

LICENSE AGREEMENT FOR AUDIENCE RESPONSE SYSTEM SOFTWARE

THIS license agreement for audience response system software is a legal agreement between You (either an individual or an entity), hereinafter in this agreement referred to as “Licensee”, and Sendsteps B.V., a company with limited liability and having its registered office at Overhoeksplein 2, 1031 KS Amsterdam, hereinafter referred to as “Sendsteps”, for the use of software applications in accordance with the terms and conditions further set out below. The software may also contain any updates and upgrades that Sendsteps may provide to Licensee, or that Licensee obtains after the date on which Licensee obtains the initial copy of the software, to the extent that such software items are not accompanied by a separate or additional license agreement or general conditions. By installing, copying, downloading, accessing or otherwise using the software, Licensee agrees to be bound by the terms and conditions of this license agreement. Licensee should review the license agreement, including any schedules thereto, closely, because all of the terms together create the agreement that applies to Licensee. If Licensee does not agree to the terms of this license agreement, Licensee has no rights to the software and should not install, copy, download, access or use the software in any way,

Licensee and Sendsteps hereinafter separately referred to as “Party” and jointly as “Parties”,

WHEREAS:

- Sendsteps has developed a software tool comprising an audience response system to electronically vote and ask questions during a presentation via a branded Sendsteps response website, Twitter or SMS. The audience response system furthermore consists of a PowerPoint add-in software program and a management portal;
- Licensee has requested Sendsteps to make these systems available to Licensee by granting Licensee a license, and
- Sendsteps is willing to grant such license under the terms and conditions set forth in this license agreement and all its schedules thereto (together referred to as the “**License Agreement**”),

PARTIES HAVE AGREED AS FOLLOWS:

1. DEFINITIONS

The following terms when used in this License Agreement shall have the respective meanings ascribed thereto below:

1. “**Administrator**” means the person or entity responsible for activating and administrating all Authorized Users’ accounts specified in the Order Form during the Term of this License Agreement;
2. “**Authorized Users**” means the users duly and explicitly granted access and user rights to the Licensed Technology by Sendsteps, as specified in the Order Form;
3. “**Facilities**” means any telecom network connection and/or WiFi connection and a Microsoft Windows™ computer connected to the internet with Microsoft PowerPoint™ software installed;
4. “**Improvement**” means any enhancement, addition, modification, derivative work or change (whether or not patented or patentable) in or with respect to the Licensed Technology;
5. “**Licensed Technology**” shall mean all (software) elements, services and functionality of the audience response system, including the Sendsteps add-in software program and the management portal. The software allows for real-time interaction during a PowerPoint presentation between the audience and the presenter via laptops, tablets and smartphones;

6. **“Order Form”** means the document setting out Licensee’s order;
7. **“Schedules”** means all schedules to this License Agreement, as further defined in clause 9 below;
8. **“Start Date”** means the date specified in the Order Form, on which the license as set forth in clause 2.1 below was granted to Licensee,
9. **“Term”** means the term of the License Agreement, as further defined in clause 5 below.
10. **“Basic License”** means access to the Licensed Technology with the Sendsteps branding (i.e. an extra tab in Microsoft PowerPoint™ named ‘Sendsteps’ with which a Licensee is able to add slides to its presentations with the Sendsteps logo added to it) for the Term of the Agreement.
11. **“Branded License”** means access to the Licensed Technology with one Licensee’s brand (meaning: the response website, the dashboard and the Microsoft PowerPoint™ software add-in) for the Term of the Agreement.
12. **“Corporate License”** means access to the Licensed Technology with one Licensee’s brand (meaning: the response website, the dashboard and the Microsoft PowerPoint™ software add-in), running on a dedicated and highly-secured server for the Term of the Agreement.
13. **“Affiliate License”** means it’s possible for Licensee to connect affiliates and/or subsidiaries from the Licensee to the License. To connect affiliates and/or subsidiaries to the License, the Administrator can purchase extra extensions.

2. GRANT OF RIGHTS

1. Subject to the terms and conditions of this License Agreement, Sendsteps hereby grants to Licensee, and Licensee hereby accepts, a non-exclusive and non-transferable license to use the Licensed Technology for the Term of this License Agreement (**“License”**). The License does not include the right to assign the License or grant sub-licenses, except that Licensee may - upon receipt of prior written consent from Sendsteps and at additional charge - grant sub-licenses to its affiliates and/or subsidiaries at the rates specified in the Order Form. The License allows Licensee to use the Licensed Technology both within its own organization and at Licensee’s clients.
2. Licensee may not use the Licensed Technology in any other manner than as specified in clause 2.1, without Sendsteps’ prior written consent. Any implied licenses in the Licensed Technology are hereby explicitly excluded.
3. If so desired, Licensee may upgrade any aspect of and therewith broaden the scope of the License at any time during the Term, at the rates specified in the Order Form. Licensee is entitled to upgrade the License either on a day-to-day basis or for the remainder of the Term.
4. It is expressly acknowledged and agreed between Parties that the Licensed Technology is merely licensed to Licensee for the Term by Sendsteps and not sold and/or transferred in any way to Licensee.

3. LICENSE RESTRICTIONS

1. Except as explicitly permitted in clause 2.1, to the maximum extent permitted by Dutch law, Licensee shall not (neither explicitly permit any third party to):
 - a) copy, reproduce or (externally) distribute any part of the Licensed Technology;
 - b) assign, sub-license, lease, rent, loan, disclose or otherwise make available any part of the Licensed Technology or grant (limited) rights to any part of the Licensed Technology;
 - c) change, modify, adapt, alter, translate, make error corrections or create derivative works from any part of the Licensed Technology, and
 - d) reverse assemble, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code of any part of the Licensed Technology.

4. FEES

1. Licensee shall pay to Sendsteps the fees specified in the Order Form (“**License fees**”). Licensee may be due additional fees upon any change of use of the Licensed Technology, insofar as such change of use has been approved by Sendsteps.
2. Sendsteps shall invoice the License fees on the Start Date. Licensee shall pay any installment of the License fees to Sendsteps within 30 days of receipt of the applicable invoice.
3. License fees do not include taxes (such as withholding taxes and VAT).
4. All (stamp) duties, taxes (such as withholding taxes and VAT) and other similar levies arising from or in connection with the conclusion of this License Agreement, shall be borne by Licensee.

5. TERM

1. This License Agreement is effective as of the Start Date and remains valid and in force for the duration of one (1) year, unless terminated earlier in accordance with the provisions of this License Agreement. Unless otherwise agreed in writing, the License Agreement is subsequently automatically extended for a period of one (1) year, unless either Party has informed the other Party in writing - with due observance of a notice period of two months prior to the end of the Term in question – that said Party is terminating the License Agreement.
2. During the Term the Administrator has the right to upgrade the License, on Licensee’s behalf and account, by submitting a new Order Form to Sendsteps. Each upgrade starts a new 1-year term as stipulated in clause 5.1.

6. SENDSTEPS’ RESPONSIBILITIES

1. During the Term, Sendsteps shall:
 - a) make reasonable best efforts to provide Licensee with continuous access to the Licensed Technology including updates;
 - b) provide Licensee at the start of the License with a one-hour training session regarding the use of the Licensed Technology free of charge.

7. LICENSEE’S RESPONSIBILITIES

1. Licensee shall:
 - a) ensure that the number of users of the Licensed Technology does not exceed the number of Authorized Users and shall ensure that the access codes provided to Authorized Users will not be shared with other people/parties;
 - b) ensure that the Licensed Technology is installed on Microsoft Windows™ computers with the Microsoft PowerPoint™ software only;
 - c) always install and use the latest available version of any part of the Licensed Technology as provided by Sendsteps;
 - d) notify Sendsteps as soon as it becomes aware of any unauthorized use of the Licensed Technology by any person/party;
 - e) in the event of d), pay, for broadening the scope of the License granted pursuant to clause 2.1 to cover the unauthorized use, an amount equal to the License fees which Sendsteps would have levied (in accordance with its then current normal commercial terms) had it licensed any such unauthorized use on the date when such use commenced.

8. INDEPENDENT CONTRACTORS

1. Sendsteps and Licensee are and intend to remain independent contractors. Nothing in this License Agreement shall be construed as an agency, joint venture or partnership between the Parties.

9. MISCELLANEOUS

1. If any part or parts of this License Agreement shall be held invalid or unenforceable for any reason, the validity of the remaining part of the License Agreement shall not be affected thereby and continue in full force and effect. If any provision of the License Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to read as so limited.
2. A waiver or failure by a Party to enforce its rights under this License Agreement at any time in respect of any breach of any term of this License Agreement by the other Party or otherwise shall not be deemed a waiver of such breach, or any breach of any term of this License Agreement, or of any right in the future and shall not prevent the subsequent enforcement of that term or any other right.
3. All Schedules to this License Agreement shall be incorporated into and be deemed part of this License Agreement and all references to this License Agreement shall include the Schedules. Rights and obligations allocated to the Parties in the Schedules form part of this License Agreement. In the event of any contradiction between a Schedule and this License Agreement, the content of the License Agreement shall prevail.
4. The following Schedules apply to and comprise the License Agreement:
 - (a) Schedule A - General Conditions, and can be found [here \(link\)](#)
 - (b) Schedule B - Data Processing Agreement, and can be found [here \(link\)](#)
 - (c) Schedule C - Service Level Agreement, and can be found [here \(link\), when applicable](#)
5. By entering into the Order Form, Licensee acknowledges that it has received, read, understood and accepted the contents and applicability of the License Agreement.
6. Unless otherwise specifically stipulated in this License Agreement, this License Agreement, or any term or condition therein, may only be changed or amended in writing and if both Parties' have confirmed the change or amendment with the signatures of their duly authorized representatives.

10. GOVERNING LAW

1. This License Agreement is construed and governed under the laws of the Netherlands.
2. Before submitting to the courts any dispute or controversy that may arise between the Parties in connection with the License Agreement, Parties will firstly attempt to amicably resolve the dispute. They will negotiate in good faith in order to achieve a result acceptable to both Parties.
3. Any dispute or controversy arising out of or in connection with this License Agreement which cannot be settled between Parties amicably, shall be submitted by the competent courts in Amsterdam, the Netherlands.

This Agreement has been accepted by duly authorized representatives of both Licensee and Sendsteps.
