Highcharts Cloud Standard Terms of Use 2.1

This Agreement is made between Highsoft AS, a Norwegian Company with organization no.: NO996840506MVA, conducting its business from Sentrumsgata 44, 6893 Vik i Sogn, NORWAY (hereinafter referred to as "**Highsoft**") and the legal entity or individual that wishes to utilize Highcharts Cloud (hereinafter referred to as "**Licensee**"). The purpose of this Agreement is to state the terms and conditions for the use of Highcharts Cloud, a visual editor and hosting platform that enables the Licensee to create online charts as described on Highsoft's Website.

1. Definitions

Agreement shall mean Highcharts Cloud Standard Terms of Use as set forth in this document;

Appendix A shall mean an appendix to the Agreement that specifies individual terms and conditions in case of Licensee's choice of a subscription plan that are subject to customization; such as deviations concerning Subscription Period, usage rights, number of users, subscription fee etc.

Confidential Information shall mean any and all written, verbal, or demonstrated information provided by one Party to the other in connection with this Agreement; Confidential information shall include, without limitation, information relating to technologies, finances, marketing and legal affairs which relate in any manner to a Party's actual, or anticipated business whether obtained in tangible or intangible form, including oral or visual;

Highcharts Cloud shall mean the subject matter of this Agreement, the software made available to Licensee under the Agreement through Highsoft's website, or on premise if agreed upon in Appendix A;

Highsoft's Website shall mean https://cloud.highcharts.com/

Invoice Date shall mean the date on the invoice from Highsoft for each Subscription Period;

License shall mean the right granted to Licensee in this Agreement to use Highcharts Cloud in accordance with the chosen subscription plan, as listed on Highsoft's Website, or referenced to in Appendix A;

Party shall mean Licensee or Highsoft individually;

Parties shall mean Licensee and Highsoft jointly;

Subscription Period shall mean the period of time from the Invoice Date to the expiry or renewal of the access to Highsoft Cloud according to the billing cycle for the chosen subscription plan as stated in the invoice.

2. Ownership and Copyright

Highcharts Cloud is the property of Highsoft, and is protected by copyright law as well as other statutory and non-statutory intellectual property law. Highsoft product names are owned by Highsoft and protected under trademark law as registered trademarks.

All title and copyrights in and to Highcharts Cloud, trademarks and the accompanying materials and rights are and shall remain owned fully and solely by Highsoft. Nothing in this agreement shall be held or interpreted as transferring any proprietary rights to Licensee.

Any pre-existing intellectual property and other content, including customer data, which Licensee provides or uploads to Highsoft's server under this Agreement shall remain Licensee property. Licensee shall also retain the ownership to all data sets and charts Licensee make by using Highcharts Cloud. However, unless explicitly denied, using Highcharts Cloud operates as Licensee consent to grant Highsoft a worldwide, royalty-free, non-exclusive license to host and use any such content provided by Licensee, and Licensee hereby warrant that Licensee have all the rights necessary to grant Highsoft such rights.

3. Grant of License

Subject to the terms and conditions of this Agreement and upon Licensee's full payment of the applicable fees for each Subscription Period, Highsoft grants Licensee a non-exclusive, non-sublicensable, non-transferable right to use Highcharts Cloud within the scope of the granted License type as described on Highsoft's Website and set forth on the invoice.

The License covers access to Highcharts Cloud "as is", in accordance to the applicable License indicated on the invoice. The functionality of Highcharts Cloud is subject to change at any time at Highsoft's discretion.

When entering into this Agreement, Licensee must choose one of the subscription plans described on Highsoft's Website. A subscription plan grants Licensee a specific set of usage-rights to functionality in Highcharts Cloud, as described on Highsoft's Website and / or in Appendix A. Licensee shall have the right to alter between different subscription plans during the subscription period, in accordance with section 16 Refund Policy, below. Licensee is, furthermore, obliged not to use Highcharts Cloud in any way that could harm it or impair the use of it by any other lawful user. Highsoft retains the right to exclude Licensee and remove or block inappropriate charts and data.

4. Term of Agreement

This License granted under the Agreement commences on the Invoice Date.
Unless explicitly cancelled by Licensee, the License granted under this Agreement shall automatically be renewed for another Subscription Period upon its expiration until cancelled/terminated in accordance with the terms and conditions set forth in this Agreement. A cancellation received during a Subscription Period will be valid from the next Subscription Period, unless agreed otherwise in Appendix A.

Highsoft may terminate Licensee's access to Highcharts Cloud without cause, at any time. Notice of termination of access to Highcharts Cloud by Highsoft is sent to the contact e-mail associated with Licensee's account. In case of termination, Licensee's sole remedy will be as set forth in Section 5 Refund Policy, below.

Upon termination, all data, files, or other information will be stored on Highsoft's servers until Licensee's charts have been inactive for 6 months. It is Licensee's responsibility to retrieve and backup all account contents before termination.

5. Maintenance and Support

Maintenance releases such as bug fixes and new versions issued during Licensee's Subscription Period shall automatically be available at no extra cost. Highsoft does, however, not make any commitment to update or maintain Highcharts Cloud at all time.

During the Subscription Period Licensee shall, at no extra costs, have full access to the applicable Highcharts Cloud support as specified on Highsoft's website. Highsoft does, however, not make any commitment to provide support for Highcharts Cloud at all time.

6. Subscription Fee

The applicable subscription fees are stated on Highsoft's Website, or in Appendix A below. The subscription fees are subject to change upon 4 weeks notice. Adjustments to the subscription fees will be applied from the next upcoming Subscription Period.

Highsoft shall invoice Licensee and Licensee shall pay all invoices by the agreed payment method timely.

Payment is due in advance at the start of each Subscription Period. Licensee will receive an invoice by email for each withdrawal. The next Subscription Period starts on the Invoice Date. In case of payment delay, Highsoft may claim late payment interest.

Each Party is responsible to pay any bank charges and/or local taxes imposed by law of Party's home country related to the purchase. Invoices from Highsoft do not include taxes, except VAT in the case of Norwegian customers. Licensee cannot withhold any part of the invoiced amount as payment of taxes.

Licenses and all the accompanying rights are granted to Licensee on the condition that all the due fees are paid to Highsoft in full and on time.

Licensee shall ensure that Licensee's contact and payment information is accurate and up-to-date.

7. Marketing

Highsoft will only use Licensee name and/or logo upon consent.

Licensee shall not do anything that might misrepresent the ownership of Highsoft Cloud. Licensee undertakes not to brand Highsoft Cloud as Licensee's own or declares or gives the impression that Licensee owns the copyright in Highsoft Cloud.

Licensee agrees to conduct its business with the highest standards and will do nothing to injure Highsoft's reputation.

8. Warranty

Highsoft warrants that it has all necessary rights to grant the License.

Highsoft makes no warranties, expressed or implied, and hereby disclaims and negates all other warranties, including without limitation, implied warranties or conditions of merchantability, fitness for a particular purpose, or non-infringement of intellectual property or other violation of rights. Further, Highsoft does not warrant or make any representations concerning the accuracy, likely results, security or reliability of the use of the Highcharts Cloud.

Highsoft gives no warranties concerning the safety and security of the information and data provided in Highcharts Cloud. Highsoft is not responsible for any information or data that may be lost or unrecoverable.

9. Limitations of Liability

All software and support services supplied by Highsoft in connection with Highsoft Cloud are provided 'as is' and may have errors and omissions.

UNDER NO CIRCUMSTANCES, AND EVEN IF INFORMED THEREOF BY LICENSEE OR ANY OTHER PARTY, SHALL HIGHSOFT BE LIABLE FOR (i) LOSS OF, OR DAMAGE TO, DATA; (ii) SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES; OR (iii) LOST PROFITS, BUSINESS, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS.

In all events, Highsoft's liability for damages to Licensee for any cause whatsoever related to this Agreement, shall be limited to fees paid or due by Licensee for a twelve (12) month period under this Agreement.

10. Intellectual Property Infringement

Highsoft will defend, indemnify and hold Licensee harmless against any claim stating that Highcharts Cloud is violating any third party intellectual property rights provided that:

i. Licensee promptly notifies Highsoft of the claim, such notice to be provided no later than ten (10) business days after receipt of said claim(s),

ii. A hardcopy of the notices of copyright infringement is sent to:
   Highsoft AS, Sentrumsgata 44, 6893 Vik i Sogn, Norway,

Licensee shall in good faith make commercially reasonable efforts to stop any claim made against Licensee by third party related to the Highcharts Cloud. Highsoft shall, however, have sole control of the defense and any related settlement negotiations in the case of legal proceedings.

If Highsoft Cloud is held by a final court ruling to be infringing any third party intellectual property rights Highsoft will at its option: (i) obtain the right for Licensee to continue to use Highcharts Cloud consistent with this Agreement; (ii) modify Highcharts Cloud so that it is non-infringing; or solely in the event that (i) and (ii) are not feasible, (iii) refund any and all invoiced amounts to Licensee and all of Highsoft's obligations under this Agreement shall terminate upon written notice.

Licensee shall timely provide Highsoft with all necessary assistance, information and authority to perform the above.

Notwithstanding the foregoing, Highsoft's indemnity obligations under this shall under any circumstances be limited to the total amount invoiced to Licensee by Highsoft under this Agreement during the last twelve (12) months prior to the day when Licensee provided notice to Highsoft of claim subject to this section.

11. Confidentiality

For the purpose of this section each Party shall be called Disclosing Party and Receiving Party respectively.

Each Party acknowledges that Confidential Information is proprietary, that it is valuable to Disclosing Party and that any disclosure or unauthorized use thereof may cause irreparable harm and loss to Disclosing Party.

Confidential Information shall not include information that (i) is generally known to the public at the time of disclosure; (ii) is legally received by Receiving Party from a Third Party, which Third Party is in rightful possession of Confidential Information, (iii) becomes generally known to the public subsequent to the time of such disclosure, but not as a result of disclosure by Receiving Party, or (iv) prior to signing of this Agreement, is already in the possession of Receiving Party.

Obligations of receiving Party in regards to Confidential Information:

In consideration of the disclosure to Receiving Party of Confidential Information, Receiving Party agrees to receive and to treat Confidential Information on a confidential and restricted basis and to undertake the following additional obligations with respect thereto,

To use Confidential Information for the sole purpose of fulfilling this Agreement unless otherwise expressly agreed to in writing by Parties,

Not to duplicate, in whole or in part, any Confidential Information,

Not to disclose Confidential Information to its members, officers, employees, Affiliates, counsel or consultants except on a need-to-know basis, and each such person Receiving Confidential Information shall be notified of and required to abide by the terms and conditions of this Agreement,

Not to disclose Confidential Information to any Third Party entity or individual, corporation, partnership, sole proprietorship, customer, advisor or client without the prior express written consent of Disclosing Party;

This confidentiality section 10 shall survive any termination of the Agreement however occasioned.

12.   Relationship Between Parties

Parties are independent contractors, and this Agreement will not be construed as constituting either Party as partner, joint venture, agency or fiduciary of the other, as creating any other form of legal association that would impose liability on one Party for the act, or failure to act, of the other, or as providing either Party with the right, power, or authority (express, or implied) to create any duty or obligation of the other. Neither Party shall directly or indirectly represent to the public that it has the right or the authority to create or accept obligations on behalf of the other Party. Except as otherwise expressly provided in this Agreement, each Party has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all work to be performed by it under this Agreement.

13. Severability

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force until the termination of subscription.

14. Waiver

The waiver by either Highsoft, or Licensee of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. Except for actions for non-payment or breach of Highsoft's intellectual proprietary rights in Highsoft Cloud, no action, regardless of form, arising out of this Agreement may be brought by Licensee more than one (1) year after the cause of action has occurred.

15. Non-assignment

Licensee is not allowed to assign or transfer all, or any part of its rights under this Agreement without Highsoft's prior written consent. Notwithstanding the foregoing, either Party may assign this Agreement in its entirety to its affiliate(s), or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. In such case, Licensee shall notify Highsoft in writing without undue delay, and unless otherwise agreed upon in writing, this Agreement shall bind, and inure to the benefit of Parties, their respective successors, and permitted assigns.

An affiliate shall in this section mean any entity that directly, or indirectly controls, is controlled by, or is under common control with the subject entity. "Control", for purposes of this definition, means direct, or indirect ownership, or control of more than 50% of the voting interests of the subject;

16. Refund policy

16.1. General
Licensee is allowed to move between subscription plans, or add/subtract users from their plan. Refunds in case of upgrades, downgrades and termination is regulated in the following sections 16.2-16.4.

16.2. Upgrades
If Licensee opts to move to a more expensive subscription plan or add users to the subscription plan the subscription plan will be upgraded immediately.

. Highsoft will in that case:

- Prorate the remaining time on the existing subscription and issue an invoice;

- Prorate the new subscription until the current Subscription Period's end date and charge that amount;

- Set the updated subscription as the active subscription.

16.3. Downgrades

If Licensee opts to move to a less expensive subscription plan, the subscription plan is downgraded from the next Subscription Period. Highsoft will adjust the subscription appropriately and then invoice the new amount for the next upcoming Subscription Period.

If Licensee is on an annual Subscription Period and wishes to downgrade during the Subscription Period, Licensee must contact Highsoft to agree specifically concerning a refund.

16.4. Termination

Cancellation from the Licensee will be valid from the next Subscription Period, cf. Section 3. Thus, the Licensee will have no claim for a refund in case of cancellation unless otherwise agreed in Appendix A.

If Highsoft terminates the Agreement during a Subscription Period, Highsoft will prorate the remaining time on the existing Subscription Period and issue a credit. The Licensee will, however, not be entitled to a refund in case of termination due to material breach of this Agreement. This is especially applicable in case of expulsion due to actions contrary to Section 4, last paragraph.

17. Privacy Policy

For Highsoft's privacy policy, refer to Highsoft's Website.

18. Applicable Law and Venue

This Agreement shall be governed by and construed in accordance with the laws of Norway.

Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof, Parties shall seek to solve amicably through negotiations. If the Parties do not reach an amicable solution within four (4) weeks, any dispute, controversy or claim shall be finally settled by the regular courts of Norway. Both Parties hereby agree to and accept Sogn District Court (Sogn tingrett) as exclusive legal venue.

19. Amendments

No amendment to, or modification of this Agreement will be binding unless made in writing and signed by Parties. Parties agree that any additional or different terms in any other document or arrangement not forming part of this Agreement, including any letter or terms of engagement or the like, purchase order, invoice, acknowledgment, delivery receipt, confirmation or other delivery or acceptance document issued by or on behalf of Highsoft, or by or on behalf of Licensee at the request of Highsoft, shall be void, and of no force or effect if in breach with this Agreement.

20. Entire Agreement

This Agreement is the entire agreement between Highsoft and Licensee relating to this relationship concerning Highcharts Cloud and supersedes all prior or contemporaneous oral or written communications, proposals and representations relating to that relationship.

Any other software or product purchased or licensed by Licensee or made available to Licensee from Highsoft's website under separate agreement shall be governed by such agreement solely, unless otherwise agreed to by the Parties.

21. Processing of personal identifiable information

In collecting information about you when you are purchasing a License, we are acting as a data controller. By law, we are required to provide you with information about Highsoft, why and how we use your data, and your rights in regard to your data. Our privacy policy tells you about the information we collect.

22. Notices

All notices to Highsoft to be given under this Agreement shall be in writing and shall be delivered by email to sales@highsoft.com.

Information from Highsoft to Licensee shall be sent by email to the email address Licensee has provided upon purchase. It is Licensee' responsibility to ensure that the registered e-mail address is correct. Highsoft does not take responsibility for lost communication.

All notices, demands or other communication given by a party to the other shall be deemed to have been duly given when made in writing and sent to the registered e-mail address.

23. Highsoft's Right to Change the Agreement

Highsoft may at any time, upon two weeks notice, modify the Agreement. Such modifications shall be legally binding for Licensee from the new Subscription Period. It is Licensee responsibility to keep track of such possible modifications in all relevant documents prior to each Subscription Period.