### 28.3 Entire Agreement

This Agreement, including any additional terms referenced herein, is the entire agreement between you and Adaptavist relating to the Products and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Products or any other subject matter covered by this Agreement. If any provision of this Agreement is held to be void, invalid, unenforceable or illegal by any court or administrative body of competent jurisdiction, the other provisions shall continue in full force and effect. This Agreement may not be modified or amended by you without our written consent (which may be withheld in our complete discretion without any requirement to provide any explanation). If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were amended, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable and to give effect to the commercial intention of the parties. The parties agree that the rule of contra proferentem shall not apply to this Agreement and in the event any term of the Agreement is considered to be ambiguous, the meaning shall not be automatically interpreted against the party which proffered such term; the provisions of Clause “Dispute Resolution” shall be employed to determine the intended meaning.

### 28.4 Waiver

Neither party’s failure or delay to enforce their rights, powers or privileges under this Agreement shall be deemed to be a waiver of that party’s rights, powers or privileges hereunder.

### 28.5 Interpretation

The parties are independent contractors. This Agreement shall not be construed as implying either party as a partner of the other or to create any other form of legal association that would give a party the express or implied right, power or authority to create any duty or obligation of the other party. Nothing in the Agreement is intended to, or shall be deemed to, establish any agency, partnership or joint venture between any of the parties, constitute any party the agent of the other party, nor authorise either party to make or enter into any commitments for or on behalf of the other party.

### 28.6 Contact Us

If you have any questions about this document or how your data is handled, you may contact us by submitting an email to [contractuals@adaptavist.com](mailto:contractuals@adaptavist.com) at any time.

### **EULA annex for Products with AI features**

Some of our Products use artificial intelligence services from third parties such as OpenAI, L.L.C. , and the terms of this annex apply and are incorporated into the Adaptavist End User License Agreement.

You agree that:

- OpenAI, L.L.C. owns all right, title and interest in and to the OpenAI services and you do not receive any rights to OpenAI services except as explicitly permitted herein.
- You agree to use the Products in accordance with the applicable terms and usage policies of OpenAI, L.L.C. (see <https://openai.com/policies>, <https://openai.com/policies/terms-of-use>)