



## GRAPHWARE EVALUATION TERMS AND CONDITIONS

The following GraphAware Evaluation Terms and Conditions ("Evaluation Terms") outline the terms and conditions governing the evaluation licensing of GraphAware software from Graph Aware Limited to the Recipient (as defined below). By offering the Evaluation Licence in accordance with these Evaluation Terms and the Recipient's agreement to the corresponding Evaluation Form, both parties accept these Evaluation Terms and enter into this Agreement. This Agreement will be deemed effective on the first day of the Evaluation Period.

### 1. Interpretation

1.1. The definitions and rules of interpretation in this clause apply in these Evaluation Terms.

<b>Affiliate</b>	includes, in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party, as defined under the applicable law.
<b>Agreement</b>	contract formed when an Evaluation Form is signed under these Evaluation Terms.
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
<b>Dependencies</b>	includes any additional software and its corresponding licences that the Recipient shall obtain, maintain and comply with at all times in order to use the Software for evaluation on the terms of this Agreement, as defined in the Evaluation Form.
<b>Evaluation Form</b>	an order containing the specifics pertaining to the Evaluation Licence.
<b>Evaluation Licence</b>	has the meaning in clause 3.1.
<b>Evaluation Period</b>	period specified in the Evaluation Form.
<b>GraphAware</b>	Graph Aware Limited, registered in England and Wales, with registration number 08554167 and registered office at 86-90 Paul Street, London, EC2A 4NE, United Kingdom.
<b>Intellectual Property Rights</b>	patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
<b>Open Source Software</b>	open source software which falls within the Open Source Definition maintained by the Open Source Initiative (opensource.org) or free software as such term is defined by the Free Software Foundation (fsf.org) or any other third party software which is generally made available to the public on terms which permit redistribution. Open Source Software and corresponding licences are listed at: <a href="https://graphaware.com/products/hume/terms/thirdpartylicences/">https://graphaware.com/products/hume/terms/thirdpartylicences/</a>
<b>Recipient</b>	a company that receives the Software for evaluation purposes under the terms of this Agreement.

<b>Software</b>	components, modules, and features of GraphAware's software, as further set out in the Evaluation Form, provided by or on behalf of GraphAware as a result of GraphAware's obligations under this Agreement. The Software may contain code proprietary to GraphAware, Open Source Software, and other third-party code and is made available to the Recipient as specified in the Evaluation Form and includes any future Software updates, upgrades, improvements or modifications thereto provided to the Recipient by or on behalf of GraphAware.
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- 1.2. References to clauses are to the clauses of this Agreement or other relevant applicable terms referred to in this Agreement.
- 1.3. The third-party licence terms linked to this Agreement form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. In the case of conflict or ambiguity between any provision contained in the body of these Evaluation Terms and any provision contained in the schedules or appendices, the provision in the body of these Evaluation Terms shall take precedence.

## **2. Activation and use of the Software**

- 2.1. GraphAware shall make a copy of the Software available to the Recipient by way of download or such other means as determined by GraphAware from time to time.
- 2.2. GraphAware shall provide the Recipient with a licence key to enable the functionality of the Software before or on the start date of the Evaluation Period.
- 2.3. GraphAware shall be under no obligation to provide support services to the Recipient during the Evaluation Period.

## **3. Evaluation Licence**

- 3.1. Subject to the Recipient's compliance with the terms and conditions of this Agreement (including the Evaluation Form), GraphAware grants to the Recipient a personal, non-transferable, non-exclusive, revocable, and non-sublicensable licence for the Evaluation Period, to use the Software internally for non-commercial use and solely for evaluating the Software for use under a full licence, subject to the restrictions set out below and in the Evaluation Form. The Evaluation Period may be extended in writing by an authorised GraphAware representative (an email from the authorised GraphAware representative will suffice for such extension). The Recipient acknowledges and agrees that the Software will, or may, automatically "time out" or cease to operate at the end of the Evaluation Period.
- 3.2. In relation to scope of use:
  - 3.2.1. for purpose of clause 3.1, use of the Software shall be restricted to its use solely in machine-readable, executable object form or another format, as provided by GraphAware.
  - 3.2.2. the Recipient may make such backup copies of the Software as may be reasonably necessary to evaluate the Software and for the purposes of back up and security. The Recipient has no right to make, or authorise the making of, any other copies of the Software other than as permitted by this Agreement. The Recipient shall record the number and location of all copies of the Software and take steps to prevent unauthorised copying.

- 3.2.3. the Recipient has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt, reverse translate or in any other manner decode or make error corrections to the Software in whole or in part except as permitted in law nor further develop, or create any derivative product from the Software.
- 3.2.4. The Recipient acknowledges and agrees that the Software includes third-party software and for the purposes of this Agreement third-party software shall be deemed to be incorporated within the Software (except where expressly provided to the contrary). The use of Open Source Software shall be subject to the respective licence under which the Open Source Software is licensed.
- 3.2.5. the Recipient shall indemnify and hold GraphAware harmless against any loss or damage which it may suffer or incur as a result of the Recipient's breach of any Open Source Software licence terms howsoever arising.
- 3.2.6. in no event shall the Recipient, post or publish any portion of the Software onto any websites, including, but not limited to, the following: GitHub, BitBucket, Google Code, Pastebin, Codeplex, LaunchPad, Unfuddle, JSFiddle, JSBin. The Recipient shall ensure that any user of the Software is aware of this restriction.
- 3.2.7. all licence rights not expressly granted in this Agreement are reserved by GraphAware or its licensors.
- 3.3. The Recipient shall not:
  - 3.3.1. sub-license, assign, distribute, rent, lend, transfer the Software to any person or entity without prior written consent of GraphAware or novate the benefit or burden of this Agreement in whole or in part or attempt to do so;
  - 3.3.2. allow the Software to become the subject of any charge, lien or encumbrance.
- 3.4. GraphAware may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this Agreement.
- 3.5. The Recipient shall:
  - 3.5.1. ensure that the Software is installed solely on equipment compatible with the Software and any Dependencies. The Recipient shall be responsible for obtaining the relevant Dependencies and complying with their licence terms. Where the installation option of the Software allows for automatic download of Neo4j software as a Dependency, the Recipient agrees to comply with the applicable Neo4j licence terms outlined at: <https://neo4j.com/terms/licensing/> and [https://neo4j.com/terms/enterprise\\_us/](https://neo4j.com/terms/enterprise_us/) General compliance information on Neo4j licensing can be found at: <https://neo4j.com/licensing/>
  - 3.5.2. keep a complete and accurate record of the Recipient's copying and disclosure of the Software and its users, and produce such record to GraphAware on request from time to time;
  - 3.5.3. notify GraphAware as soon as it becomes aware of any unauthorized use of the Software by any person;
  - 3.5.4. without prejudice to other rights and remedies GraphAware may have in law, pay, for broadening the scope of the licences granted under this Agreement to cover the unauthorized use, an amount equal to the fees which GraphAware would have levied (in

accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced together with interest at the prevailing legal rate from such date to the date of payment.

- 3.6. Notwithstanding any of the provisions above, nothing in this Agreement shall be construed as or have the effect of restricting any rights which the Recipient may have under any Open Source Software licence applicable to any Open Source Software used in the Software.
- 3.7. The Recipient shall not do anything which would cause any part of the Software which is not subject to an Open Source Software licence to become subject to an Open Source Software licence.
- 3.8. The Recipient shall be solely responsible for any data (including Recipients', its customer's, or any third-party data) stored in the Software or accessible through the Software and shall put in place appropriate backup processes and systems to protect such data.

#### **4. Confidentiality**

Each party shall, during the term of this Agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its Affiliates, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

#### **5. Export and anti-bribery and anti-corruption**

- 5.1. Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations, including United Kingdom, European Union and United States export laws and regulations, to any country for which the United Kingdom, European Union and United States or any other government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 5.2. Each party undertakes in relation to anti-bribery and anti-corruption to:
  - 5.2.1. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption; and
  - 5.2.2. not engage in any activity, practice or conduct which would constitute an offence under applicable legislation.

#### **6. GraphAware's Warranties**

No representations, conditions, warranties or other terms of any kind are given in respect of the Software or any information owned by GraphAware and obtained by the Recipient relating to the Software and all statutory warranties and conditions are excluded to the fullest extent possible.

#### **7. Limits of Liability**

- 7.1. Save for death or personal injury caused by the negligence of GraphAware, its officers, employees, contractors or agents, GraphAware shall have no liability of any kind in any circumstances whatever to the Recipient in respect of the Software or any Information greater than the limit in clause 7.2. In particular, GraphAware shall have no liability in any circumstances whatever for any data loss or corruption greater than that limit in clause 7.2 and the Recipient agrees that it has the sole responsibility for protecting its data during evaluation of the Software.
- 7.2. In the event that GraphAware shall be found liable to the Recipient for any reason other than death or personal injury caused by GraphAware's negligence, the sums payable to the Recipient in respect of such liability shall not in any circumstances exceed £250.

## **8. Intellectual property rights**

- 8.1. The Recipient acknowledges that all Intellectual Property Rights in the Software, related documentation and materials, now or in the future, belong and shall belong to GraphAware, its Affiliates or the relevant third party owners (as the case may be), and the Recipient shall have no rights in or to the Software other than the right to use it in accordance with the terms of this Agreement. All materials embodied in, or comprising the Software, including, but not limited to, graphics, user and visual interfaces, images, code, applications, machine learning models and text, as well as the design, structure, selection, coordination, expression, "look and feel", and arrangement of the Software and its content, and the trademarks, service marks, proprietary logos and other distinctive brand features found in the Software, are all owned by GraphAware or its licensors. Title to the Software shall not pass from GraphAware to Recipient, and the Software and all copies thereof shall at all times remain the sole and exclusive property of GraphAware. Recipient shall reproduce all copyright and other proprietary notices in all copies of the Software.
- 8.2. To the extent the Recipient sends or transmits any communications, comments, questions, suggestions, or related materials to GraphAware, whether by letter, e-mail, telephone, or otherwise ("Feedback") suggesting or recommending changes to the Software, including, without limitation, new features or functionality relating thereto, the Recipient hereby grants GraphAware a perpetual, irrevocable, non-exclusive, royalty-free, fully-paid-up, fully-transferable, worldwide licence (with rights to sublicense through multiple tiers of sublicensees) under the Recipient's and its licensors' intellectual property rights to reproduce, prepare derivative works of, distribute, perform, display, and otherwise fully use, practice and exploit such Feedback for any purpose whatsoever, including but not limited to, developing, manufacturing, having manufactured, licensing, marketing, and selling, directly or indirectly, products and services using such Feedback. The Recipient agrees and understands that GraphAware is not obligated to use, display, reproduce, or distribute any such ideas, know-how, concepts, or techniques contained in the Feedback, and the Recipient has no right to compel such use, display, reproduction, or distribution.
- 8.3. If a third party notifies the Recipient of any claim that the use of the Software infringes any right of a third party, the Recipient agrees to immediately notify GraphAware. If any such claim is made to the Recipient or GraphAware, the Recipient shall, at the GraphAware's request, immediately cease use of the Software. If GraphAware is unable to allow the Recipient to continue evaluation of the Software, GraphAware shall be entitled to terminate the Agreement in accordance with clause 9.1.

## **9. Duration and termination**

- 9.1. Without affecting any other right or remedy available to it, the licence may be terminated immediately by either party during the Evaluation Period by written notice to the other party or upon purchase by the Recipient of a full licence for the Software.

- 9.2. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
- 9.3. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.
- 9.4. On termination for any reason, the Recipient shall immediately remove from their systems, destroy, or return to GraphAware (at GraphAware's option) all copies of the Software then in its possession, custody or control and, in the case of destruction, certify to GraphAware that it has done so.

## **10. Waiver**

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **11. Remedies**

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## **12. Entire agreement**

- 12.1. This Agreement (including the Evaluation Form, linked URLs, schedules and the documents annexed as appendices to this Agreement or otherwise referred to herein) contains the whole agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the Parties relating to that subject matter.
- 12.2. Each party acknowledges that, in entering into this Agreement and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to this Agreement or not) ("Representation") other than as expressly set out in this Agreement or those documents.
- 12.3. Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in this Agreement.
- 12.4. Nothing in this clause shall limit or exclude any liability for fraud.

## **13. Variation**

Save as provided in clause 3.1, no variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

## **14. Severance**

- 14.1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

- 14.2. If any provision or part-provision of this Agreement is deemed deleted under clause 14.1 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

### **15. Third party rights**

A person who is not a party to this Agreement shall not have any rights 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 that Act.

### **16. No partnership or agency**

- 16.1. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 16.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

### **17. Notices**

- 17.1. Any notice given to a party under or in connection with this Agreement shall be in writing and shall be sent by email to the email address of the other party, as notified from time to time. Any such notice shall be deemed to have been received at the time of transmission, or if this falls outside of a Business Day at 9.00 am on the next Business Day after transmission.
- 17.2. Clause 17.1 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

### **18. Governing law and jurisdiction**

- 18.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 18.2. The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims), but expressly excluding any claims relating to infringement or misappropriation of GraphAware's Intellectual Property Rights.