

Membership Agreement for the Framesoft Document Management (FDM) Platform

(last revised October 2015)

<p>Between</p> <p>Framesoft AG Software Applications Sumpfstrasse 15 CH-6301 Zug</p> <p>- hereinafter "Framesoft"-</p>	<p>and</p> <p>Member</p> <p>- hereinafter the "Member" –</p>
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1. Subject Matter

- 1.1 Framesoft Document Management (FDM) is a Software program that enables parties to electronically store, retrieve and exchange electronic documents via the Internet. FDM is physically installed exclusively on servers of Framesoft and may be used by Members exclusively by accessing the servers of Framesoft via the Internet.
- 1.2 Licenses for the use of FDM and the accompanying User's Guide (hereinafter referred to as the "Software") are granted pursuant to this Membership Agreement executed by both parties and following registration of the Member in accordance with the terms of this Membership Agreement.
- 1.3 Additional services, e.g., advice on the selection of software other than FDM, installation, implementation, instruction and training, are not covered by this Agreement. Where such services are offered by Framesoft, they shall automatically be subject to the terms of corresponding agreements to be executed separately.
- 1.4 Members are not permitted to sell or otherwise distribute the Software. The Member's rights under section 3.3 and 4.1 shall remain unaffected hereby.
- 1.5 Execution of a Membership Agreement shall not result in any form of partnership (e.g., a partnership under the Civil Code [Gesellschaft bürgerlichen Rechts]). The parties pursue different business objectives in executing the Membership Agreement and are interested merely in a mutual exchange of performances.

2. Definitions

- 2.1 **"Software"** means Framesoft's FDM Software, including the User's Guide. The User's Guide can be downloaded by Member from the servers of Framesoft. The User's Guide contains a detailed description of the use of the Software, the procedures for using the Software and the functions of each of the parties defined below.
- 2.2 **"Equipment"** means the Equipment required to get access to Framesoft's servers and the Software and is more fully described in the User's Guide. This equipment is not provided nor maintained by Framesoft. The Software can be used from almost any PC that has a connection to the internet and that is able to run a Java-enabled Web Browser. The current recommended specifications for a Microsoft Windows based PC are as follows:

- Pentium 4 CPU or faster
- 512 MB memory
- Internet access (at least via a proxy server)
- Web Browser (Internet Explorer 7)
- Optional Sun Java Plugin 1.5 or newer for extended check in functionality
- Personal e-mail address

- 2.3 **"Access PIN"** means, initially, the Username and Password sent to the Member's Primary Contact, and, thereafter, each of the Usernames and Passwords set up by the Member for its Users; a Username and Password is required

- for the first access to the Software and the registration of the entity, its Administrator and Users and
- for installation of the Software on the personal computers of each User as well as
- each time a User reconnects to the application.

- 2.4 **"Administrator"** means the employee(s) of the Member who is/are named as contact for all technical issues relating to the Software; the Administrator also authorizes the Users within his company to access Framesoft.

- 2.5 **"Member"** means a company or any other entity that has signed a Membership Agreement with Framesoft and completed the Registration process; Members are entitled to access Framesoft's FDM platform. Members are obliged to pay a monthly usage fee specified in Schedule I.

- 2.6 **"Primary Contact"** means the employee of the Member, who is named and authorized to Framesoft as contact for all matters related to the use of the Software; the Primary Contact, inter alia, receives the initial Access PIN.

- 2.7 **"User"** means an employee, attorney or other agent of the Member, who has been authorized to access the Software and to exercise those rights granted to him by his Administrator.

- 2.8 **"Security Procedures"** means the security features, codes, practices and access methods more fully described in the User's Guide.

- 2.9 **"Intellectual Property Rights"** means patents, trade marks, service marks, registered designs, design rights, applications for any of the foregoing, copyright, database rights, know-how, domain names, trade or business names and other similar rights or obligations worldwide.

3. License, Scope of License

3.1 The Member shall, upon registration and payment of the basic subscription fee specified in Schedule I be granted a license for the limited use of the Software, including the User's Guide, subject to the definitions set forth in section 2 above. Under this Membership Agreement, Framesoft grants the Member a limited, non-exclusive license to use the Software on Framesoft's servers via the Internet in accordance with the terms and Conditions of this Membership Agreement. This license shall enter into effect on the "Effective Date" stipulated in Schedule I.

3.2 With the License, the Member shall at no additional charge have access to the current version of the User's Guide on Framesoft's servers. Framesoft reserves the right to change the procedures for use of the Software described in the User's Guide at any time. If such changes should result in undue hardship for the Member, the Member shall have the right to terminate the Membership Agreement within thirty (30) days.

3.3 The Member shall use the Software only for its own processing purposes which includes the use of the Software by third parties (e.g., outside counsel) on behalf of the Member.

The Member shall not use the Software for any other purposes, e.g., provide the Software or any part thereof to third parties with or without consideration - even if this is done on the Member's own computers - or surrender control of the Member's computers to third parties (facility management), without the express, written consent of Framesoft.

3.4 The scope of licenses for software produced by other software providers (not being software incorporated into or otherwise forming part of the Software) (third-party software) shall be governed exclusively by the terms and conditions issued by such providers in connection with such software.

3.5 Framesoft provides the Software only as a technical platform for activity and document storage and retrieval.

4. Use of the Software via the Internet

4.1 The Member shall use the Software by accessing, via the Internet, Framesoft's servers on which the Software is physically installed. Upon execution of this Membership Agreement by both parties and completion of the registration process and after payment of the agreed subscription fee pursuant to sub-section 5.1, the Member's Primary Contact shall be provided with an initial Access PIN by email. The initial Access PIN is required for access to the Software and for the identification of the Member.

The member is aware that the Access PINs are to be kept confidential and that it may not disclose Access PINs to any third party.

4.2 Use of the Software by the Member requires the equipment described in sub-section 2.2. Framesoft's servers verify the User's Access PIN and, after establishing proper authorization, clear the Software for use by the User.

In the event that Framesoft requires the Member to alter and/or upgrade the equipment described in sub-section 2.2 for the purposes of using the Software, Framesoft shall give the Member not less than ninety (90) days' notice of such alteration and/or upgrade. In the event that the Member, in its reasonable discretion, chooses not to alter and/or upgrade such equipment, Framesoft shall continue to provide

a version of the Software capable of running on the equipment described in sub-section 2.2 to the Member for a further period of not less than 12 months.

4.3 The Member shall be responsible for establishing, providing and using the on-line connection to Framesoft's servers via the Internet, as well as for procuring and maintaining in operational condition the equipment described in sub-section 2.2. Such performances shall not be covered by the license agreement.

4.4 By using the Software, the Member will have the ability to load electronic files of third party documents. The Member shall be solely responsible for violations of any copyrights or trademarks arising from the use of such documents.

4.5 In downloading any Software (or any upgrades, updates or patches thereto) to the equipment of the Member, Framesoft shall at all times comply with any security policies of the Member that are required by law or by a regulatory authority.

5. Fees and Payment Terms

5.1 The Member shall pay to Framesoft a monthly usage fee per User of the Software according to Schedule 1. The usage fee shall be payable in advance at the beginning of each month.

5.2 Fees payable under this Membership Agreement do not include statutory VAT.

5.3 In the event of the Member's default on payment of any amounts due hereunder, interest on any overdue amounts shall accrue from the date such payment was due until the date, if any, on which it is received, at the rate of 5% above the applicable base interest rate of the European Central Bank. Such rate shall be no less than 12% per annum and shall not exceed 18% per annum. Framesoft reserves the right to assert additional claims for damages. The Member may submit proof that the damages sustained by Framesoft as result of the Member's delayed payment or non-payment are lower than those stipulated herein.

5.4 The Member may offset counterclaims against claims of Framesoft only if such counterclaims are undisputed or have been established by a final and conclusive judgment of a court of competent jurisdiction.

5.5 Framesoft reserves the right to make changes to the usage fee at any time. In the event that the Prices are increased by more than 10% in any twelve month period, the Member shall be entitled to terminate this Agreement forthwith by serving written notice on Framesoft.

6. Assignment and Transfer

The Member may not assign, sublicense or otherwise transfer the right to use the Software in accordance with this Membership Agreement without the prior written consent of Framesoft (not to be unreasonably withheld or delayed). The Member has no legal right to such consent. The Member's rights under section 3.3 shall remain unaffected hereby.

7. Protection of Software

7.1 Notwithstanding the rights granted to the Member with regard to the Software under section 3 hereof, Framesoft shall continue to be the legal owner of all such rights. Ownership

of the Software shall not pass to the Member under this Membership Agreement.

7.2 The Member shall not copy the Software or any part thereof, or cause the Software or any part thereof to be copied by any third party, unless such reproduction is necessary for use of the Software as provided in the license agreement. Any copies of the Software must bear the same proprietary rights notices (e.g., copyright notice, trademark) as the original Software.

7.3 Framesoft shall have the exclusive right to modify, translate, process or otherwise make changes to the Software. Users shall have the right to correct any errors, only if Framesoft fails to correct such errors or if the correction of errors fails for the same error or for errors directly related to such error.

7.4 The Member shall not attempt to obtain or decode the source code of the Software by way of disassembly, decompilation, reverse engineering or any other method. The Member's rights under Art. 21 of the Swiss Copyright Act [*Urheberrechtsgesetz*] and Art. 17 of the Swiss Copyright Regulations [*Urheberrechtsverordnung*] shall remain unaffected thereby. If the Member should be unable to obtain the information required for establishing interoperability of the Software with an independently created software program pursuant to Art. 21 of the Swiss Copyright Act without decompilation of the Software pursuant to Art. 21 of the Swiss Copyright Act, the Member shall provide Framesoft with a reasonable opportunity to furnish the information necessary for interoperability of the relevant software programs prior to decompilation.

7.5 The Member understands and acknowledges that the Software and the Security Procedures related thereto are trade secrets of Framesoft and that any unauthorized disclosure thereof may cause Framesoft to sustain substantial economic losses. To safeguard such trade secrets, the Member shall use the Software and the Security Procedures exclusively for its own, internal purposes as stipulated in the applicable license agreement and protect the Software and Security Procedures from unauthorized access by third parties. The Member shall be liable for the violation of any of the obligations described in sub-sections 7.1 through 7.5, except where:

- (1) the Software is or becomes part of the public domain without a violation of this Membership Agreement;
- (2) the Member gains knowledge of the trade secrets before the duty of confidentiality takes effect and before receiving the Software;
- (3) the Member discloses trade secrets related to the Software with the prior written consent of one of Framesoft's managing employees; or
- (4) the Member has lawfully obtained the trade secrets or the Software from a third party without any violation of this Membership Agreement or of any applicable duties of confidentiality.

7.6 The provisions set forth in sub-sections 7.1 through 7.6 shall survive termination of this Membership Agreement executed by the Member and Framesoft.

8. Proprietary Rights of Third Parties

8.1 Framesoft warrants that use of the Software as provided in this Membership Agreement will not violate any Intellectual Property Rights of any third party.

8.2 Framesoft shall indemnify and hold the Member harmless from and against any and all claims arising from the infringement or alleged infringement of any Intellectual Property Rights resulting from the Member's use of the Software as provided in this Membership Agreement, and shall bear all costs incurred by the Member in connection with the defense of such claims, provided that

- (1) the Member notifies Framesoft without undue delay of any claims asserting the infringement of Intellectual Property Rights by the Member; and
- (2) the Member allows Framesoft to take whatever action may be necessary to defend against such infringement claims and to take charge of the settlement negotiations provided that Framesoft shall at all times conduct any litigation diligently using competent Counsel and in such a way as not to bring the reputation or good name of the Member into disrepute; and
- (3) the Member provides Framesoft with all support reasonably necessary to defend against or satisfy such infringement claims.

8.3 In the event that any infringement of Intellectual Property Rights pursuant to sub-section 8.1 should be asserted against the Member, Framesoft may, at its own cost and at its sole discretion, take any of the following actions:

- (1) acquire the right for the Member to continue to use the Software as provided in the license agreement; or
- (2) modify the Software, or replace the Software with a compatible, functionally equivalent product, such that the Software can be used as provided in the license agreement without infringing any Intellectual Property Rights, to the extent this does not cause undue hardship for the Member; or
- (3) if the measures described in sub-sections (1) and (2) would result in unreasonable expense for Framesoft, the Member shall discontinue use of the Software and delete any copies thereof from its system, in which case Framesoft shall within 14 days of such discontinuance refund to the Member, on a prorated basis, the basic subscription fee paid by such Member for the Software.

8.4 Framesoft shall not be subject to any liability in connection with claims alleging infringement of Intellectual Property Rights by the Member, if

- (1) such claims are based on any modification of the Software by a party other than Framesoft unless such party has been authorised by Framesoft to make such modification; or
- (2) such claims are based on programs or data provided by the Member.

9. Warranty

9.1 Framesoft's warranty liability for errors affecting Software licensed to Members shall be governed by sub-sections (1) - (3) below:

- (1) The Member acknowledges that, given the present state of the art, it is impossible to develop Software that functions error-free under all operating conditions.
- (2) Framesoft warrants that the Software can be operated on the equipment and in the manner described in the most recent version of the User's Guide that is applicable at the time this Membership Agreement is executed and that is provided to the Member at such time, provided that the Software is used in accordance with this Membership Agreement.
- (3) The parties agree that the right to have the errors corrected shall be the only remedy for the Member. Without limiting the foregoing the Member shall not be entitled to a reduction of the license fees payable or to terminate the Membership Agreement unless the exclusion of such remedies is prohibited under applicable law. Any error shall be corrected in the manner specified in sub-sections 11.2 (1) and (2) below.

9.2 The Member shall assist Framesoft with the identification of errors. In particular, the Member shall provide Framesoft with verifiable documentation regarding the type and occurrence of any deviations from the software specifications set forth in the most recent version of the User's Guide and regarding any other errors, and specify how such errors manifest themselves.

9.3 Framesoft's liability under this warranty shall be excluded, where the Member or any third parties acting under the control and supervision of the Member have made any changes to the Software without the prior written consent of Framesoft. Notwithstanding the foregoing provision, such liability shall not be excluded,

(a) if the Member has the right to make changes to the Software, in particular for the purpose of exercising its statutory right to correct errors, and if the changes made by the Member or any third parties acting under the control and supervision of the Member are not in any way related to the error in question and do not substantially impair the analysis and correction of such error; or

(b) if the Member has corrected errors following a failure of Framesoft to correct such errors pursuant to Clause 7.3.

Such changes shall not be subject to consent by Framesoft.

9.4 This warranty shall not cover any errors resulting from the Member's use of the Software under operating conditions other than those specified in, or reasonably envisaged under the applicable User's Guide.

9.5 Framesoft does not provide any warranties for deliveries or performances that are not subject matter of a license agreement, e.g., the performances described in sub-section 4.3

9.6 Framesoft warrants that:

- (1) it has full capacity and authority to enter into and to perform this Agreement and that this Agreement is executed by a duly authorised representative of Framesoft;
- (2) it has full authority to licence the Software to the Member;
- (3) the User Guide will provide adequate instruction to enable the Member to make proper use of the Software,

(4) it will discharge its obligations under this Agreement with all due skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this clause) in accordance with its own established internal procedures;

(5) it has, using up-to-date software, tested for (and deleted) all commonly known viruses in the Software and for all viruses known by the Supplier at the date of this Agreement;

(6) at the time of its delivery to the Member the Software does not contain any trojan horse, worm, logic bomb, time bomb, back door, trap door, keys or other harmful components;

(7) it shall use reasonable care and skill in the provision of any services under this Agreement, including for the avoidance of doubt, the provision of suitable numbers of appropriately qualified personnel providing any support.

10. Liability

10.1 Framesoft shall be liable to the Member in accordance with provisions (1) and (2) below:

(1) Framesoft shall be liable for willful or grossly negligent conduct as provided by law.

(2) Framesoft shall not be liable for ordinary negligence.

10.2 The limitations on liability stipulated in sub-section 10.1 shall not apply, if Framesoft is held liable under the Swiss Product Liability Act [*Produktehaftpflichtgesetz*].

10.3 In the event that Framesoft should be held liable for damages, any contributory negligence on the part of the Member shall reasonably be taken into consideration, in particular if the Member failed to give proper notice of errors or failed to provide for the adequate backup of data. The backup of data shall be deemed inadequate, in particular, if the Member fails to take reasonable precautions against external threats, in particular computer viruses and other phenomena which may put individual data or entire data bases at risk, by implementing security measures meeting the present state of the art.

10.4 Framesoft shall not be liable for any disruptions caused by the Member's on-line connection (sub-section 4.3) unless Framesoft would be liable for such disruptions under sub-sections 10.1 - 10.3.

10.5 Framesoft further shall not be liable for compliance with any statutory provisions regarding the form and contents of any electronically transmitted data that relate to agreements contemplated by the Member.

10.6 Framesoft shall not be liable for the manifestation of any risks related to the electronic transmission of data via the Internet. The Member shall ensure, with regard to any deliveries and performances not owed by Framesoft, that adequate precautions conforming with the present state of the art are taken to protect against any threats from the Internet (e.g., firewalls, virus protection software, etc.). Framesoft shall not be liable for any damages resulting from such threats.

10.7 Liability for damages resulting from the infringement of copyrights or any other intellectual or industrial property rights

of third parties shall be governed exclusively by section 8 and shall remain unaffected by the foregoing provisions.

11. Software Service and Support

11.1 The Member shall be entitled to software service and support at no additional cost for the entire term of the license agreement.

11.2 Software service and support shall include exclusively the following services:

- (1) Program corrections or alternative solutions for instances reported by members where the Software fails to meet the standards stipulated in sub-section 9.1 hereof; and
- (2) Hotline support by email during business hours from 8:30 a.m. to 5:30 p.m..

All materials and Software provided to the Member in the course of the performance of software service and support by Framesoft shall be subject to the same Terms and Conditions regarding use and confidentiality as the original Software.

11.3 The Member shall notify Framesoft of any error without undue delay and in the manner reasonably prescribed by Framesoft, and shall specify how such error manifests itself and under what conditions it occurs.

Framesoft shall then commence with the analysis and correction of any reproducible error. If the error is due to the fault of the Member or any third parties, the Member shall compensate Framesoft, at the time and materials rates applicable pursuant to Framesoft's current price list, for any correction services rendered by Framesoft.

11.4 The warranty provisions of section 9 shall apply to the performance of software service and support *mutatis mutandis*.

12. Term, Termination, Extensions

12.1 This Membership Agreement shall have the term specified in Schedule I, and shall commence on the "Effective Date" specified in Schedule I.

12.2 The term of this Membership Agreement shall be extended automatically in increments of one (1) month unless it is terminated by either party upon at least thirty (30) days' written notice prior to the expiration date of the Membership Agreement. The timeliness of notice of termination shall be governed by the time such notice is received by the other party.

12.3 The Membership Agreement may otherwise be terminated only for cause. Cause for termination without notice shall be present, in particular, under any of the following circumstances:

- (1) the Member's use of the Software repeatedly exceeds the scope of the license despite a written cease-and-desist letter;
- (2) the Member violates any applicable confidentiality provisions;
- (3) the Member's assets become subject to bankruptcy proceedings; or

- (4) the Member (Member) fails to pay the applicable license fee or a relatively substantial portion thereof for more than one month despite a written demand.

12.4 Notice of termination shall be effected in writing.

13. Denying Access to Framesoft's Servers

Framesoft reserves the right to deny the Member's access to its servers, if the Member is in default with payment of the agreed license fee or if there are any other grounds for terminating the license agreement without notice. If the Member is in default with payment of only a portion of the license fees, Framesoft may deny access to its servers only if the outstanding amount is relatively substantial.

14. Duty to Delete Software

Upon termination of the Membership Agreement, whatever the legal grounds (e.g., termination effective as of the stipulated expiration of the Membership Agreement), the Member shall completely delete from its system all copies and partial copies of the Software which may have been provided to the Member by Framesoft, and confirm to Framesoft in writing that all copies in the Member's possession have been deleted.

15. Confidentiality, Data Protection

15.1 Framesoft agrees to maintain all proprietary information of the Member coming to its knowledge under this Membership Agreement in strictest confidence and secrecy. Framesoft further agrees not to make use of such information other than for the purpose of this agreement and shall not disclose or release it to third parties without the prior written consent of the Member.

15.2 Framesoft shall always use and process person-related data of the Member in compliance with the requirements of data protection legislation and only for contractually agreed purposes. In particular, Framesoft shall secure said data against unauthorized access and only pass them on to third parties with the prior written consent of the Member or such other consent as may be required.

15.3 On any termination of this Agreement, howsoever caused, Framesoft shall within 14 days remove (and certify that the same has been removed) any and all proprietary information as defined in section 15.1 obtained pursuant to this Agreement from its systems.

16. Miscellaneous Provisions

16.1 This Membership Agreement constitutes the entire agreement between the parties with respect to the subject matter of the license. Any earlier agreements or oral collateral agreements or promises with respect to the same subject matter shall be invalid. Any modifications or amendments to this Membership Agreement shall be in writing. The foregoing provision shall also apply to any waiver of this writing requirement.

16.2 If any provisions of this Membership Agreement should be invalid or impracticable under any present or future laws, the remaining provisions hereof shall remain unaffected thereby. Any invalid provision shall be replaced with such



valid provision as most closely reflects the economic intent of the original provision.

16.3 This Membership Agreement shall be governed by the substantive laws of Switzerland. The provisions of the Convention on Contract for the International Sale of Goods shall not apply. **The exclusive place of jurisdiction for any and all**

legal disputes arising from or in connection with this Membership Agreement shall be Zug, Switzerland.

16.4 In the event that and to the extent only of any conflict between the Clauses and the Schedules of this Agreement, the Schedule shall prevail.

Accepted by Framesoft:

Place, Date

Stamp

Signature

Name

Accepted by Member:

Place, Date

Stamp

Signature

Name

SCHEDULE I

1. Member

<Member Name>
<Member Address>

2. Effective Date and First Term

Effective Date	First Term
	1 month

3. Usage Fee

Currency	Usage Fee
CHF	95,00 per named user / per month Data Volume included: Maximum of 4 GB incl. OCR Additional 1 GB data volume CHF 10,00 per month

4. Initial setup

Currency	Initial setup
CHF	6.000,00 Per subscribing unit

Accepted by Framesoft:

Accepted by Member:

Place, Date

Place, Date

Stamp

Stamp

Signature

Signature

Name

Name