

## **USER AGREEMENT FOR MAMUT PRODUCTS AND SERVICES**

You confirm, by installing Mamut products and/or by using Mamut services, that you have read, understood and accept to be bound by those provisions of this agreement that apply to the relevant products and services from Mamut ASA, its wholly- or partly-owned subsidiaries and/or representatives ("Mamut"). The entire agreement should therefore be read carefully. You do not have the right to use the relevant Mamut products and/or services if you do not accept the provisions of the present agreement. You must in such case return, within 14 days of the purchase date, the software package(s) including all products and a copy of the receipt for your purchase to where you purchased the software package.

None of the provisions of this agreement shall be interpreted to mean that you waive any rights conferred on you pursuant to mandatory statute, hereunder any mandatory rights conferred on you as a result of you entering into this agreement as a consumer. Mamut primarily supplies products and services for businesses. However, in certain cases Mamut sells products and services to customers who are deemed, for legal purposes, to be consumers. It is emphasised, in order to safeguard the rights of such customers in their capacity of consumers, that Mamut acknowledges and complies with mandatory consumer rights in the countries where Mamut is represented. If the terms and conditions set out below are in conflict with mandatory consumer rights, such consumer rights will take precedence over the said terms and conditions. The remaining terms and conditions of this agreement shall apply without modification.

### **Cooling-off period for consumers when purchasing goods and services**

If you purchase software, other products and/or services as a consumer (i.e. if you are an individual who does not primarily make the purchases as part of business activities), you have the right to terminate this agreement without cause within 14 days of having received the product/service, provided that:

- - The agreement has been entered into (i) outside the trade premises of Mamut or its reseller, or (ii) via remote communications (hereunder, but not limited to, the Internet and telephone); and
- - You in all other respects have complied with all legal requirements for exercising a right to cancel the agreement.

In order to exercise your cooling-off rights, you have to use the cooling-off form accompanying the product/service or sent to you by e-mail. More detailed information about exercising the cooling-off right is set out in the form. If exercising the cooling-off right you have to, *inter alia*, return any physical materials you have received from Mamut (hereunder software media, user documentation and packaging). The materials shall be returned, at your own expense, in the same number and in the same state as when delivered to you, together with a copy of the completed cooling-off form, to Mamut Software Ltd, 90 Long Acre, Covent Garden, London, WC2E 9RZ, Tel: 0800 032 5616, E-mail: info@mamut.co.uk. Exercising the cooling-off right in respect of software also implies the termination of any agreement relating to services to be provided in connection with the software. A refund in respect of the purchase price will be made within 14 days of Mamut having received all materials from you.

When purchasing services you consent to Mamut commencing deliveries to you prior to the expiry of any cooling-off period. If exercising any cooling-off right you will therefore have to pay for such parts of the services as have been provided, as well as for any materials used.

**GENERAL PROVISIONS GOVERNING ALL PRODUCTS AND SERVICES ("General provisions")**

*The provisions herein shall govern all products and/or services offered to you by Mamut, unless otherwise specifically agreed, and irrespective of whether the products and/or services are offered against payment or free of charge. In addition, there are special provisions governing various products and services (see designated sections of this agreement).*

**1. Privacy**

Mamut is the controller of the personal data you register about yourself through our websites and upon activating licenses. Mamut will process the personal data for purposes of the administration and follow-up of your customer relationship, hereunder performance of the customer agreement(s) entered into with you, compilation and dissemination of user tips and relevant news and offers for products and services from Mamut and/or relevant cooperation partners. In order to establish a basis for offering you better and more optimised information, Mamut may register and analyse the use of Mamut software and appurtenant software/services. Such registration encompasses, *inter alia*, licenses, user numbers and utilisation of storage capacity on the network server.

You can find more information on how Mamut process your personal data as data controller by visiting <https://www.visma.com/privacy-statement/changes-to-this-statement/>

You may request the disclosure of the information registered about you, and request the updating and/or correction of such information. You shall for such purposes contact the controller, which is Mamut Software Ltd, 90 Long Acre, Covent Garden, London, WC2E 9RZ, Tel: 0800 032 5616, E-mail: [info@mamut.co.uk](mailto:info@mamut.co.uk).

Any requests for information, any questions concerning complaints in connection with this agreement, as well as any other communications may be sent to [info@mamut.co.uk](mailto:info@mamut.co.uk).

**1.1. Data Processing Agreement**

by and between

<b>Data Controller:</b>	[The Customer]
<b>Data Processor:</b>	Visma Mamut AS
Organisation number:	972417491
Country of establishment:	Norway
Data Processor's contact for general requests regarding the agreement (name, role, contact details):	William Ford – Sales Manager UK Tel 0044 207 153 0900 Email- <a href="mailto:william.ford@visma.com">william.ford@visma.com</a>
Data Processor's contact for notification of unauthorised data processing (name, role, contact details):	William Ford – Sales Manager UK Tel 0044 207 153 0900 Email- <a href="mailto:william.ford@visma.com">william.ford@visma.com</a>

Henceforth respectively referred to as "Controller", "Processor", or "Party" and collectively as the "Parties".

**Introduction**

Both Parties confirm that the undersigned have the power of attorney to enter into this data processing agreement ("Agreement"). This Agreement will form part of and regulate the processing of personal data tied to the following service agreements ("Service Agreements") between the Parties:

- *Service Agreement between Visma Mamut AS and (the customer) for the use of Mamut AccountEdge Software.*

The Processor operates in accordance with the Visma group Privacy Statement, available at <https://www.visma.com/privacy-statement/>, which is applicable to all companies within the Visma group.

## **Definitions**

The definition of Personal Data, Special Categories of Personal Data (Sensitive Personal Data), Processing of Personal Data, Data Subject, Controller and Processor is equivalent to how the terms are used and interpreted in applicable privacy legislation, including the General Data Protection Regulation (GDPR) applicable for this Agreement and Europe from 25 May 2018.

## **Scope**

The Agreement regulates the Processor's Processing of Personal Data on behalf of the Controller, and outlines how the Processor shall contribute to ensure privacy on behalf of the Controller and its registered Data Subjects, through technical and organisational measures according to applicable privacy legislation, including the GDPR.

The purpose behind the Processor's Processing of Personal Data on behalf of the Controller is to fulfill the Service Agreements and this Agreement.

This Agreement takes precedence over any conflicting provisions regarding the Processing of Personal Data in the Service Agreements or in other agreements made between the Parties.

## **The Processor's obligations**

The Processor shall only Process Personal Data on behalf of and in accordance with the Controller's instructions. By entering into this Agreement, the Controller instructs the Processor to process Personal Data in the following manner; i) only in accordance with applicable law, ii) to fulfill all obligations according to the Service Agreement, iii) as further specified via the Controller's ordinary use of the Processor's services and iv) as specified in this Agreement.

The Processor has no reason to believe that legislation applicable to it prevents the Processor from fulfilling the instructions mentioned above. The Processor shall, upon becoming aware of it, notify the Controller of instructions or other Processing activities by the Controller which in the opinion of the Processor, infringes applicable privacy legislation.

The categories of Data Subject's and Personal Data subject to Processing according to this Agreement are outlined in Appendix A.

The Processor shall ensure the confidentiality, integrity and availability of Personal Data according to privacy legislation applicable to the Processor. The Processor shall implement systematic, organisational and technical measures to ensure an appropriate level of security, taking into account the state of the art and cost of implementation in relation to the risk represented by the Processing, and the nature of the Personal Data to be protected.

The Processor shall assist the Controller by appropriate technical and organisational measures, insofar as possible and taking into account the nature of the Processing and the information available to the Processor, in fulfilling the Controller's obligations under applicable privacy legislation with regards to request from Data Subjects, and general privacy compliance under the GDPR article 32 to 36.

If the Controller requires information or assistance regarding security measures, documentation or other forms of information regarding how the Processor processes Personal Data, and such requests exceed the standard information provided by the Processor to comply with applicable privacy legislation as Processor, and imposes additional work on the Processor, the Processor may charge the Controller for such additional services according to agreement between the Parties.

The Processor and its staff shall ensure confidentiality concerning the Personal Data subject to Processing in accordance with the Agreement. This provision also applies after the termination of the Agreement.

The Processor will, by notifying the Controller without undue delay, enable the Controller to comply with the legal requirements regarding notification to data authorities or Data Subjects about incidents.

Further, the Processor will to the extent it is appropriate and lawful notify the Controller of;

- i) requests for the disclosure of Personal Data received from a Data Subject,
- ii) requests for the disclosure of Personal Data by governmental authorities, such as the police

The Processor will not respond directly to requests from Data Subjects unless authorised by the Controller to do so. The Processor will not disclose information tied to this Agreement to governmental authorities such as the police, hereunder Personal Data, except as obligated by law, such as through a court order or similar warrant.

The Processor does not control if and how the Controller uses third party integrations through the Processor's API or similar, and thus the Processor has no ownership to risk in this regard. The Controller is solely responsible for third party integrations.

### **The Controller's obligations**

The Controller confirms by the signing of this Agreement that:

- The Controller shall, when using the services provided by the Processor under the Services Agreements, process Personal Data in accordance with the requirements of applicable privacy legislation.
- The Controller has legal authority to process and disclose to the Processor (including any subcontractors used by the Processor) the Personal Data in question.
- The Controller has the responsibility for the accuracy, integrity, content, reliability and lawfulness of the Personal Data disclosed to the Processor.
- The Controller has fulfilled its duties to provide relevant information to Data Subjects and authorities regarding processing of Personal Data according to mandatory data protection legislation.
- The Controller shall, when using the services provided by the Processor under the Services Agreement, not communicate any Sensitive Personal Data to the Processor, unless this is explicitly agreed in Appendix A to this Agreement.
- The Controller shall maintain an up to date register over the types and categories of Personal data it Processes, to the extent such Processing deviates from categories and types of Personal Data included in Appendix A.

### **Use of subcontractors and transfer of data**

As part of the delivery of services to the Controller according to the Service Agreements and this Agreement, the Processor may make use of subcontractors. Such subcontractors can be other companies within the Visma group or external third party subcontractors located within or outside the EU. The Processor shall ensure that subcontractors agrees to undertake responsibilities corresponding to the obligations set out in this Agreement. All use of subcontractors is subject to the Visma group Privacy Statement.

The Controller may request to include an overview of the current subcontractors with access to Personal Data in an Appendix B, and in any case, such an overview may be given on Visma's dedicated web pages for privacy compliance. The Controller may also request a complete overview and more detailed information about such subcontractors involved in the Service Agreements at any time.

If the subcontractors are located outside the EU, the Controller gives the Processor authorisation to ensure proper legal grounds for the transfer of Personal Data out of the EU on behalf of the Controller, hereunder by entering into EU Model Clauses or transferring Personal Data in accordance with the Privacy Shield.

The Controller shall be notified in advance of any changes of subcontractors that Process Personal Data. If the Controller objects to a new subcontractor, and the Processor is not able to demonstrate that the new subcontractor is

compliant with applicable privacy legislation, the Controller may terminate this Agreement. Such termination may give the right to terminate the Service Agreement, partly or fully, according to the termination clauses included in the Service Agreement. An important part of such assessments shall be to what extent the subcontractor's Processing of Personal Data is a necessary part of the services provided under the Service Agreement. The change of subcontractor will not in itself be considered as a breach of the Service Agreement.

By signing this Agreement, the Controller accepts the Processor's use of subcontractors as described above.

## **Security**

The Processor is committed to provide a high level of security in its products and services. The Processor provides its security level through organisational, technical and physical security measures, according to the requirements on information security measures outlined in GDPR article 32.

## **Audit rights**

The Controller may audit the Processor's compliance with this Agreement up to once a year. If required by legislation applicable to the Controller, the Controller may request audits more frequently. To request an audit, the Controller must submit a detailed audit plan at least four weeks in advance of the proposed audit date to the Processor, describing the proposed scope, duration, and start date of the audit. If any third party is to conduct the audit, it must as a main rule be mutually agreed between the Parties. However, if the processing environment is a multitenant environment or similar, the Controller gives the Processor authority to decide, due to security reasons, that audits shall be performed by a neutral third party auditor of the Processor's choosing.

If the requested audit scope is addressed in an ISAE, ISO or similar assurance report performed by a qualified third party auditor within the prior twelve months, and the Processor confirms that there are no known material changes in the measures audited, the Controller agrees to accept those findings instead of requesting a new audit of the measures covered by the report.

In any case, audits must be conducted during regular business hours at the applicable facility, subject to the Processors policies, and may not unreasonably interfere with the Processors business activities.

The Controller shall be responsible for any costs arising from the Controller's requested audits. Assistance from the Processor that exceed the standard service provided by the Processor and/or Visma group to comply with applicable privacy legislation, will be subject to fees according to agreement between the Parties.

## **Term and termination**

This Agreement is valid for as long as the Processor processes Personal Data on behalf of the Controller according to the Service Agreements.

This Agreement is automatically terminated upon termination of the Service Agreement. Upon termination of this Agreement, the Processor will delete or return Personal Data processed on behalf of the Controller, according to the applicable clauses in the Service Agreement. Unless otherwise agreed in writing, the cost of such actions shall be based on; i) hourly rates for the time spent by the Processor and ii) the complexity of the requested process.

The Processor may retain Personal Data after termination of the Agreement, to the extent it is required by law, subject to the same type of technical and organisational security measures as outlined in this Agreement.

## **Changes and amendments**

Changes to the Agreement shall be included in a new Appendix to this Agreement and signed by both Parties in order to be valid.

If any provisions in this Agreement become void, this shall not affect the remaining provisions. The Parties shall replace the void provision with a lawful provision that reflects the purpose of the void provision.

## **Liability**

For the avoidance of doubt the Parties agree and acknowledge that each Party shall be liable for and held accountable to pay administrative fines or damages which the Party has been imposed to pay by the data protection authorities or authorized courts according to the GDPR. All other liability matters shall be governed by the liability clauses in the Service Agreement between the Parties. This also applies to any violation committed by the Processor's subcontractors.

### **Governing law and legal venue**

This Agreement is subject to the governing law and legal venue as set out in the Service Agreement between the parties.

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<b>Data Controller: (The Customer)</b>
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### **Data Processor:**

Signed by:	William Ford
Place and date:	Oslo, 23.05.2018

### **Appendix A - Categories of Personal Data and Data Subjects**

#### *1. Categories of Data Subject's and Personal Data subject to Processing according to this Agreement*

1. Categories of Data Subjects
  1. customer end users
  2. customer employees
  3. customer contact persons

#### *b. Categories of Personal Data*

1. contact information such as your company name, contact person(s), contact email address(s) and contact phone number

#### *2. Types of sensitive Personal Data subject to Processing according to the Agreement*

The Processor shall on behalf of the Controller, process information regarding:	Yes	No
racial or ethnic origin, or political, philosophical or religious beliefs,		x
that a person has been suspected of, charged with or convicted of a criminal offence,		x
health information,		x
sexual orientation,		x
trade union membership		x
genetic or biometric data		x

### Appendix B - Overview current subcontractors

Current subcontractors of the Processor with access to the Controller's Personal Data upon signing this Agreement include:

Name	Location/country	Legal transfer mechanism if the subcontractor has access to personal data from countries outside the EU	Assisting the Processor with
Acclivity LLC	Rockaway, NK. USA	EU Standard Contractual Clauses (SCC)	Licencing and sales reports

### 2. Consent to receive electronic customer information

You consent, as a customer of Mamut, to us sending you customer information such as user tips, updating news, and news concerning Mamut, as well as relevant products and services that Mamut deem to be of interest to you. You consent, by providing your e-mail address upon registration as a Mamut customer, to such information being sent to the e-mail address provided by you and/or by other electronic means.

You may at any given time (also upon the formation of this agreement) notify Mamut, on info@mamut.co.uk to the effect that you do not wish to receive such communications, or that you wish to receive the information in a different manner. In received e-mails you will also find an option to unsubscribe future e-mails.

### 3. Payment terms

Any amount payable to Mamut shall, unless otherwise agreed, fall due for payment 10 calendar days after the invoice date upon the formation of a new agreement, and 30 calendar days after the invoice date upon the renewal of any agreements formed previously. Certain products and services require payment to take place prior to a license being issued/ renewed or the service activated. A charge might apply to the invoice. Late payment interest shall accrue pursuant to the Act relating to Interest upolely the employees of that party), structural shift or subsidence, line failure on the part of te

**communications operators, provided always that lack of funds** shall not be interpreted as a cause which is not of a party's making nor within a party's reasonable control.

If the performance of the agreement is prevented or rendered materially more difficult, in whole or in part, as *the* result of a Force Majeure Event, the duties of the parties shall be suspended to the extent that such circumstances are relevant, and for as long as such circumstances prevail.

## 6. Disclaimer of liability

Neither Mamut, nor its suppliers, third parties or legal representatives, can be held liable for any of the following incurred by you or any third party in connection with the use of, or the inability to use, Mamut products and/or services as described in this agreement:

(i) Direct loss or damage; and

(ii) Indirect loss or damage

The disclaimer of liability applies, but is not limited, to the loss of information, data, etc., of any type, service interruption, loss of profit, and other financial or non-financial losses. The disclaimer of liability shall apply irrespective of the causes and grounds (**hereunder any** In this Clause "Force Majeure Event" means, in relation to any party, any act, event or circumstance, the cause of which is not of such party's making nor within that party's reasonable control, including (to the extent not of that party's making nor within that party's reasonable control) Act of God, war, hostilities (whether or not war has been declared), terrorist acts, acts of any civil or military authority, governmental or regulatory direction or restriction, suspension or withdrawal of licences or consents, riot, insurrection, civil commotion, public demonstration, sabotage, acts of vandalism, fire, flood, earthquake, extreme weather conditions, epidemic, explosion, aircraft crashes or things falling from aircraft, release of ionising radiation or contamination by radioactivity, chemical or biological contamination, the order of any court or governmental or regulatory authority, delay in transportation or communications, breakage of or accidental damage to equipment, any strike, lock out or other industrial trade dispute (not involving solely the employees of that party), structural shift or subsidence, line failure on the part of telecommunications operators, provided always that lack of funds shall not be interpreted as a cause which is not of a party's making nor within a party's reasonable control.

If the performance of the agreement is prevented or rendered materially more difficult, in whole or in part, as the result of a Force Majeure Event, the duties of the parties shall be suspended to the extent that such circumstances are relevant, and for as long as such circumstances prevail.

## 6. Disclaimer of liability

Neither Mamut, nor its suppliers, third parties or legal representatives, can be held liable for any of the following incurred by you or any third party in connection with the use of, or the inability to use, Mamut products and/or services as described in this agreement:

(i) Direct loss or damage; and

(ii) Indirect loss or damage

The disclaimer of liability applies, but is not limited, to the loss of information, data, etc., of any type, service interruption, loss of profit, and other financial or non-financial losses. The disclaimer of liability shall apply irrespective of the causes and grounds (hereunder any consequences of systems error or new versions), and also applies to negligence on the part of Mamut. The disclaimer of liability shall apply despite Mamut or any of its legal representatives or suppliers having been informed of the possibility of damage and/or loss. As far as concern products and services (hereunder information) from third party to which you gain access via products and/or services from Mamut, you have to familiarise yourself with the provisions (hereunder in relation to liability) governing such third party products and/or services. Mamut cannot be held liable for any changes to the prices or other terms and conditions governing products and services from a third party with whom you have formed a separate agreement, or any loss incurred by yourself or others in connection with any change in the scope (hereunder discontinuance) or contents of such products and services. Mamut may include links to third party websites to make it easier for you to locate these. Mamut has no control over the current or future contents of linked websites and/or the use thereof. You accept that Mamut cannot be held liable for your use, if any, or your inability to use, links to third party websites. You are encouraged to familiarise yourself with the terms and conditions governing third party websites, hereunder the principles governing the processing of personal data relating to yourself. The overall liability of Mamut pursuant to all provisions of this agreement shall under any circumstance not exceed the amount that you have actually paid for each individual Mamut product and/or service on which your claim is based. Mamut makes no warranty, whether written or oral, direct or indirect, beyond those set out explicitly in this agreement, respecting the software and/or services provided pursuant to this agreement. You cannot make any claim against Mamut based on background law, unless otherwise laid down by mandatory legislation, irrespective of the legal or factual grounds therefore. Mamut does not warrant, without limiting the scope of the above, that, *inter alia*, software or services will achieve the desired results or that the use of software or other products and/or services will be uninterrupted or free of errors.



You shall, to the extent lawful under applicable legislation, indemnify Mamut, its suppliers and third parties fully in respect of any cost and expense, as well as any claim, loss, damage and liability, irrespective of the type thereof (hereunder, but not limited to, reasonable legal costs), that may arise in connection with your use of products or services from Mamut in violation of this agreement or otherwise in violation of the intellectual property rights of Mamut or your duty of confidentiality under the agreement.

Nothing in this clause shall be construed as excluding or limiting the liability of Mamut or any of its officers, employees and agents for death or personal injury of any person resulting from the negligence of Mamut or any of its officers, employees and agents.

#### **7. Proprietary rights and intellectual property rights**

Mamut is a registered trademark of Mamut ASA. Mamut ASA or its suppliers or third parties hold proprietary rights and copyrights and other intellectual property rights over and in relation to the products and services encompassed by this agreement. You do not have the right, unless otherwise explicitly stipulated or laid down by mandatory rules, to make copies of, distribute/transfer, imitate, change, adapt and/or make anything derived from information and/or other materials mentioned below that you have been offered by Mamut, irrespective of whether these are electronic or hard copies. These include, but are not limited to, logos, trademarks, layouts, sounds, pictures and designs from Mamut or third parties. Mamut and its associated companies shall hold all title and all intellectual property rights in relation to any proposals from you for changes to existing Mamut products and services and/or any proposals for new products or services, irrespective of the form and/or contents of such proposal. Such rights shall accrue to Mamut free of charge, unless otherwise explicitly agreed in writing in each individual case. You may request negotiations concerning consideration if your proposal is of material importance to the relevant product or service.

#### **8. Duty of confidentiality**

You have a duty to keep confidential, and prevent others from accessing or getting knowledge of, information concerning (i) products, services and/or documentation you receive from Mamut, (ii) any test findings relating to beta testing (hereunder, but not limited to, the disclosure of malfunctions, error messages, improvement proposals, etc.), (iii) development projects on the part of Mamut that may come to your knowledge, (iv) all communications between you and Mamut, and/or (v) other information relating to the business activities of Mamut that must, based on a cautious and loyal assessment, be deemed to be best kept confidential out of concern for the business activities of Mamut. You shall impose a duty of confidentiality on your own employees that corresponds to the one mentioned in the preceding part of this section. Nor can you utilise the information falling within the scope of the present section subsequent to the discharge of the agreement. If you are in any doubt as to whether anything falls within the scope of the duty of confidentiality you shall present it to Mamut in advance for its decision.

#### **9. Sub-contractors**

Mamut has the right to use sub-contractors in connection with its delivery of products and services. To the extent that the delivery includes components that are supplied by or licensed through third parties, you will upon installation/utilisation of the delivery be deemed to have accepted any special conditions for such components. To the extent required by such third parties, you are further obligated to enter into any additional agreements that are necessary for you to take delivery.

#### **10. Assignment**

You do not have the right to assign or otherwise transfer your rights and/or obligations under this agreement without the prior written consent of Mamut. Mamut has the right to assign or otherwise transfer its rights and/or obligations under this agreement to a third party.

#### **11. Termination without cause and suspension**

Each of the parties have the right to terminate the contractual relationship without cause by giving written notice to such effect three months prior to the expiry of the current agreement term, unless otherwise explicitly agreed in writing between the customer and Mamut, or explicitly set out in the official marketing materials or user documentation of Mamut or in designated sections of this agreement. A new agreement term will commence unless the notice of termination has been received by Mamut within the time limit.

Written notice may be given via electronic communications (hereunder e-mail).

On termination and after the due date of a payment obligation, Mamut may suspend the access to Mamut's products and services. You will receive notice by e-mail to your registered e-mail address prior to such suspension. The suspension will be in effect until correct payment is received. The customer bears the risk if the suspension affects the functionality of other products and services.

#### **13. Amendments, etc.**

Mamut reserves the right to change, from time to time, the prices and non-accepted offers prevailing at any given time, as well as to make minor amendments to the terms and conditions governing the use of Mamut products and services

and/or the contents, scope and method of delivery of the supplied products and services.

Material amendments to the terms and conditions governing the use of Mamut products and services and/or the contents, scope and method of delivery of the supplied products and services are only binding on you upon your acceptance of the amendment(s), unless the amendments are wholly or partly related to changes to the legal framework governing the relevant, or corresponding, products and services, the amendments are wholly or partly related to changes to, or the discontinuance of, third party products or services in respect of which you have entered into a separate agreement, or the amendments relate to products or services that are provided free of charge. Material changes to the contents and/or scope of the services and products supplied may imply the discontinuance of products and/or services. The continued use of products and services and/or the failure to terminate the Mamut Service Agreement in a timely manner prior to the automatic renewal thereof, is deemed to constitute the acceptance, on your part, of the notified amendments. Mamut will notify you of any amendments as mentioned above, with the exception of amendments relating to products or services that are provided free of charge, in such manner as chosen by Mamut in each individual case. A notice is deemed to have been given when sent or otherwise communicated by Mamut.

Furthermore, Mamut reserves the right to make updates and/or upgrades and adaptations of products and services supplied by Mamut. These shall always preserve and contain such functionality and quality as can reasonably be expected from products and services the customer has purchased from Mamut.

Please note that special terms and conditions may apply in addition to those set out in this agreement.

#### **14. Governing law and jurisdiction**

Any dispute between yourself and Mamut in connection with products and services that fall within the scope of this user agreement shall be governed by Norwegian law. The parties accept the Oslo Municipal Court, Norway, as venue. However, the said choice of venue shall not prevent Mamut from pursuing its proprietary rights and intellectual property rights (hereunder, but not limited to, petitioning for temporary injunctions) in other jurisdictions, and pursuant to the procedures and provisions applicable in such jurisdictions.

#### **15. Contracts (Rights of Third Parties) Act 1999**

The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any party who is not a party to this Agreement.

#### **16. No Partnership**

Nothing in this Agreement or in any document referred to in it or any arrangement contemplated by it shall constitute either party a partner of the other.

#### **17. Entire Agreement**

17.1 Each of the parties to this Agreement confirms that this Agreement represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

17.2 Each party confirms that in entering into this Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out in this Agreement.

## **RIGHT OF USE (LICENSE) FOR MAMUT SOFTWARE**

*The provisions herein shall govern all software offered to you by Mamut, unless otherwise specifically agreed, and irrespective of whether the software is offered against payment or free of charge. Certain licenses are time-limited and require you to enter into a Mamut Service Agreement, see Clause 5 in particular.*

### **1. Registration**

You will, as a main rule, be requested to activate your license by registering it with Mamut. You have to undertake such registration to ensure that you receive the software and the follow-up offered under your license. The unique license may only be registered once. The license will be updated when up- or downgrading and/or when renewing the Mamut Service Agreement.

### **2. Right of disposition and limitations therein**

You are granted a personal, extinguishable, non-exclusive and limited license in respect of the software, provided that you have paid the agreed license fee and comply with the provisions below. The license granted is subject to the following terms and conditions:

#### **2.1 Limited right to install and use**

##### *2.1.1 General provisions*

The software shall operate against the Mamut database that forms part of the software in respect of which you hold license(s). You are not entitled to let the software operate against any other Mamut database, unless otherwise explicitly agreed in writing between you and Mamut, or explicitly set out in the user documentation for the relevant Mamut software.

The license terms and conditions set out below shall apply unless otherwise explicitly agreed in writing between you and Mamut, or explicitly stated in the official Mamut marketing materials or user documentation for the relevant Mamut software. A written agreement may be entered into via electronic communications (hereunder e-mail).

##### *2.1.2 Local installation of software*

One license for the software does only give you the right to install and use the software on one single computer, workstation, terminal, handheld PC or other digital electronic storage and/or communications device, in respect of which you have a right of disposition (referred to as a "Computer" in Clause 2.1.3).

##### *2.1.3 Hosting of business applications and/or business data*

If Mamut software is made available to a Computer, cf. Clause 2.1.2 above, or to other devices on which the Mamut software is not installed, by way of, for example, ASP/terminal servers/web clients or other remote connection, one license shall apply to one individual named user within your legal entity or another legal entity to which you have the right to pass on such license by explicit written agreement with Mamut.

##### *2.1.4 Local installation of software combined with the hosting of business applications and/or data*

If Mamut software is installed on one or more Computers, cf. Clause 2.1.2 above, in respect of which you have a right of disposition, whilst data are stored and made available on the Mamut servers, one license shall apply to one individual named user within your legal entity or another legal entity to which you have the right to pass on such license by explicit written agreement with Mamut.

### **2.2 Copying and decompilation, etc.**

You are not entitled to make copies of the software or the user documentation and/or other materials accompanying the software, irrespective of whether these are electronic or hard copies, other than as necessary for the lawful disposition of the software with appurtenant documentation.

You are only entitled to make back-up copies of the software to the extent necessary for the utilisation thereof, and in accordance with mandatory law.

You are not entitled to decompile (disassemble) the software code for purposes of appropriating the techniques used by Mamut, other than as laid down by mandatory law.

You are not entitled to change, edit and/or make works deriving from the software (for example to remove fixed design templates like the Mamut logo).

### **2.3 Export/import of data**

You may export data from the Mamut database of the software for which you hold a license, for processing in other applications.

You are only entitled to import data into the Mamut database to the extent explicitly set out in user documentation from Mamut.

#### **2.4 The relationship with third parties**

You do not have the right to transfer, rent, lease, lend or otherwise offer any third party any right of disposition in relation to the software, its license number and/or appurtenant documentation, without the explicit prior written consent of Mamut. Prior written consent may be granted via electronic communications (hereunder e-mail).

#### **3. Automatic software updating**

Mamut has a right, but no obligation, to perform automatic updating of your Mamut software via the Internet, irrespective of whether you have a valid Mamut Service Agreement. Such updating may take place without further notification.

#### **4. The quality and suitability, etc., of the software**

You acknowledge and accept that no software is free of errors. Mamut seeks to remedy any general errors and defects through user support and software updates as stipulated in the Mamut Service Agreement. You acknowledge and accept that the software is of a general type, and that it is therefore not necessarily suitable for your particular purposes. For example, software offering tax calculations is not intended to handle all tax scenarios. Any simulation opportunities offered by the software will under any circumstance provide you with approximate, and not exact, calculations. It should be noted, in particular, that the Mamut software supporting third party services (hereunder, but not limited to, Internet banking, map display, contact display and payment solutions) depends on elements on the part of such third parties over which Mamut has no control. It may be that Mamut software has to be updated when the elements on the part of such third parties are changed. You therefore have to be prepared for third party services to not always be available through use of the software. Furthermore, your use of third party services is subject to the agreement between yourself and the provider(s) of such services, and Mamut cannot be held liable for the consequences of use of, or the inability to use, third party services.

#### **5. Requirement for the formation of a Mamut Service Agreement – time-limited licenses**

Your right to use the software with appurtenant documentation may be conditional up you having a valid Mamut Service Agreement with Mamut, and limited to the period when the Service Agreement remains in operation. What software licenses are subject to a mandatory requirement for a Mamut Service Agreement is specified in the product description posted on the Mamut homepage.

#### **6. License fee and Mamut Service Agreement**

The license fee is specified, together with the annual fee for the Mamut Service Agreement, on the Mamut homepage. The validity period of the Mamut Service Agreement for the relevant customer is specified in the Mamut software of such customer.

#### **7. Contracts (Rights of Third Parties) Act 1999**

The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any party who is not a party to this Agreement.

#### **8. No Partnership**

Nothing in this Agreement or in any document referred to in it or any arrangement contemplated by it shall constitute either party a partner of the other.

#### **9. Entire Agreement**

9.1 Each of the parties to this Agreement confirms that this Agreement represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

9.2 Each party confirms that in entering into this Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out in this Agreement.

## **MAMUT SERVICE AGREEMENT**

*The Mamut Service Agreement shall govern the services described below, unless otherwise is included in your product or is specifically agreed. By installing Mamut software for which the Mamut Service Agreement is mandatory, or by installing other Mamut software for which the Mamut Service Agreement is entered into voluntarily, you are deemed to have accepted the provisions below.*

### **1. User support**

The Mamut Service Agreement offers you user support during the opening hours of the Mamut Support Centres to an extent described on the Mamut homepage. User support is mainly provided in relation to the most recent official version of the Mamut software at any given time, and in the manner deemed appropriate by Mamut at any given time. User support does not include: (i) adaptations to other software, whether supplied by Mamut or a third party, (ii) searching for, or correcting, errors caused by hardware or other software than that governed by your license agreement, (iii) reconstruction or recapturing of lost or damaged data/computer files, (iv) assistance with the creation of a new password, (v) searching for errors in computer files or software, for example after a service interruption, (vi) conversion of data, (vii) assistance with problems caused by beta versions of Mamut software, (viii) assistance with problems caused by third party software, (ix) guidance relating to the use of software, whether supplied by Mamut or a third party (functionality and mode of operation, but technical assistance via telephone or e-mail upon installation/updating is included), or (x) physical attendance at your premises.

### **2. Software updates**

You get access to all new official versions/updates of the software governed by the Mamut Service Agreement. The updates are made available at such time, and in such manner, as chosen by Mamut at any given time. See the Mamut homepage for information about software updates. You need to keep yourself informed of, and install, on an ongoing basis, the updates that are made available at any given time, unless Mamut offers the automatic updating of your Mamut software.

### **3. Service fee, payment terms and supplementary services, etc.**

You pay an annual fee to activate and maintain the Mamut Service Agreement. The fee depends on what software you hold a valid license for at any given time; see the pricelist on the Mamut homepage. The fee for the Mamut Service Agreement is invoiced to you in advance upon the formation of a new agreement and upon the expiry of the time limit for termination during an ongoing agreement term, for another subsequent agreement term (see Clause 5 below). Any services that fall outside the scope of the Mamut Service Agreement will be invoiced separately in accordance with the prices applied by Mamut to such services at any given time.

The payment terms are set out in Clause 3 of the General provisions above.

### **4. Duration and renewal of the Mamut Service Agreement**

From the date on which you enter into a Mamut Service Agreement it will, as a main rule, remain in effect for one year, calculated from the invoice date, and be renewed automatically for one year at a time, unless otherwise agreed.

Please note that the Mamut Service Agreement will in respect of certain software licenses remain in effect from the invoice date until the first yearend, and then be renewed automatically by additional agreement terms with duration of one calendar year at a time, unless otherwise agreed.

You are yourself responsible for keeping yourself updated with respect to what agreement term your Mamut Service Agreement is renewed for. The Mamut Service Agreement shall remain in effect until terminated without cause or for breach as described below and in the General provisions.

### **5. Termination without cause, and discharge**

Reference is made to Clause 12 of the General provisions. You are not entitled to the refund of any service fee. Upon the discharge of the Mamut Service Agreement, irrespective of the reason for such discharge, your right to use the software for which the Mamut Service Agreement is mandatory, shall lapse as from the same date. Mamut may in such case convert your right of use to apply to a functionality included in free versions of Mamut software. Mamut reserves the right to require, at its own discretion, the deletion from your computer of anything you have received from Mamut, and your return to Mamut of all physical materials you have received from Mamut (hereunder, but not limited to, software media and user documentation).

## **BETA TESTING**

*In addition to the other provisions of this Mamut User Agreement, your testing of beta versions of software and other products and/or services from Mamut shall be governed by the provisions below, unless otherwise specifically agreed. You are deemed to have accepted the provisions below by installing a beta version of software or joining a beta version of a service.*

### **1. System requirements**

Mamut will not contribute hardware in connection with your beta testing. Any minimum requirements relating to equipment to be used for purposes of your beta testing may be set out in the most recently updated version of the information concerning beta testing.

### **2. Costs**

You are responsible for any return costs. You do not have any right to consideration in connection with your beta testing, unless otherwise explicitly agreed in writing in each individual case.

### **3. Testing and reporting**

You shall test and report pursuant to more detailed guidelines specified in connection with the distribution of each individual beta version. You shall allocate a reasonable amount of time to testing and reporting in relation to the beta versions Mamut sends to you or makes available for testing. You cannot use the regular Mamut support service when you need support for beta versions of software or services. Mamut is obliged to examine your reports, but is not obliged to give you feedback in respect thereof.

### **4. Termination without cause**

An agreement relating to beta testing may be terminated without cause by written notice from yourself or Mamut at any given time. Anything you have received from Mamut in connection with the agreement relating to beta testing shall be deleted from your Computer upon termination, and you shall return to Mamut all physical materials you have received from Mamut (hereunder software media and user documentation).