Licensing Terms for the seventhings SaaS Application and App (Last revised: November 2022)

§ 1 General Provisions

(1) ITEXIA GmbH, Hainstrasse 2, 01097 Dresden, Germany (hereinafter referred to as "ITEXIA") agrees to the use of *seventhings* by the *Licensee* and the *Users* exclusively subject to the terms and conditions set out below.

(2) *seventhings* is legally protected. As between ITEXIA and the *Licensee* and *User*, respectively, ITEXIA is solely entitled to the copyright, patent rights, trademark rights and all other proprietary rights in and to *seventhings.*

§ 2 Definitions

For purposes of these licensing terms:

1. *Assets* comprise specific items (e.g. furnishings and fixtures, IT equipment, devices, tools, and machines) for which *seventhings* is used to conduct inventories or administration;

2. A *Free License* is a royalty-free user license that permits the use, redistribution, and modification of copyrighted works under certain conditions specified in the associated licensing terms (e.g. for open source software under the BSD license or LGPL license or for images under the Creative Commons License);

3. *Primary Contract* refers to the agreement between ITEXIA, or an authorised distributor, and the *Licensee*, pursuant to which the *Licensee* uses *seventhings*;

4. *Content Data* refers to data uploaded to ITEXIA's servers by or on behalf of the *Licensee* or otherwise transferred to ITEXIA's IT systems by or on behalf of the *Licensee*;

5. *License Territory* refers to the territory of the Federal Republic of Germany, unless the *Primary Contract* provides otherwise;

6. *Licensee* refers to any natural or legal person or partnership to whom, as a party to the *Principal Contract,* rights to use *seventhings* are granted;

7. *Named User* refers to *Users* who access *seventhings* via a fixed log-in that has been assigned to them;

8. *User* refers any natural or legal person or partnership using *seventhings*, including without limitation the employees and executive bodies of the *Licensee.*

9. *seventhings* refers to the seventhings SaaS application to the extent agreed in the *Primary Contract*, and to the version agreed therein along with the App of the same name, including all components and enhancements supplied as well as any supplied documentation;

10. *Trial Version* refers to a version of √ provided for use free of charge for testing purposes.

11. *Unlawful* C*ontent Data* refers to *Content Data* that violates the law, a government order or morality, or contains or promotes malicious software. This includes, in particular, violations of the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz* - "AGG"), and provisions relevant to youth protection and data protection, criminal and anti-competitive acts, violations of third party rights, namely the general right of personality, the right to one's own image, copyrights, rights to a name, trademark rights, company rights and other industrial property rights, violations of a trade or business secret as well as pornographic, violent, discriminatory, religiously offensive, racist or right-wing extremist content, hate speech, spam and other unwanted advertising, viruses, worms, Trojans and phishing links.

§ 3 Scope of rights of use in seventhings

(1) ITEXIA grants to the *Licensee* a purely contractual and non-transferable right to use *seventhings* within the *License Territory* for a limited time. Termination of the right of use is governed by the *Primary Contract.* Any use outside the *License Territory* is prohibited.

(2) Subject to any agreements to the contrary on the *Primary Contract*, *seventhings* may only be used

a) Within the *Licensee's* business;

b) For the number of *Named Users* agreed in the *Primary Contract*; and

c) For the number of *Assets* agreed in the *Primary Contract*.

(3) The right of use is limited to the purpose for which *seventhings* was licensed. Subject to any provisions to the contrary in the *Primary Contract*, *seventhings* may not be used in any manner that could result in significant harm to the *Licensee*, a third party or the environment. Subject to any provisions to the contrary in the *Primary Contract*, the use of *seventhings* is therefore prohibited, in particular, but not exclusively, to the extent such use

a)   Is related to the performance of animal or human experiments;

b)   Relates to vehicle production/design, to machines that directly control the manufacturing process of products, to systems that regulate the safe operation and control of road and rail vehicles, or to medical and laboratory technology; or

c)   Is in the fields of medicine, the military, armaments, the manufacture of weapons, nuclear power, or aerospace.

d)   In connection with other high-risk activities and/or

fields. *seventhings* is neither designed nor suitable for the activities and areas referred to in the preceding third sentence.

(4) All other forms of use, in particular renting, leasing or other uses of *seventhings* by and for third parties (e.g. by outsourcing, computer centre operations, application service providing, cloud services) are not permitted without prior written approval by ITEXIA.

(5) *seventhings*, documents, proposals, test programs and other property of ITEXIA associated with *seventhings* to which the *Licensee* is provided access before or after conclusion of the *Primary Contract* are deemed to be the intellectual property and trade and business secrets of ITEXIA. To the extent not otherwise provided above, they may not be used in any form without written authorisation by ITEXIA and must be kept confidential as provided in Section 8 ("Confidentiality").

(6) In cases in which the *seventhings* is provided gratuitously, ITEXIA solely grants a contractual right of use in and to *seventhings* within the *License Territory*, that is non-transferable, limited in time, and freely revocable at any time by ITEXIA. The right of use ends, without the need for revocation or termination, after expiry of the period specified for free use. The following additional restrictions also apply: *Trial Versions* may only be used to test whether *seventhings* is suitable for the intended use by the *Licensee* or the *User*, respectively; any use in a production environment is prohibited.

§ 4 Analysis and testing of seventhings and reverse engineering

(1) Without the consent of ITEXIA, the *Licensee* and the respective *User* may observe, examine, or test the functionality of *seventhings* only in order to determine the ideas and principles underlying a program element if done so based on actions which the *Licensee* or the respective *User* is entitled to perform, in particular because they are covered by the intended purpose of the *seventhings* license.

(2) The performance of analysis and testing of *seventhings*, or use of results of such analysis and testing for the production of identical or similar software or identical or similar functionality

is prohibited. This also applies if such analysis and testing or, use of the results obtained therefrom are carried out without decompiling *seventhings*.

§ 5 Third-party programs and free licenses

(1) If *seventhings* contains or uses a third-party program or a program under a *Free License,* the license terms applicable to such programs shall apply rather than the terms of the instant licensing terms.

(2) Without limitation, *seventhings* contains or uses program libraries provided by third parties or under a *Free License*.

§ 6 Special obligations of the Licensee and Users

(1) The *Licensee* and the *Users* undertake:

1. To examine *seventhings* for functionality and to assure themselves of its correction functionality and application before using *seventhings* in a live environment;

2. To prevent all known and, with due diligence, discernible risks and dangers that could arise through the use of *seventhings* by taking appropriate security measures before launching *seventhings.*

(2) In addition, the *Licensee* undertakes:

1. To inform all *Users* about the instant licensing terms and to ensure that *Users* agree to these licensing terms; and

2. To inform *Users* of all possible risks and dangers associated with the use of *seventhings.*

(3) Unless otherwise agreed in the *Primary Contract*, the *Licensee* or the *User*, respectively, must provide the necessary hardware and software infrastructure and take the necessary precautions to prevent unauthorised access to its systems from external sources, loss of data and infection with and distribution of malware (e.g. by means of anti-virus programs, firewalls, penetration tests, data backup and in particular appropriate back-up routines in accordance with the respective state of the art for both data and programs, fault diagnosis, regular testing of the results, contingency planning).

(4) In cases in which *seventhings* is provided gratuitously and ITEXIA therefore reserves the right to suspend performance at any time and without advance notice, the *Licensee* or *User*, respectively, shall store any data they need separately so that they can continue to use such data after the suspension of performance.

(5) In addition, the *Licensee* and the *Users* are subject to rules of conduct intended to ensure the proper use of *seventhings* the violation of which may result in adverse consequences in particular the blocking of access by the *Licensee* or the relevant *Users*, termination of the *Primary Contract* and claims for damages. Without limitation, the *Licensee* and the *Users* are obliged not to use the *seventhings* in an unlawful or immoral manner and to respect the laws and the rights of third parties. This includes the following duties:

1. To ensure that no *Unlawful Content Data* is included prior to any processing of *Content Data*.

2. To the extent possible and reasonable, personal data shall be made unidentifiable, anonymized or pseudonymized before processing with *seventhings*.

3. If *Content Data* contains personal data (e.g. contact details of a contact person or an individual enterprise, data of an employee of the *Licensee*), all applicable data protection requirements must be observed, in particular informing the data subject sufficiently about the data processing concerned, obtaining any necessary consents from the data subject and documenting, and retaining evidence of compliance with applicable data protection requirements. Such records are to be destroyed as soon as they are no longer required. In addition, with regard to *Content Data*, the *Licensee* is the "controller" within the meaning of the EU General Data Protection Regulation and therefore, to such an extent, is responsible for compliance with all other obligations of a controller under the EU General Data Protection Regulation.

4. Prior to processing any *Content Data*, it must be ascertained whether the necessary rights to the work (e.g. texts, photographs, images, graphics) as well as to brand names, company names, logos and other trademarks and rights have been obtained. In the case of photographs, further verification is required as to whether the necessary consent has been obtained from persons depicted in such images; processing without such consent is not permitted.

5. Excessive loads on *seventhings* resulting from improper use are prohibited.

(6) The *Licensee* and the *Users* are required to

1. Provide complete and truthful information for required registrations and other queries necessary to achieve the purpose of the contract;

2. To the extent required at the time of registration, choose a username that may neither infringe the rights of third parties nor any other rights to a name or trademark or offend common decency;

3. Keep passwords secret and not disclose them to third parties under any circumstances and inform ITEXIA without undue delay if there are indications that their access is being or has been misused by third parties;

4. Inform ITEXIA of any subsequent changes to queried data without undue delay.

(7) The *Licensee* is required to compensate ITEXIA for any damages resulting from any breach of duty, unless the *Licensee* is not responsible for the damages concerned. The *Licensee* shall indemnify ITEXIA with regard to all harm experienced by ITEXIA as a result of claims made by third parties related to injurious acts of the *Licensee* for which the *Licensee* is responsible. ITEXIA is entitled to demand payment of a reasonable advance with respect to any costs of legal defence and/or legal advice.

(8) The provisions of paragraph (7) shall apply *mutatis mutandis* to the liability of the *User* to the extent that a *User* has breached an obligation incumbent upon it under these licensing terms unless the *User* is not responsible for the respective breach. If a breach of duty was committed by several *Users,* they shall be jointly and severally liable. Similarly, joint and several liability applies in cases in which the *Licensee* is liable along with one or more *Users*.

(9) This is without prejudice to additional obligations of the *Licensee* and the *Users* under the *Primary Contract* or applicable law.

§ 7 Right to block access

(1) ITEXIA may temporarily block access by the *Licensee* and/or a *User* for good cause and/or interrupt a connection to resources made available by ITEXIA to the *Licensee* via the Internet. Without limitation, ITEXIA has good cause to block and/or disable access in instances in which

1. The *Licensee* or the respective *User* violates any of the obligations set forth in Section 6 ("Special secondary obligations of Licensee and Users") respectively;

2. ITEXIA is notified by third parties that the *Licensee,* or the *User* concerned*,* is providing or disseminating *Unlawful Content Data* unless the allegation of infringement is clearly untrue; or

3. The *Licensee* is in default of payment, or a material portion of remuneration, and ITEXIA. has provided the *Licensee* a reasonable grace period for payment without result.

In cases described in sentence 2numbers (1) and (2) ITEXIA may temporarily block or permanently erase affected *Content Data* in lieu of disabling access.

(2) Blocking access, disabling connections, as well as blocking and/or deleting *Content Data* is only permissible following expiry of a period set for remedial action without result or following

a warning without result. Setting a deadline for remedial action and providing a warning are not required in cases where there has been a final refusal to perform or if there are special circumstances that justify such an action upon weighing the interests of both parties.

(3) In cases in which *seventhings* is provided free of charge, ITEXIA may temporarily block access by the *Licensee* and *Users* at any time and without cause and/or interrupt a connection to resources made available to the *Licensee* and *Users* via the Internet. ITEXIA may temporarily block or permanently delete affected *Content Data* in lieu of such an interruption.

(4) This is without prejudice to further claims and rights on the part of ITEXIA, in particular termination, suspension of performance, as well as claims for damages.

§ 8 Confidentiality

(1) The *Licensee* and the *Users* undertake to treat all information obtained from ITEXIA in connection with use of the software (e.g. information regarding the operation of the *seventhings* or included in user documentation and other documents) in the strictest of confidence, including beyond the term of the contract, unless such information becomes generally known without a breach of this non-disclosure obligation. The *Licensee* and the *Users* shall store and secure all such confidential information so are to prevent access by third parties.

(2) The *Licensee* and the *Users* will provide information required to be kept confidential pursuant to paragraph (1) only to those employees and other third parties who need such access to perform any duties assigned to them. They shall inform such persons of the need to maintain the confidentiality of such confidential information.

(3) This is without prejudice to additional obligations of the *Licensee* and the *Users*, respectively, under the *Primary Contract*, any separately concluded non-disclosure agreement, or under applicable law.

§ 9 Limitations of warranty and liability in case of gratuitous licenses

(1) Subject to any provisions to the contrary in the *Primary Contract*, the provisions of this Section 9 ("Limitations of warranty and liability in case of gratuitous licenses") shall apply in the event of the gratuitous transfer of, or grant of a right of use in, *seventhings*.

(2) ITEXIA is only obliged to compensate the *Licensee* for damage due to a material defect or defect in title if ITEXIA has acted intentionally, in particular fraudulently concealed a defect or fraudulently misrepresented the absence of a defect. Any and all further warranty rights due to material defects and defects in title are excluded.

(3) For claims not based on liability for material defects and defects of title (e.g. due to impossibility, delay, breach of secondary contractual obligations and tort), liability on the part

of ITEXIA for damages is limited in accordance with this paragraph (3). Strict liability on the part of ITEXIA ,as well as liability for simple negligence, is excluded. Furthermore, liability on the part of ITEXIA for gross negligence is excluded if the *Licensee*, or the *User* concerned, respectively, is an entrepreneur, a legal entity under public law or a special fund under public law and there is no injury to life, limb, or health.

(4) The exclusions and limitations on liability set out in this Section 9 ("Limitations of warranty and liability in case of gratuitous licenses") apply *mutatis mutandis* to claims for reimbursement of futile expenses.

(5) The exclusions and limitations on liability set out in this Section 9 ("Limitations of warranty and liability in case of gratuitous licenses") apply to the same extent for the benefit of the executive bodies, legal representatives, employees, and other agents of ITEXIA.

(6) The limitations of this Section 9 ("Limitations of warranty and liability in case of gratuitous licenses") do not apply to liability on the part of ITEXIA due to intentional conduct, in cases of fraudulent intent, in the event of the assumption of a warranty or in the event of claims under the Product Liability Act (*Produkthaftungsgesetz*).

§ 10 New Versions

These license terms shall continue to apply to any and all new versions of *seventhings* if, and for as long as, ITEXIA does not provide notice of any new license terms upon delivery of an update, upgrade, patch, or other new version of *seventhings.*

§ 11 Final Provisions

(1) These licensing terms are exclusively subject to the laws of the Federal Republic of Germany. This is without prejudice to mandatory consumer protection laws and regulations which apply in the country in which the consumer has their habitual residence.

(2) If the *Licensee,* or the *User* concerned*,* is a merchant, legal person under public law or a special fund under public law, or if the *Licensee* or the *User* concerned is not a consumer and does not have a place of jurisdiction in the Federal Republic of Germany, the exclusive place of jurisdiction for any and all disputes related to these licensing terms shall be the location of ITEXIA's registered office. In addition, ITEXIA may bring suit against the *Licensee*, or the *User* concerned, at any other lawful place of jurisdiction. This provision does not affect exclusive places of jurisdiction prescribed by law.

(3) The agreements related to the place of jurisdiction under paragraph (2) are based exclusively on the laws of the Federal Republic of Germany.