

**DYNAMSOFT CORPORATION
HOSTING LICENSE AGREEMENT**

This Hosting License Agreement ("**Agreement**") is a legal agreement between Dynamsoft Corporation ("**Dynamsoft**") and YOU ("**LICENSEE**" or "**YOU**") for the license to use Dynamsoft's software products in a hosting service.

1. DEFINITIONS

1.1 In addition to any terms defined elsewhere in this Agreement, capitalized terms used in this Agreement are defined in Exhibit A.

2. GRANT OF RIGHTS

2.1 **Grant of License.** Subject to the terms of this Agreement, Dynamsoft hereby grants LICENSEE a non-exclusive, non-transferable, worldwide (except where prohibited by law), limited license to market and use of the Dynamsoft Products to provide a hosted service to LICENSEE's End Users only as part of the Bundled Products, for the Term (the "**License**").

2.2 **End-User Rights.** The scope of the License granted LICENSEE hereunder limits LICENSEE in the scope of the rights it grants End Users to the Dynamsoft Products only with the LICENSEE Products, with End User's access to data in its use of the Dynamsoft Products strictly limited to data created or used by the Bundled Products. The LICENSEE shall hold title to the license to the Dynamsoft Products and not re-sell any Dynamsoft Products to an End User but only provide a service by which End Users have access to.

2.3 **LICENSEE Hosting Services.** In furtherance of LICENSEE's use of the License granted above, Dynamsoft hereby grants LICENSEE the non-exclusive, non-transferrable, worldwide right to install, administer and backup the Dynamsoft Products as part of the Bundled Products, on its own systems or those of its cloud services host, and to provide support to its End Users as set out in section 6.1, for the Term.

3. GENERAL OBLIGATIONS OF LICENSEE

3.1 **Dynamsoft Trademarks.** Subject to the terms of this Agreement, Dynamsoft hereby grants LICENSEE a non-exclusive, non-transferable, worldwide (except where prohibited by law), limited license to use Dynamsoft's trademarks (registered or unregistered), service marks, trade names, service names and other logos of Dynamsoft collectively (the "**Marks**") in LICENSEE's marketing, advertising and collateral materials, and on screen shots and the "help-about" box for the Bundled Products. LICENSEE may use the Trademarks solely to identify the Dynamsoft Products, identify itself as an authorized distributor of Dynamsoft products and to promote the distribution of the Dynamsoft Products with or as part of Bundled Products. LICENSEE shall not remove, delete or in any manner alter the Marks or any other proprietary or intellectual property rights notices of Dynamsoft and Dynamsoft's suppliers, if any, appearing on the Dynamsoft Products as delivered to LICENSEE. As a condition of the License granted to LICENSEE hereunder, LICENSEE shall reproduce and display such Marks and notices on each copy of the Dynamsoft Products. LICENSEE may not re-brand or private-label the Dynamsoft Products except that: (a) LICENSEE may market the Bundled Products under its own trademarks, and (b) if LICENSEE adopts and uses its own marks to identify the Bundled Products, it shall state in the documentation or "help-about" box (or other similar location where third-party technology is identified) that the Dynamsoft Products are the technology of Dynamsoft. All use of the Marks shall be subject to Dynamsoft's then-current trademark usage guidelines. Upon Dynamsoft's request, LICENSEE's advertising, marketing or promotional materials in which a Mark is used shall be submitted to Dynamsoft for its prior written approval, which approval shall not be unreasonably withheld.

3.2 **LICENSEE's Business Practices.** LICENSEE shall (a) comply with all applicable laws and regulations, including all import and export laws and all anti-bribery laws, (b) avoid deceptive, misleading or unethical practices, and (c) conduct business in a manner that reflects favorably at all times on the Dynamsoft Products and Dynamsoft's goodwill and reputation.

4. PAYMENT

4.1 **Orders, Fees and Payment Terms.** LICENSEE shall order the Dynamsoft Products according to Dynamsoft's standard procedures and shall pay Dynamsoft the fees set forth in the applicable order form. Any amounts payable under this Agreement and invoiced by Dynamsoft shall be due within thirty (30) days of the invoice date. Amounts shall be paid in U.S. dollars. Payments made under this Agreement after their due date will incur interest at a rate equal to one and one-half percent (1.5%) per month (i.e., 18% per annum) or the highest rate permitted by applicable law, whichever is less.

4.2 **Taxes.** All amounts payable hereunder are exclusive of all sales, use, value-added, withholding and other taxes and duties.

5. REPORTS

5.1 **Reports.** If applicable, within twenty (20) days after the close of each quarter LICENSEE will deliver to Dynamsoft a report which will provide all information reasonably required by Dynamsoft for computation and/or confirmation of the amounts, if any, due or credited to Dynamsoft for such quarter, including without limitation: the number and type of agreements entered into with LICENSEE's End Users for access and use of Dynamsoft Product for each Dynamsoft Product.

6. SUPPORT AND MAINTENANCE

6.1 **Customer Support by LICENSEE.** LICENSEE will be responsible for providing direct first level technical support (answering product use questions, diagnosing problems, and using reasonable efforts to resolve problems before contacting Dynamsoft for help) for End Users. Dynamsoft does not and will not engage directly with End Users.

6.2 **Maintenance by Dynamsoft.** All subscription licenses include both maintenance and technical support. LICENSEE is entitled to major and minor releases of Dynamsoft product during the term of a valid paid contract.

7. WARRANTIES AND DISCLAIMER

7.1 **Limited Warranties.** For thirty (30) days following the delivery of the production key code to LICENSEE, (the "**Warranty Period**"), Dynamsoft warrants that the Dynamsoft Products, when used in the specified operating environment, will perform substantially in accordance with the associated documentation. In the event the Dynamsoft Products fail to conform to such warranty, as LICENSEE's sole and exclusive remedy for such failure and Dynamsoft's sole and exclusive liability to LICENSEE, Dynamsoft will, at its expense, either (a) repair or replace such Dynamsoft Products, or (b) refund the fees paid by LICENSEE for the nonconforming item, provided in each case that LICENSEE provides Dynamsoft with written notice of the non-conformity within the Warranty Period and, if requested by Dynamsoft, the non-conforming item is destroyed.

7.2 **DISCLAIMER.** EXCEPT AS SET FORTH IN SECTION 7.1 ABOVE AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DYNAMSOFT AND ITS SUPPLIERS HEREBY DISCLAIM ALL REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS AND IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, NON-INFRINGEMENT OR ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. DYNAMSOFT DOES NOT WARRANT THAT USE OF THE DYNAMSOFT PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS WILL BE CORRECTED.

8. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

8.1 **Ownership.** Subject to the limited licenses expressly granted LICENSEE under sections 2.1, 2.3 and 3.1 of this Agreement, Dynamsoft and its licensors reserve all rights, title and interests in, and retain all ownership and intellectual property rights to, the Marks and the Dynamsoft Products and documentation.

8.2 **Dynamsoft's Trademarks.** Dynamsoft shall have the sole and exclusive right to enforce the Marks. LICENSEE shall reasonably cooperate with Dynamsoft, at Dynamsoft's expense, in the enforcement of the Marks, and shall promptly advise Dynamsoft of the use of any mark infringing any of the Marks of which it becomes aware. Dynamsoft shall not be liable to LICENSEE for any loss or damage suffered by LICENSEE as a result of LICENSEE'S use of the Marks, any litigation or proceeding involving the Marks, or any failure by Dynamsoft to enforce the Marks.

8.3 **Modifications.** LICENSEE shall not copy the Dynamsoft Products except as expressly permitted in this Agreement. LICENSEE shall not modify, adapt, enhance, localize, translate, or make derivative works of the Dynamsoft Products, except as necessary to configure and customize the Dynamsoft Products using the menus, options and tools provided for such purposes and contained in the Dynamsoft Products. In no event shall LICENSEE remove or alter the Dynamsoft EULA (except as permitted by section 3.1) or the provision for an electronic registration capture screen which may appear when any End User first accesses the Dynamsoft Products. Any and all copies, modifications, adaptations, enhancements, localizations, translations and derivative works of the Dynamsoft Products ("**Modifications**") are the sole property of Dynamsoft, and LICENSEE agrees to and hereby does irrevocably assign all rights in any Modifications (and irrevocably waives all moral rights it may have therein) to Dynamsoft. The foregoing shall not be interpreted to grant Dynamsoft any rights in the LICENSEE Products.

8.4 **Usage Restrictions.** LICENSEE will not: (a) sell, resell, license, sublicense, distribute, make available, rent or lease access to the Dynamsoft Products except as permitted in section 2; (b) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the Dynamsoft Products source code, in whole or in part; or (c) bypass or breach any security device or protection used by the Dynamsoft Products.

8.5 Confidential Information.

(a) During the Term, the receiving party shall maintain the Confidential Information of the disclosing party in confidence using reasonable security measures, shall not disclose it to any third party except to the receiving party's employees and contractors who have a need to know such confidential information in furtherance of the exercise its rights or enforce its obligations under this Agreement. The receiving party shall cause each of its officers, directors, employees, and contractors to restrict disclosure and use of such Confidential Information in like fashion, and shall be responsible for any wrongful disclosure or use by any of them.

(b) In the event any court or other authority orders the receiving party to disclose any Confidential Information of the disclosing party, the receiving party shall, to the extent legally permissible and practicable, promptly notify the disclosing party of such order and reasonably cooperate with the disclosing party to contest such disclosure, at the disclosing party's expense. Upon termination of this Agreement, the receiving party shall promptly return all tangible embodiments of the disclosing party's Confidential Information to the disclosing party and destroy and render unrecoverable all digital embodiments thereof.

9. INDEMNIFICATION

9.1 **LICENSEE's Indemnity.** If any allegation, claim or action is brought against Dynamsoft by a third party arising from (a) LICENSEE's unauthorized representations of Dynamsoft Products, (b) LICENSEE's actions under this Agreement, including but not limited to, LICENSEE's breach or violation of applicable export laws or regulations, or LICENSEE's combining (or its authorizing others to combine) the Dynamsoft Products with any hardware or software not provided by Dynamsoft, (c) any agreement between LICENSEE and its distributors or resellers, or (d) any allegation or claim that any LICENSEE Product or Bundled Product infringes, misappropriates or violates any patent, copyright, trademark, or other intellectual property right of any third party, LICENSEE shall defend, indemnify and hold harmless Dynamsoft, at LICENSEE's expense, and shall pay any settlement amounts LICENSEE authorizes and all damages, costs and legal fees and expenses finally awarded against Dynamsoft in the action. This section 9.1 states LICENSEE's sole and exclusive liability, and Dynamsoft's sole remedy, with respect to any alleged infringement or misappropriation of third party intellectual property rights.

9.2 **Dynamsoft's Indemnity.**

- (a) Subject to sections (b), (c) and 9.3 and below, if a third party brings any claim or action against the LICENSEE alleging that the LICENSEE's use of the Dynamsoft Products infringes, misappropriates or violates any patent, copyright, trademark, or other intellectual property right of any third party, Dynamsoft shall defend, indemnify and hold harmless LICENSEE, at Dynamsoft's expense, and shall pay any settlement amounts Dynamsoft authorizes and all damages, costs and legal fees and expenses finally awarded against LICENSEE in the action.
- (b) If a third party claim or action as set out at section (a) is brought against the LICENSEE, or in Dynamsoft's reasonable opinion, is likely to be brought, Dynamsoft may at its sole option and expense either: (i) Procure for the LICENSEE the right to continue using or receiving such Dynamsoft Products; or (ii) Replace or modify such Dynamsoft Products so that it becomes non-infringing; or (iii) if neither of the options at section 9.2 (b)(i) and (b)(ii) above are possible or cannot be achieved without Dynamsoft incurring substantial costs, Dynamsoft may terminate the Agreement upon giving the LICENSEE no less than fourteen (14) days written notice, and within thirty (30) days of termination, Dynamsoft shall refund to the LICENSEE any fees already paid in advance by the LICENSEE to Dynamsoft that relate to the period after termination.
- (c) Dynamsoft shall have no liability for and Dynamsoft's obligations under this section 9.2 shall not apply to any claim or action based on or relating to: (i) Any breach of LICENSEE's obligations under this Agreement; (ii) Use by the LICENSEE of the Dynamsoft Products in combination with other equipment, products, materials or services which have not been provided by Dynamsoft; (iii) Use by the LICENSEE of the Dynamsoft Products in a manner or for a purpose not consistent with the Agreement; (iv) Use by the LICENSEE of the Dynamsoft Products, when use of a Modification which Dynamsoft has supplied to the LICENSEE would have avoided such infringement; (v) Any Modification to the Dynamsoft Products not made by or for Dynamsoft, or any Modifications to the Dynamsoft Products made by Dynamsoft substantially pursuant to the LICENSEE's specific instructions.
- (d) This section 9.2 states Dynamsoft's sole and exclusive liability, and LICENSEE's sole remedy, with respect to any alleged infringement or misappropriation of third party intellectual property rights.
- 9.3 **Indemnity Procedures.** The indemnity obligations in section 9.1 and 9.2 apply only if (a) the indemnified notifies the other promptly upon learning that the claim or action might or has been asserted; (b) the indemnifying has sole control over the defense of the claim or action and any negotiation for its settlement or compromise (provided that the other may not settle any claim or action unless the settlement unconditionally releases the indemnified of all liability and does not include a statement as to or admission of fault, culpability, or failure to act by or on behalf of the indemnified); and (c) the indemnified fully cooperates with the indemnifying, at the indemnifying's expense, in the defense or settlement of the claim or action.

10. LIMITATION OF LIABILITY

- 10.1 **CONSEQUENTIAL DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY OR ITS SUPPLIERS OR AFFILIATED ENTITIES BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR OTHER SIMILAR DAMAGES (INCLUDING BUT NOT LIMITED TO THE COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, FOR LOST PROFITS, LOSS OF BUSINESS OPPORTUNITY OR LOSS OF DATA) WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 10.2 **LIMITATION.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL DYNAMSOFT'S AGGREGATE LIABILITY TO LICENSEE FOR ALL CLAIMS OF ANY KIND, INCLUDING ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER BY STATUTE, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE FEES ACTUALLY RECEIVED BY DYNAMSOFT FOR THE DYNAMSOFT PRODUCTS SUBJECT TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE EVENT GIVING RISE TO THE CLAIM AROSE.
- 10.3 **EXCLUSIONS.** NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS IN THIS SECTION 10 SHALL NOT APPLY TO LIABILITY RESULTING FROM A PARTY'S (A) INDEMNITY OBLIGATIONS HEREUNDER, (B) BREACH OF SECTION 8.5 (CONFIDENTIALITY), (C) ANY BREACH OR VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR (D) GROSS NEGLIGENCE OR WILFUL MISCONDUCT.
- 10.4 **FAILURE OF ESSENTIAL PURPOSE.** THE PARTIES AGREE THAT THE LIMITATIONS SET OUT IN THIS SECTION 10 SHALL APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED, HAVE PROVEN INEFFECTIVE OR IF ANY LIMITED REMEDY SPECIFIED HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE.
- 10.5 **CLAIMS.** NEITHER PARTY MAY BRING A CLAIM OR LEGAL ACTION UNDER OR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO YEARS AFTER THE EVENT GIVING RISE TO THE LIABILITY.

11. TERM AND TERMINATION

- 11.1 **Term and Termination.** The initial term of this Agreement is the same as the subscription license term specified in the relevant order form that grants such license, and unless otherwise specified, this Agreement shall be automatically renewed for a subsequent period of the same length as the initial term, unless: (a) either party notifies the other party of termination, in writing, at least thirty (30) days before the end of the initial term or any subscription renewal period, in which case this Agreement shall terminate upon the expiry of the applicable initial term or subscription renewal period; or (b) otherwise terminated in accordance with the provisions of this Agreement. The initial term and each subsequent subscription renewal term, if any, is collectively referred to hereinafter as the "**Term**". Either party may terminate this Agreement upon delivery of notice of termination to the other party at any time if (a) a receiver is appointed for the other party or its property; (b) the other party makes an assignment for the benefit of its creditors; (c) proceedings are commenced by or for the other party under any bankruptcy, insolvency, or debtor's relief law; (d) the other party liquidates or dissolves or attempts to do so; (e) the other party assigns or purports to assign this Agreement in breach of its provisions; or (f) the other party commits any breach of a material obligation hereunder which it fails to cure within thirty (30) days of receiving written notice of the breach, or which is by its nature incurable. Dynamsoft may terminate this Agreement on ten (10) days written notice of

LICENSEE's failure to pay any amounts due hereunder if LICENSEE fails to pay such outstanding amount before the expiry of the ten (10) day notice period.

11.2 **Obligations on Termination.** Any terms of this Agreement, which by their nature or terms extend beyond the termination or expiration of this Agreement, remain in effect until fulfilled. Upon termination or expiration of this Agreement for any reason: (a) LICENSEE shall immediately cease using any: (i) sales literature and other written information and materials supplied by Dynamsoft pursuant to this Agreement, and Dynamsoft's Marks; (b) LICENSEE shall immediately cease to identify itself as an authorized distributor for Dynamsoft or otherwise affiliated in any manner with Dynamsoft; and (c) any previously granted paid-up rights granted to End Users shall survive until the expiry of those rights subject to LICENSEE'S continued compliance with the terms of this Agreement. The expiration or termination of the Agreement shall not affect or prejudice any rights or obligations which have accrued or arisen under the Agreement prior to the date of expiration or termination.

12. MISCELLANEOUS

12.1 **Assignment.** This Agreement may be assigned by Dynamsoft to any entity which assumes its obligations and acquires ownership of or the right to use and license the Dynamsoft Products. Neither this Agreement nor any right or obligation hereunder may be assigned, transferred, delegated or subcontracted, by operation of law or otherwise, in whole or in part, by LICENSEE without Dynamsoft's prior written consent, such consent not to be unreasonably withheld. Subject to the foregoing, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties, and their permitted successors and assigns. Any attempted assignment or transfer in violation of this Section is void.

12.2 **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes any prior or contemporaneous oral or written understanding as to the subject matter. This Agreement will prevail over terms and conditions of any LICENSEE-issued purchase order or other document, which will have no force and effect, even if Dynamsoft accepts or does not otherwise reject the purchase order or document.

12.3 **Amendments; Waivers.** This Agreement may not be modified or any term or condition waived except in a writing signed by a duly authorized representative of each party.

12.4 **Import and Export Controls.** LICENSEE shall comply with all applicable import, export and re-export laws and regulations and foreign policy controls and restrictions. LICENSEE shall take all necessary actions and precautions to ensure that its distributors, resellers and other customers do not contravene such laws, regulations, controls or restrictions.

12.5 **Notices.** All notices and other communications hereunder shall be given by email.

12.6 **Governing Law.** This Agreement shall be construed, and the legal relations between the parties hereto shall be determined as follows:

- (a) If LICENSEE's head office is located in the United States, in accordance with the laws of the State of Delaware, excluding its conflicts of law principles, and the federal laws of the United States.; or
- (b) If LICENSEE's head office is located anywhere in the world except the United States, in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein; and
- (c) The *United Nations Convention on Contracts for the International Sale of Goods* and any conflicts of law principles and the *Uniform Computer Information Transactions Act* (where enacted) shall not apply to the Agreement.

12.7 **Jurisdiction and Mandatory Venue.** The parties waive any objections to the venue or jurisdictions identified in this provision. The mandatory, sole and exclusive venue, place or forum for any disputes arising from the Agreement (including any dispute regarding the existence, validity or termination of the Agreement) shall be the courts in the city of Vancouver, British Columbia, Canada.

12.8 **Severability.** If any term hereof is held invalid, illegal, or unenforceable for any reason whatsoever, such term shall be enforced to the fullest extent permitted by applicable law, and the validity, legality, and enforceability of the remaining terms shall not in any way be affected or impaired thereby.

12.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which together shall constitute one instrument. The delivery of an electronic copy of an executed counterpart of this Agreement shall be deemed to be valid execution and delivery of this Agreement.

**EXHIBIT A
DEFINITIONS**

- (a) "**Bundled Products**" means the Dynamsoft Products in combination with the LICENSEE Products.
- (b) "**Confidential Information**" means all non-public information that a party considers to be confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, whether in tangible or intangible form, and whether or not stored, compiled or memorialized physically, electronically, graphically, photographically or in writing including without limitation: (i) business processes and financial information; (ii) any released or unreleased software or hardware products and services; (iii) sales and marketing plays of any existing or planned products and services; (iv) data products, technology and other technical information; and, (v) customer and prospective customer lists. Confidential Information shall not include any information that the receiving party can prove: (i) is or becomes generally known to the public without breach of any obligation to the disclosing party; (ii) is known to the receiving party prior to its disclosure by the disclosing party without breach of any obligation owed to the disclosing party; or (iii) is received from a third party without breach of any obligation owed to the disclosing party.
- (c) "**Dynamsoft Products**" means, collectively, the object code versions of the software programs as specified in order form, along with the documentation, if applicable, as well as any modifications, enhancements, and/or derivative works thereof as may be provided by Dynamsoft Corporation under the terms of this Agreement.
- (d) "**End User**" means a customer of LICENSEE with whom LICENSEE enters into an agreement for access to and use of any Dynamsoft Product as a Bundled Product.
- (e) "**LICENSEE Products**" means the computer hardware and/or software products which incorporate Dynamsoft Products.