



# POET Trial Terms & Conditions

POET Systems Ltd, Sony UK Tech Centre, Pencoed Technology Park, Bridgend, CF35 5HZ T: 01656 860091 E: poet@probe-rts.com

## Definitions:

The following definitions will apply in these Terms and Conditions of supply:

Customer or You means the business entity or consumer ordering a Trial of the Software Product.

Customer Data means all data (including, without limitation, personal data), information, text, drawings, records, documents and other materials which are embodied in any medium (including, without limitation, any electronic, optical, magnetic or tangible media):

- a) relating to, or created by, the employees, members, partners, consultants, suppliers, customers or clients of, the Customer or any member of the Customer Group; or
- b) supplied to the Customer or any member of the Customer Group in the course of the business of the Customer or any member of the Customer Group, which are supplied to the Supplier by the Customer or any member of the Customer Group or which the Supplier processes, stores or transmits under or in connection with these Terms and Conditions.

All Customer Data in the Software Product is owned by the Customer. After the Trial Period has ceased the Supplier will permanently erase all Customer Data unless the Customer chooses to enter into a contract to purchase a Licence to use the Software Product and retain the Customer Data.

Delivery means, in relation to the Software Products and any Software Updates or any part of them, their remote installation on the servers of the Hosted Services Platform.

Delivery Date means the date on which the software is initially delivered and made accessible to the Customer by the Supplier.

Hosted Services Platform means the supply and maintenance of servers by the Supplier to host the Supplier's Software Products. For the avoidance of any doubt this means that during the Trial Period the Customer's Data will be stored on the Hosted Services Platform.

Intellectual Property Rights means

- a) copyright, patents, database rights and rights in trademarks, designs, know-how and confidential information (whether registered or unregistered);
- b) applications for registration, and the right to apply for registration, for any of these rights; and
- c) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world.

Licence is the Software Product licence supplied to the Customer.

Malware means anything or any device (including any software, code, file or programme) which may:

- a) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device;

b) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or in part or otherwise); or

c) adversely affect the user experience, including worms, trojan horses, malicious software, spyware, ransomware, adware, scareware, viruses and other similar things or devices.

Permitted User means, in relation to the Customer, any of its employees, partners, directors, contractors, subcontractors, agents or professional advisers.

Regulatory Body means any government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled by any Applicable Laws to supervise, regulate, investigate or influence the matters dealt with in these Terms and Conditions or any other of the Customer's affairs.

Software Documentation means the searchable online help centre containing articles and/or videos which explain or demonstrate how to use the Software Products;

Software Updates means any new releases of the Software (including, without limitation, all revision level upgrades and version level upgrades) to be made available to the Customer in accordance with these terms and conditions.

Software Product is the software as a subscription package requested by the Customer on a trial basis.

The Supplier is POET Systems Ltd, a limited liability company incorporated under the laws of Wales under number 11702896, whose registered office is at Sony UK Tech Centre, Pencoed technology Park, Bridgend CF355HZ, United Kingdom (Supplier, We or Us); The Supplier is to be treated as including the Supplier itself, Associates and any of the Supplier's Affiliates, all of whom shall have the benefit of the exclusions and limitations of liability set out in these terms and conditions.

Trial Period means the first thirty days (30) days following the Delivery Date, during which the Customer can evaluate the Software Products without charge or obligation to buy.

Use means to access and use, operate, run, or otherwise deploy the Software Products.

How to contact Poet Systems Limited

How to contact us:

Telephone our support /sales team at +44 (0)1656 860091, or email us at [poet@probe-rt.com](mailto:poet@probe-rt.com)

Write to us at POET Systems Ltd, Sony UK Tech Centre, Pencoed technology Park, Bridgend CF355HZ

How we may contact you:

If we have to contact you, we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order. For the avoidance of doubt "writing" includes emails. When we use the words "writing" or "written" in these terms, this includes emails.

Terms and conditions of supply

These terms. Subject to Customer's compliance with these Terms and Conditions, POET Systems licenses the Customer to use the POET Systems Software Product during the Trial Period. The Customer is responsible for supplying all hardware, systems and support materials not provided for in these Terms and Conditions at its own expense and risk.

Licence Fee. POET Systems will not charge a licence fee for using the Software Product during the trial period.

No Obligation to Enter Contract. Nothing in these Terms and Conditions will obligate Customer to buy or POET Systems to grant a licence to the Software Product or any portion thereof beyond that described in Section 4 below.

Any further licence of the POET Systems Product or portion thereof will be subject to a separate, mutually acceptable licence contract.

**Licence Grant; Restrictions.** POET Systems grants to Customer a personal, non-transferable and non-exclusive licence, for the Trial Period, to use the POET Systems Software Product on the POET Systems' hosted platform for internal business evaluation purposes and for no other purpose. Any other use of the POET Systems Software Product, including, without limitation, use of the POET Systems Software Product on any Customer platform not specified in these Terms and Conditions, or copying of the Software Product, will automatically terminate this limited licence. Customer may not reverse engineer, reverse compile, sublicense, rent, lease, disclose or assign the Software Product and may not use, copy, modify, merge or transfer copies of the Software Product except as expressly provided in these Terms and Conditions. No other licences are granted under these Terms and Conditions except those expressly contained in these Terms and Conditions. At POET Systems option, the Customer will cease using the Software Product at the earliest of: (i) POET Systems request; (ii) the end of the Trial Period; (iii) when no longer used in accordance with these Terms and Conditions; or (iv) when the limited licence to use the Product is otherwise terminated.

**Title; Risk of Loss.** The Software Product and all Intellectual Property Rights therein are owned by or licensed to POET Systems. Nothing in these Terms and Conditions grants or conveys to the Customer any right, title or interest in the POET Systems Software Product or any part of it. While the Customer is using the Software Product, the Customer will do nothing that is inconsistent with the title or rights of POET Systems.

**Confidentiality.** Any verbal or written information provided to the Customer by POET Systems for use with the Software Product under these Terms and Conditions will remain the property of POET Systems, and the Customer will keep confidential and not disclose either the Software Product, or any data contained within the POET Systems Software Product or any such information provided by POET Systems to the Customer under these Terms and Conditions to any third party unless such information is generally known to the public through acts not attributable to the Customer. The Customer will grant access to the Software Product and such information only to its employees (including for purposes of this paragraph consultants and contractors bound in writing to terms at least as restrictive as those stated in these Terms and Conditions) who have a need to know and will cause them to comply with the provisions of these Terms and Conditions. The Customer will indemnify POET Systems for any breach of the obligations contained in this Article.

**Warranty; Remedies; Limitation of Liability.** POET Systems warrants that all Intellectual Property Rights in the Software Product are owned by or licensed to POET Systems. In the event of a defect in or failure of the Software Product during the Trial Period, POET Systems will use commercially reasonable efforts to repair the Software Product, or the defective portion thereof, for the duration of the Trial Period.

The Customer understands that the POET Systems Software Product is made available on an "as is" basis and only for the purposes as specified in these Terms and Conditions.

POET Systems warrants, represents and undertakes that it has adopted effective procedures conforming to Good Industry Practice to screen the Software Product for known Malware and that it will use its best endeavours to ensure that no computer Malware have been or will be introduced by the Supplier or any sub-contractor into the Customer's Network.

POET Systems makes no representations or warranties with regard to any products or services or otherwise related to these Terms and Conditions. POET Systems does not warrant uninterrupted or error free operation of the Software Product.

To the maximum extent permitted by applicable law, POET Systems disclaims all warranties implied or statutory, including, but not limited to, any warranties of merchantability, and fitness for a particular purpose.

The remedies expressly provided in these Terms and Conditions will be Customer's sole and exclusive remedies. Customer waives any claim against POET Systems for loss or damage that Customer may incur related to the possession and use of the POET Systems Software Products except for the remedies provided in this article.

In no event will POET Systems be liable for any indirect, incidental or consequential damages, including (among other things) lost profits or revenues, lost or damaged data, and unauthorized system use. This limitation does not, however, apply in cases of fraud or personal injury.

**Termination.** After the Trial Period has lapsed the licence is withdrawn and you must cease access or purchase an Annual subscription. Where the Trial Period is extended by POET Systems, either party may terminate these Terms and Conditions, for any reason, upon ten (10) days advance written notice to the other party.

**Data Protection.** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and POET Systems is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

a) The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to POET Systems for the duration and purposes of these Terms and Conditions, including when Customer enters Personal Data (including but not limited to customer details) into the Software Product for the purposes of interrogating the Software Products data, or otherwise in the course of using the Software Products. The Customer will not transfer any Special Category Data (as defined in the Data Protection Legislation) to POET Systems. Customer will indemnify POET Systems fully in relation to any breach of these obligations.

b) The Customer may also record in POET Systems system the details of its own customers and connected individuals for its own administrative purposes.

c) POET Systems shall, in relation to any Personal Data processed in connection with the performance by POET Systems of its obligations under these Terms and Conditions:

- i) process Personal Data in order to provide services under these Terms and Conditions and otherwise only on Customer's written instructions, unless POET Systems is legally compelled by a public authority to process Personal Data for a different reason, in which case POET Systems will notify Customer in advance if POET Systems is not prohibited from doing so;
- ii) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data to ensure a level of security for Personal Data appropriate to the risk having regard to the state of technological development and the cost of implementing any measures.
- iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- iv) not transfer any Personal Data outside of the United Kingdom unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled: (i) the Customer or POET Systems has provided appropriate safeguards in relation to the transfer; (ii) the data subject has enforceable rights and effective legal remedies; (iii) POET Systems complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and (iv) comply with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.
- v) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- vi) notify the Customer without undue delay on becoming aware of a Personal Data breach;
- vii) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of these Terms and Conditions unless required by Applicable Law to store the Personal Data;

viii) maintain complete and accurate records and information to demonstrate its compliance with this clause 9 and allow for audits by the Customer or the Customer's designated auditor; and

ix) indemnify Customer fully in relation to any breach of these obligations.

d) The Customer consents to POET Systems appointing Easy Space as subcontractors who provide Hosted Platform Services as third party processors of Personal Data under these Terms and Conditions. POET Systems has entered or will enter into a written contract with third-party processors substantially on their standard terms of business, or covering the obligations contained in this clause, and as between POET Systems and the Customer, POET Systems shall remain fully liable for all acts or omissions of any third-party processor appointed by us.

e) Either party may, at any time on not less than 30 days' notice, revise this clause 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to these Terms and Conditions).

10. Miscellaneous. These Terms and Conditions and the rights granted under it may not be assigned or otherwise transferred by Customer without the prior written consent of POET Systems. These Terms and Conditions are enforceable only by the original parties to it and by their successors in title and permitted assignees. The terms, provisions, and representations contained in these Terms and Conditions that, by their sense and context, are intended to survive the performance of these Terms and Conditions by either or both parties or the termination of these Terms and Conditions will survive such completion of performance or termination, including, without limitation, the provisions of Clause 6. In the event that any term or provision contained herein is held invalid or unenforceable in any respect, the remainder of these Terms and Conditions will not be affected there by and each term and provision hereof will be valid and enforced to the fullest extent allowed by applicable law. In the event such invalid or unenforceable term or provision is an essential part of these Terms and Conditions, the parties immediately will begin negotiations for a replacement. No course of dealing, course of performance or failure of either party to enforce strictly any term, right or condition of these Terms and Conditions will be construed as a waiver of any term, right or condition. These Terms and Conditions merge all prior and contemporaneous communications and is the final agreement between the parties with respect to the subject matter and terms hereof and is the complete and exclusive statement of those terms. These Terms and Conditions may not be modified orally. It can only be modified by a written contract dated subsequent to the date of these Terms and Conditions and signed on behalf of POET Systems and Customer by their respective duly authorized representatives. These Terms and Conditions shall be governed by and construed in accordance with English law. Any dispute arising out of or in connection with these Terms and Conditions shall be submitted to the jurisdiction of the courts of England.

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