

## Geneious Terms and Conditions

Effective 16 December 2025

**GRAPHPAD SOFTWARE LLC (D.B.A. GENEIOUS) MAKES GENEIOUS PRIME AND GENEIOUS BIOLOGICS (COLLECTIVELY THE “GENEIOUS OFFERINGS”) AVAILABLE SUBJECT TO THE TERMS AND CONDITIONS. PLEASE READ THE TERMS CAREFULLY BEFORE USING THE GENEIOUS OFFERINGS. USE OF THE GENEIOUS OFFERINGS WILL SIGNIFY YOUR AGREEMENT TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE GENEIOUS PRODUCTS.** The Terms may be accepted by: (1) clicking “I accept” when they are presented to you; (2) by the parties executing this Agreement or a separate document that incorporates these Terms; or (3) by accessing or using any of part of the Geneious Products. If you are accepting on behalf of another person or entity, then you represent and warranty that you have the authority to bind that person or entity, you have read and understood the Terms, and you agree on behalf of that person or entity to this Agreement.

### 1. Definitions

- 1.1. **"Authorized User"** means the individual employee, agent or contractor of Customer accessing or using the Geneious Offering on Customer's behalf.
- 1.2. **"Computer"** means computers, including desktop or laptop computers, or file servers, used for general computing functions (such as, but not limited to, word processing, e-mail, general purpose Internet browsing and office suite productivity tools).
- 1.3. **"Confidential Information"** means any information, regardless of form that is not public knowledge and that is obtained directly or indirectly from either party in the course of, or in connection with, your acceptance of this Agreement and your use of the Software.
- 1.4. **"Customer"** means the individual or entity entering into this Agreement with Geneious.
- 1.5. **"Customer Data"** means all data (regardless of form) submitted or transmitted to the Software by Customer.
- 1.6. **"Documentation"** means the user and technical documentation designed to assist Customer to properly use the Software, and includes any update of that documentation.
- 1.7. **"Feedback"** means suggestions or recommendations for improvements, modifications or enhancements to the Software.
- 1.8. **"Geneious"** refers to GraphPad Software LLC and/or any person or entity who has been duly and properly authorized by GraphPad Software, LLC, dba Geneious to make the Software available.
- 1.9. **"Geneious Offerings"** means either the Software or Subscription Services made available by Geneious.
- 1.10. **"Software"** means the on-premise software made available by Geneious ("Geneious Prime").
- 1.11. **"Subscription"** means a current license to a Geneious Offering.

- 1.12. **"Subscription Service"** means the software made available by Geneious via a SaaS model ("Geneious Biologics", "Geneious Cloud", or collectively, "Geneious Subscription Services").

## **2. Agreement Structure**

- 2.1. Access to the features and functionality of the Geneious Offering is made available to customers through either on-premises licensing or via a SaaS model depending on the products licensed. This Agreement may refer to a software platform, whether delivered through an on-premises license or made accessible via a SaaS model, as the "Geneious Offering."
- 2.2. Customer acknowledges that the Geneious Offering is subject to terms and conditions in addition to, or that vary from, those specified in these Terms. In particular, (i) all purchases of on-premises licenses are subject to the Additional Terms and Conditions for Software Licenses; and (ii) all purchases of Access Rights to Subscription Services are subject to the Additional Terms and Conditions for Subscription Services Attachment (each of the foregoing attachments, a "Schedule Attachment"). By executing any agreement which incorporates these Terms, or by accepting and/or using the relevant Geneious Offering or making payment for the same, Customer agrees to abide by the terms and conditions set forth in the applicable Schedule Attachment, as indicated above. Customer acknowledges that each Schedule Attachment forms an integral part of the Agreement.
- 2.3. If there is a conflict among the Terms, a Schedule Attachment, or other written agreement incorporating these Terms, the following rules of interpretation apply: (i) the terms of a Schedule Attachment prevail over any conflicting terms in these Terms, but only with respect to the Geneious Offering that are subject to that Schedule Attachment; and (ii) both the Schedule Attachment and Terms shall prevail over any conflicting terms in any other agreement, unless such agreement is mutually executed and expressly states that it is modifying the applicable provision(s) within the Schedule Attachment or terms.

## **3. Fees.**

- 3.1. Customer agrees to pay Geneious the applicable fees for the Geneious Offering within 30 days of the invoice date, including all related taxes. Customer agrees that the transaction contemplated by this Agreement is the sale of standard software and therefore Customer shall not withhold any additional taxes other than the amounts (if any) specified in the invoice. All fees are non-cancelable and non-refundable.
- 3.2. Customer's failure to pay according to the terms of this Agreement shall be a material breach of this Agreement. Geneious shall be entitled, without prejudice to its other rights and remedies under this Agreement, (i) to charge

- interest on a daily basis from the original due date at the rate of the lesser of 1.5% per month or the maximum amount permissible by law, and (ii) at its option, to suspend the provision of any Geneious Offering.
- 3.3. Customer may reasonably and in good faith dispute an invoiced amount by providing written notice to Geneious within thirty (30) days after the invoice date, provided that Customer shall promptly pay the undisputed portion of the invoice pursuant to Section 3.1 and may only withhold payment of the disputed portion until the dispute is resolved. The Parties shall negotiate in good faith to resolve any payment dispute within forty-five (45) days.
- 3.4. If Customer chooses to pay by credit card, Customer agrees to the following:
- 3.4.1. Customer authorizes Geneious to bill the credit card information provided for payment of the Subscription;
  - 3.4.2. Customer shall provide complete and accurate credit card information as required to process payment; and
  - 3.4.3. If Customer's Subscription reaches its expiration date and Customer does not provide notice of non-renewal, Customer authorizes Geneious to continue billing that credit card on file including extending the expiration date until Geneious is notified by Customer or the credit card company that the account is no longer valid.

#### **4. Intellectual Property:**

- 4.1. Geneious retains the title, ownership rights and intellectual property rights, including copyrights to the Geneious Offering, in whole and in part and all copies thereof, and all modifications, enhancements, derivatives and other alterations of the Geneious Offering regardless of who made any modifications, if any, are, and will remain, the sole and exclusive property of Geneious. The Geneious Offering is protected by copyright and other intellectual property laws and by international treaties. Title and related rights in the content accessed through the Geneious Offering is the property of the applicable content owner and is protected by applicable law. This Agreement gives the Customer no rights to such content.
- 4.2. Customer may provide Feedback from time to time during the term of the Agreement. All such Feedback are provided "AS IS." Customer hereby grants to Geneious a non-exclusive, royalty-free, perpetual, irrevocable license under all Feedback and all intellectual property rights therein, to copy, use and modify such Feedback and to make, have made, use, import, offer to sell and sell products and services incorporating such Feedback.
- 4.3. As between the parties, Customer owns all rights, title and interest in and to the Customer Data and Customer's Confidential Information. Except as expressly provided herein, Geneious acquires no right, title or interest in or to

Customer Data. Customer grants Geneious a royalty-free, worldwide, non-exclusive license to use, copy, modify and distribute Customer Data to provide you the Services.

**5. APIs, Libraries and Third Party Databases:**

5.1. Geneious Products may enable Customer to access and use libraries (including Third Party Databases) and other materials, as part of, or to enable or improve your access and use of, the Geneious Products. Customer must use those APIs, libraries and other materials:

5.1.1. only on systems owned or controlled by you;

5.1.2. solely for the purpose of enabling or improving your access and use of the Subscription Services; and

5.1.3. (to avoid doubt) in accordance with Section 5 of this Agreement.

5.2. Where any web services, APIs, Third Party Databases, or other materials under clause 5.1 are subject to third party terms:

5.2.1. Customer acknowledge that those third party terms form an agreement directly between Customer and that third party; and

5.2.2. Customer must comply with those terms.

5.3. GENEIOUS DOES NOT MAKE ANY WARRANTY OR REPRESENTATION ON THE AVAILABILITY OR OPERABILITY OF ANY THIRD PARTY WEB SERVICE, API, THIRD PARTY DATABASE OR OTHER MATERIALS UNDER SECTION 6.1.

5.4. Without limiting section 5.3, if a third party provider of a web service, API, library (including Third Party Database) or other material under clause 5.1 ceases to provide that item or ceases to make that item available on reasonable terms, Geneious may cease to make available that item as part of the Geneious Products. Where Geneious exercise our right under this section to cease the availability of a third party item, and the exercise of that right has a material impact on the functionality of the Geneious Products actually used by Customer, Customer may terminate your Subscription on no less than 30 days' notice. If Customer does not terminate your Subscription in accordance with this section, Customer is deemed to have accepted the Geneious Products (as varied). This is Customer's sole remedy for a third party item or feature ceasing to be made available as part of the Geneious Products.

## **6. Support**

- 6.1. Customer may submit a request for support via email to [support@geneious.com](mailto:support@geneious.com) or via the support website <https://help.geneious.com>.
- 6.2. On receipt of a support request, Geneious will use reasonable efforts to assist in the resolution of the issue (taking into account the nature and severity of the issue). Customer agrees to first use reasonable efforts to resolve the issue by referring to the Documentation and, if necessary, providing all information and access (including to personnel and systems) reasonably required by Geneious to resolve the issue.
- 6.3. Customer acknowledges that onsite support is not provided by Geneious. Furthermore, Customer's failure to use the most recent updated version of the Software will not receive a support ticket.

## **7. Confidential Information:**

- 7.1. Each party agrees: (i) that it will use reasonable efforts (which shall be no less than the efforts used to protect its own confidential information of a similar nature) to prevent the disclosure of the other party's Confidential Information to any person or entity, unless authorized in writing by the other party; and (ii) that it will not use Confidential Information of the other party for any purpose other than as authorized by these Terms or by the other party. As to Geneious, Confidential Information includes information specifically designated as confidential or that would be understood to be confidential or proprietary by a reasonable person, the features and functions of the Geneious Offering that are not available to the general public via the public internet (including screen shots of the same), future product plans, the Documentation, and the commercial terms (including pricing) of these Terms, audit, performance and security test results (whether conducted by Geneious or Customer), and any other proprietary, financial or business information. As for Customer, Confidential Information includes information specifically designated as confidential or that would be understood to be confidential or proprietary by a reasonable person, login credentials for accessing the Geneious Offering and Customer Data (including personally identifiable data).
- 7.2. Notwithstanding the foregoing, Confidential Information shall not include (i) information which is or becomes publicly known through no act or omission of the receiving party, or (ii) information gained by the receiving party independent of the disclosing party. It shall not be a breach of these Terms to disclose Confidential Information required to be disclosed pursuant to administrative or court order, government or regulatory investigation or requirement, or arbitration or litigation arising out of these Terms; provided, however, that to the extent permissible, each party shall, in advance of any such disclosure promptly notify the other party in order to enable the other

party reasonable time to seek a protective order with respect to the requested information or otherwise challenge or oppose the disclosure requirement.

- 8. Suspension and Termination:** Geneious may suspend the Customer's account or the account of any Authorized User or temporarily disable access to all or part of the Geneious Offering in the event of any suspected illegal activity or material violations of this Agreement. Objections to suspension or disabling of accounts should be made to [support@geneious.com](mailto:support@geneious.com) within 30 days of notification of the suspension or disabling. Geneious may terminate a suspended or disabled account after 30 days. In addition, Geneious reserves the right to terminate any account upon reasonable belief of the violation of any of the terms of the Agreement, including non-payment. In the event of termination by reason of the Customer's failure to comply with any part of this agreement, or upon any act which shall give rise to Geneious's right to terminate, Geneious shall have the right, at any time, to terminate the license(s), deny access to the Geneious Offering, delete account information (including but not limited to email IDs and passwords), and/or take immediate possession or confirm destruction of the Geneious Offering and documentation and all copies wherever located, without demand or notice. Within 5 days after termination of the license(s), Customer will return to Geneious the Geneious Offering in the form provided by Geneious or as modified by the Customer, or upon request by Geneious destroy the Geneious Offering and all copies, and certify in writing that they have been destroyed. Without limiting any of the above provisions, in the event of termination as a result of the Customer's failure to comply with any of its obligations under this Agreement, the Customer shall continue to be obligated for any payments due. Termination of the License shall be in addition to and not in lieu of any equitable remedies available to Geneious.
- 9. Injunction:** In the event Geneious reasonably believes that the use or distribution of any Geneious® software, Geneious® materials or Geneious Trademarks is likely to be enjoined, Geneious may, among other things, take back such infringing item or items and terminate the license associated with respect to such item or items. Geneious may also seek judicial intervention including, without limitation, an injunction in the Courts of New Zealand and/or the State Courts of Delaware in the United States of America, to which injunctive relief the Customer expressly consents hereby and agrees not to oppose.
- 10. DISCLAIMER OF WARRANTY:** CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT THE USE OF THE GENEIOUS OFFERING IS AT THE SOLE RISK OF THE CUSTOMER. THE GENEIOUS OFFERING IS PROVIDED ON AN AS-IS-AND-AS-AVAILABLE BASIS. GENEIOUS EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR ANY WARRANTIES ARISING FROM COURSE OF TRADE. GENEIOUS MAKES NO WARRANTY THAT THE (A) THE SERVICES

AND MATERIALS WILL MEET YOUR REQUIREMENTS, (B) THE SERVICES AND MATERIALS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR MATERIALS WILL BE EFFECTIVE, ACCURATE OR RELIABLE, OR (D) THE QUALITY OF ANY PRODUCTS, SERVICES, OR INFORMATION PURCHASED OR OBTAINED BY YOU FROM THE SITE FROM US OR OUR AFFILIATES WILL MEET YOUR EXPECTATIONS OR BE FREE FROM MISTAKES, ERRORS OR DEFECTS. THE USE OF THE SERVICES OR THE DOWNLOADING OR OTHER ACQUISITION OF ANY MATERIALS THROUGH THIS SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH ACTIVITIES. GENEIOUS AND ITS AFFILIATES AND LICENSORS ARE NOT LIABLE OR RESPONSIBLE FOR ANY RESULTS GENERATED THROUGH THE USE OF THE WEBSITE OR SERVICES. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THE AGREEMENT.

**11. Indemnification:**

- 11.1. Customer agrees to indemnify and hold harmless Geneious, and its members, officers, directors, employees and agents, from and against any losses, damages, fines and expenses (including attorney's fees and costs) arising out of or relating to any third-party claims arising from or related to Customer Data or that Customer or any Authorized Users have used the Geneious Offering in violation of another party's rights (including any intellectual property rights including but not limited to any infringement claim), in violation of any law, in violation of any provisions of the terms of this Agreement, or any other claim related to the use of the Geneious Offering by Customer or its Authorized Users.
- 11.2. Geneious agrees to indemnify and hold harmless Customer from and against any losses, damages, fines and expenses (including attorney's fees and costs) arising out of or relating to any claims brought against the Customer by a third-party alleging that the Geneious Offering infringes such third-party's intellectual property rights.
- 11.3. Notwithstanding the foregoing, Geneious will not be obligated to indemnify the Customer if an infringement claim arises from: (a) the Customer Data; (b) Customer's or Authorized User's misuse of the Geneious Offering; (c) Customer's or Authorized User's use of the Geneious Offering in combination with any products, services, or technology not provided by Geneious; or (d) continued use of a Geneious Offering after written notice by Geneious to discontinue use.

- 11.4. If an infringement claim is made or threatened, Geneious may, in its sole discretion:
- 11.4.1. replace or modify the infringing Geneious Offering so that it is non-infringing (but having materially equivalent functionality);
  - 11.4.2. procure the right for Customer to continue its use of the Geneious Offering; or
  - 11.4.3. notwithstanding Geneious' obligation to indemnify, terminate use of the infringing Geneious Offering and refund any unused prepaid fees covering the terminated portion of the Geneious Offering.
- 11.5. The Party seeking indemnification will provide the other Party prompt written notice of any claim. Geneious will have the exclusive right to defend any indemnified claim (including the right to select and control the work of counsel) and make settlements thereof at its own discretion. Customer may not settle or compromise any indemnified claim, action or allegation, except with prior written consent of Geneious. Geneious may not, without Customer's prior written approval, enter into any settlement of an indemnified claim that imposes a direct financial liability on Customer or includes an admission of fault by Customer. Customer shall give such non-monetary assistance and information as Geneious may reasonably require to settle or defend indemnified claims.

## **12. LIMITATION OF LIABILITY:**

- 12.1. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT, CONTRACT OR OTHERWISE, SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, PROFITS, WORK STOPPAGE, LOSS OF DATA, REVENUE, OR USE, COMPUTER FAILURE OR MALFUNCTION OR INTERRUPTION OR ANY AND ALL OTHER COMMERCIAL DAMAGE OR LOSSES ARISING IN ANY WAY OUT OF THE USE OF THIS GENEIOUS OFFERING, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- 12.2. IN NO EVENT SHALL EITHER PARTY'S TOTAL AND AGGREGATED LIABILITY TO THE OTHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE GENEIOUS OFFERING PROVIDED HEREUNDER, IN RESPECT OF ANY CLAIM, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS PAID BY CUSTOMER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO (A) A



PARTY'S FRAUD OR WILLFUL MISCONDUCT; (B) CUSTOMER'S OBLIGATION TO PAY FEES OWED UNDER THIS AGREEMENT; OR (C) A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER. THESE LIMITATIONS OF LIABILITY ARE INDEPENDENT OF ANY EXCLUSIVE REMEDIES, AND WILL SURVIVE AND APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY SPECIFIED REMEDIES.

**13. Export Control and Sanction Compliance:** Customer understands that the Geneious Products under this Agreement are subject to U.S. export control and sanctions laws and regulations, including, but not limited to, the Export Administration Regulations, the International Traffic in Arms Regulations, and economic sanctions programs implemented by the United States Department of the Treasury's Office of Foreign Assets Control and the United States Department of State. In connection with this Agreement, each party will comply with all applicable import, sanctions, anti-boycott, export, and trade control laws and regulations, including all such laws and regulations that apply to a U.S. company and/or to U.S.-origin goods and technology. Customer represents and warrants that neither it nor its financial institutions nor any party acting on your behalf are (i) located, organized, or resident in a jurisdiction that is the target of comprehensive sanctions (including Cuba, Iran, Syria, North Korea, or the occupied Ukrainian territories of Crimea, Donetsk, and Luhansk); (ii) the target of sanctions or otherwise designated on any list of prohibited or restricted parties, including but not limited to the lists maintained by the United Nations Security Council, the U.S. Government (e.g., the List of Specially Designated Nationals List and Blocked Persons, and the Foreign Sanctions Evaders List of maintained by the U.S. Department of Treasury, and the Entity List and Military End-User List of maintained by the U.S. Department of Commerce), the European Union or its Member States, or other applicable government authority; or (iii) owned 50% or more or controlled by a person described by (i) or (ii). Any breach of this Section is a material breach of these Terms and we may immediately terminate these Terms.

**14. Variation of Terms & Conditions:** To the maximum extent permitted by law, Geneious reserves the right, at its sole discretion, to add, amend or delete any part of this Agreement, and any such variation of terms and conditions shall be deemed as accepted by Customer and/or any Authorized User downloading, installing or running a version of Geneious Prime that references the updated terms and conditions.

**15. Notices:** All notices required under this Agreement, or if you wish to contact Geneious for any reason, must be sent to Geneious at the following address:

GRAPHPAD Software, LLC.  
**Attention:** Legal Department  
225 Franklin St.  
Fl. 26.

Boston, MA 02110  
United States of America

with a copy to legal@dotmatics.com

- 16. Arbitration.** Any controversy or claim arising out of or relating to these Terms shall be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, applying the substantive laws of the state of Delaware. Any such controversy or claim shall be arbitrated on an individual basis, and shall not be consolidated in any arbitration with any claim or controversy of any other party. The decision of the arbitrator shall be final and unappealable. The arbitration shall be conducted in Delaware and judgment on the arbitration award may be entered into any court having jurisdiction thereof. Notwithstanding anything to the contrary, Geneious may at any time seek injunctions or other forms of equitable relief from any court of competent jurisdiction. Customer shall safeguard the Proprietary Information indefinitely.
- 17. Section 508 of the Rehabilitation Act for Electronic and Information Technology Accessibility for Persons with Disabilities:** The Geneious Offering has not been designed to conflict with any compliance areas of section 508 of the Rehabilitation Act for Electronic and Information Technology Accessibility for Persons with Disabilities.
- 18. Publicity.** Customer agrees that Geneious may identify Customer as a recipient of the Geneious Offering and use its logo in sales presentations, marketing materials, press releases and financial presentations provided that Geneious uses Customer's logo in accordance with Customer's logo guidelines.
- 19. Severability.** If any term, clause or provision of this Agreement shall be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to have been deleted from this Agreement.
- 20. Construction.** Section headings are for convenience only and shall not be construed as part of this Agreement, nor shall they define or limit any of the terms or provisions hereof.
- 21. Force Majeure.** A party to this Agreement will be excused from performance under this Agreement for any period of time that the party is prevented from performing its obligations hereunder as a result of an act of God, criminal acts, distributed denial of service attacks, any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, pandemics, riots, war, utility or communication failures, or other cause beyond the Party's reasonable control.

Both parties shall use reasonable efforts to mitigate the effect of a force majeure event.

**22. Entire Agreement.** Acceptance of this offer is expressly limited to the terms and conditions set forth by Geneious herein. Additional or different terms raised by the Customer shall be interpreted as mere proposals for additions to the contract and shall not be binding on Geneious. Any such proposal for additions or any other different terms are deemed rejected unless expressly accepted in writing by Geneious. Geneious objects to any and all additional or different terms set forth in any other commercial document or Customer purchase order in this transaction or any subsequent renewal regardless of when delivered or processed. Such additional or different terms are rejected without regard to whether any additional or different term amounts to a material alteration of the contract. This Agreement, when effective, supersedes all previous agreements, understandings or commitments whatsoever between the parties in relation to the subject matter of this Agreement whether oral or written, and represents the entire Agreement between them. Customer acknowledges and agrees that in entering into this Agreement it does not rely on any statement, representation (whether innocent or negligent) assurance or warranty (whether or not in writing) of Geneious or any other person (whether or not party to these Terms) other than as expressly set out in this Agreement. Customer specifically agrees that it has not relied upon and its purchase of Subscriptions is not contingent upon the future availability of any software, products, services, programs, modifications, enhancements or updates in entering into the payment obligations in these Terms.

**23. Survival.** All provisions of this Agreement that require or that can reasonably be inferred by their terms to survive the termination or expiration of these Terms shall so survive.

**24. Waiver.** The delay or failure of a Party at any time to enforce a right or remedy available to it under this Agreement with respect to any breach or failure will not be construed as a waiver with respect to that breach or failure or any other breach or failure.

**25. Assignment.** Except for assignment to a Party's affiliate (any entity which directly or indirectly controls, is controlled by, or is under common control with such Party), or in the case of a merger, acquisition or sale of all or substantially all assets not involving a direct competitor of the other Party, neither Party may assign or otherwise transfer any right or obligation set forth under this Agreement without the other Party's prior written consent, not to be unreasonably withheld or delayed. Notwithstanding the foregoing, Geneious may subcontract the provision of Service in whole or in part to a Geneious affiliate. Any purported assignment or transfer in violation of this Section 25 is void.

**26. Relationship of the Parties.** Each Party is an independent contractor in the performance of this Agreement, and is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection with these Terms.

**27. No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**28. Counterparts.** These Terms and any order form may be signed in any number of counterparts all of which together will constitute one and the same document. A signed copy of this Agreement or any order form transmitted via facsimile, email or other electronic means will constitute an originally signed Agreement or order form, as applicable, and, when together with all other required signed copies of this same Agreement or order form, as applicable, will constitute one and the same instrument.

## **Attachment 1 – Additional Terms for Software Licenses**

### **1. Definitions**

- 1.1. “License Key”** means the unique key code provided by Geneious to Customer that permits Customer to access the Software.
- 1.2. “User Credential”** means the configured username and password combination either provided by Geneious or generated by the Customer’s designated account administrator) that permits Customer to access the Software.
- 1.3. “Update”** means upgrades, patches, updates or enhancements to the Software made available by Geneious.

### **2. License Grant**

- 2.1.** Subject to Customer’s compliance with this Agreement, Geneious grants Customer a non-exclusive, non-transferable, and non-sublicensable license to: (i) to install the Software upon a single computer server under Customer’s supervision and control; (ii) to access and use the Software solely for Customer’s internal business activities; and (iii) to make and install one backup copy of the Software, provided that the original and copy are not in use at the same time. Subject to the terms and conditions of this Agreement, Geneious further grants to Customer a non-exclusive, nontransferable, non-sublicensable license, during the applicable Subscription Term, to use and reproduce the Documentation only in conjunction with Customer’s installation and permitted use of the Software. Customer will reproduce all copyright notices on each copy, or partial copy, of the Software and Documentation. Unless otherwise expressly agreed in writing, all Software will be delivered electronically, and the Software will be considered fully delivered and accepted upon actual download by or on behalf of Customer. The Software is protected by the copyright laws of the United States and other countries. All rights not expressly granted in this Agreement are reserved by Geneious.
- 2.2.** Upon payment of the applicable license fee(s), Customer will receive a License Key or User Credential, depending on the license type purchased. Geneious is permitted to produce License Keys or User Credentials for the Software. License Keys or User Credentials may not be shared or pooled in excess of the Customer’s Subscription Plan.
- 2.3.** The Software is for research purposes only. In particular, it may not be used in any form for any diagnostic or therapeutic purposes or otherwise in connection with the treatment of a patient.

### **3. License Types**

- 3.1. Named User License:** A Named User License entitles a specified Authorized User to install and use the Software on up to 2 computers running any of the supported operating systems, provided that only one copy of the Software is running at any given time and that the same User Credential is not used by anyone other than the Authorized User. The Authorized User may also access

Subscription Services through the Named User License if supported in your geographical region. A Named User License must be assigned to a Subscription plan for the Software.

- 3.2. Group License: A Group License permits the Customer to install and use the Software on the number of Computers authorized and specified under the Group License Key. The Software may not be accessed remotely.
- 3.3. Machine Access Token License: A Machine Access Token permits Authorized Users with a Named User License to install and use the Software on a number of Computers equal to the number of Tokens specified under the Subscription plan. Machine Access Token Licenses are in addition to the Named User License's personal activation limits as specified under Section 3.1. The Software may not be accessed remotely.
- 3.4. Floating License: A Floating License permits the Customer to install and use the Software on an unlimited number of computers running any of the supported operating systems on the same network, and for Authorized Users to use the Software on different computers on that network concurrently, provided that the number of copies of the Software running on different computers concurrently will be limited to the number of seats or Floating Licenses registered to the Customer and currently active.
- 3.5. Trial License: A Trial License is a one-time grant of license to use the Software for a limited time (specified upon issue of the License Key) for the purposes of evaluating the software.
4. **Restricted Mode:** The Software may be used in restricted mode without a License Key. Functionality in restricted mode is limited and Geneious makes no guarantee of availability of or continued availability of specific features. Notwithstanding that the functionality is limited and the Software is used without a License Key, the terms and conditions of this License Agreement shall still apply to such use.
5. **Software License Duration, Updates and Support.** Purchase of a Subscription allows Customer to use the Software and any subsequent updates, upgrades and new version releases marketed under the Geneious Prime name during the specified time period of the Subscription. A License purchased on Subscription is valid from the date of issue until the specified date of expiration. Unless the Subscription is renewed, at the end of the validity period the License granted under this Agreement shall terminate, and the Software will revert to Restricted Mode.
6. **Restrictions and Obligations:**
  - 6.1. Copy Restrictions: The Software and the accompanying manual are copyrighted by Geneious. Unauthorized copying of the Software, including modifications of the Software or programs in which the Software has been merged or included with other software products is expressly forbidden. Customer may be held

legally responsible for any copyright infringement that is caused or encouraged by your failure to comply with the terms of this License. Subject to these restrictions, Customer may make one copy of the Software, solely for backup purposes. Customer must reproduce and include the copyright notice on the backup copy.

- 6.2. Transfer Restrictions: Any authorized transfer of the Software shall be subject to the provisions of this Agreement. In no event, may you transfer, assign, rent, lease, sell, or otherwise dispose of the Software on a permanent or temporary basis except as expressly provided herein.
- 6.3. Customer Obligations: Customer agrees to secure and protect the Software, License Key(s) (if any), User Credential(s) (if any), Documentation and copies thereof in a manner consistent with the maintenance of Geneious' rights herein and to take appropriate action by instruction or agreement with its employees or consultants who are permitted access to the Software to satisfy its obligations hereunder. Customer will not remove any proprietary notices or labels on the Software.
- 6.4. Privacy and Data Collection: Geneious may collect certain personal information from Customer and/or the Authorized User as a consequence of entering into this Agreement. In providing said information, Customer is consenting to Geneious holding a copy of this information. Geneious will not disclose this information to any third parties without the Customer's express permission, unless required to do so by operation of law, with the exception that Geneious may share the information with authorized resellers of the Software for the sole purposes of enabling such resellers to service and support selected Geneious customers, any such reseller to be contractually bound to the same privacy and non-disclosure obligations with respect to the information as Geneious..
- 6.5. No Trademark License: The Geneious Prime software and any associated materials are being licensed to the Customer, as END-USER by this Agreement. Notwithstanding anything to the contrary in this Agreement, Customer as END-USER is not licensed to use Geneious's trademarks, trade names or any other intellectual property rights held by Geneious, including the Geneious® name and logo, other than the licensing of the Software and associated materials.
- 6.6. Modification: Customer may not modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Software.
- 6.7. No Rights to Source Code: Customer has no rights to view, examine, inspect, possess, redistribute, or any other rights to the Software source code. Geneious will retain all such source code at its sole discretion.

**6.8. Third Party LPGL Software:** Notwithstanding any of the foregoing, if Geneious includes with the Software third party software libraries distributed under the terms of the GNU Lesser General Public License ("LGPL"), hereafter referred to as "LGPL Software":

(a) Geneious acknowledges that nothing in this Agreement restricts Customer from modifying the LGPL Software; and

(b) Customer may reverse engineer the Software SOLELY to the extent that is required to debug their modifications to the portions of the LGPL Software that is included with the Software.

**7. Third Party Services:** The Software may facilitate Authorized Users interacting with third party services, such as the databases provided by the National Centre for Biology Information (NCBI). Customer confirms that use of any such third party service shall be governed solely by the terms and conditions of that service and not this Agreement. Geneious shall be entitled to deem any attempt to access any third party services as unconditional acceptance of the third party terms and conditions by the Customer. Under no circumstances shall Geneious be liable or responsible for lack of functionality or reduced performance of any third party services. Further, in no event shall Geneious be liable for damages of any kind or inconveniences caused by changes in data formats, communication protocols or any other aspects of such third party services.

**8. Updates:** Customer must install all Updates as they are made available by Geneious. CUSTOMER SHALL BE SOLELY AND EXCLUSIVELY RESPONSIBLE FOR ANY AND ALL LIABILITY, DAMAGES, CLAIMS, OR LOSSES ARISING FROM CUSTOMER'S FAILURE TO INSTALL OR ACCEPT UPDATES AS GENEIOUS MAKES THEM AVAILABLE.



## **Attachment 2 – Additional Terms for Subscription Services**

### **1. Definitions**

- 1.1. **“Subscription Service”** means services subscribed by Customer that Geneious provide as software-as-a-service, and also includes any Support Services we provide to you under this Agreement.
- 1.2. **“Third Party Databases”** means any third party databases of data or information accessible via the Subscription Services.
- 1.3. **“Update”** means upgrades, patches, updates or enhancements to the Subscription Service made available by Geneious.

### **2. Provision of the Subscription Service**

- 2.1. Subject to the terms and conditions of this Agreement, Geneious agrees to provide the Subscription Service to the number of Customer’s Authorized End Users during the Subscription Term. During the Subscription Term, Customer’s Authorized End Users shall have the right to access and use the Subscription Service solely for Customer’s internal business activities.
  - 2.2. Geneious shall provide to Customer the necessary License Keys or User Credentials to permit Customer to access the Subscription Service. Geneious shall also provide Customer any Documentation to be used by Customer in accessing and using the Subscription Service. Customer acknowledges and agrees that, as between Customer and Geneious, Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Customer, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Subscription Service and shall cause Authorized End Users to comply with such provisions.
  - 2.3. Subject to the terms and conditions of this Agreement, Geneious grants to Customer a non-exclusive, nontransferable, non-sublicensable license, during the applicable Subscription Term, to use and reproduce the User Documentation only in conjunction with use of the Subscription Service. Customer will reproduce all copyright notices and all other legends of ownership on each copy, or partial copy, of the Documentation.
- 3. Usage Restrictions:** Customer agrees not to act outside the scope of the license rights that are expressly granted by this Agreement. Except as otherwise expressly authorized by this Agreement, Customer agrees not to (i) reproduce the Subscription Services or any component used to provide the Subscription Services; (ii) modify, adapt, translate or create derivative works based upon any component of the Subscription Service, provided that the foregoing shall not be construed to prohibit Customer from configuring the Subscription Services to the extent permitted by the standard user interface thereof; (iii) distribute, resell, sublicense, lease, rent, loan,

pledge, permit a lien upon, or otherwise transfer, assign or provide to any third party any Access Rights or any access to the Subscription Services; (iv) use the Subscription Services in any manner that is inconsistent with the User Documentation; (vi) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code from which the Dotmatics Product or any software component of the Subscription Services is compiled or interpreted, and Customer acknowledges that nothing in this Agreement will be construed to grant Customer or their agents any right to obtain or use such source code; or (vii) attempt to gain or permit unauthorized access to the Services or related systems or networks, including but not limited to, conducting any penetration testing, system scanning, denial of service attacks, or similar efforts. Customer agrees to use the Subscription Services only for lawful purposes and in compliance with all applicable laws, rules and regulations issued by governing authorities. Customer may not export or re-export any software component used to perform the Subscription Services, except in compliance with applicable export laws and regulations. Customer acknowledges and agrees that any act or omission in breach of this section will constitute an unauthorized exercise of Geneious' Intellectual Property Rights beyond the scope of the rights granted by this Agreement, and strict compliance with this section is an essential basis of this Agreement.

**4. Availability:**

4.1. Subject to clauses 6.3 and 6.4, Geneious will use reasonable efforts to ensure that the Subscription Service is available on a 24/7 basis. However, it is possible that on occasion the Subscription Service maybe unavailable to permit maintenance or other development activity to take place (each a "Scheduled Downtime"), or in the event of Force Majeure.

4.2. Geneious will use reasonable efforts to notify Customer by publishing on Geneious' website and by email advance details of any Scheduled Downtime. Geneious will not be liable for any unavailability of the Subscription Service during Scheduled Downtime or Force Majeure.

**5. Updates:** Geneious regularly Updates the Subscription Services and reserves the right to add or substitute functionally equivalent products or features in the event of product unavailability, end-of-life, or changes to Subscription Service requirements. No Update shall be considered a violation of this Agreement provided that it does not substantially degrade the capabilities of the Subscription Service.

**6. Privacy:** Customer acknowledges and agrees that by accessing and using the Subscription Service, including the Geneious website, Customer consents to the collection, use and disclosure of certain Customer information as set forth in our Privacy Policy published at <https://www.dotmatics.com/privacy-policy>. Customer acknowledges and agrees that the Subscription Service is not intended to process sensitive information, including, but not limited to: Protected Health Information (as defined under HIPAA), Sensitive Personal Information (as defined by GDPR), Social

Security Numbers or other national identification numbers, and other similar sensitive personal information.