Software License Agreement

LICENCE AGREEMENT

<u>**AVIAVOX B.V.**</u> a limited liability company duly organized and existing under the laws of The Netherlands, having its principal place of business at Hoofdweg 848, 2132 MC Hoofddorp, The Netherlands, hereinafter referred to as "**AviaVox**"

and

<u>**XXX**</u>, hereinafter "**Customer**"

WHEREAS:

- AviaVox has developed an artificial voice system for airports (the AviaVox Software, as defined hereunder);
- AviaVox has the right to license the AviaVox Software (as defined hereunder) under a license agreement;
- AviaVox wishes to license the AviaVox Software to Customer and to provide Customization to the AviaVox Software be mutually agreed upon;
- The Parties recognize their mutual interest in entering into a written agreement, which sets forth the respective rights and obligations with respect to the Licensing of the AviaVox Software.

- This written agreement should set forth the terms and conditions under which AviaVox shall license the AviaVox Software and provide all related services to Customer (if ordered) and under which Customer shall accept the AviaVox Software. Customer shall, in consideration therefore, pay to AviaVox the agreed upon fees.

NOW THEREFORE, AND IN CONSIDERATION OF THE MUTUAL COVENANTS PROVIDED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. Definitions
The terms written with an initial capital in this Agreement shall have the meaning as defined hereunder:
- Acceptance: the written representation made, in accordance with the applicable provisions of this Agreement, by a duly authorized representative of Customer that each deliverable of the AviaVox Software meets all mutually agreed upon
- Affiliate: means and includes any entity which is owned by more than 50% by Customer;
- Agreement: this agreement, including its recitals and Annexes, and any modifications and updates made from time to time in accordance with the provisions thereof;
- Annex: any appendix attached to the body of this Agreement, which has been initialed by duly authorized representatives of both the Parties;
- Authorized location: The primary data centre location
- AviaVox Software: the computer program in object code and procedure statements in machine executable form including any and all improvements, corrections, modifications, Customizations, including New Versions and Releases as defined in the Maintenance Agreement, together with the Documentation, as listed in Annexes I and II;
- Competitor: A company in the business of developing or marketing software for artificial voice and packaging systems for airports.
- Customization: the changes or modifications on the basis of the Specifications as set forth in Annex III;
- Default: the position referred to in Article 6:81 of the Dutch Civil Code as "*verzuim*";

- Documentation: the Installation Manual and other reference documentation and descriptions related to the AviaVox Software supplied by AviaVox for use of the AviaVox Software, all in the English language;
- Effective Date: the date that both Parties have signed the Agreement;
- Equipment: the minimum dedicated computer machinery and manufacturer-supplied software as set forth in Annex IV;
- Error: a substantial deviation (in the design or functioning) of the AviaVox Software from the Specifications or the Documentation;
- Force Majeure: a shortcoming in performance that cannot be attributed to the obligor if it is neither due to his fault nor for his account pursuant to the law, a juridical (*legal*) act or generally accepted principles, as referred to in article 6:75 of the Dutch Civil Code, including any failure of any suppliers of AviaVox not due to their fault;
- Implement(ation): all activities on the part of Parties or third parties necessary to ensure the integrated successful operation of the AviaVox Software in Customer's organization and Customer's application environment, as described in Annex V.
- Intellectual Property Rights: copyright, trade secrets, trade names, trademark rights, design and patent rights or any other similar rights;
- License: the right of Customer, granted by AviaVox, to use the AviaVox Software subject to the licensing scope as set forth in the Agreement;
- Maintain/Maintenance: all support, whether regional or global, and all other Services necessary to correct Errors with respect to the AviaVox Software which are to be performed by AviaVox under a separate Maintenance Agreement;
- Parties: AviaVox and Customer;
- Passengers: natural persons (numbers annually held by IATA) that have visited Customer's airport for the purpose of their transport

- Rescission/Rescind: any Termination, which creates the obligation for the parties to undo, to the extent permitted and desired, performances rendered prior to the date of such Termination;
- Services: any and all services to be rendered by AviaVox under the Agreement;
- Source Code: the code of the AviaVox Software which is written in a higher programming language and in machine-readable form, as well as the preparatory materials, databases, software tools and libraries, test files, and all other materials and information, including technical Documentation, which are required for Maintenance, modification and correction of the AviaVox Software.
- Specifications: the functional or technical description of the AviaVox Software as set forth in Annex I to the Agreement;
- Support: all Services (including advice) with respect to the use and functioning of the AviaVox Software including Services in respect of Implementation of new versions, releases or updates of the AviaVox Software and the related Services in respect of AviaVox Software;
- Termination/Terminate: any manner through which an agreement is brought to an end, including Rescission;

2.   Rules of construction

In the event of any inconsistency between the various constituting parts of the Agreement, the following order shall apply, whereby any document mentioned in a category with a lower number shall prevail over any document mentioned in a category with a higher number, and whereby it is agreed that any document referenced in any document mentioned in a category hereunder, and not listed itself in any category hereunder, shall have the same rank and be as binding as the document through which it is referenced:

1. The body of this Agreement;
2. The recitals to this Agreement;
3. The Annexes to this Agreement.

The Agreement may be amended and Annexes may be attached hereto only by duly authorized representatives of the Parties who signed the Agreement, or any other member of the board of such party having the power to legally bind such party or having obtained a proxy from the aforementioned representative, and it is explicitly agreed that new Annexes or changes to any existing Annex shall not be binding if aforementioned procedure has not been followed.

The descriptive headings of this Agreement are intended for reference only and shall not affect the construction or interpretation of the Agreement. References to this Agreement are inclusive of Annexes that are specifically made applicable to this Agreement by their terms.
License

As of the Effective date of the Agreement, AviaVox grants to Customer and its Affiliates and Customer hereby accepts for itself and its Affiliates the License. The License is personal, non-transferable, non-assignable and non-exclusive and solely for the own internal business purposes of Customer and Affiliates, subject to the terms and conditions herein contained.

Customer is not permitted to hire or lease out, sub-license, alienate, grant any limited rights on or make available to any third party in any way or for any purpose whatsoever the AviaVox Software and any carriers on which it is recorded, not even where the third party concerned will use the AviaVox Software solely for Customer's benefit.

There are three principle types of annual fees for a License of the AviaVox Software:
1. Based on stand-alone usage
2. Based on a single connection to a Flight Information System
3. Based on a redundant connection to a Flight Information System
The amount of the annual License fee differs per type and is dependent on the number of Passengers a year. The annual fees will be calculated again at every new annual period. Customer shall pay the annual fees 12 months upfront.

Additionally, Customer may license the following extra modules that are not part of the standard AviaVox Software and for which Customer shall pay extra fees as set forth in Annex I:

- The Airline Gate Client (AGC) module
- The Remote Message Generator (RMG) module
- The AviaVox Information System (AVIS) module

The fees for these modules are based on the number of gates, location of use or on the number of outgoing PSTN-lines (outbound traffic) for which the modules will be used.

The prices of the types of annual Licenses are set forth in Annex VII to this Agreement.

The AviaVox Software is licensed for use on the Equipment and operating system set forth in Annex IV.

The AviaVox Software shall be provided in object code. The source code of the software and the technical documentation produced during the development of the software shall not be made available to Customer.

Customer acknowledges that the AviaVox Software (and the components thereof) contains unique, confidential and secret information and is the trade secret and confidential proprietary product of AviaVox and that all Intellectual Property Rights in and to the AviaVox Software (and the components thereof) are and shall remain exclusively with AviaVox. Customer shall not allow any person or entity to copy, modify, enhance or create derivative works or reverse engineer decompile,

disassemble, copy, use, disclose, disseminate, or otherwise exploit the AviaVox Software or any user manual or documentation provided along with AviaVox Software in whole or in part in any manner except as expressly permitted in this Agreement or under mandatory applicable law. Customer shall not disclose or otherwise make the AviaVox Software available to any person or entity other than its employees who are required to have such knowledge for normal use of the AviaVox Software. Customer agrees to obligate each such employee to a level of care sufficient to protect the AviaVox Software from unauthorized access, modification, enhancement, reverse engineer, decompile, disassemble, copy, use, disclosure, dissemination, or otherwise exploitation. These obligations are independent covenants and shall continue after the Agreement is terminated.

After Acceptance Customer is responsible for the use and operation of the AviaVox Software, including monitoring and verifying input and output data, back-up of input and output data, providing data for any files or tables of AviaVox Software, and for maintaining the required AviaVox Software operation environment.

Immediately after termination of the right to use the AviaVox Software, Customer shall return to AviaVox all copies of the AviaVox Software in its possession and Customer shall forthwith report to AviaVox in writing that it has no copies of the AviaVox Software in its possession.

3. Cooperation by Customer

Customer shall provide AviaVox, upon AviaVox request, as soon as reasonably possible any readily available information regarding the Customer and Affiliates' organization reasonably necessary for AviaVox to calculate the fees, in particular the number of Passengers per year on which the License fee shall be based and the ASCII-string from its Flight Information System. The Parties further recognize and acknowledge that AviaVox may require additional fees (in terms of number of Passengers) once per calendar year as set forth in Annex […].

4. Customization

This section is only applicable if Parties have agreed upon Customization.

As part of the Implementation AviaVox can carry out Customization in accordance with the Specifications and Customization items, efforts, costs and delivery schedules as set forth in the Annexes I and III if this is agreed upon in a Customization agreement.

The Customizations and the AviaVox Software shall operate in a fully integrated manner as from the Implementation of the Customizations/Software System.

The AviaVox Software shall include, at the latest with the Implementation of the then latest release of the AviaVox Software, Documentation that enables Customer to use and operate the AviaVox Software to the extent permitted under this Agreement. Customer is permitted to make as many copies of the Documentation as it considers reasonably necessary for normal use of the AviaVox Software.

5. Additional work

In the event Customer requires any addition or modification to the agreed AviaVox Software, AviaVox will, if possible, perform these additions or modifications under the same terms and conditions as set forth in this Agreement.

In the event that as a result of amendments to the functional or technical design, such amendments shall constitute additional work. All activities performed with the consent of Customer and all time spent by AviaVox on the preparation of the offer thereto, including any (preliminary) oral presentation with respect thereto, shall be compensated as additional work.

The provisions of this Agreement shall apply to all additional work to be performed by AviaVox on behalf of Customer, unless otherwise mutually agreed to by the Parties.

6. Acceptance

By installing, copying or otherwise using the AviaVox Software, Customer has accepted the AviaVox Software and has agreed that the AviaVox Software performs in accordance with the Specifications set forth in Annex I to this Agreement

7. Training

At Customer's request, AviaVox can provide user training with respect to the AviaVox Software for a maximum number of 10 employees of Customer. Customer shall decide which employees the training will be provided to.

At request of Customer, AviaVox shall conduct additional operations training for other employees of Customer. AviaVox shall charge these additional operations training separately as set forth in Annex VI.

8. Maintenance

AviaVox can provide Maintenance Services to Customer as from the end of the warranty period in accordance with a separate Maintenance Agreement that shall be considered as a sub agreement to this Agreement.

9. Fees and payment

Customer shall pay AviaVox the fees as set forth in Annex VII.

Customer shall pay an once-only basic fee for the AviaVox Software to be installed locally at the Customer's Equipment. Furthermore, Customer shall pay a recurring license fee to license the AviaVox Software.

Customer shall pay the fees for development of the Customization adjustments on a time and material basis as set forth in Annex III.

Invoices shall be paid within 30 days of the invoice, unless Customer informs AviaVox of specified objections within 5 (five) working days upon receipt. In the event of specified objections, the Parties shall further consult on the matter.

In the event that Customer fails to pay the amounts due within the agreed period, legal interest shall be due by Customer on the outstanding amount without any notice of default being required. Should Customer, after notice of default, fail to settle the claim, the same may be placed out of hand, in which case Customer shall be liable to pay in full, in addition to the total amount then due, any legal and non-legal expenses including any fees charged by external experts in addition to the costs assessed in court, relating to the collection of this claim or other enforcement of rights. Such expenses shall be at least 15% of the total amount due.

AviaVox is allowed to adjust the License fees and fees for Maintenance and Services once per calendar year in accordance with the price-index for commercial services ("*regelingslonen in de dienstverlening voor hoger personeel*") in the Netherlands of the CBS (Centraal Bureau voor de Statistiek), or for other valid reasons.

10. Intellectual property rights

The Intellectual Property Rights with respect to the AviaVox Software, including any Customization thereto, shall remain with AviaVox.

AviaVox shall indemnify and hold Customer harmless from and against any third party claim that the AviaVox Software and any part thereof, infringes any Intellectual Property Right or is otherwise unlawful and, subject to the terms of this Agreement, AviaVox shall pay resulting costs, damages and legal fees incurred by Customer, provided that (i) the AviaVox Software is used in conformity with the License and this Agreement, (ii) Customer shall promptly notify AviaVox of any such claim. AviaVox shall have sole control of the defense and all related settlement negotiations and Customer shall co-operate with AviaVox in such defense and negotiations. Notwithstanding the foregoing, AviaVox shall not be liable for any infringement or third party claim to that effect, to the extent such infringement or claim is based upon the use of the AviaVox Software (i) in combination with Equipment or third-party software not supplied by AviaVox, or (ii) as modified by Customer without AviaVox 's written authorization.

If a claim, as set forth in clause 0 has occurred, or in the reasonable opinion of AviaVox is likely to occur, AviaVox shall have the right, at its option and expense and without prejudice to the above clause 0either (i) to procure for Customer the right to continue using the AviaVox Software or (ii) to replace or modify the same, while retaining substantially the same functionality, so that it becomes non-infringing.

AviaVox shall have no liability for any claim by Customer or another third party, which is based upon the use of any part of the AviaVox Software in combination with materials or software not provided by AviaVox, if these materials or software not provided by IFS are the cause of such claim by Customer or another third party.

Customer warrants that it has not infringed any rights of any third party in communicating its requirements to AviaVox.

11. Warranties

AviaVox warrants that the AviaVox Software will operate on the Equipment and will perform in conformity with the functions specified in the Documentation and the Specifications during the valid subscription period of 12 months after delivery. During such period AviaVox shall do the

best of its ability to provide replacements or corrections to any part of the AviaVox Software which does not so perform, provided that Customer has notified AviaVox of such non-performance in writing within such period of twelve months (12 months). AviaVox shall not

however provide such corrections to Customer where the non-performance of the AviaVox Software is caused by Customer's unauthorized changes or adjustments to the Software System, or by incorrect use, or by use on equipment not performing in accordance with the manufacturer's specification. AviaVox does not guarantee that the AviaVox Software will function without interruption or Errors or that all Errors will be rectified.

AviaVox disclaims any warranty, that the AviaVox Software is secure or immune from: (i) access, intrusion, corruption, modification or manipulation by an unauthorized third party; or, (ii) disabling code or computer viruses; or, (iii) Errors resulting from any of the causes specified in (i) and (ii) above (collectively, "Prohibited Activities"). AviaVox shall have no liability whatsoever for such Prohibited Activities and Customer, as the user of the Licensed AviaVox Software, agrees upon delivery thereof to assume the entire risk and liability for Prohibited Activities.

After the period of guarantee referred to in article 12.1 above, AviaVox shall not be bound to correct any Errors unless the subscription period is automatically renewed for another period of 12 months between parties.

12 Confidentiality

In this clause "Confidential Information" shall mean any information whether verbal or written which is related to the business of the disclosing party (or its affiliates being subsidiaries, holding company and its subsidiaries) or is designated as proprietary and/or confidential herein or otherwise by any party (or its affiliates) in connection with this Agreement

Each party undertakes to keep and maintain all Confidential Information in the strictest confidence from the date of signature of this Agreement, and shall not disclose such information to any third party without the prior written consent of the disclosing party except as may be necessary in connection with the performance of this Agreement.

13 Force Majeure

In the event of Force Majeure, performance of the affected obligations, and other obligations dependent on them, shall be suspended in whole or in part for the period of Force Majeure, without any obligations on either side to pay damages.

If a situation of Force Majeure has lasted for more than ninety (90) days, the parties shall be entitled to Rescind the Agreement by rescinding in writing. In that case any performance that has already taken place pursuant to the Agreement shall be settled proportionally without either Party being thereafter indebted to the other in any other amount.

14 Liability

Parties shall in no event be liable for any indirect damages, including lost profits, loss of use, loss of data, loss of business or loss and/ or deformation of data as a consequence of the use and transport of such data through a public network (e.g. internet) whether or not the relevant party has been advised on the possibility of such damages.

The total liability of AviaVox in respect of a failure to perform the Agreement shall be limited to making compensation for any direct loss up to the considerations (not including VAT) agreed for one year. In no event, however, shall the total compensation for any direct loss exceed € 100.000,- (onehundredthousand euro).

By 'direct loss' shall only include:
  a.   the reasonable expenses which Customer would have to incur to have AviaVox performance fulfill the Agreement. However, such loss shall not be made good if Customer has Rescinded the Agreement;

b. reasonable expenses incurred in determining the cause and extent of the loss insofar as such determination relates to any direct loss within the meaning of this Agreement;

c. reasonable expenses incurred in preventing or reducing a loss insofar as Customer proves that such expenses have resulted in a reduction of any direct loss within the meaning of this Agreement.

AviaVox's liability in respect of a failure to perform an Agreement as is imputable to the same shall not arise unless Customer forthwith and properly declares AviaVox in default in writing, stating a reasonable period in which to remedy the failure, and AviaVox continues, and can be blamed for continuing, to fail in the fulfillment of its obligations even after such period. The notice of default must specify the failure in as much detail as possible, so that AviaVox will be able to react adequately.

No right to damages shall ever arise unless Customer reports the loss to AviaVox in writing as soon as possible after it has arisen.

15 Term and Termination

The term of this Agreement shall be three (3) years as from the Effective Date. The Agreement shall automatically be renewed for another period of three (3) years.

This Agreement may be Terminated only to the extent provided in this Agreement.

In the event that Customer fails to perform one or more of its obligations under this Agreement, the other party shall give notice of default The notice of default shall be in writing and shall grant the defaulting party a period of maximum 10 days to perform. Without prejudice to any other provision in this Agreement, Default shall be deemed to exist if such period of time will have elapsed without full and proper performance.

Without prejudice to any other provisions in this Agreement, either party shall have the right to Terminate this Agreement for the future, at its own discretion in whole or in part, with immediate effect and without any notice of Default being required, in the event that and at such time as:

- the other party files for or is granted a moratorium on payments of its debts ("*surcéance van betaling*") or reaches an agreement with its creditors to pay only parts of its debts;
- the other party files for bankruptcy ("*faillissement*") or is declared bankrupt;
- goods provided by or on behalf of the other party in connection with this Agreement are attached by a third party, and such attachment is not lifted within a short period of time, however only to the extent that the first party may reasonably conclude that its interests could be seriously prejudiced as a result of the attachment or the underlying problems or disputes;
- the other party is a legal entity which is dissolved;
- the control of the other party is transferred to a third party and such transfer may in the reasonable opinion of the first party be to such first party's detriment or may otherwise be deemed reasonably undesirable;

Termination (including, for the avoidance of doubt, Rescission) of this Agreement explicitly does not release Parties from those obligations which, by their nature, are intended to remain in effect, including the provisions with respect to confidentiality, intellectual property, liability and applicable law and dispute resolution.

On Rescission of this Agreement by AviaVox, AviaVox shall be entitled to recover possession from Customer of all copies of the AviaVox Software (however amended) supplied to or provided to Customer and/ or require Customer to destroy the same and certify on oath that it has done so.

16 Applicable law and dispute resolution

This Agreement, and any dispute arising as a result thereof or in connection therewith, shall be governed by the laws of The Netherlands.

The Parties shall attempt to resolve any dispute that may arise between them through good faith negotiations on a management level before initiating legal proceedings.

Any dispute which may arise between Parties with respect to this Agreement, which is not settled amicably on the basis of good faith negotiations, shall be submitted to the competent courts of the Netherlands, in accordance with Dutch rules of law.

17 Miscellaneous provisions

General conditions of Customer shall not apply.

The Agreement contains all rights and obligations between Parties with respect to the subject hereof, and supersedes any and all previous agreements, commitments and/or arrangements with respect thereto.

Any provisions of the Agreement shall not apply to the extent that they are conflicting with any applicable provisions of mandatory law. In the event that any provision of the Agreement is null and void or otherwise unenforceable, the validity of the remaining provisions of the Agreement shall not be affected and the Parties shall in good faith negotiate new provisions replacing the affected provisions.

IN WITNESS WHEREOF THIS AGREEMENT IS SIGNED IN DUPLICATE IN
[…] on […]

AviaVox B.V.   Customer

_____   _____