

Service Agreement for "WF-RepTool as a Service"

IMPORTANT! READ CAREFULLY: THIS IS A LEGAL AGREEMENT. BY USING THE SERVICES (AS DEFINED BELOW), YOU (USER, AS DEFINED BELOW) ARE BECOMING A PARTY TO THIS AGREEMENT AND YOU ARE CONSENTING TO BE BOUND BY ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT USE THE SERVICES.

1. PARTIES

1.1. "Service Provider" means WEEE FORUM, having its principal place of business at Diamant conference and business centre, Auguste Reyerslaan 80, 1030 Brussels, Belgium, registered with company ID 0883.940.313.

1.2. "User" means the individual or legal entity specified in the License Certificate. For legal entities, "User" includes any entity which controls, is controlled by, or is under common control with User. For purposes of this definition, "control" means (i) the power, direct or indirect, to cause the direction or management of such entity, whether by contract or otherwise, or (ii) ownership of fifty percent (50%) or more of the outstanding shares or beneficial ownership of such entity.

2. DEFINITIONS

2.1. "The Services" means hosting of the web-application known as WF-RepTool and relevant background data sources ("WF-RepLists") that have been developed to determine treatment results for WEEE (Waste Electrical and Electronic Equipment), including its documentation.

2.2. "Authorized User" means (i) if User is an individual, solely User; (ii) if User is a legal entity, any employee, independent contractor or other temporary worker authorized by User to use the Services while performing duties within the scope of their employment or assignment.

2.3. "Licence Certificate" means evidence of a licence provided by Service Provider to User in electronic or printed form.

2.4. "License Key" means a unique key-code that enables a User to use the Services at a time. Only Service Provider and/or its representatives are permitted to produce License Keys for the Services.

3. OWNERSHIP

3.1. Parts of the WF-RepTool are and will remain the exclusive property of the WEEE Forum. On other parts, the Licensor has obtained a license from the respective right holders ("suppliers").

3.2. Title and copyrights to the WF-RepTool, in whole and in part and all copies thereof, and all modifications, enhancements, derivatives and other alterations of the Software regardless of who made any modifications, if any, are, and will remain, the sole and exclusive property of the WEEE Forum and its suppliers.

3.3. Further, the structure, organization, code and background data sources embodied in the WF-RepTool are the valuable and confidential trade secrets of the WEEE Forum and its suppliers and are protected by intellectual property laws worldwide, including but not limited to

copyright and database rights where applicable.

4. GRANT OF USAGE

Subject to the terms, conditions, and limitations set forth in this Agreement, including any amendments thereto, Service Provider hereby grants to User a limited, non-exclusive, non-transferable and non-sub-licensable right to use the Services during the subscription period specified in the appropriate License Certificate and grant usage to Authorized Users, provided that the number of users never exceeds the number of Authorized Users specified in the appropriate License Certificate.

4.2. Any other utilisation of the Services by the User is only permitted after explicit agreement of the Service Provider. Here follows a non-exhaustive list of examples of unauthorized use of the Services:

- sell, redistribute, encumber, give, lend, rent, lease, sublicense, or otherwise transfer the usage of the Services to anyone without the prior written consent of Service Provider;
- neither make any attempt to discover the source code of the WF-RepTool or other resources underlying the Services nor create derivative works from the Services;
- hand over the background data sources ("WF-RepLists") in their original or translated form to third parties
- grant access to the services to other parties

5. TERMS OF USE, RESPONSIBILITIES

5.1. User is responsible for safeguarding the password(s) that User uses to access the Services and User agrees not to disclose Users password(s) to any third party. User is responsible for any activity using the Services, whether or not User authorized that activity. User shall immediately notify Service Provider of any unauthorized use of the Services. User acknowledges that if User wishes to protect its transmission of data or files to Services, it is Users responsibility to use a secure encrypted connection to communicate with the Services.

5.2. The Services may contain links to third-party websites or resources. Service rovider does not endorse and is not responsible or liable for their availability, accuracy, the related content, products, or services. User is solely responsible for its use of any such websites or resources. Also, if Service Provider provides User with any software under an open source license, there may be provisions in those licenses that expressly conflict with these Terms, in which case the open source provisions will apply.

5.3. By using the Services User provides information, data and/or files (together, "Users stuff"). User retains full ownership to Users stuff. Service Provider doesn't claim any ownership to any of it. These Terms do not grant Service Provider any rights to Users stuff or intellectual property except for the limited rights that are needed to run the Services, as explained below.

5.4. Service Provider may need Users permission to do things User asks Service Provider to do with Users stuff. This includes design choices Service Provider makes to technically administer the Services, for example, how Service Provider redundantly backups data to keep it safe. User gives Service Provider the permissions he needs to do those things

solely to provide the Services. This permission also extends to trusted third parties Service Provider works with to provide the Services, for example partners, who provide and maintain Service Providers hardware (Server, storage space) - again, only to provide the Services.

5.5. User is solely responsible for Users conduct, the content of Users files and data, and Users communications with others while using the Services. For example, it's Users responsibility to ensure that User has the rights or permission needed to comply with these Terms.

5.6. Service Provider may choose to review public content for compliance with Service Providers community guidelines, but User acknowledges that Service Provider has no obligation to monitor any information on the Services. Service Provider is not responsible for the accuracy, completeness, appropriateness, or legality of files, user posts, or any other information User may be able to access using the Services.

5.7. The Services provide features that allow User to share Users stuff with others or to make it public. There are many things that users may do with that stuff (for example, copy it, modify it, re-share it). User shall consider carefully what he chooses to share or make public. Service Provider has no responsibility for that activity.

5.8. Files and other content in the Services may be protected by intellectual property rights of others. User shall not copy, upload, download, or share content unless User has the right to do so. User, not Service Provider, will be fully responsible and liable for what User copies, shares, uploads, downloads or otherwise uses while using the Services. User must not upload spyware or any other malicious software to the Services.

5.9. User, not Service Provider, is fully responsible for maintaining and protecting all of Users stuff. Service Provider will not be liable for any loss or corruption of Users stuff, or for any costs or expenses associated with backing up or restoring any of Users stuff.

6. RESTRICTED USE DURING EVALUATION PERIOD

6.1. Subject to the terms of this Agreement, User is granted a right to use the Services for evaluation purposes without charge for a period of fifteen (15) days from the date of provision of the Services unless otherwise specified (Evaluation Period).

6.2. Users use of the Services during Evaluation Period shall be limited to the internal evaluation of the Services for the sole purpose of determining whether the Services meets Users requirements and whether User desires to continue using the Services.

6.3. Upon expiration of the Evaluation Period, the User must obtain a License Key for use of the Services or cease using the Services. The Service Provider will automatically disable the Services upon expiration of the Evaluation Period.

7. SERVICE FEES AND PAYMENTS

7.1. User will pay to Service provider the service fee and other charges and expenses as set forth in an appropriate invoice or other

purchase documentation. Service Provider may charge User interest for any payment that is more than sixty (60) days past due at the rate of two percent (2%) per month] or the highest amount allowed by law, whichever is lower.

7.2. Service fees are prepaid and are non-refundable. IN CASE OF TERMINATION OF THIS AGREEMENT BY ANY REASON SERVICE PROVIDER DOES NOT PROVIDE REFUNDS OR CREDITS FOR ANY PARTIAL MONTHS OR YEARS.

8. UPGRADES

8.1. All generally available Upgrades to the Services will be free of charge to User during the subscription period mentioned in the appropriate License Certificate.

8.2. If not agreed otherwise in writing between Service Provider and User, upon upgrading to a new version of the Services the relationship between parties shall be governed and amended (if applicable) by the terms and conditions of the Service agreement related to the Services available at [www.wf-reptool.org] on the day of upgrade or purchase.

9. LIMITED WARRANTY

THE SERVICE PROVIDER PROVIDES THE SERVICES 'AS IS' WITHOUT WARRANTY OF ANY KIND, EITHER EXPLICIT OR IMPLICIT, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK RELATED TO THE QUALITY AND PERFORMANCE OF THE SERVICES IS WITH THE USER. SHOULD THE SERVICES PROVE DEFECTIVE, THE USER ASSUMES THE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

IN NO EVENT, UNLESS OTHERWISE AGREED ON IN WRITING, WILL THE SERVICE PROVIDER, OR ANY OTHER PARTY WHO IS ENTITLED TO MODIFY AND/OR REDISTRIBUTE THE SERVICES ON ITS BEHALF, BE LIABLE TO THE USER OR THIRD PARTIES, SUCH AS TREATMENT PARTNERS OF THE USER, FOR DAMAGES, INCLUDING ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR DATA BEING RENDERED INACCURATE OR LOSSES SUSTAINED BY THE USER OR THIRD PARTIES OR A FAILURE OF THE SERVICES TO OPERATE WITH ANY OTHER PROGRAMS, EVEN IF THE SERVICE PROVIDER OR OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THEREFORE THE USER SHALL INDEMNIFY, COVER AND HOLD HARMLESS THE SERVICE PROVIDER AS WELL AS ANY OTHER PERSON ACTING ON BEHALF OF THE SERVICE PROVIDER FOR ANY PRETENSIONS, COSTS AND LIABILITY ARISING FROM USE OR ANY OTHER USE OF THE SERVICES.

THIS APPLIES TO ANY TYPE OF LIABILITY, IRRESPECTIVE OF THE CAUSE IN LAW.

10. EXPORT REGULATIONS

User agrees and accepts that the Services may be subject to import and export laws of any country, including those of the European Union and United States (specifically the Export Administration Regulations (EAR)). User acknowledges that it is not a citizen, national, or resident of, and is not under control of the governments of any country underlying restrictions arising from applicable import and export laws

and is not otherwise a restricted end-user as defined by applicable export control laws. Further, Licensee acknowledges that it will not download or otherwise export or re-export contents provided by the Services or any related technical data directly or indirectly to the above-mentioned countries or to citizens, nationals, or residents of those countries, or to any other restricted end user or for any restricted end-use.

11. TERM AND TERMINATION

11.1. The right to use the Services granted herein shall be non-perpetual for the subscription period provided in the appropriate License Certificate.

11.2. If the User fails to comply with the terms and conditions of this Agreement, this Agreement and User's right to use the Services will terminate immediately.

11.3. User may terminate this Agreement at any time by notifying the Service Provider. Upon the termination of this Agreement, User must cease using the Services.

11.4. USER AGREES THAT UPON TERMINATION OF THIS AGREEMENT FOR ANY REASON, SERVICE PROVIDER MAY TAKE ACTIONS SO THAT THE SERVICES NO LONGER OPERATE.

12. MARKETING

User agrees to be identified as a customer of Service Provider and that Service Provider may refer to User by name, logo, trade name and trademark, if applicable, on Service Provider's web site, in public or legal documents. User hereby grants Service Provider a license to use User's name and any of User's trade names and trademarks solely pursuant to this marketing section.

13. GENERAL

13.1. Service Provider reserves the right at any time to cease the support of the Services and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Services. Service Provider may also remove any content from the Services at his discretion.

13.2. This Agreement constitutes the entire agreement between the parties concerning User's use of the Services, and supersedes any and all prior or contemporaneous oral or written representations, communications, or advertising with respect to the Services. No purchase order, other ordering document or any hand written or typewritten text which purports to modify or supplement the printed text of this Agreement or any schedule will add to or vary the terms of this Agreement unless signed by both User and Service Provider.

13.3. A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach. The provisions of this Agreement which require or contemplate performance after the expiration or termination of this Agreement will be enforceable notwithstanding

said expiration or termination.

13.4. Titles are inserted for convenience only and will not affect in any way the meaning or interpretation of this Agreement. If any provision of this Agreement is held invalid, the remainder of this Agreement will continue in full force and effect. Either Service Provider or User may assign this Agreement in the case of a merger or sale of substantially all of its respective assets to another entity. This Agreement will be binding upon and will inure to the benefit of the parties, their successors and assigns.

14. ARBITRATION CLAUSE

Any disputes arising out of or in relation with this Agreement shall be finally settled under the CEPANI Rules of Arbitration (www.cepani.be).

The arbitral tribunal shall be composed of one arbitrator. The seat of the arbitration shall be Brussels. The arbitration shall be conducted in the English language. The applicable rules of law are the laws of Belgium, with the exclusion of the Belgian conflict of Laws rules.

The parties further undertake to apply the CEPANI rules of technical expertise for all disputes arising out of or in relation with this Agreement.

"Dispute" means any dispute, controversy or claim arising under, out of or relating to the present Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims.

For exceptions or modifications to this Agreement, please contact Service Provider at:
Address: Diamant conference and business centre, Auguste Reyerslaan 80,
1030 Brussels, Belgium
E-mail: info@wf-reptool.org