

# Quadient

## End User License Agreement (EULA)

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Valid from: 01.04.2020

This End User License Agreement (the “EULA” or the “Agreement”) is made between QUADIENT CXM AG (formerly named QUADIENT Group AG), Oberer Gansbach 1, 9050 Appenzell, Switzerland, the licensor and owner of the Quadient Inspire software products (“QUADIENT”) and the Licensee as defined in the Customer Contract.

This EULA shall govern and apply to the full suite of Inspire on-premise software and, if chosen, the cloud-based online Entitlement Management service as described below (together, the “Software”).

Excluding the Entitlement Management service licensed under this EULA, all Quadient Cloud Services are governed by a separate license agreement (the “Quadient Cloud EULA” or “Terms of Use”).

Licensee warrants that End Users shall accept and comply with the terms of this EULA.

All End Users accept and agree to be bound by the terms of this Agreement by downloading, installing, copying, accessing and/or using the Software, even if they are not a direct party to the Customer Contract.

The person accepting these terms on behalf of another person, company or other legal entity, represents and warrants that they have full authority to bind that person, company, or legal entity to these terms, and that they will make this EULA available to all End Users whom the Licensee has installed the Software for.

Licensee also acknowledges that the Software is (or may be) subject to export control laws and regulations, and represents that its authorized End Users are not citizens of an embargoed country or prohibited user under applicable export and anti-terrorism laws, regulations and lists.

**If any End User does NOT agree to the terms of this EULA, then the End User must:**

- (1) **not download**, install, copy, access, or use the Software; and
- (2) **promptly uninstall and delete all copies** of the Software from the End User’s systems.



# 1 License

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The Software is owned or licensed by QUADIENT, and is licensed to the Licensee, not sold. The Software, its structure, organization and code are valuable trade secrets of QUADIENT or its licensors and are protected by Intellectual Property Rights, including copyright and international treaty provisions. Furthermore, some of the integrated Third-Party Software components and Third-Party Services are protected by United States intellectual property laws, export controls and international treaty provisions and may be subject to additional terms and conditions as further described below.

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Licensee acknowledges that the Open Source License Terms may be altered for each new GA Release and published on the internet under the link above.

Except for those license usage rights expressly stated in this Agreement, this Agreement does not grant the Licensee or any End User any Intellectual Property Rights in the Software or in any Third-Party Software components or Third-Party Services thereof.

## 1.2 License Grant

Each License granted under this Agreement is subject to one or more of the following license parameters, as set forth in the Customer Contract, e.g. license type, authorized number of users, volume restrictions, territory limitations and enterprise restriction. Subject to, and in accordance with, the applicable licensing parameters set forth in this EULA and the Customer Contract, QUADIENT grants the Licensee a non-exclusive and non-transferable License (except under section 3.3 below) to use the Software for which the Licensee or the End User has received the authorization to use, according to a valid Customer Contract in consideration of the Licensee's payment of the applicable fees.

Licensee may 1) use the Software up to the level of use specified in the Customer Contract, and 2) make and install a reasonable number of backup copies (which are generally not in productive use) of the Software as is necessary for the sole purpose of supporting business recovery and contingency planning for the agreed use. The terms of this EULA apply to each copy of the Software as well as every upgrade, modified version, update and addition thereof made available to Licensee.

In case of a Trial Version or Test Version of the Software, Licensee may use the specified Software only, and restricted to the timeframe that was explicitly authorized to evaluate, use or test such Software.



Licensee shall ensure that anyone who it authorizes to use the Software (accessed either locally or remotely) does so only for the licensed use and complies with the terms of this Agreement.

QUADIENT reserves the right to make changes, modifications and enhancements to the Software from time to time, including changes material to the function, operation or terms of the Software (a “Material Change”), provided that such Material Changes are notified to Licensee within a reasonable time but in any event not less than six (6) months in advance of a new GA Release of the Software.

## 1.3 License Restrictions

Licensee may not:

- use, copy, modify, or distribute the Software except as provided in this Agreement;
- reverse assemble, reverse compile, or otherwise translate the Software;
- modify or create any derivative works of any Software or Documentation;
- decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code for any software, Software or component;
- redistribute, encumber, sell, rent, lease, sublicense the Software, except as expressly agreed and subject to the Customer Contract;
- install, host, download, operate or otherwise Use the Software on any Computer or in any virtual environment not owned or controlled by the Licensee, unless expressly and specifically agreed in a Customer Contract;
- encumber, abuse or use the Software inappropriately or for any purpose not agreed; and
- engage, directly or indirectly, any other third-party business organization for the purpose of inspecting, installing, using or changing the Software provided hereunder in a manner that endangers QUADIENT’s trade secrets or is substantially and directly competitive with QUADIENT.

Neither QUADIENT, its Affiliates, or its authorized business partner companies are obligated to provide to Licensee, nor is the Licensee acquiring any right of any kind with respect to the source code for the Software. Licensee will not take any action to jeopardize, limit or interfere in any manner with QUADIENT’s or any third party’s ownership and Intellectual Property Rights related to the Software.

Furthermore, Licensee agrees not to limit or interfere in any manner with the ownership and Intellectual Property Rights related to integrated Third-Party Software components or Third-Party Services. Licensee also covenants not to use the Adobe viewing function (meaning a function allowing the copying of a PDF document into memory for display) contained in the Adobe PDF library technology in order to violate or bypass PDF file security measures which prevent copying or editing PDF documents.

Any copies of the Software, that Licensee is permitted to make pursuant to this Agreement, must contain the same copyright and other proprietary notices that appear on or in the Software.

Any and all rights not expressly granted to Licensee under this Agreement are reserved by QUADIENT and its licensors.



## 2 Licensing Options

Licenses for the respective QUADIANT software products or services may follow one or a combination of the following licensing schemes, as defined for the respective perpetual or subscription License in the applicable License Schedule or Customer Contract, depending upon which Software the Licensee has acquired a License for:

- Named Users (according to section 2.2); or
- Concurrent Users (according to section 2.3); or
- Instance (according to section 2.4); or
- Volume Based (according to section 2.5)

### 2.1 License Management

Licensee acknowledges that the Software contains a license key. QUADIANT will provide Licensee with the appropriate license mechanism and related license keys to enable the download, installation, access and/or use of the Software. The mechanism and key combination shall control the modules, functions and features as licensed in accordance with the applicable License Schedule or Customer Contract. If Licensee subsequently acquires further modules and functions, QUADIANT shall provide Licensee with additional license keys in order to update the mechanism and license combination. In case Licensee shall sign a click-charge subscription for production engines, the mechanism and key combination shall take control of such click-charge counter. Licensee agrees not to acquire or use any license mechanism and/or license key or similar computer code for the Software provided by another supplier than QUADIANT, a QUADIANT Affiliate or one of its authorized resellers or distributors.

According to the specific agreements in the License Schedule, Licensee may make the Software available to its End Users by either (i) installing it directly onto a Computer, including a local license control through a QUADIANT authorized license mechanism; or (ii) via a shared file server that employs license metering through the Inspire License Manager or is controlled through another QUADIANT authorized license mechanism.

The respective tracking tools may be implemented in the Software, and some Software modules offer an automated usage restriction or report function.

#### 2.1.1 Entitlement Management Service

The online Entitlement Management service hosted in the MS Azure public cloud service is new technology that enhance previous License and entitlement management and monitoring functions. If Licensee opts into this service, the following terms shall apply:

Licensee acknowledges that the Entitlement Management service is a Third-Party Service hosted on the Microsoft Azure public cloud platform and subject to the terms and conditions of Microsoft, found at: <https://azure.microsoft.com/en-us/support/legal/>

QUADIANT reserves the right to momentarily interrupt the Service for testing, maintenance, traffic performance enhancement or other reasons at any time. QUADIANT's goal is to schedule planned maintenance of its technical platform during non-peak usage hours, but cannot guarantee that this is always the case.



The Entitlement Management service can be accessed via Login into the Quadiant Cloud Services web-portal under either the American, the APAC or the European cloud instances. For technical reasons, Licensee may be prompted to accept a Quadiant Cloud EULA via click-agreement in order to access the online Entitlement Management service through the Quadiant Cloud Services web-portal. Nevertheless, it is agreed that the Quadiant Cloud EULA shall only apply for the Quadiant Cloud Services, and not to the sole use of the Entitlement Management service subject to this EULA.

According to the subscription licensed, QUADIANT will provide Licensee with the adequate access log-in to the Entitlement Management services. If Licensee creates an End User account via the aforementioned web-portal, or synchronizes End Users with other user management tools, Licensee is responsible for the authorized End Users. Once Licensee has created a company account, Licensee may register and invite the authorized End Users for the respective entitlements. Licensee ensures settings, entitlement and rights management via administrative users and is solely responsible for any settings or data (including personal data) entered. It is recommended to anonymize or minimize any personal data entered into the Service and to use generic email addresses, if possible.

Upon the establishment of a subscription or License, one or more End User names and passwords may be generated in connection with such subscription License ("Credentials"). The Credentials are used to authenticate the End User and thereby allow access to the Third-Party Services, including any data stored as part of the Third-Party Services. Licensee is solely responsible for maintaining the confidentiality of the Credentials and may not transfer or share the Credentials with any third parties. Licensee acknowledges and agrees that QUADIANT and its licensors and suppliers may rely on the Credentials as the sole test to control whether End Users accessing and using the services on Licensee's behalf are authorized to do so. Licensee is fully liable for any act or omission of any End Users that access or use the Third-Party Services with the Credentials or otherwise through the account. Licensee will: (a) notify QUADIANT immediately of any unauthorized use of any Credentials or account or any other known or suspected breach of security; (b) not impersonate another user or provide false identity information to gain access to or use the Service; and (c) be solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership and right to use all data submitted by Licensee's End Users in the course of receiving the Third-Party Services.

Licensee acknowledges that any Licensee Data, including Documents and personal data of End Users of the Third-Party Services, may be stored on servers set up in the EU and the United States of America in order to prevent a platform failure. These servers are operated by Microsoft under the terms and conditions of the Azure platform found at: <https://azure.microsoft.com/en-us/support/legal/>

Microsoft publicly commits to adherence to the GDPR and the EU Model Clauses for their online service.

Licensee can set the retention period of the content created in the End User accounts, up to a period of ten (10) years upon upload or any shorter period as required. However, QUADIANT does not warrant back-up or archiving services. Licensee is solely responsible for regular back-up and archiving of Licensee Data and content in Licensee's own systems.

QUADIANT reserves the right to make changes, modifications and enhancements to the online service from time to time. In the event the change is material to the function, operation or terms of the agreed Entitlement Management service (a "Material Change"), and if Licensee does not agree with any changes made by QUADIANT, the Licensee may terminate the online Entitlement Management upon thirty (30) days written notice to QUADIANT and use the on-premise Inspire License Manager instead.

QUADIANT does not own any Licensee Data. Licensee, not QUADIANT, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use all Licensee Data, and QUADIANT shall not be responsible or liable for the deletion, correction, destruction,



damage, or loss of Licensee Data. QUADIENT's use of Licensee Data shall be limited to the purpose of providing the Entitlement Management Service to the Licensee and for QUADIENT to meet its contractual obligations hereunder. After termination of this Agreement, Licensee shall ensure extraction or backup of all Licensee Data. QUADIENT shall have no obligation to retain Licensee Data, and may fully delete Licensee Data after ninety (90) days after termination of this Agreement.

For free accounts, QUADIENT retains the right to delete the full company account (including End User accounts and Licensee Data) after ninety (90) calendar days of being unused or upon expiration of any free trial period.

If Licensee requires an Art. 28 Processor Agreement under the European GDPR, Licensee shall download the Data Processing Addendum for EMEA Cloud Services (from [www.quadient.com/eula](http://www.quadient.com/eula)) and send the completed form for final review and signature to QUADIENT CXM AG, Oberer Gansbach 1, CH-9050 Appenzell, Switzerland.

If Licensee and QUADIENT have signed such a separate Processor Agreement according to Art. 28 GDPR, such agreement shall prevail over this EULA in case of any doubt or discrepancies.

### 2.1.2 Inspire License Manager

As an option, the Licensee may use the on-premise Inspire License Manager as a tool implemented into the Software to help Licensee control and meter License use and consumption for License Management and compliance. It can generate automated License usage reports for the modules and environments configured and send these to the End Users designated by the Licensee.

Detailed functions and settings of the Inspire License Manager are further described in the published Documentation.

## 2.2 Named User License

Licensee shall be authorized to make the Software available to a mutually agreed number of Named Users, as set forth in the applicable License Schedule.

Licensee shall have the right to change the single user IDs for the Named User Licenses, provided that no Named User License shall be changed more than once per calendar month and that access to the Software is restricted to those End Users that are named by the Licensee and for whom Named User Licenses have been validly acquired.

## 2.3 Concurrent User License

Licensee shall be authorized to make the Software available to a mutually agreed number of Concurrent Users as set forth in the applicable License Schedule with QUADIENT.

If Concurrent Users are monitored via server settings, Licensee agrees to maintain the server settings in such a way that the number of Licenses in concurrent use do not exceed the licensed user number (i.e. the number set for the server shall always be equal to or less than the number of licensed End Users).



## 2.4 Per Instance License

Licensee shall be authorized to have the Software run on any Computer per Instance, as set forth in the applicable License Schedule.

License controls meter usage and may not allow launch or usage of any Software if such usage would exceed the license user count set forth in the applicable License Schedule. Licensee agrees to maintain the server's settings in such a way that the number of Licenses in concurrent use do not exceed the licensed user number (i.e. the number set for the server will always be equal to or less than the number of licensed users) for the respective instance.

## 2.5 Volume Based License

If not agreed differently in the License Schedule, Licensee shall be entitled to use the licensed Software within the mutually agreed volume band for transactions or output counted during a twelve (12) month period.

Output production volume counting is based on the production of viewable communication pieces, such as a DIN A4, US Letter/Legal image and per rendered e-communication such as e-mail/website or message block processed for any type of channel, including paper, electronic output archive etc.

Any Licensee subject to a Volume Based License model must commit and agree to provide regular (quarterly, if not agreed otherwise) production volume reports to QUADIENT (an automated report may be created via the integrated tools, e.g. the Inspire License Manager or the Entitlement Management service), as further described in section 3.1 below.

If the volume in any year exceeds the declared annual volume, then the actual volume consumed will become the new declared annual volume on the anniversary of the License. If a Volume Based License is declared as "unlimited", this shall mean the output volume is unlimited in quantity for a certain amount of time, as agreed in the Customer Contract.

Applicable base Fees for Volume Based Production Licenses shall be paid in advance, before Licensee starts using the Software. To the extent Licensee exceeds the agreed volume band for which the annual base Fee has been paid, any additional Fees will be payable to Licensor in arrears, as set forth in the applicable License Schedule.

# 3 Compliance

## 3.1 License Reports and Audit

Irrespective of the licensing option chosen, during the term of this Agreement and for one (1) year after its expiration or termination, Licensee shall maintain reasonably complete records of Licensee's installation and use of the Software as necessary to verify compliance with this Agreement. In case that Licensee's actual use exceeds the number of Licenses acquired, the additional Fees shall be due and payable to QUADIENT accordingly.

An automated usage report can be produced by either of the available management mechanisms. In the event that Licensee installed the on-premise Inspire License Manager, Licensee shall provide QUADIENT within no later



than fifteen (15) business days after the end of each calendar quarter with the respective usage report. In the event that Licensee elects to use the online Entitlement Management service, Licensee shall permit QUADIANT or its authorized business partners to review these records to verify compliance with this Agreement.

If Licensee does not provide the usage reports as requested and QUADIANT has reason to doubt compliant use of the Software, QUADIANT may conduct License audits to verify such compliance. Licensee agrees to provide QUADIANT with all records reasonably related to its use of the respective Software or service. The audit will strictly be confined to verification of Licensee's compliance with the terms of the EULA and/or the Customer Contract.

All audits shall be conducted at QUADIANT's expense, unless the result establishes that the Licensee has underpaid QUADIANT by more than 5% of the amount actually due, in which case Licensee shall not only pay all amounts due, but also bear the expense of the audit. Any such audit shall be conducted: (i) upon reasonable prior notice to Licensee at a date and time to be agreed between the Parties in advance, (ii) during business hours of Licensee; (iii) shall not interrupt the normal business operations of Licensee; and (vi) in accordance with the relevant security and premises policies of Licensee.

## 3.2 Export Rules

Licensee agrees that the Software will not be shipped, transferred, or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other applicable export laws, restrictions or regulations (collectively the "Export Laws"). In addition, if the Software is identified as an export controlled item under the Export Laws, Licensee represents and warrants, not to be a citizen, or otherwise located within, an embargoed nation (per the US Export Administration Regulation Website) and not otherwise to be prohibited under the Export Laws from receiving the Software. All rights to use the Software are granted on condition that such rights are forfeited if Licensee fails to comply with the terms of this Agreement.

## 3.3 Software Transfer

To the extent permitted by applicable mandatory law, Licensee may transfer the Software and all of Licensee's license rights and obligations to another party only with prior written consent of QUADIANT. Such consent shall not be unreasonably withheld.

Whenever Licensee transfers the Software, Licensee must uninstall and delete the Software from Licensee's system, destroy any and all copies and may not continue to use the Software or any copy of it accordingly.

If Licensee transfers the Software, Licensee shall ensure that the acquiring party agrees to the terms of this EULA and notify QUADIANT of the Software transfer in writing.

Licensee's notice shall include the following documents:

1. Confirmation of transfer and acceptance of the EULA by the acquiring party,
2. Licensee's respective Customer Contract or License Schedule to verify Licensee's valid License,
3. Exact information to which extent Licensee's license count is cancelled by the transfer respectively, and
4. Confirmation that Licensee has de-installed and deleted the Software respectively according to Licensee's transfer.





### 3.4 Appropriate Use

Licensee shall not use any Software to knowingly : (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send, use or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or in violation of third-party rights; (iii) send, use or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Software or the data contained therein; (v) commit any act that is detrimental to the good name and standing of QUADIENT; or (vi) attempt to gain unauthorized access to a Software or its related systems or networks.

## 4 Warranty, IP Indemnification and Liability

### 4.1 Limited Warranty

a) Provided that Licensee has paid the applicable license Fee, QUADIENT warrants that for a period of 90 days from the date of delivery from QUADIENT (“Warranty Period”), that the Software substantially conforms to its published specifications. QUADIENT does not warrant that the software or Software is error-free or will operate without interruption. If mandatory applicable law requires certain mandatory warranties that would exceed this limited warranty with respect to the Software, all such warranties are limited to the maximum extent possible under such mandatory applicable law.

b) QUADIENT and its suppliers provide no remedies or warranties, whether express or implied for any sample application code, alpha code or trial version of the Software. Any Trial Versions or Test Versions, non-GA releases or sample application code of the Software are provided “as is”, if not expressly agreed otherwise.

c) No oral or written information or advice given by QUADIENT, its suppliers and resellers or employees outside of a written agreement shall create a warranty for QUADIENT or in any way increase the scope of any warranty provided herein.

d) Except as set forth in this section 4 of this Agreement QUADIENT disclaims all other warranties and representations, whether expressed, implied or otherwise, including the warranties of merchantability or fitness for a particular purpose. Also, to the extent permitted by applicable law, there is no warranty of non-infringement of third-party intellectual property rights and title for the Third-Party and Open Source components of the Software.

e) Where some jurisdictions do not allow the exclusion of certain implied warranties, the exclusion of QUADIENT’s warranty in this limited warranty section shall apply to the fullest extent permitted by applicable law.

f) The Software or Third-Party Services may be subject to limitations, delays, and other problems external to QUADIENT and inherent in the use of the internet and electronic communications. Notwithstanding the foregoing, QUADIENT shall use industry best practices and standard technical means to reduce and limit the impacts of such problems, but QUADIENT disclaims any and all responsibility for delays, delivery failures, or other damage resulting from such problems outside of QUADIENT’s sole control.



## 4.2 Sole and Exclusive Remedy

To the extent permitted under mandatory applicable law, Licensee's exclusive remedy for any breach of this Limited Warranty is as set forth below. Except for any refund according to this section as elected by QUADIANT, Licensee shall not be entitled to any damages including, but not limited to, consequential damages if the Software does not meet this Limited Warranty, even if any remedy fails of its essential purpose. Provided that the Licensee makes a timely written Warranty claim to QUADIANT within the Warranty Period, QUADIANT will, at its sole discretion, supply Licensee with a copy of the Software that substantially conforms to the published Documentation, provide a replacement for the defective media, or refund the fees for the Software paid in the last 12 months to QUADIANT to Licensee.

QUADIANT shall have no responsibility if failure of the Software has resulted from misconfiguration, accident, abuse, misapplication, abnormal use, a virus or if the failure arises out of use of the Software with other than a recommended hardware configuration. Any such misuse of the Software will void the aforesaid warranty.

Licensee acknowledges that this remedy is the sole and exclusive remedy available to Licensee for breach of express or implied warranties with respect to the Software and related Documentation.

## 4.3 Intellectual Property Indemnification

QUADIANT will defend, at its own expense, and hold Licensee harmless against any legal action brought against Licensee based on a claim that the Software infringes an Intellectual Property Right of a third party, and QUADIANT will pay any final judgment against Licensee in any such action attributable to any such claim or incurred by Licensee through settlement of such claim.

Any and all claims with respect to any of the Open Source Software, Third-Party Software or Service components shall be subject to their respective license agreements, and QUADIANT disclaims any and all liability with respect to those software programs or components, including but not limited to, any claims of Intellectual Property Right infringement.

Should the Software or any part thereof become, or in QUADIANT's opinion be likely to become, the subject of any such infringement claim, Licensee shall permit QUADIANT, at QUADIANT's option and expense, to (i) procure for Licensee the right to continue using the Software, or (ii) replace or modify the Software so that it becomes non-infringing and maintains the same functionality or (iii) terminate the right to use the Software, upon which termination Licensee agrees to promptly destroy all copies of the Software and certify the same to QUADIANT, whereupon QUADIANT will refund Licensee's License Fees for the Software pro-rata up to 100% the total amount of Licensee's paid License Fees for the Software in the prior twelve (12) months.

However, all such defense and payments of final judgment are subject to the conditions that Licensee must: (i) notify QUADIANT promptly in writing of such claim, (ii) permit QUADIANT to have sole control of the defense, compromise or settlement of such claim, including any appeals, and (iii) reasonably cooperate with QUADIANT in the defense or settlement of such claim. QUADIANT will pay those costs, damages or reasonable attorney's fees incurred by Licensee in connection with such action or claim, but shall only pay Licensee's legal fees which were incurred by Licensee after Licensee gave QUADIANT notice of the claim and before QUADIANT assumed control of the defense up to the agreed liability and infringement cap.

QUADIANT shall have no obligation or liability for any claim pursuant to this Section to the extent arising from: (i) the combinations, operation, or use of the Software supplied under this Agreement with any product, device,



or software not supplied by QUADIENT to the extent the combination creates the infringement; (ii) the unauthorized alteration or modification by Licensee of the Software, or (iii) QUADIENT's compliance with Licensee's designs, specifications, requests, or instructions pursuant to an engagement with QUADIENT relating to the Software to the extent the claim of infringement is based on the foregoing.

THE FOREGOING IS QUADIENT'S SOLE OBLIGATION AND LICENSEE'S EXCLUSIVE REMEDY WITH RESPECT TO INTELLECTUAL PROPERTY INDEMNIFICATION.

## 4.4 Limitation of Liability

IN ANY CASE, THE PARTIES AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, QUADIENT'S ENTIRE LIABILITY AND INDEMNITY UNDER ANY PROVISION OF THIS AGREEMENT FOR ANY CLAIM OR LEGAL ACTION IRRESPECTIVE OF ITS NATURE, SHALL NOT EXCEED IN AGGREGATE THE SUM OF THE LICENSE FEES PAID BY LICENSEE FOR THE RESPECTIVE SOFTWARE TO WHICH THE CLAIM RELATES IN THE PRIOR TWELVE (12) MONTHS TO THE CLAIM BEING MADE, NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO DEATH OR BODILY HARM CAUSED BY THE NEGLIGENCE OF QUADIENT AND TO THE EXTENT APPLICABLE LAW PROHIBITS THE LIMITATION OF CERTAIN LIABILITIES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL QUADIENT OR ITS AFFILIATES OR DISTRIBUTORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY ARISING OUT OF OR THE INABILITY TO USE THE SOFTWARE EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

## 5 Professional Services, Maintenance and Support

Supplementing the License, Licensee can obtain professional services or maintenance and support services under a separate agreement from either one of QUADIENT's worldwide Affiliates or from an authorized QUADIENT business partner company.

## 6 Mutual Confidentiality

Each party acknowledges and agrees that any and all proprietary information labelled as "confidential" or which a reasonable person would know constitutes proprietary information, including but not limited to, business plans, financial reports, customer lists and other customer information, descriptions of manufacturing processes, and product development and marketing plans emanating from the other party's business in any form shall be "Confidential Information", and each party agrees that it will not, during or after the term of this Agreement, permit the duplication, use, or disclosure of any such Confidential Information to any person (other than an employee, agent or representative of the other party who must have such information for the performance of its obligations hereunder or in the execution of the duties of his or her employment), unless such duplication, use or disclosure is specifically authorized by the other party in writing. Licensee agrees that QUADIENT shall expressly be entitled to disclose Confidential Information provided by Licensee to its own employees, agents or representatives as well as to its parent companies and QUADIENT Affiliates. Such aforesaid disclosure shall



always be confined to the extent that it is reasonably required in order to fulfil QUADIENT's obligations under this Agreement.

## 7 Term and Termination

This Agreement shall be effective for the term of the License grant according to the licensing scheme chosen and as set out in the applicable License Schedule or Customer Contract as the applicable "License Term", unless prior terminated by either Party.

For any subscription License, unless otherwise specified in the Customer Contract, the License Term shall continue for a minimum period of two (2) years ("Initial Term"). The License Term will automatically renew for additional terms of one (1) year following the Initial Term (each, a "Renewal Term") unless either Party declines renewal by notice in writing to that effect delivered to the other Party at least ninety (90) days prior to the expiration of the then current License Term.

Upon termination of a License, Licensee must immediately uninstall and delete the Software, and destroy all accompanying Documentation and all copies thereof (including copies stored in computer memory).

## 8 Miscellaneous

8.1 Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.

8.2 In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

8.3 Unless expressly stated otherwise in a Customer Contract, Licensee agrees to allow QUADIENT and its Affiliates to store and use Licensee's contact information, including names, phone numbers, and e-mail addresses, anywhere they do business. Such information will be processed and used in connection with our business relationship, and may be provided to Affiliates, contractors and authorized business partners of QUADIENT for uses consistent with their collective business activities, including communicating with Licensee (for example, for processing orders, for promotions, and for market research).

## 9 Governing Law and Legal Venue

This Agreement is construed under the Laws of Switzerland, excluding provisions on conflict of laws and also expressly excluding the U.N. Convention of Contracts for the Sale of International Goods. Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be Zurich. The language to be used in the arbitral proceedings shall be English. Each party hereby waives opposition to jurisdiction in this arbitration. The dispute, controversy or claim shall be decided in accordance with the law of Switzerland.



## 10 Definitions

The following terms used in this Agreement shall have the following meaning:

- **“Affiliate”** means a legal entity owned by, owning to or under common ownership of either party (in QUADIANT case, including the group entities of Neopost SA), whereby ownership shall be defined as holding a financial interest of at least 51% of shares or capital;
- **“Computer”** means one central processing unit (CPU) that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions - for license counting, a virtual machine (computer operating system (guest) running in emulated hardware within a host operating system) is considered to be the equivalent of a physical machine;
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