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FoCul Perpetual Licence and Maintenance and Subscription Terms

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Carefully read these FoCul Ltd. Application Terms of Use (Terms of Use or TOU) before using the FoCul Ltd. Application and any associated Enabling Software. Customer may use the FoCul Ltd. application and Enabling Software only if Customer first accepts these Terms of Use. By ordering, accessing or using the FoCul Ltd. application or Enabling Software or clicking on an Accept button, Customer agrees to these Terms of Use.

IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF CUSTOMER, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND CUSTOMER TO THESE TERMS OF USE. IF YOU DO NOT AGREE WITH THESE TERMS OF USE OR DO NOT HAVE FULL AUTHORITY TO BIND CUSTOMER TO THESE TERMS OF USE THEN DO NOT IN ANY MANNER USE OR PARTICIPATE IN ANY OF THE FUNCTIONALITY OFFERED AS PART OF THE FoCul Ltd. application OR USE ANY ENABLING SOFTWARE.

1. Part 1 – General Terms

1.1. Purpose

These Terms of Use are for the following FoCul Ltd. offerings:

⇒ FoCul Ltd. Delivery Toolkit Suite

For the purpose of this ToU only, the term FoCul Ltd.

1.2. Definitions

Enabling Software – any Program and associated materials provided to Customer by FoCul Ltd. or a third party as part of the FoCul Ltd. offering in order to facilitate access to and use of FoCul Ltd. Applications.

Privacy Practice – the Privacy Practice, located on the Internet at <http://focul.net/terms> and any subsequent modification.

2. General Charge Terms

2.1. Metrics

Authorized User – is a unit of measure by which the FoCul Ltd. offering may be purchased. An Authorized User is a unique person who is given access to the FoCul Ltd Application. Customer must obtain separate, dedicated entitlements for each Authorized User accessing the FoCul Ltd. offering in any manner directly or indirectly (for example: via a multiplexing program, device, or application server) through any means. An entitlement for an Authorized User is unique to that Authorized User and may not be shared, nor may it be reassigned other than for the permanent transfer of the Authorized User entitlement to another person.

Authorized Site – is a unit of measure by which the FoCul Ltd. offering may be purchased. An Authorized Site may represent a collection of plants, departments or functions in a single geographical area which will be defined on a case by case basis in the Proof of Entitlement or Transaction Document.

Authorized Business – is a unit of measure by which the FoCul Ltd. offering may be purchased. An Authorized Business may represent a collection of plants, departments or

functions in a single legal entity which will be defined on a case by case basis in the Proof of Entitlement or Transaction Document.

Authorized Business Process – is a unit of measure by which the FoCul Ltd. offering may be purchased. An Authorized Business Process represents a defined business process (e.g. HSE Reporting) and will be defined on a case by case basis in the Proof of Entitlement or Transaction Document.

3. Trade-Ups

Certain FoCul Ltd. offerings may be acquired for a reduced charge to replace qualifying FoCul Ltd. offerings. Customer agrees that FoCul Ltd. will terminate Customer's use of the replaced FoCul Ltd. offering when Customer is provided access to the replacement FoCul Ltd. offering.

4. Enabling Software

This FoCul Ltd. offering may include Enabling Software provided by FoCul Ltd. or a third party supplier. If Customer downloads or installs any Enabling Software, Customer agrees not to use such Enabling Software for any purpose other than to facilitate or enable Customer's access and use of the FoCul Ltd. application. If Enabling Software is presented with a separate license agreement (or other FoCul Ltd. or third party license agreement) at the time of installation or download, such separate agreement will govern its use. Customer agrees that Customer accepts such terms by accepting this ToU or downloading, installing, or using the Enabling Software.

Enabling Software for the FoCul Ltd. can include but is not limited to:

- ⇒ IBM Lotus Notes Client Software
- ⇒ Windows operating System Software
- ⇒ Linux Operating System Software

5. Renewal of a Support and Maintenance Subscription

5.1. Access to Support and Maintenance

THE CUSTOMER SHALL NOT USE ANY OF THE FOCUL SOFTWARE SUBSCRIPTION AND SUPPORT BENEFITS, INCLUDING ANY FIXES, UPDATES, OR UPGRADES, FOR FOCUL PROGRAMS FOR WHICH THE CUSTOMER HAS NOT FULLY PAID FOCUL SOFTWARE SUBSCRIPTION AND SUPPORT. IF CUSTOMER USES ANY OF THESE BENEFITS FOR WHICH IT HAS NOT FULLY PAID, THEN THE CUSTOMER AGREES TO ACQUIRE FOCUL SOFTWARE SUBSCRIPTION AND SUPPORT REINSTATEMENT SUFFICIENT TO COVER ALL SUCH UNAUTHORIZED USE OF SUCH BENEFITS AT THEN CURRENT APPLICABLE FOCUL PRICES.

5.2. Automatic Renewal of a Subscription Period

If Customer's Proof of Entitlement designates the subscription renewal as automatic, Customer may renew Customer's expiring FoCul Ltd. Maintenance and Support Subscription Period by written authorization to renew (e.g., order form, order letter, purchase order), prior

to the expiration date, in accordance with the terms of the Agreement.

CUSTOMER MAY TERMINATE THE FOCUL Ltd. MAINTENANCE AND SUPPORT SUBSCRIPTION AT ANY TIME AFTER THE END OF THE INITIAL SUBSCRIPTION PERIOD ON ONE MONTH'S WRITTEN NOTICE, EITHER DIRECTLY TO FOCUL LTD. OR THROUGH CUSTOMER'S FoCul Ltd. RESELLER, AS APPLICABLE, IF FOCUL Ltd. HAS NOT RECEIVED CUSTOMER'S WRITTEN AUTHORIZATION (e.g., order form, order letter, purchase order) TO RENEW CUSTOMER'S EXPIRING FOCUL LTD MAINTENANCE AND SUPPORT SUBSCRIPTION PERIOD. IN SUCH EVENT, CUSTOMER MAY OBTAIN A PRORATED REFUND.

5.3. Customer Renewal Required

If Customer's Proof of Entitlement designates the maintenance and support subscription renewal as one that terminates, the FoCul Ltd. maintenance and support offering will not renew at the end of the initial Subscription Period. In order to continue use of the FoCul Ltd. maintenance and support beyond the initial Subscription Period, Customer must obtain a new subscription for the FoCul Ltd. maintenance and support . Please contact an FoCul Ltd. sales representative or Customer's reseller, as applicable, to obtain a new FoCul Ltd. Maintenance and Support subscription.

5.4. Termination

FoCul Ltd. may terminate Customer's access to FoCul Ltd. Maintenance and Support if Customer does not comply with the terms of the Agreement or this ToU and such noncompliance is not remedied within a reasonable time after receiving written notice from FoCul Ltd.. Upon termination, Customer's access and other rights to the FoCul Ltd. Maintenance and Support will be cancelled and cease. In such event Customer and its FoCul Ltd. Maintenance and Support Users must cease any further use of the FoCul Ltd. Maintenance and support services.

6. Updates; Applicable Terms and Authorization for Auto Updates

These Terms of Use apply to all enhancements, modifications, variations, revisions, updates, supplements, add-on components, and replacements for the FoCul Ltd. application (collectively, Updates) that FoCul Ltd. may provide or make available for the FoCul Ltd. application, subject to any additional terms provided by FoCul Ltd. applicable to such Updates. Customer authorizes FoCul Ltd. to, and agrees that FoCul Ltd. may, in accordance with FoCul Ltd.'s standard operating procedures, automatically transmit, access, install, and otherwise provide Updates to FoCul Ltd. application without further notice or need for consent. FoCul Ltd. has no obligation to, and nothing in these Terms of Use may be construed to require FoCul Ltd. to, create, provide, or install Updates.

7. Updates to Terms of Use

FoCul Ltd. reserves the right to prospectively modify these Terms of Use, to account for any Updates that FoCul Ltd. may provide or make available for the FoCul Ltd. application during the licence Period, and as otherwise required by applicable law, by providing at least thirty (30) days prior notice of such modified terms to Customer. Subscription renewals will be governed by the Terms of Use in effect at the time of renewal.

8. Technical Support

Technical support for the FoCul Ltd. Application is included during the Maintenance and Support Subscription Period. Technical support options are detailed at <http://www.focul.net/support>

Items Not Covered by Technical Support

Technical support does not include assistance with:

- ⇒ The design and development of applications
- ⇒ Issues arising out of Customer's use of the FoCul Ltd. Application in other than its specified operating environment
- ⇒ Assistance with Customer or third party products and services
- ⇒ Issues arising out of the use of FoCul Ltd. Application with Customer or third party products or services.

9. Data Privacy and Data Security

9.1. Customer's Obligations

In relation to all Personal Data provided by or through Customer to FoCul Ltd., Customer will be responsible as the sole data controller for complying with all applicable data protection or similar laws such as, but not limited to, EU Directive 95/46/EC (and laws implementing that Directive) that regulate the processing of Personal Data including special categories of data, as such terms are defined in that Directive (and laws implementing that Directive).

Customer agrees to obtain all legally required consents, authorizations and approvals and make all necessary disclosures before (i) including any Personal Data in Content and (ii) using the Enabling Software and the FoCul Ltd. application.

Customer confirms and acknowledges that it is solely responsible for any Personal Data that may be contained in Content, including any information which any FoCul Ltd. application User shares with third parties on Customer's behalf. Customer is solely responsible for determining the purposes and means of processing any Personal Data by FoCul Ltd. under these Terms of Use, including that such processing according to Customer's instructions will not place FoCul Ltd. in breach of applicable data protection laws.

The FoCul Ltd. Application is not intended for the storage or receipt of any Sensitive Personal Information or Protected Health Information (as defined below), in any form, and Customer will be responsible for reasonable costs and other amounts FoCul Ltd. may incur relating to any such information provided to FoCul Ltd. or the loss or disclosure of such information by FoCul Ltd., including those arising out of any third party claims. Sensitive Personal Information is; 1) Personal Data, the loss of which would trigger a data breach notification requirement, and includes, but is not limited to financial information, country identification number (e.g. Social Insurance Number (SIN), Social Security Number (SSN)) or other governmentally issued identification number such as driver's license or passport number, bank account number, credit card or debit card number; and 2) Personal Data relating to racial or ethnic origin, sexual orientation, or political opinions or religious, ideological or philosophical beliefs or activities or trade union membership. Protected Health Information is individually identifiable health information as defined under the Health Information Portability and Accountability Act of 1996 (HIPAA), as amended.

Customer agrees that when FoCul Ltd. reasonably determines it to be useful in its provision of the FoCul Ltd. application, FoCul Ltd. may transfer Content, including any Personal Data, across a country border to the entities and countries notified to Customer. Customer consents to the FoCul Ltd. Application being provided by such entities in such countries, and is solely responsible for determining that any transfer of any Personal Data across a country border under the terms of the Terms of Use complies with applicable data protection laws. FoCul Ltd. shall reasonably cooperate with Customer, for Customer's own benefit or for the benefit of a Customer data controller, in its fulfilment of any legal requirement, including obtaining mandatory approvals.

If FoCul Ltd. makes a change to the way it processes or secures Personal Data as part of the FoCul Ltd. Application and the change causes Customer to be noncompliant with data protection laws applicable to it, Customer may terminate the current Subscription Period for the affected FoCul Ltd. application, by providing written notice to FoCul Ltd. within thirty (30) days of FoCul Ltd.'s notification of the change to Customer. Any such termination will not obligate FoCul Ltd. to issue a refund or credit to Customer.

9.2. FoCul Ltd.'s Obligations

FoCul Ltd. will only process Personal Data in a manner that is reasonably necessary to provide FoCul Ltd. application, and only for that purpose.

FoCul Ltd. will only process Personal Data in delivering FoCul Ltd. application as described by FoCul Ltd., and Customer agrees that the description provided by FoCul Ltd. is consistent with Customer's processing instructions.

Upon Customer's written request, following termination or expiry of either this ToU or the Agreement, FoCul Ltd. will destroy or return to Customer all Content that Customer identifies as Personal Data.

If Customer or a Customer data controller is required by applicable data protection laws to provide information about or access to Personal Data to any individual or to a relevant authority, FoCul Ltd. will reasonably cooperate with Customer in providing such information or access.

9.3. Protection of Content

Notwithstanding anything to the contrary in the Agreement, FoCul Ltd. will not intentionally disclose or use Customer's Content except to operate and perform the FoCul Ltd. Application as contemplated in this Agreement, subject to FoCul Ltd.'s compliance with applicable laws.

FoCul Ltd. will only process Customer Content on systems used to host and operate the FoCul Ltd. application, on which FoCul Ltd. has implemented the security practices and procedures referenced below.

10. Compliance with Applicable Export Law

Each party agrees to comply with all applicable import and export laws and regulations, including those of the United States regarding embargo and sanctions regulations and prohibitions on export by certain end users or for any prohibited end uses (including nuclear, space or missile, and chemical and biological weapons). Customer represents that Content will not, in whole or part, be controlled under the U.S. International Traffic in Arms Regulation (ITAR). Customer acknowledges that FoCul Ltd. may use global resources (non-

permanent residents used locally and personnel in locations worldwide) to remotely support the delivery of the FoCul Ltd. application. Customer represents that no Content accessible to FoCul Ltd. for the FoCul Ltd. application will require an export license or is restricted from export to any FoCul Ltd. global resource or personnel under applicable export control laws.

11. Indemnity

Customer agrees to indemnify, defend and hold FoCul Ltd. harmless against any third party claim arising out of or relating to: 1) violation of the Acceptable Use policy by Customer or any FoCul Ltd. application User; or 2) Content created within the FoCul Ltd. application or provided, uploaded, or transferred to the FoCul Ltd. application by Customer or any FoCul Ltd. application User.

12. Copyright Infringement

It is FoCul Ltd.'s policy to respect the intellectual property rights of others. To report the infringement of copyrighted material, please email support@focul.net

13. Warranty and Exclusions

13.1. No Warranty

SUBJECT TO ANY STATUTORY WARRANTIES THAT CANNOT BE EXCLUDED, FoCul Ltd. MAKES NO WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, REGARDING THE FOCUL Ltd. APPLICATION, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND TITLE, AND ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT.

FoCul Ltd. does not make any representation that it will provide uninterrupted, secure, or error-free operation of the FoCul Ltd. application or that FoCul Ltd. will be able to prevent third party disruptions of the FoCul application or that FoCul Ltd. will correct all defects.

Customer is responsible for the results obtained from the use of the FoCul Ltd. application.

14. General

If any provision of these Terms of Use is held to be invalid or unenforceable, the remaining provisions of these Terms of Use remain in full force and effect. Failure by either party to insist on strict performance or to exercise a right when entitled does not prevent either party from doing so at a later time, either in relation to that default or any subsequent one. Any terms of these Terms of Use that by their nature extend beyond termination of these Terms of Use or the applicable Subscription Period remain in effect until fulfilled, and apply to respective successors and assignees.

15. Entire Agreement

The complete agreement between the parties, replacing any prior oral or written communications between Customer and FoCul Ltd., consists of these Terms of Use and the Agreement. If there is a conflict among the terms of these Terms of Use and the Agreement, then these Terms of Use prevail over the Agreement.

Additional or different terms in any written communication from Customer (such as a purchase order, acknowledgement or e-mail) are void. These Terms of Use may only be amended as set forth herein.

16. Part 2 – Country-unique Terms

The following terms replace or modify the referenced terms in Part 1. All terms in Part 1 that are not changed by these amendments remain unmodified and in effect. This Part 2 is comprised of amendments to this Terms of Use and is organized as follows:

Americas country amendments;
Asia Pacific country amendments; and
Europe, Middle East, and Africa country amendments.

16.1. AMERICAS COUNTRY AMENDMENTS

16.1.1. None

16.2. ASIA PACIFIC COUNTRY AMENDMENTS

16.2.1. AUSTRALIA

16.2.1.1. No Warranty

The following is added to the end of Section 13.1:

Although FoCul Ltd. specifies that there are no warranties, Customer may have certain rights under the Competition and Consumer Act 2010 or other legislation and are only limited to the extent permitted by the applicable legislation.

16.2.2. NEW ZEALAND

16.2.2.1. No Warranty

The following is added to the end of Section 13.1:

Although FoCul Ltd. specifies that there are no warranties, Customer may have certain rights under the Consumer Guarantees Act 1993 or other legislation which cannot be excluded or limited. The Consumer Guarantees Act 1993 will not apply in respect of any goods which FoCul Ltd. provides, if Customer requires the goods for the purposes of a business as defined in that Act.

16.3. EUROPE, MIDDLE EAST, AFRICA (EMEA) COUNTRY AMENDMENTS

16.3.1. EUROPEAN UNION MEMBER STATES

16.3.1.1. Warranty and Exclusions

The following is added to Section 13: Warranty and Exclusions

In the European Union (EU), consumers have legal rights under applicable national legislation governing the sale of consumer goods. Such rights are not affected by the provisions set out in this Section 13: Warranty and Exclusions.

16.3.2. AUSTRIA

16.3.2.1. Warranty and Exclusions

If you paid a charge for the FoCul Ltd. application then the Section 13 Warranty and Exclusions is replaced in its entirety by the following:

16.3.2.2. Warranties and Exclusions

FoCul Ltd. provides the FoCul Ltd. application in conformity with its descriptions as contained in the FoCul Ltd. application announcement and maintains it in this condition for

the term of the FoCul Ltd. application. FoCul Ltd., its Affiliates and suppliers disclaim all further warranties (*Ausschluß der Gewährleistung*).

Warranties, if any, for Enabling Software supplied as part of this FoCul Ltd. application may be found in their license agreements.

16.4. GERMANY

16.4.1. Warranty and Exclusions

If you paid a charge for the FoCul Ltd. application then the Section 13 Warranty and Exclusions is replaced in its entirety by the following:

16.4.2. Warranties and Exclusions

FoCul Ltd. provides the FoCul Ltd. application in conformity with its descriptions as contained in the FoCul Ltd. application announcement and maintains it in this condition for the term of the FoCul Ltd. application. FoCul Ltd., its Affiliates and suppliers disclaim all further warranties (*Ausschluß der Gewährleistung*).

Warranties, if any, for Enabling Software supplied as part of this FoCul Ltd. application may be found in their license agreements.

16.5. IRELAND

16.5.1. Warranty and Exclusions

The following paragraph is added:

Except as expressly provided in these terms and conditions, or Section 12 of the Sale of Goods Act 1893 as amended by the Sale of Goods and Supply of Services Act, 1980 (the "1980 Act"), all conditions or warranties (express or implied, statutory or otherwise) are hereby excluded including, without limitation, any warranties implied by the Sale of Goods Act 1893 as amended by the 1980 Act (including, for the avoidance of doubt, Section 39 of the 1980 Act).

16.6. IRELAND AND UNITED KINGDOM

16.6.1. Entire Agreement

The following sentence is added at the beginning of this Section 18:

Nothing in the following paragraphs shall have the effect of excluding or limiting liability for fraud