

DATED 01 March 2017

(1) Experimentus Limited

(2) Online user

INTELLIGENT TEST METHOD (ITM)

LICENSE AGREEMENT for Demonstration purposes only

THIS AGREEMENT is made the 1st March 2017

BETWEEN:

(1) Experimentus Limited a company registered in England and Wales under number 05094962 whose main office is at 12 Melcombe Place, London, NW1 6JJ, United Kingdom (“the Licensor”) and (“the Licensee”)

WHEREAS:

(1) The Licensor has developed and owns the Experimentus intelligent Test Method (iTM).

(2) The Licensor has agreed to deliver to the Licensee and to grant to the Licensee a non-exclusive and non-transferable license to use such material and the associated documentation for demonstration purposes only.

IT IS AGREED as follows:

1. Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

“Intellectual Property Rights (IPR)”

All vested contingent and future intellectual property rights

including but not limited to copyright, trademarks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration or these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created to which the Licensor may be entitled

“License”

The license granted by the Licensor pursuant to clause 2.1;

“License Date”

The date from which the Licensed Materials are deemed to be licensed.

“License Fee”

The fee for the License provided under this Agreement as specified in Schedule 2;

“Licensed Materials”

As specified in Schedule 1;

“Media”

The media on which the Licensed Materials and the Supporting Documentation are recorded or printed as provided to the Licensee by the Licensor. One copy of the iTM Method and material will be provided to each licensed user and is for their use only. All material will be provided on a CD or other agreed medium and registered to the user;

“Supporting Documentation”

The training materials, user guidance, technical literature and all other related materials in eye-readable form supplied to the Licensee by the Licensor for aiding the use and application of the Licensed Materials

“Territory”

Within the Licensee’s organisations only;

“Use the Licensed Materials”

To read all or any part of the Licensed Materials from magnetic or other storage media, to load the Licensed Materials on the magnetic media for the storage and running of the Licensed Materials, to read and possess the Supporting Documentation in conjunction with the use of the Licensed Materials and to possess the Media.

2. Grant of Licence

2.1 The Licensor grants to the Licensee a non-exclusive, non-transferable, worldwide and royalty free license to use the Licensed Materials subject to the terms and conditions contained in this Agreement.

2.2 The Licensee shall not without the prior written consent of the Licensor use the Licensed Materials in any territory except the Territory.

2.3 The Licensed Materials are only for use by the Licensees employees and contractors.

2.4 The Licence shall not be deemed to extend to any materials of the Licensor other than the Licensed Materials unless specifically agreed to in writing by the Licensor.

2.5 The Licensee acknowledges that it is licensed to use the Licensed Materials only in accordance with the express terms of this Agreement and not further or otherwise.

3. Term

The Licence shall commence on the Licence Date and shall continue for a period of 1 year unless terminated in accordance with any of the provisions of this Agreement.

4. Payment

4.1 The Licence Fee shall be paid by the Licensee as provided in Schedule 2.

4.2 The Licence Fee and other charges payable under this Agreement are exclusive of any applicable VAT and other sales tax which shall be payable by the Licensee at the rate and in the manner prescribed by law against submission of a valid tax invoice.

4.3 Any charges payable by the Licensee under this Agreement in addition to the Licence Fee shall be paid in pounds sterling within 30 days after the receipt by the Licensee of the Licensor's invoice.

4.4 Any charges payable by the Licensee shall be made without deduction of income tax or other taxes charges or duties that may be imposed, except insofar as the Licensee is required to deduct the same to comply with applicable laws. The Parties shall co-operate and take all steps reasonably and lawfully available to them, at the expense of the Licensee, to avoid deducting such taxes and to obtain double taxation relief. If the Licensee is required to make any such deduction it shall provide the Licensor with such certificates or other documents as it can reasonably obtain to enable the Licensor to obtain appropriate relief from double taxation of the payment in question.

4.5 The Licensor shall have the right to charge interest on overdue invoices at the rate of 4% per year above the base rate of Barclays Bank Plc, calculated from the date when payment of the invoice becomes due for payment up to and including the date of actual payment whether before or after judgment.

4.6 On each anniversary the Licensee shall pay to the Licensor the annual licence fee set out in Schedule 2. The annual licence will be renewed automatically unless 60 days notice is given prior to the anniversary of the Licence. If the Licensee fails to pay any such amount by such date, the Licensor may in its sole and absolute discretion terminate this Agreement.

5. Delivery

The Licensor shall deliver the Licensed Materials to the Licensee by the Licence Date. The Licensed Materials shall consist of one copy of the methodology and the supporting documentation in machine-readable form only, on the Media.

6. Support

The Licence will include reasonable remote telephone and email support for 12 months from the Licence Date.

7. Risk

Risk in the Media shall pass to the Licensee on delivery. If any part of the Media shall thereafter be lost, destroyed or damaged the Licensor shall promptly replace the same (embodying the relevant part of the Licensed Materials or Supporting Documentation) subject to the Licensee paying reasonable costs of such replacement.

8. Copying

The Licensee may make only so many copies of the Licensed Materials as are reasonably necessary for operational security and use. Such copies and the media on which they are stored shall be the property of the Licensor and the Licensee shall ensure that all such copies bear the Licensor's proprietary notice. The Licence shall apply to all such copies as it applies to the Licensed Materials.

9. Restrictions on Alterations

9.1 The parties acknowledge that the Licensed Materials are only to be modified by the Licensor.

9.2 The Licensee undertakes not to translate, adapt, vary, modify or disassemble the Licensed Materials.

9.3 The Licensee may translate agreed documents on written confirmation by the Licensor. Any copies will be made available to the Licensor and all copyright and Intellectual Property will remain the property of the Licensor.

9.4 The licensee is given the right to use the software under certain conditions, but restricted from other uses, such as modification, further distribution, or reverse engineering.

10. Security and Control

The Licensee shall during the continuance of the Licence:

10.1 effect and maintain adequate security measures to safeguard the Licensed Materials from access or use by any unauthorised person;

10.2 retain the Licensed Materials and all copies thereof under the Licensee's effective control;

10.3 maintain a full and accurate record of the Licensee's copying and disclosure of the Licensed Materials and shall produce such record to the Licensor on request from time to time.

11. Proprietary Rights

11.1 The Licensed Materials and the Intellectual Property Rights of whatever nature in the Licensed Materials are and shall remain the property of the Licensor. The Licensee shall acquire no ownership of copyright or other IPR or proprietary interest in the Licensed Materials.

11.2 The Licensee shall notify the Licensor immediately if the Licensee becomes aware of any unauthorised use of the whole or any part of the Licensed Materials by any person.

11.3 The Licensee shall not obscure or remove the copyright notice or other notices in the Licensed Materials.

11.4 Licensee owns, and shall continue to own all intellectual property rights in software, tools and methodology developed by it outside the scope of the requirements and any derivative works that has been created by Licensee under the Licensed Materials.

12. Intellectual Property Rights

12.1 The Licensor shall defend at its own expense any claim brought against the Licensee alleging that the Use of the Licensed Materials infringes the Intellectual Property Rights of a third party ('Intellectual Property Claim') and the Licensor shall pay all costs and damages awarded or agreed to in settlement of an Intellectual Property Claim provided that the Licensee:

12.1.1 furnishes the Licensor with prompt written notice of the Intellectual Property Claim;

12.1.2 provides the Licensor with reasonable assistance in respect of the Intellectual Property Claim;

12.1.3 Gives to the Licensor the sole authority to defend or settle the Intellectual Property Claim.

12.2 If, in the Licensor's reasonable opinion, the Use of the Licensed Materials are or may become the subject of an Intellectual Property Claim then the Licensor shall either:

12.2.1 Obtain for the Licensee the right to continue using the Licensed Materials which are the subject of the Intellectual Property Claim; or

12.2.2 Replace or, with the written consent of the Licensee, modify the Licensed Materials which are the subject of the Intellectual Property Claim so they become non-infringing.

12.3 If the remedies set out in clause 13.2 above are not in the Licensor's opinion reasonably available, then the Licensee shall return the Licensed Materials which are the subject of the Intellectual Property Claim and the Licensor shall refund to the Licensee the corresponding portion of the Licence Fee, as normally depreciated, whereupon this Agreement shall immediately terminate.

12.4 The Licensor shall have no liability for any Intellectual Property Claim resulting from the Use of the Licensed Materials not supplied or approved by the Licensor or any modification of any item of the Licensed Materials by a party other than the Licensor or its authorised agent.

13. Warranties

13.1 The Licensor warrants that for 90 days following the Licence Date:

13.1.1 The Licensed Materials will provide the methods and processes set out in the Schedule 1 when properly deployed;

13.1.2 The Supporting Documentation and Training will provide adequate instructions to enable the Licensee to make proper use of such methods and processes;

13.2 The Licensor warrants that in providing its obligations under this Agreement it will use a reasonable standard of care and skill and that all personnel will have qualifications and experience appropriate for the tasks to which they are allocated.

13.3 If the Licensor receives written notice from the Licensee of any breach of the said warranties then the Licensor shall at its own expense and within 30 days after receiving such notice remedy the defect or error in question, or if appropriate confirm a date for the proposed remedy.

13.4 The said warranties above shall be subject to the Licensee complying with its obligations under the terms of this Agreement and shall also be subject to the limits and exclusions of liability set out in clause 15 below. In particular, the said warranties shall not apply to the extent that any defect in the Licensed Materials arose or was exacerbated as a result of:

13.4.1 Incorrect Use of the Licensed Materials;

13.4.2 Any unauthorised modification or alteration of the Licensed Materials;

13.5 To the extent permitted by applicable law, the Licensor disclaims all other warranties with respect to the Licensed Materials, either express or implied, including but not limited to any implied warranties relating to quality, fitness for any particular purpose or ability to achieve a particular result.

14. Liability

14.1 The Licensor shall during the term of this Agreement maintain employer's liability, third party liability and product liability insurance cover in respect of its liabilities arising out of or connected with this Agreement. The Licensor undertakes to use reasonable commercial efforts to pursue claims under such insurance policies.

14.2 The Licensor shall indemnify the Licensee for personal injury or death caused by the negligence of its employees in connection with the performance of their duties under this Agreement or by defects in any product supplied pursuant to this Agreement.

14.3 Save in respect of claims for death or personal injury arising from the Licensor's negligence, in no event will the Licensor be liable for any damages resulting from loss of data or use, lost profits, loss of anticipated savings, nor for any damages that are an indirect or secondary consequence of any act or omission of the Licensor whether such damages were reasonably foreseeable or actually foreseen.

14.4 Except as provided above in the case of personal injury, death and damage to tangible property, the Licensor's maximum liability to the Licensee under this Agreement or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) will be for direct costs and damages only and will be limited to the lesser of:

14.4.1 The sum paid out (if any) under the insurance cover maintained by the Licensor pursuant to clause 15.1 above; or

14.4.2 A sum equivalent to the price paid to the Licensor for the products or services that are the subject of the Licensee's claim.

14.5 The parties acknowledge and agree that the limitations contained in this clause 15 are reasonable in the light of all the circumstances.

14.6 The Licensee's statutory rights as a consumer (if any) are not affected. All liability that is not expressly assumed in this Agreement is excluded. These limitations will apply regardless of the form of action, whether under statute, in contract or tort including negligence or any other form of action. For the purposes of this clause, the 'Licensor' includes its employees, sub-contractors and suppliers who shall all have the benefit of the limits and exclusions of liability set out above in terms of the Contracts (Rights of Third Parties) Act 1999. Nothing in this Agreement shall exclude or limit liability for fraudulent misrepresentation.

15. Confidential Information

15.1 Both parties to this Agreement undertake, except as provided below, to treat as confidential and keep secret all information marked 'confidential' or which may reasonably be supposed to be confidential, including, without limitation, information contained or embodied in the Licensed Materials and other information supplied by the Licensee or Licensor (in this Agreement collectively referred to as 'the Information') with the same degree of care as it employs with regard to its own confidential information of a like nature and in any event in accordance with best current commercial security practices, provided that, this clause shall not extend to any information which was rightfully in the possession of either party prior to the commencement of the negotiations leading to this Agreement or which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause).

15.2 The Licensee shall expressly ensure the Licensor users are aware of their obligations under this agreement.

15.3 Both parties shall not without the prior written consent of the other party divulge any part of the Information to any person except:

15.3.1 To their own employees and then only to those employees who need to know the same;

15.3.2 to either party's auditors, an officer of Inland Revenue, an officer of HM Customs and Excise, a court of competent jurisdiction, governmental body or applicable regulatory authority and any other persons or bodies having a right duty or obligation to know the business of the other party and then only in pursuance of such right duty or obligation;

15.4 Both parties undertake (where practical) to ensure that persons and bodies referred to in clause 16.2 are made aware before the disclosure of any part of the Information that the same is confidential and that they owe a duty of confidence to the other party.

15.5 Each party to this Agreement shall promptly notify the other party if it becomes aware of any breach of confidence by any person to whom it divulges all or any part of the Information and shall give the other party all reasonable assistance in connection with any proceedings which the other party may institute against such person for breach of confidence.

15.6 The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of the License or this Agreement.

16. Termination

16.1 The Licensee may terminate the License at any time by giving at least 60 days prior written notice to the Licensor.

16.2 The Licensor may terminate the License forthwith on giving notice in writing to the Licensee if:

16.2.1 the Licensee commits any serious breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within 30 days after the receipt of a request in writing from the Licensor to do so, to remedy the breach (such request to contain a warning of the Licensor's intention to terminate); or

16.2.2 The Licensee permanently discontinues the Use of the Licensed Materials; or

16.2.3 The Licensee becomes insolvent or an order is made or resolution is passed for the winding up of the Licensee or an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Licensee's assets or business (an 'Insolvency Event') or an event or circumstance occurs in relation to the Licensee in any country which appears to the Licensor to correspond in that country to an Insolvency Event or the Licensee otherwise becomes subject in such country to any law relating to insolvency, bankruptcy or liquidation.

16.3 Save as expressly provided in this Agreement the Licence may not be terminated.

16.4 Forthwith upon the termination of the License, the Licensee shall return to the Licensor the Licensed Materials and all copies of the whole or any part thereof or, if requested by the Licensor, shall destroy the same (in the case of the Licensed Materials by erasing them from the magnetic media on which they are stored) and certify in writing to the Licensor that they have been destroyed. PROVIDED THAT the Licensee may extract and store any Licensee data upon a separate media for continuity purposes.

16.5 Any termination of the License or this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision in this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

17. Data Protection

The parties undertake to comply with the provisions of the Data Protection Act 1998 and any related legislation in so far as the same relates to the provisions and obligations of this Agreement.

18. Interpretation

18.1 In this Agreement unless the context otherwise requires:

18.1.1 Words importing any gender include every gender;

18.1.2 Words importing the singular number include the plural number and vice versa;

18.1.3 Words importing persons include firms, companies and corporations and vice versa;

18.1.4 References to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;

18.1.5 Reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;

18.1.6 The headings to the clauses, schedules and paragraphs of this Agreement will not affect the interpretation;

18.1.7 Any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;

18.1.8 Any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;

18.1.9 Any party who agrees to do something will be deemed to fulfil that obligation if that party procures that it is done.

18.2 In the case of conflict or ambiguity between any provision contained in the body of this Agreement and any provision contained in any schedule, the provision in the body of this Agreement shall take precedence.

19. Agency, Partnership

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement.

20. Amendments

This Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties.

21. Announcements

No party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior written consent has been obtained from the other party. The Licensor may quote the Licensee as being a user of the software.

22. Assignment

22.1 The Licensee may not assign, transfer or otherwise dispose of all or any part of its rights, benefits or obligations under this Agreement.

22.2 The Licensor may at any time assign, novate or transfer all or any part of its rights, benefits or obligations under this Agreement.

23. Entire Agreement

This Agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the subject matter of this Agreement. However the obligations of the parties under any pre-existing non-disclosure agreement shall remain in full force and effect in so far as there is no conflict between the same. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

24. Force Majeure

Neither party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party. If such circumstances continue for a continuous period of more than 3 Months, either party may terminate this Agreement by written notice to the other party.

25. Notices

25.1 All notices under this Agreement shall be in writing.

25.2 Notices shall be deemed to have been duly given:

25.2.1 When delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

25.2.2 When sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or

25.2.3 On the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

25.2.4 On the tenth business day following mailing, if mailed by airmail, postage prepaid, in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other party.

26. Schedules

The provisions of Schedules 1-2 shall form part of this Agreement as if set out here.

27. Severance

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

28. Successors and Assignees

28.1 This agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assignees, and references to a Party in this Agreement shall include its successors and permitted assignees.

28.2 In this Agreement references to a Party include references to a person:

28.2.1 Who for the time being is entitled (by assignment, novation or otherwise) to that party's rights under this Agreement (or any interest in those rights); or

28.2.2 who, as administrator, liquidator or otherwise, is entitled to exercise those rights, and in particular those references include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving that party. For this purpose, references to a party's rights under this Agreement include any similar rights to which another person becomes entitled as a result of a novation of this Agreement.

29. Waiver

No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Agreement. No right, power or remedy in this Agreement conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.

30. Counterparts

This Agreement may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

31. Language

This Agreement is made only in the English language. If there is any conflict in the meaning between the English language version of this Agreement and any version or translation of it in any other language, the English language version shall prevail.

32. Costs and Expenses

Each party shall bear its own legal costs and other costs and expenses arising in connection with the drafting, negotiation, execution and registration (if applicable) of this Agreement.

33. Set-off

Where either party has incurred any liability to the other party, whether under this Agreement or otherwise, and whether such liability is liquidated or unliquidated, each party may set off the amount of such liability against any sum that would otherwise be due to the other party under this Agreement.

34. Third Parties

Subject to clause 15.7 above, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from such Act.

35. Proper Law and Jurisdiction

35.1 This Agreement and all matters arising from it and any dispute resolutions referred to below shall be governed by and construed in accordance with English law notwithstanding the conflict of law provisions and other mandatory legal provisions save that:

35.1.1 The Licensor shall have the right to sue to recover its fees in any jurisdiction in which the Licensee is operating or has assets; and

35.1.2 The Licensor shall have the right to sue for breach of its intellectual property rights and other proprietary information and trade secrets ('IPR') (whether in connection with this Agreement or otherwise) in any country where it believes that infringement or a breach of this Agreement relating to its IPR might be taking place. For the avoidance of doubt, the place of performance of this Agreement is agreed by the parties to be England.

35.2 The Licensee recognises that the Licensor's business relies upon the protection of its IPR and that in the event of a breach or threatened breach of IPR, the Licensor will be caused irreparable damage and the Licensor may therefore be entitled to injunctive or other equitable relief in order to prevent a breach or threatened breach of its IPR.

35.3 With respect to all other disputes which are not IPR related pursuant to clauses 35.1 and 35.2 above and its special rules the following procedures in clauses 35.4 to 35.6 shall apply. Where there is a dispute the aggrieved party shall notify the other party in writing of the nature of the dispute with as much detail as possible about the deficient performance of the other party. A representative from senior management of each of the parties ('representatives') shall meet in person or communicate by telephone within 5 business days of the date of the written notification in order to reach an agreement about the nature of the deficiency and the corrective action to be taken by the respective parties. The representatives shall produce a report about the nature of the dispute in detail to their respective boards and if no agreement is reached on corrective action, then the chief executives of each party shall meet in person or communicate by telephone, to facilitate an agreement within 5 business days of a written notice by one to the other. If the dispute cannot be resolved at board level within a further 5 business days, or if the agreed upon completion dates in any written plan of corrective action are exceeded, either party may seek its legal remedies as provided below.

35.4 If the parties cannot resolve a dispute in accordance with the procedure in clause 35.3 above, then they shall with the assistance of the Centre for Effective Dispute Resolution ('CEDR'), seek to resolve the dispute or difference amicably by using an Alternative Dispute Resolution ('ADR') procedure acceptable to both parties before pursuing any other remedies available to them. If either party fails or refuses to agree to or participate in the ADR procedure or if in any event the dispute or difference is not resolved to the satisfaction of both parties within 90 days after it has arisen, the matter shall be settled in accordance with the procedure below.

35.5 If the parties cannot resolve the dispute by the procedure set out above, the parties shall irrevocably submit to the exclusive jurisdiction of the courts of England

and Wales for the purposes of hearing and determining any dispute arising out of this Agreement.

35.6 While the dispute resolution procedure above is in progress and any party has an obligation to make a payment to another party or to allow a credit in respect of such payment, the sum relating to the matter in dispute shall be paid into an interest bearing deposit account to be held in the names of the relevant parties at a clearing bank and such payment shall be a good discharge of the parties' payment obligations under this Agreement. Following resolution of the dispute, whether by mediation or legal proceedings, the sum held in such account shall be payable as determined in accordance with the mediation or legal proceedings, and the interest accrued shall be allocated between the parties pro rata according to the split of the principal sum as between the parties.

36. Compliance with Relevant Law

Both parties will comply with all applicable laws, rules and regulations in respect of all activities conducted under this Agreement.

SCHEDULE 1

Licensed Materials

The Licensed Materials is the Experimentus intelligent Test Method (iTm) and Experimentus reserve the right to modify and update the material as required.

SCHEDULE 2

License and Support Fees

The fees cover the Licensing model for the Experimentus intelligent Test Method (iTm) and associated costs for additional support if required.

All fees are as per the Experimentus current price list available on request.

NOTE: This is a license for demonstration purposes only and not to be used on client projects.