



TALK2M – TERMS OF USE AND SERVICE LEVELS AGREEMENT

VERSION 3.3, MAY 2024

Welcome to Talk2m Service,

THIS LEGAL AGREEMENT BETWEEN YOU AND HMS INDUSTRIAL NETWORKS GOVERNS YOUR USE OF THE TALK2M SERVICES. IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THE FOLLOWING TERMS. YOU ACCEPT THESE TERMS BY CREATING A TALK2M ACCOUNT, THROUGH THE USE OF SERVICES, OR BY CONTINUING TO USE THE SERVICES AFTER BEING NOTIFIED OF A CHANGE OF THESE TERMS.

This agreement is done between: HMS Industrial Networks SA, a company organized and existing under the laws of Belgium, registered with the Crossroads Database for Enterprises under number 0450.350.907 (RLP Nivelles), having its registered office at 1400 Nivelles, Avenue Robert Schuman 22, hereafter referred to as “HMS”,

And you, hereafter referred to as the "Client",

Hereinafter collectively referred to as “Parties”.

WHEREAS, The Client is using HMS Ewon devices manufactured by HMS in order to monitor their industrial equipment or device. The Client now wishes to optimize their access to the monitored industrial equipment by using the Talk2m cloud connectivity solution made available by HMS. HMS accepts to grant access to the Client to its Talk2m platform and to perform the associated Services, under the terms and conditions of the present Agreement.

NOW, THEREFORE, the Parties have agreed as follows:

Art. 1 DEFINITIONS

- “Account” means the space in which all Devices and users will be registered into the Talk2m Services and that will be associated to the Talk2m Administrator Contact Person.
- “Client Data” means any information and/or data in any form that is entered on the Talk2m visualization Service through the datamailbox APIs in connection with the Client’s use of the Services. Client Data is stored for 12 months and might be erased after that.
- “Device Data” means any information and/or data in any form that is collected and stored in Devices and/or send from Devices to the Talk2m Services in connection with the Client’s use of the Services.
- “Devices” means any unit to which a User connects through Talk2m Services. It can be a standard Ewon device or any HMS OEM unit complying with Talk2m connectivity requirements.
- « High Risk System” means a system or device that needs extra safety functionalities such as fail-safe or fault-tolerant features to maintain a safe state where it is reasonably foreseeable



that failure of the device or system could lead directly to death, personal injury, or catastrophic property damage.

- “Reselling Partner” means the third party in charge of selling the Talk2m Services to the Client, as HMS official distributor or reseller.
- “Security Incident” shall have the meaning set forth at Section 9 of the Agreement.
- “Services” means any Talk2m Connectivity Services between Users and Devices and also including available Connectivity Bandwidth, Connectivity Traffic, and other Talk2m related Services that will be offered in future versions. These Services do not cover the connectivity between Client to Internet nor Devices to Internet.
- “Service Levels” means the service level commitments of HMS.
- “Service Packages” means Services as ordered by the Client.
- “Service Commencement Date” means the date upon which the Services will start.
- “Software” means all software which are distributed by HMS for device remote access by Internet.
- “User” means any User of the Services that must be registered beforehand in an Account by the Client. The Client is fully responsible for any User that has been registered in that Account.

Art. 2 OBJECTIVE OF THIS AGREEMENT

HMS will provide the Client with the Services and will perform the Services in accordance with the Service Levels. HMS commits to provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof. The Services will perform substantially in accordance with the online Talk2m documentation under normal use and circumstances.

Art. 3 CLIENT OBLIGATIONS

The Services are provided for Client’s proper use of them and therefore, Client undertakes that its use of the Services will not be in breach of the license terms hereunder, nor any other applicable laws, codes or regulations including data protection laws. The Client may use the Services for their business purposes but shall not: (i) interfere with or disrupt the integrity or performance of the Services or the data contained therein; or (ii) attempt to gain unauthorized access to the Services or its related systems or networks or (iii) use the Services for High risk systems with dependency on proper functioning at all times.

The Client needs to provide and maintain their own equipment, software, and communications lines, including any public lines required by him to properly access the Services through Internet.

The Client is responsible for all activity of their Users under their Account and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with its use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. The Client shall: (i) notify HMS immediately of any unauthorized use of any password or Account or any other known or suspected breach of security; (ii)



report to HMS immediately and use reasonable efforts to stop immediately any copying or distribution of -Software that is known or suspected by the Client of its Users.

All Internet use is subject to security vulnerabilities. The Client commits to implement all necessary security measures to ensure the protection and privacy of their personal information and the Services they are using. HMS provides high security for the Services, but the client remains liable for any other Security issue.

The Client agrees that HMS may suspend Services without prior notice and without liability (or indemnity) if:

- The Services are being used in violation of the license right as set out in the present agreement or in violation of law, codes or regulations including data protection laws;
- There is an attack on HMS servers, or any other event for which HMS reasonably believes that the suspension of Services is necessary to protect its network or its other customers;
- Required by law or regulation or as compelled by a law enforcement or government agency. The Client represents and warrants that he has not falsely identified himself nor provided any false information to gain access to the Service and that billing information is correct.

Art. 4 SERVICE LEVELS

Talk2m pro services are professional payable services based on Network Infrastructure hosted on first-class hosting providers. HMS guarantees that Talk2m pro services will function properly in the defined terms listed below with a guaranteed service availability also defined below. If the service availability is not met under the terms mentioned below, the client may request a financial remedy.

HMS provide three (3) different kinds of Services: i) a free service, called “Talk2m free”, a payable professional service called “Talk2m light” and iii) another payable professional service called “Talk2m pro”.

4.1 TALK2M FREE SERVICES

Talk2m free services are free services provided ‘as is’ for HMS Clients. Talk2m free services do not include any of HMS’ liabilities and are limited in terms of functionality. HMS doesn’t provide any SLA for the Talk2m free services.

4.2 TALK2M LIGHT AND TALK2M PRO SERVICES

Talk2m light and Talk2m pro services are professional payable services based on Network Infrastructure hosted on first-class hosting providers. HMS guarantees that Talk2m light and Talk2m pro services will function properly in the defined terms listed below with a guaranteed service



availability also defined below. If the service availability is not met under the terms mentioned below, the client may request a financial remedy.

4.2.1 TALK2M LIGHT and TALK2M PRO SERVICES LEVELS TERMS

The following terms are defined for the purpose of the Talk2m light and Talk2m pro Service Level Agreement (SLA) between HMS and the Talk2m light and Talk2m pro client.

4.2.2 LIST OF TALK2M light and talk2m PRO SERVICES INCLUDED IN THE SLA:

| Service Name | Service definition & SLA scope |
|-----------------------------------|--|
| Remote access connectivity | End-to-end VPN-based connectivity, from the user to the Ewon device, on an On-demand basis. On-demand means that the connectivity is provided on a “when and where needed” basis and is not meant for permanent VPN connectivity. |
| M2Web portal | Web portal where all Ewon devices are listed and can be reached on a browser-based HTML connection. |
| M2Web APIs | API for reaching, configuring, and getting access to parameters and Device Data in Devices. The typical access period has been designed for 10 minutes (the service is not meant for real time data access). |
| Datamailbox APIs | API for retrieving historical non-redundant and centralized Device Data gathered, stored and sent by the Devices to the datamailbox. The typical retrieval period has been designed for 10 minutes (the service is not meant for real time data access). |
| Visualization | Monitoring, visualization, notifications and alarms based on Client Data. |

4.2.3 REGIONAL SCOPE

The SLA scope covers servers hosted in Europe, USA, Japan, and Singapore. Devices which are connected to a server hosted in a different region than those mentioned above are excluded from the Talk2m light and Talk2m pro SLA.

4.2.4 TOTAL SERVICE AVAILABILITY

HMS guarantees the Talk2m light and Talk2m pro Client a total service availability as listed in point 4.2.10. The Total Service Availability is, except for the Visualization service, a ratio expressed as a percentage, calculated every month based on computation formula based on the last 12 months activities. The Maximum Total Downtime/year is calculated by subtracting the total number of hours in a year by the Total service availability expressed in hours. It is mentioned in the Service Level Metrics table below.



4.2.5 SCHEDULED DOWNTIME

The time period during which the hosted service might be unavailable due to routine maintenance and upgrades. Scheduled downtime will not occur more than once a month.

4.2.6 ROUTINE MAINTENANCE NOTICES

As a rule, HMS will systematically communicate the date and time they intend to make the hosted services unavailable at least one calendar week (7 days) in advance or longer.

4.2.7 UNSCHEDULED DOWNTIME

The time period during which the hosted services are unavailable for reasons not defined as Scheduled downtime and where the Client cannot access the hosted service.

The following are not considered to be Unscheduled Downtime:

1. Problems due to the Client's own internet service provider.
2. Force majeure event.
3. Unavailability to protect the integrity of the hosted services due to security issues, virus attacks, spam issues or other unforeseen security circumstances.
4. Any systemic internet failures.
5. Any failure of the Client's own hardware, software or network connections.
6. Client's bandwidth restrictions.
7. Client's acts or omissions of good practice recommendation (e.g. whitelisting T2M IPs & DNS) and any other Client's foul or inappropriate action or omission.
8. Voluntary service suspension imposed by security precautionary principles, such as opting out of the Automatic Security Patch Update (ASPU) option.
9. Unavailability due to outdated firmware when a notification has been sent by HMS to the Client to update their device firmware. Outdated firmware can be considered incompatible with current "state of the art" Talk2m light and Talk2m pro provided services. Any interruption shorter than 5 minutes will not be considered as Unscheduled Downtime.

4.2.8 MAXIMUM SERVICE DOWNTIME

HMS guarantees the Client a Maximum Service Downtime of less than several consecutive hours. This Maximum Service downtime includes any Scheduled Downtime or Unscheduled Downtime. This Maximum Service Downtime is listed in the Service Level Metrics listed in point 4.2.10.



4.2.9 TOTAL SERVICES AVAILABILITY CALCULATION

Each month, HMS monitors the service levels according to the metrics. The Client agrees that this tool will be the sole basis for resolution of any dispute that may arise between the Client and HMS regarding the SLA.

The Availability is calculated based on the following formula:

$$A = (T - U) / T \times 100$$

Where: A = Availability (percentage), T = Total time and U = Total Unscheduled Downtime. All variables are expressed in hours. This calculation will be calculated once a month, taking into consideration the last 12 months' rolling window for each region. It will be provided upon client request.

4.2.10 GUARANTEED SERVICE LEVEL METRICS (SLM) REGARDING THE AVAILABILITY OF SERVICES PER REGIONAL SCOPE

| Service Name | Total Service Availability per year per region | Total Unscheduled Downtime per year in hours | Max. Service Downtime in hours |
|---------------|--|--|--------------------------------|
| Remote Access | 99.6% | 35 | 4 |
| M2Web portal | 99.6% | 35 | 4 |
| M2Web APIs | 99.6% | 35 | 4 |
| DMWeb APIs | 99.5% | 44 | 4 |
| Visualization | HMS and its partners will use diligent efforts to make the Service available to the Client subject to operational requirements including maintenance and security. | | |

4.2.11 REMEDY

The Client's remedy and the procedure for obtaining the Client's remedy in the event that Talk2m light or Talk2m pro does not meet one or several of the SLM described above during a particular month are as follows:

To qualify for remedy:

(a) The Client's Talk2m light or Talk2m pro account must be in good standing with a non-negative balance and all invoices paid and up-to-date.

(b) The Client must notify HMS by email within three (3) business days by opening a support ticket and providing the following details.

1. Subject of email must be: "Claim Notice" or similar language describing an operating error.
2. The date when Maximum Service Downtime was exceeded or when the customer believes the Total Service availability per year was not met.
3. Name and email address of the user affected by Downtime Minutes.
4. Client estimates:



- the number of hours of Maximum Downtime Hours exceeded
 - or if the Maximum total Downtime per year was exceeded
5. Ticket number of the documented event

HMS will confirm the information provided in the Claim Notice within three (3) business days of receipt of the Claim Notice. If HMS cannot confirm any of the SLM mentioned in the claim, then HMS and the Client agree to refer the matter to executives at each company for resolution.

If HMS confirms that:

The Total Service Availability was not met during the last month period due to HMS fault, and this failure directly and adversely affects your business, the Client will be credited up to one month's recurring charge for the affected month.

The Maximum Service Downtime exceeds what is mentioned in the Service level metric table due to HMS fault, and this failure directly and adversely affects your business, HMS will credit 5 % of the monthly recurring charge per hour of additional downtime above what is mentioned in the SLM table up to a maximum of one month's recurring charge.

The SLA credit will be reflected on the Client's Talk2m Financial Statement the month after HMS's confirmation of the Claim notice.

Art. 5 PRICES AND PAYMENT

Talk2m free Services are provided for free and as-is to the HMS customer.

Talk2m light and Talk2m pro Services Packages ordered contribute to a base credit line.

On the Service Commencement Date, the Selling Partner will send the Client an invoice for the Service Package ordered in accordance with the prices as set out in the quotation previously addressed. Every month, HMS will send a detailed financial statement containing all the details of variables consumed. All prices are expressed in EUR or USD or JPY and are exclusive of applicable Value Added Tax or other relevant taxes. As soon as the remaining credit line amount is less than 15 % of the total of the previously ordered Service Package Fees, the Client should reorder new Service Packages through their HMS Selling Partners to continue the Services. Otherwise, the Client accepts to terminate the Service. HMS may change the fees charged for the services at any time, provided that the change will become effective only at the next billing cycle. HMS will provide you with advance notice of any change in fees.



Art. 6 DURATION AND TERMINATION

HMS will provide the Talk2m free Services to its customers having registered a Device on Talk2m for a duration of twelve (12) months after the registration provided that the monthly consumption related to respective Talk2m services respects the usage limits of the free contract. If the consumption of any of the services exceed the predefined limits for a specified period, the free account will be capped until the end of the current month, and it will no longer be possible to exceed the monthly limits. Monthly consumption is measured from the first of the month until the last day of the month. If, after the expiration of this twelve (12) months period, the Client wishes to continue to benefit from the Talk2m free Services, he must purchase a new Device and will then benefit from the Talk2m free Services for another period of twelve (12) months. HMS reserves the right to terminate the Services, without any justification whatsoever, and without being liable to the Client for any compensation, subject to at least two (2) week's prior notice.

HMS will provide the Talk2m light to its customers if the monthly consumption related to respective Talk2m services respects the usage limits of the light contract. If the consumption of any of the services exceed the predefined limits for a specified period, the light account will be capped until the end of the current month, and it will no longer be possible to exceed the monthly limits. Monthly consumption is measured from the first of the month until the last day of the month.

The Talk2m light and Talk2m pro Services start from the Service Commencement Date and terminate when requested by the Client. In this case, Talk2m light and Talk2m pro services will be switched back to Talk2m free services and all Client's specific Talk2m light or Talk2m pro configuration will be lost. In the case where Talk2m account credit line will stay negative for three (3) consecutive months, HMS reserves the right to suspend the execution of this agreement until the account balance is back to a positive balance.

Each Party shall be entitled to terminate this Agreement, if the other Party is in material breach of its obligations under this Agreement and such breach has not been rectified within thirty (30) days after receiving a notification, unless such notification is unworkable in the given circumstances. In the event of any change in the situation of the Client, such as, but not limited to: conversion, merger and acquisition, transfer, suspension of payment, bankruptcy, judicial arrangement, liquidation, cessation of activities, or any other circumstance which might damage the solvency of the Client, HMS reserves the right:

- (1) to suspend the execution of this Agreement until the date the Client provides HMS with an adequate guarantee for its payment; or
- (2) to consider this Agreement as terminated, as from the date of sending of the termination, without prior notice to the Client or recourse to a court, notwithstanding the right of HMS to claim additional compensation.

On termination by either of the Parties, the following will apply:

- any rights or obligations which have accrued prior to termination will not be affected;
- any service credits due by the Client under the Service Levels will be paid within thirty (30) days;



- all Confidential Information belonging to the other Party will be returned or destroyed within fourteen (14) days;

If this agreement is terminated by the Client (other than by reason of a breach by the Client), HMS will destroy all Talk2m configuration information within thirty (30) days of termination.

In case of unfortunate events, such as security threats or Partnership termination, HMS reserves the right to terminate access and availability to third-party services and this even if the third-party services are included in an active Talk2m plan. HMS will put all reasonable efforts in place to notify the user of this services in the shortest possible delays and ensure a smooth out phasing if applicable.

HMS reserves the right to terminate the visualization Service if the Client no longer uses it for a period of thirty (30) days, subject to a thirty (30) days' notice.

Art. 7 LICENSE

License Grants and Restrictions

If the law of any country where the Client intends to use the Software prohibits from downloading or using the Software because the latter is not allowed in this country including applicable rules that govern the export or import of Software, the Client shall refrain from using it. The Client will use the Software solely for lawful purposes.

Subject to the terms of this Agreement, HMS hereby grants the Client a limited, personal, non-commercial, non-exclusive, non-sublicensable, non-assignable, free of charge license to download, install and use the Software on its computers, for the sole purpose of letting their Users use the internet connectivity Services provided by Talk2m and any other applications that may be explicitly provided by HMS.

The Client will not undertake, cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, disassembling or hacking of the Software or any part thereof. The Client agrees not to reverse engineer the Software or access the Services in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Software or the Service. The Client agrees not to access the Services if he is a direct competitor of HMS and Talk2m, except with HMS's prior written consent. In addition, the Client agrees not to access the Services for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

Art. 8 CLIENT DATA

The Client is responsible for the development, content, management, use, and quality of Client Data. This includes: (i) the compliance of Laws in regards of security or archiving obligation of the information or when transferring Client Data between countries; and (ii) ensuring that Client Data can be used as



permitted under this Agreement without violating Laws, permits or rights of others. HMS will not delete any of Client Data during the Subscription of Talk2m light and Talk2m pro services unless such deletion is required by a governmental body, to avoid or limit the liability of HMS or any Third Party, or to protect the security of HMS systems.

HMS and its business partners have a worldwide, non-exclusive, royalty free right to use, host, store, transmit, display, modify, and reproduce Client Data for the purpose of providing the Services.

After termination of the Visualization Service, the Client Data that is associated with such Service will be removed. However, upon request from the Client made within 30 days following the termination date, HMS will assist the Client in transitioning certain parts of Client Data to an alternate technology to the same extent that such services are made generally available to all customers. Such assistance will be charged under separately agreed terms. The Client acknowledges that some of Client Data may be retained by HMS as part of a backup of the Platform.

Art. 9 OWNERSHIP, PRIVACY AND SECURITY

HMS alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the Talk2m Technology, the Content and the Service and any suggestions, documentation, know-how, ideas, enhancement requests, feedback, recommendations or any other information provided to the Client or any other party relating to the Service. This Agreement does not entail a transfer of any rights of ownership in or related to the Service, the Talk2m Technology or the Intellectual Property Rights owned by HMS. The Talk2m name, the Talk2m logo(s), and the product names associated with the Software or Services are trademarks of HMS or third parties, and no right or license is granted to use them. HMS cannot be held liable for any breach of other intellectual property rights, due to the use of the Software and/or other Services provided by HMS. The Client recognizes and guarantees that HMS does not breach intellectual property rights or other rights of the Client or any third party.

HMS implements and maintains commercially reasonable security measures to protect the Confidentiality, Integrity and Availability of informational assets (including Device Data and Client Data) under its responsibility. The illegitimate use, disclosure, acquisition, or loss of data (i.e. "Security Incident") is prevented by measures such as (but not limited to) the following:

- having a Security Manager to coordinate the implementation and maintenance of its information security program and to ensure the processing of personal data in compliance with the applicable data protection rules;
- regularly testing and assessing the effectiveness of its information security controls;
- identifying reasonably foreseeable internal and external risks to the security of Device Data and Client Data;
- implementing and maintaining systems and procedures for identifying and remediating vulnerabilities on HMS's systems;
- having a program of regular pentesting on its systems and solutions with a reputable third-party cybersecurity firm, and establishing, and continually improving incident management processes and capabilities.



- All these measures are part of a process-based approach for implementing, operating, monitoring, maintaining, and improving HMS' Information Security Management Systems (ISMS). The performance of the ISMS is guaranteed by the globally recognized ISO 27001 certification challenged every year by an external independent body.

The Client is, and will always remain, the owner of their personal data. The Client will also remain the owner of all Device Data and Client Data sent to any of the Talk2m services. To know more about how HMS manages personal data, the Client shall refer to the HMS privacy policy available on www.ewon.biz/privacy-policy.

Art. 10 UPDATES

HMS, in its sole discretion, reserves the right to add additional features or functions, or to provide programming fixes, updates and upgrades, to any software part of the Service. HMS, in its sole discretion, may modify or discontinue or suspend your ability to use any version of any software part of the Service.

HMS in its sole discretion may need to access the Client's Accounts for support and maintenance purposes.

HMS, in its sole discretion may decide to apply an automatic security patch upgrade (ASPU) to your Account and to all Devices with a new software version containing a security patch. This is essential to maintain the global security level of the Services. A trackability log file with all security automatic patch updates is provided to the Client. However, the Client may refuse this ASPU application by un-checking the option in the Software. In this case, HMS will not be liable from any consequence arising from not having applied the ASPU on the Client's Account or Devices. Moreover, if the Client refuses the ASPU option, HMS reserves the right to suspend the services without prior notice and without liability (or indemnity) for the sake of protecting its network or its other customers.

HMS will not accept any liability in relation to the direct or indirect damages caused by the release and/or the absence of release of new versions of the Service. In the event of any bug found in the Software that limits or restricts the use of it, HMS shall make all reasonable efforts to provide a programming fix, an update, or an upgrade of the software, in as short of a time period as possible.

Art. 11 CONFIDENTIALITY

All Software, plans, documents, know – how, data and other information, provided to the other Party under this Agreement shall be considered and treated as confidential (hereinafter referred to as "Confidential Information"). The Confidential Information remains at all times the property of the disclosing Party. Each party is required to comply with a confidentiality obligation throughout the term of this Agreement, as well as for a period of five (5) years following its expiry, unless express



authorization is granted by the other party. Each party shall ensure its partners, collaborators, workers, employees, subcontractors, etc. comply with the same obligation.

HMS and its partners might from time to time, in accordance with relevant GDPR regulations in EU, use Client Data and usage information for internal purposes such as improving the service.

Each Party shall refrain from disclosing any confidential information to a third party without the prior written consent of the other Party, unless this is forbidden by applicable legislation. The confidentiality obligation is a duty to achieve a specific result. If one party fails to comply with this confidentiality obligation, the other party will be able to claim ipso jure and without prior notice damages of a minimum amount of fifty thousand euros (50,000.00 EUR) excluding tax for each violation, without prejudice to its right to claim additional compensation in case the effective damage suffered is higher.

Art. 12 LIABILITY

HMS will use all reasonable skills and care in performing this Agreement. HMS agrees, to use its best efforts, to provide reasonable security data protection throughout all Devices and users that have subscribed to the Services. In any circumstances, HMS is not liable in case of unauthorized access to Client's Devices, content, Device Data, or Client Data through the use of HMS Services unless the unauthorized access was caused by HMS's failure to perform its obligations under this Agreement.

The total compensation, for which HMS may be liable with regard to the Services and by virtue of its contractual and/or extra contractual liability, may not, under any circumstances, exceed the total invoice amount of the last six (6) months, before the event giving rise to the damages has occurred.

HMS shall not, in any circumstance, be liable for any increased costs nor expenses, loss or corruption of Client Data, loss of profit, business contracts, revenues nor expected savings nor any special, indirect nor consequential damage whatsoever arising out of this Agreement. As indirect losses or damages will be considered, without being limited hereto: financial or commercial losses, loss of earnings, increased overhead costs, disruption of planning, loss of anticipated profits, customers or savings.

This limitation of liability does not affect the liability of HMS regarding the Services Levels, as described after. The remedies given in the Service Levels are the Client's only remedies for HMS's failure to meet the agreed Service Levels.

The Client agrees to indemnify, defend and hold HMS affiliates, HMS distributor, HMS partners and HMS staff harmless from and against any and all liability and costs, including reasonable attorneys' fees incurred by such parties, in connection with or arising out of (a) any violation or breach of any term of this Agreement or any applicable law or regulation, whether or not referenced herein by the Client or a User, or (b) any violation by the Client or a User of any rights of any third party, or (c) use or misuse of the Service by the Client or a User.

Nothing in this Agreement excludes or limits HMS's liability for fraudulent misrepresentation or for death or personal injury caused by its negligence. Except for the warranties given in this Agreement, all implied or other warranties are excluded to the extent HMS is legally able to do so.



EXCEPT AS OTHERWISE PROVIDED FOR HEREIN, THE SERVICES ARE PROVIDED AS IS WITH ALL FAULT AND WITH NO WARRANTIES WHATSOEVER; IN THE DEVELOPMENT PROCESS, HMS DID ITS BEST TO PROVIDE THE SERVICES AS DESCRIBED IN THE DOCUMENTATION; HOWEVER, HMS DOES NOT, EITHER EXPRESSED, IMPLIED OR STATUTORY, MAKE ANY WARRANTIES, CLAIMS OR REPRESENTATIONS WITH RESPECT TO THE SERVICES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR CONDITIONS OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR USE OR A PARTICULAR PURPOSE.

As some jurisdictions do not allow some of the exclusions or limitations as set forth above, some of these exclusions or limitations may not apply. In such event HMS's liability will be limited as far as legally possible under the applicable legislation.

Art. 13 FORCE MAJEURE

HMS shall not be liable for any failure in the execution of this Agreement due to force majeure or hardship. In case of force majeure or hardship, HMS has the right (1) to temporarily suspend the execution of its obligations; or (2) to terminate the Agreement by registered letter; and/or (3) to invite the Client to renegotiate this Agreement. For the execution of this Agreement, force majeure and hardship are considered as, without being limited hereto: acts of any governmental body, war, insurrection, sabotage, terrorism, embargo, fire, flood, storm or other acts of God, pandemic, strike, lock - out or labor disturbances, internet system unavailability of components not controlled by HMS, virus attacks, unavailability of or interruption or delay in telecommunications, or hackers, failure of third party software, power outages, delays in supply, export ban, sickness or accidents, breakdown of plant or machinery, etc.

Art. 14 APPLICABILITY

This is the entire agreement between the Client and HMS for the use of the Services. It supersedes any prior agreements between the Client and HMS regarding the use of the Services. All parts of these Terms apply to the maximum extent permitted by relevant law. If a court or arbitrator holds that HMS can't enforce a part of these Terms as written, HMS may replace those terms with similar terms to the extent enforceable under the relevant law, but the rest of these Terms won't change. These Terms are solely for the benefit of the Client and HMS; they aren't for the benefit of any other person, except for HMS successors and assignees. HMS may assign these Terms, in whole or in part, at any time without notice to the Client. HMS may transfer these Terms, in whole or in part, at any time without notice to the Client. The Client may not transfer his rights or obligations under these Terms or transfer any rights to use the Services.

This article and articles 6, 8, 10, 11 and 12 will survive any termination or cancellation of these Terms.



Art. 15 APPLICABLE LAW

This Agreement is exclusively governed by Belgian law. All disputes concerning the validity, interpretation, enforcement, performance and/or termination of this Agreement shall be submitted to the exclusive jurisdiction of the Commercial Courts of Walloon Brabant, Section Nivelles ("le tribunal de l'entreprise du Brabant Wallon, section Nivelles).

Art. 16 ELECTRONIC CONTRACTING

Your use of the Service includes the ability to enter into agreements and/or to make transactions electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO ON THIS SERVICE. In order to access and retain your electronic records, you may be required to have certain hardware and software, which are your sole responsibility.