

TERMS & CONDITIONS SPINNAKER RESEARCH BV / SAMPLE WEIGHTING

By checking the “I accept Terms and Conditions” button displayed as part of the signing up process, you agree that these terms and conditions of Spinnaker Research bv regulate the contractual relationship (hereinafter “Agreement”) between Spinnaker Research bv and you. If you are entering into the Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to the terms and conditions of the Agreement. These terms and conditions apply in its entirety, unless otherwise expressly agreed upon in writing. The Agreement is the entire agreement between the Supplier and the User. A waiver by either party of any provision of the Agreement does not operate as a waiver for the future of that or any other provision.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

For purposes of these terms and conditions, the terms below shall have the meanings defined below:

Supplier: Spinnaker Research bv, the manufacturer of the Sample Weighting Software.

Software: the online software applications provided by the Supplier as part of the Services.

Services: the subscription services provided by the Supplier to the User under this agreement via www.sampleweighting.com

User: the user of the Service, both a legal person (e.g. company, association) and a natural person, including those who are authorized by the User to use the Service.

Authorized

Users: if the User is a company: it's employees
if the User is an association or partnership: it's partners.

Effective date: the date on which the User agreed to this agreement.

Business Days: any day which is not a Saturday, Sunday or public holiday in The Netherlands.

User Data: the data inputted by the User, the Authorized Users, or the Supplier on the User's behalf for the purpose of using the Service or facilitating the User's use of the Service.

Virus:

any device or thing (including any software, code, file or programme) which may: 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; 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 part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

2. AGREEMENT AND TERMS

2.1 The Agreement shall commence on the Effective Date and shall continue for 12 months (the **Initial Subscription Term**) thereafter, unless:

- (a) either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Subscription Term or any Renewal Period, in which case the Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of the Agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

2.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Agreement without liability to the other if the other party commits a material breach of any of the terms of the Agreement and, if such a breach is remediable, fails to remedy that breach within 30 days of that party being notified in writing of that breach.

2.3 Both Parties may immediately terminate the Agreement without liability to the other Party if the other Party :

- (a) is declared bankrupt;
- (b) applies for (temporary) suspension of payment (“surseance van betaling”);
- (c) loses the authority to dispose of property and/or the full legal capacity with respect to his assets or parts thereof as a result of an attachment;
- (d) being placed under tutelage or is in some other way not able to dispose of its assets,

unless the official receiver or administrator recognises the obligations arising out of the Agreement as a debt of the estate. The Supplier is under no circumstances held to restate any payment or damage to the User. In case of bankruptcy of the User, the permit to use the Service by the User ends by operation of law.

- 2.4 On termination of the Agreement for any reason all licences granted under the Agreement shall immediately terminate. Furthermore, the Supplier may destroy or otherwise dispose of any of the User Data in its possession, unless the User requests these data in writing within 5 days after termination.

3. THE SERVICE

- 3.1 During the Subscription Term, the Supplier shall provide the Services to the User on and subject to the terms of the Agreement.

- 3.2 The Supplier shall use reasonable endeavours to make the Services constantly available, except for planned maintenance or unscheduled maintenance, updating or repair breaks, due to operations possibly needed for ensuring or restoring the availability, data security, or manageability of the Service, or other similar breaks. The Supplier shall inform the User of the breaks whenever reasonably possible.

The Supplier does not assume any liability due to such a break.

- 3.3 The Agreement shall not prevent the Supplier from entering into similar agreements with third parties.

- 3.4 The Supplier is entitled to produce the Service as it deems best. The Supplier may use third parties with regard to the Service, including but not limited to licensors and subcontractors. The User acknowledges and agrees to such right of the Supplier.

- 3.5 The Supplier has the right to change the working methods, hardware, website, data communication links, the Software, or other system components used in the production of the Services, or to change any third parties connected with the Service and/or the Software.

- 3.6 The Supplier has a right to suspend or disconnect the Service wholly or partly if:

(a) suspension or disconnection is necessary for repair, upgrade, or maintenance of the Service, or part thereof, or when it is otherwise necessary to ensure the availability or operation of the Service;

(b) the use of the Service by the User or any facility within the responsibility of the User has caused or causes disruption, harm or disturbance to the Service or other Service users;

(c) required security has not been given by the User;

(d) the User has failed to pay any charges based on the Agreement;

(e) the Service is used for, or the Supplier has justified grounds to suspect that the Service is used for, illegal or immoral activities;

(f) the User transmits unwanted or unsolicited material or content (e.g. Virus, spam) through the Service;

(g) application has been filed in order to place the User into liquidation or start the bankruptcy proceedings or the User has been found otherwise insolvent;

(h) the User fails to comply with these terms and conditions; or

(i) the Supplier has any other reasonable motive to suspend or disconnect the Service.

3.7 The suspension or disconnection of the Service does not release the User from any obligations as mentioned in these terms and conditions, including payment obligations. In the event of the disconnection or interruption being attributable to the User, the Supplier may charge the User for reconnecting or opening of the Service. The User provides the Supplier with all necessary charge information.

4. USE OF THE SERVICE

4.1 The Supplier hereby grants the User, subject to the terms and conditions herein, a non-exclusive, non-transferable right to permit the User to use the Services during the Subscription Term solely for the User's internal business operations.

Any other use, including but not limited to licensing, republishing or distributing all or a portion of the Software, reverse engineering the Service in order to build a competitive product or service, or using the Service to provide services to a third party, is not allowed unless it is agreed upon in writing.

4.2 The User explicitly does not have the right to:

- (a) send spam or otherwise duplicative or unsolicited messages;
- (b) access, send, distribute or store infringing, obscene, threatening, libelous material, or material which facilitates illegal activity, depicts sexually explicit images, promotes unlawful violence, or otherwise unlawful or tortious material, including material harmful to children or material which is discriminatory based on gender, race, sexual orientation, religious belief, disability etc. and material which causes damage or injury to any person or property;
- (c) access, send, distribute or store material containing Viruses or other harmful computer code, files, scripts or programs;
- (d) interfere with or disrupt the integrity or performance of the Services or the data contained therein; or
- (e) attempt to gain unauthorized access to the Services or its related systems or networks.

4.3 The Software is provided by the Supplier "as is". The Supplier is not responsible for the completeness and the accuracy of the results of the Service.

Access to the use of the Service is at the User's own risk. The Supplier does not warrant that the use of the Service, or any downloaded material from the website, does not cause any damage to the

property, or otherwise minimize or eliminate the inherent risks of the internet including but not limited to loss of data or the transmission of a Virus or any other unwanted content.

- 4.4 The User shall use the Service so that the use causes no disruptions to the Service or other users of the Service. The User shall also ensure that any User facility, any material or content of the User, or any material or content transmitted through the Service, does not cause any disruption to the Service or the availability thereof. The User is liable for the material or content transmitted via the Service.
- 4.5 The User will not transmit or share identification or passwords to persons other than Authorized Users, nor permit the identification or passwords to be accessed by individuals who are not Authorized Users, nor permit access to the Services through a single identification or password code being made available to multiple users on a network.
- 4.6 In relation to the Authorized Users, the User undertakes that:
- (a) the maximum number of Authorized Users that it authorizes to access and use the Services shall not exceed the number of User Subscriptions it has purchased from time to time;
 - (b) it will not allow or suffer any User Subscription to be used by more than one individual Authorized User unless it has been reassigned in its entirety to another individual Authorized User, in which case the prior Authorized User shall no longer have any right to access or use the Services;
 - (c) each Authorized User shall keep a secure password for his use of the Services, that such password shall be changed no less frequently than biannually and that each Authorized User shall keep his password confidential;
 - (d) it shall maintain a written, up to date list of current Authorized Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;
 - (e) it shall permit the Supplier to audit the Services in order to establish the name and password of each Authorized User. Such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the User's normal conduct of business;
 - (f) if any of the audits referred to in clause 4.6(e) reveal that any password has been provided to any individual who is not an Authorized User, then without prejudice to the Supplier's other rights, the User shall promptly disable such passwords and the Supplier

shall not issue any new passwords to any such individual; and

(g) if any of the audits referred to in clause 4.6(e) reveal that the User has underpaid Subscription Fees to the Supplier, the User shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the prices set out in paragraph 1 of Schedule 1 within 10 Business Days of the date of the relevant audit.

- 4.7 The User shall use all reasonable endeavours to prevent any unauthorized access to, or use of, the Services and, in the event of any such unauthorized access or use, promptly notify the Supplier in writing.

5. ADDITIONAL USER SUBSCRIPTIONS

- 5.1 The User may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in paragraph 1 of Schedule 1 and the Supplier shall grant access to the Services to such additional Authorized Users in accordance with the provisions of this agreement.
- 5.2 If the User wishes to purchase additional User Subscriptions, the User shall notify the Supplier in writing. The Supplier shall evaluate such request for additional User Subscriptions and respond to the User with approval or disapproval of the request.

6. SUPPLIER'S OBLIGATIONS

- 6.1 The Supplier will perform the Services to the best of its knowledge and capability in accordance with its professional duty of skill and care.
- 6.2 The Supplier does not warrant that the User's use of the Services will be uninterrupted or error-free, nor that the Services and/or the information obtained by the User through the Services will meet the User's requirements.
- 6.3 The Supplier is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the User acknowledges that the Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 6.4 Notwithstanding the foregoing, the Supplier shall make all reasonable efforts to repair any substantial defects in the Software within a timely manner, if and insofar these defects are described in detail in writing by the User. A substantial defect shall mean a substantial failure of the Software to meet the functional or technical specifications of the Software.

- 6.5 The Supplier will do its utmost to ensure a secure storage of data and information. The Supplier is deemed to have fulfilled this obligation, unless the User provides evidence to the contrary. However, the User acknowledges the risks of such storage and assumes responsibility for all the consequences of that risks.
- 6.6 The Supplier is not responsible for failure of the Service because of an accident, abuse by any party, both by authorized parties and unauthorized parties (including hackers), misapplication , or unauthorized modification.
- 6.7 Any personal data provided by the User shall be registered by the Supplier pursuant to the Dutch Data Protection Act (“Wet bescherming persoonsgegevens”) for the purpose of :
- (a) offering the agreed upon Services; and
 - (b) informing the User about developments with regard to the website, the Service or new services provided by the Supplier.

The Supplier shall take appropriate technical and organizational measures against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

- 6.8 Any personal data provided by the User shall only be provided to any third parties if this is specifically agreed upon by the User in writing, unless the Supplier is held to provide the data to a third party according to any statutory provision or a court sentence.

7. USER'S OBLIGATIONS

- 7.1 The User shall provide the Supplier with (i) all necessary co-operation in relation to the Agreement, and (ii) all necessary access to such information as may be required by the Supplier in order to render the Services, including but not limited to Authorizes User names and security access information.
- 7.2 The User shall provide complete and accurate data and information in order to use the Service. The User is responsible for the accuracy of the data and information. If necessary, the User shall modify the data or information or, if the User is not able to, inform the Supplier of any changes in the data or information.
- 7.3 The User shall:
- (a) comply with all applicable laws and regulations with respect to its activities under the Agreement;
 - (b) carry out all other User responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in the User's provision of such assistance as agreed by the

parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

- (c) ensure that the Authorized Users use the Services and/or the Software in accordance with the terms and conditions of the Agreement and be responsible and liable for any Authorized User's breach of this agreement;
- (d) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time;
- (e) ensure that its network and systems are adequately protected against any Virus or any malicious content; and
- (f) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the User's network connections or telecommunications links or caused by the internet.

CHARGES AND PAYMENT

- 8.1 The User shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with this clause and according to the **Pricing and Payment Plan** which is part of the Agreement.
- 8.2 The User shall pay all Fees through www.pay.nl, by valid, up-to-date and complete credit card details, unless otherwise agreed upon in writing. After any payment, the Supplier shall make available to the User the paid invoice electronically.
- 8.3 The User authorizes the Supplier to collect payment for the Subscription Services on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term, and if applicable, of the next Renewal Period.
- 8.4 If the Supplier approves the User's request to purchase additional User Subscriptions, the User shall pay to the Supplier the relevant fees for such additional User Subscriptions as set out in paragraph 2 of Schedule 1 and, if such additional User Subscriptions are purchased by the User part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).
- 8.5 If payment of the User through www.pay.nl is not received by the Supplier, or if both Parties agreed upon this mode of invoicing, the Supplier will send an electronic invoice. The User shall pay the Supplier within fourteen (14) days after the date of the invoice. If the Supplier has not received timely payment, the User automatically is in breach without the need to be served with any notice or default,

and without prejudice to any other rights and remedies of the Supplier:

- (a) the Supplier may, without liability to the User, disable the User's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on such due amounts at 2 % per month, whereas a part of a month is considered as one (1) month, commencing on the day after the due date and continuing until fully paid. The User shall also be liable for all judicial and extrajudicial (collection) costs including, but not limited to, the fees of attorneys, bailiffs and debt collection agencies of the Supplier.

8.6 All amounts and fees stated or referred to in the Agreement shall be paid in euro's, are non-cancellable and non-refundable and are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

8.7 The Supplier shall be entitled to unilaterally increase the Fees subject to the Agreement once per calendar year. The Supplier will give written notice to the User at least two months in advance and **Schedule 1** shall be amended accordingly.

9. PROPRIETARY RIGHTS

9.1 The User shall own all rights, including intellectual property rights, titles and interest in and to all of the User Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the User Data.

9.2 The User acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and any information deriving from the Services, websites, databases, any equipment or other materials such as analyses, designs, documentations, reports, offers as well as preparatory material. This agreement does not grant the User any rights to, or in, patents, copyrights, database rights, trade secrets, "knowhow", trade names, trade marks, or any other rights or licences in respect of the Services, unless Parties expressly stated otherwise in writing. The User only obtains the rights that are explicitly granted under the Agreement and under the law.

9.3 The Supplier confirms that it has all the rights in relation to the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of the Agreement.

10. CONFIDENTIALITY

- 10.1 Each Party will treat all the information from the other Party subject to the Agreement before, during and after the performance of the Services as confidential, and shall take all reasonable steps to ensure that the other's confidential information to which it has access is not disclosed or distributed by its employees or Authorized User's, insofar as such information is specified as confidential or if the recipient knows or ought reasonably to suspect it to be of a confidential nature. The Parties remain bound by the obligations in this article even after the Agreement is terminated for whatever reason.
- 10.2 The User acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's confidential information.
The Supplier acknowledges that the User Data is the confidential information of the User.
- 10.3 A Party is only entitled to provide confidential information to any government institution if it is required to do so by any statutory provision or by a court sentence. In such a case such Party must notify the other Party of this obligation as soon as possible in writing.

11. INDEMNITY

- 11.1 The User shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the User's use of the Services.
The User indemnifies the Supplier for any claims arising from the (illegal) use of any data given by the User to the Supplier and for any claims arising from any breach of the Dutch Data Protection Act or any other applicable laws, if and insofar the Supplier cannot be accounted for this breach.
- 11.2 The Supplier shall defend, indemnify and hold harmless the User against any claim that the Services or Documentation infringes any patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the User for any amounts awarded against the User in judgment or settlement of such claims, if the Supplier is given sole authority to defend or settle the claim.
- 11.3 Either Party shall give prompt notice to the other Party in case of any claim or other (legal) action as mentioned in clauses 11.1 and 11.2 has been filed. The other Party shall provide reasonable co-operation in the defence or settlement of such claim at the indemnitor's expense.

- 11.4 In the defence or settlement of any claim, the Supplier may procure the right for the User to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the User without any additional liability or obligation to pay liquidated damages or other additional costs to the User.
- 11.5 In no event shall the Supplier, its employees and subcontractors be liable to the User to the extent that the alleged infringement is based on:
- (a) a modification of the Services by anyone other than the Supplier; or
 - (b) the User's use of the Services in a manner contrary to the instructions given to the User by the Supplier; or
 - (c) the User's use of the Services after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 11.6 The foregoing states the User's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

12. LIMITATION OF LIABILITY

- 12.1 The Supplier accepts statutory and contractual obligations to pay compensation only to the extent set out in this clause.
- 12.2 The Supplier is only liable to the User (a) in the event of an attributable breach of the Agreement, but only to the amount paid by the User to the Supplier for the Service to which the loss relates, or (b) in the event of any unlawful act attributable to the Supplier which results in physical injury or death.
- 12.3 Notwithstanding the foregoing, the amount of any compensation owed by the Supplier by virtue of this clause may not exceed the amount paid by the professional liability insurer of the Supplier in a relevant case. If the insurer does not pay out, the liability of the Supplier does not exceed the amount as mentioned in clause 12.2 (a).
- 12.4 The liability of the Supplier for any attributable breach of the Agreement only arises if the User serves the Supplier within 5 days with a notice of breach specifying a reasonable period for remedying the breach, and even after such period the Supplier remains in attributable breach of its obligations. The notice of

breach must specify in as much detail as possible the nature of the breach to enable the Supplier to respond adequately.

- 12.5 The User assumes sole responsibility for results obtained from the use of the Services and/or the Software by both himself and his Authorised Users, and for conclusions drawn from such use.
- 12.6 Any liability of the Supplier for any damage caused by incompetence, errors or omissions in the content of the Software or the website of the Supplier, as well as the release of –confidential– information from restricted sections of the Software or the website, is excluded.
- 12.7 Any liability of the Supplier for any form of loss is excluded, including supplemental compensation of any kind, and compensation for indirect or consequential loss, depletion of goodwill and/or similar losses, or loss, corruption, destruction, alteration or disclosure of (User) data or information, pure economic loss, loss of profits or turnover, or for loss caused by delays, failure to meet deadlines due to changes in circumstances, or for any special, indirect or consequential loss, loss due to theft or loss of, or damage to, or loss resulting from information or advice given by the Supplier the content of which is not expressly covered by the Service.
- 12.8 Any liability of the Supplier in case of any damage caused by errors or omissions in any data, information or instructions provided by the User, misrepresentation, restitution, transmission of a Virus or other unwanted content and the results thereof, costs, damages, charges or expenses however arising under this agreement, is excluded.
- 12.9 Any liability of the Supplier for damages or loss caused by any third party, either authorized by the Supplier and unauthorized, is excluded.
- 12.10 None of the Parties shall have liability to the other Party under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, or problems with imports or exports, whereby it would be unreasonable to expect the Supplier to perform the Services.
In any event stated in this clause the performance of the Services will be suspended, or, if the situation of force majeure continues for a period of more than ninety (90) days, the Agreement may be

terminated in writing by either Party, without either Party thereby incurring any liability to compensate the other. Any amount owned by the User to the Supplier shall be immediately enforceable.

- 12.11 The exclusion and limitation of liability as set out in this clause do not apply if and insofar as the loss is caused by the deliberate act or gross negligence on the part of the Supplier or its employees.

13. OTHER PROVISIONS

- 13.1 If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

- 13.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

- 13.3 A reference to writing or written includes faxes and e-mail.

14. GOVERNING LAW AND JURISDICTION

- 14.1 The Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of the Netherlands.

- 14.2 The Parties irrevocably agree that the court of Amsterdam, the Netherlands, has exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the Effective Date.

Subscription Fees

1. SUBSCRIPTION FEES

Subscription Plan 1 "Small business"

The Subscription Fees shall amount to a total of €240,- based on 30 weight project downloads.

Subscription Plan 2 "Medium business"

The Subscription Fees shall amount to a total of €720,- based on 180 weight project downloads.

Subscription Plan 3 "Large business"

The Subscription Fees shall amount to a total of €2400,- based on 1500 weight project downloads.

Subscription Plan 4 "Custom"

The Subscription Fees shall amount to a total of €xxxx,- based on xxx weight project downloads.

2. ADDITIONAL USER SUBSCRIPTION FEES

Additional User Subscriptions may be purchased by the User at €0,- per User Subscription.

3. EXCESS STORAGE FEES

The Supplier's excess storage fees current as at the Effective Date are set out below: Excess storage fees amount to €50 per 10MB per year.

Subscription Term

1. Initial Subscription Term: 12 months / 365 days