

End User License Agreement (EULA)

This End User License Agreement (“**EULA**”) is a legal agreement between the Parties Kaya International Holding B.V., Landjuweel 9, 3905 PE Veenendaal, Netherlands, Chamber of Commerce Registration no. 68233698 (“**Kaya**”) and the (“**Customer**”).

The EULA is accepted by the Customer on the Kaya website www.kaya-consulting.com and shall form the agreement between the parties.

This EULA replaces all previous agreements between Kaya and the Customer regarding Kaya Software including selected add-ons and plug-ins (the “**Software**”).

1. LICENSE GRANTED

1.1 Rights Reserved by Kaya

Kaya owns all title and intellectual property rights of the Software. Kaya reserves all rights not expressly granted to the Customer under this EULA.

1.2 Customer’s Right of Use

1.2.1 Subject to the Customer’s fulfilment of the Customer’s obligations under the EULA, including payment of any and all applicable subscription fees, Kaya grants the Customer, subject to the restrictions in Clause 2 below, a personal, non-exclusive, non-transferable right to use the Software according to the terms of this EULA.

1.2.2 The Customer’s right to use the Software will take effect on the date of the purchase by the Customer and applies until terminated in accordance with the terms of this EULA.

1.2.3 The Customer shall ensure that the Software is not used in a manner which could harm Kaya’s name, reputation, or goodwill, or which violates applicable laws or regulations.

2. RESTRICTIONS

2.1 No Assignment, Sale, Sublicensing, Rental, Lending or Leasing

Subject to section 1.2 the Customer may not assign, sell, sublicense, rent, lease or lend the Software.

2.2 No Copying

The Customer is not allowed to make any copies of the Software, except to the extent expressly permitted by applicable law. Similarly, the Customer may not publish, distribute or otherwise make the Software publicly available for others to copy.

2.3 Limitations on Reverse Engineering, Decompilation, and Disassembly

The Customer is not entitled to reverse engineer, decompile, or disassemble the Software, except when and only to the extent that applicable law notwithstanding this limitation expressly permits such activity.

2.4 Support, Upgrade, Maintenance, etc.

Kaya will deliver support, upgrade, maintenance or other services in connection with the Software at the discretion of Kaya as announced by Kaya.

3. PRICE AND TERMS OF PAYMENT

If the Customer receives an invoice directly from Kaya, the following applies:

3.1 In case the Customer needs another level of capacity or functionality, the Software will automatically be upgraded or downgraded accordingly. The Customer accepts that the price will consequently increase or decrease according to the configuration of the Software.

3.2 Payment terms, including Payment Due Date, will be stated on the invoices.

3.3 In case of failure to pay the Software Fee in due time, the Customer will receive one reminder free of charge seven days after Payment Due Date. If the Software Fee subsequently not paid ten days after the date of the first reminder, the Customer will receive a second reminder and be charged a reminder fee of EUR 25 in the Netherlands, or the equivalent fee permitted in the relevant jurisdiction. If the License Fee subsequently not paid seven days after the date of the second reminder the Customer's access to the Software will be blocked. Access to the Software will be made available again after Kaya receives payment unless Kaya has terminated the EULA before this time.

3.4 A customer must provide an email address for invoicing purposed to Kaya. The Customer agrees that invoices and reminders sent from Kaya by e-mail, to the email address provided by Customer for invoicing purposes, are to be considered duly received by the Customer.

3.5 The applicable Software Fees can be found on Kaya's website and may be modified on the website with one (1) months' notice. The same applies to changes to the composition and content of License types and additional modules. All prices are excl. VAT.

3.6 The invoicing period begins from the start of the month of initial access to the Software. Invoices are charged monthly, unless otherwise agreed by the Parties.

3.7 If the Customer receives the Software based on an agreement between the Customer and a third party other than Kaya (e.g. Kaya Partners or Kaya Distributors), Pricing and Payment Terms will be agreed directly with the third party.

4. EXPIRY AND TERMINATION

4.1 Termination

4.1.1 The Customer may terminate the use of the Software and/or opt-out of additional modules to the end of a calendar month unless otherwise stated in the description or terms of the specific modules. The Customer will immediately notify Kaya thereof in writing.

4.1.2 Kaya may terminate this EULA with six (6) months written notice, or without notice if the Customer is in breach of any term, condition or provision of the EULA or in case of the Customer's insolvency or bankruptcy.

5. OPERATING STABILITY

5.1 Kaya strives for the best operational stability possible, but is not responsible for breakdowns or malfunctions, including operational malfunctions caused by factors beyond Kaya's control. This includes, inter alia, power failure, equipment failure, failure in connecting to the internet or telecommunications, or the like. The Software is provided "as is" and Kaya disclaims any warranty, insurance, indemnity, claim or other terms, whether direct or indirect.

6. CHANGES

6.1 Kaya is entitled to update and improve the Software.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 The Software is protected by copyright and other intellectual property rights and is owned by or licensed to Kaya. Individually created software also belongs to Kaya, unless otherwise agreed in writing. The Customer shall notify Kaya of any current or potential violation of Kaya's intellectual property rights or unauthorized use of the Software of which the Customer becomes aware.

7.2 This EULA does not in any way transfer any intellectual property rights related to the Software to the Customer.

8. TRANSFER

8.1 Kaya has the right to assign its rights and obligations in part or in whole under the EULA to a third party.

9. EXCLUSIONS AND LIMITATIONS OF LIABILITY

9.1 Under no circumstances will Kaya be liable to the Customer or any other person or entity for any direct or indirect damages of any kind, including, without limitation lost profits, lost savings, lost data or other special, indirect, punitive, consequential, or incidental damages arising from or relating to the use of the Software or any service provided or undertaken by Kaya under this EULA, even if Kaya has been advised of the possibility of such loss or damage. The foregoing exclusion of liability applies to all causes of action, including breach of contract, breach of warranty, strict liability, negligence and other torts.

9.2 In no event will Kaya be liable to the Customer or any other person or entity for any direct or indirect damages due to system instability or failure.

9.3 Kaya is not responsible for any third-party solutions that are available and/or integrated with the Software. Kaya cannot be held liable for the accuracy, completeness, quality, or reliability of the information nor the results obtained through these third-party solutions. Similarly, Kaya cannot be held liable for the availability, security, or functionality of any third-party solutions, including possible damages and/or loss caused by third-party solutions. The burden is upon the Customer to prove that a loss suffered by the Customer cannot be attributed to third party solutions.

9.4 The maximum aggregate liability of Kaya upon any claims whatsoever, arising out of the services provided by Kaya or the Software under this EULA will be limited to the direct damages incurred by the Customer and furthermore be limited to the amount of the Software Fees as paid by the Customer 12 months prior to the event giving rise to liability.

9.5 Kaya cannot be held liable by the Customer in case of loss arising by force majeure, including but not limited to acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority and labour disputes of whatever nature and for whatever cause arising including (but without prejudice to the generality of the foregoing) work to rule, overtime bars, strikes and lockouts.

10. THIRD PARTY RIGHTS

10.1 Kaya cannot and does not grant the Customer any licence to any third-party patent or any other intellectual property rights held by a third party. The Customer must, at the Customer's own expense, license and maintain any such licences from third parties, and Kaya cannot be held liable if a third party raises a claim for infringement of such third party's patent rights or other intellectual property rights. If the Customer does not license and maintain such third-party licences as mentioned, and if this results in a third party raising a claim against Kaya, the Customer shall indemnify Kaya against any such third-party claim.

11. WAIVER

Failure or neglect by Kaya to enforce any of the provisions of the EULA at any time shall not be construed nor shall be deemed to be a waiver of Kaya's rights under the EULA nor in any way affect the validity of the whole or any part of the EULA nor prejudice Kaya's rights to take subsequent action.

12. SEVERABILITY

In the event that any of the provisions of this EULA shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such provision shall to that extent be severed from the remaining provisions which shall continue to be valid between the Parties fully permitted by law.

13. COMPLIANCE WITH LOCAL LAWS

The Customer shall comply at the Customer's own expense and risk with all relevant and applicable laws including, but not limited to, broadcast laws and regulations in the use of the Software.

14. CHANGE OF TERMS

Kaya may modify the terms and conditions pursuant to this EULA. Changes of the terms will only be posted on the Kaya website. It is the Customer's responsibility to keep up to date on changes to the terms, so regular visit to the Kaya website is advised. Use of the Software after a change of terms constitutes the acceptance of these terms.

15. APPLICABLE LAW AND VENUE

15.1 Applicable Law:

This EULA shall be governed, construed and enforced in accordance with the laws of the Netherlands.

15.2 Disputes and Venue:

Any dispute arising out of or relating to this EULA shall will be settled by a Court in the Netherlands in accordance with the applicable laws.

Notwithstanding the specified agreement on jurisdiction, the Parties shall, if any dispute arises, attempt to settle the dispute through mediation. To initiate the mediation, one Party shall give notice in writing to the other Party of the dispute requesting mediation. No Party may commence court proceedings in relation to any dispute until the Parties have attempted to settle the dispute through mediation. The Parties are obliged to attend the first meeting convened by the mediator. A party shall be entitled to commence court

proceedings if any delay of such proceedings may result in the forfeiture of any right, e.g. due to time barring.

15.3 Right to injunctive relief: Notwithstanding Clause 15.2 above, Kaya may seek injunctive or equitable relief in any jurisdiction to enforce its intellectual property rights.