

## TERMS AND CONDITIONS

### **LocalSolver License and Services Agreement**

Please read the terms and conditions of this license and services agreement carefully. By downloading LocalSolver, the Client is accepting the terms and conditions of this license and services agreement (the « Agreement »).

This Agreement is made and entered into between:

**LocalSolver**, a company under French law, registered with a Trade and Company Register of Paris under number 499 282 143, represented by Gilles ZANCANARO, its Chairman, duly empowered (The “**Licensor**”)

And,

The “**Client**” who downloads LocalSolver on the website [www.localsolver.com](http://www.localsolver.com)

The Licensor and the Client are collectively referred to herein as “**Parties**” and individually as “**Party**”.

### RECITALS

LocalSolver is a mathematical optimization solver. LocalSolver takes as input an optimization problem defined in a mathematical formalism and tries to find a solution to this problem. LocalSolver can be used through its modeling language, namely LSP, or its application programming interfaces in Python, Java, C#, or C++.

This Agreement contains the terms and conditions under which the Licensor agrees to provide to the Client a License on the LocalSolver software and the services described hereafter on LocalSolver.

### Article 1 – Definitions

The following terms, when written with a capital first letter, either in singular or plural, shall have the meanings defined in this article 1.

“**Bypass**”: means a procedure or a software modification that circumvents an Error.

“**Confidential Information**”: means any nonpublic data or information, oral or written, treated as confidential that is disclosed by either party (the “**Disclosing Party**”) to the other party (the “**Recipient**”) relative to the Disclosing Party’s past, present or future research, development or business activities, including but not limited to LocalSolver, the Services and the Agreement. Confidential Information shall not be deemed to include information that (i) is publicly available or in the public domain at the time disclosed, (ii) is or becomes publicly available or enters the public domain through no fault of the Disclosing Party, (iii) is already in the Recipient’s possession free of any confidentiality obligations with respect thereto at the time of disclosure.

“**Correction**”: means a software modification that resolves an Error and result in a correction operation of LocalSolver.

**“Error”**: means a reproducible failure of LocalSolver to conform to its Documentation. In no event, the inability for LocalSolver to find a feasible solution to the input problem shall be considered as an error.

**“License”**: means the Academic License and/or the Trial License and/or the Development License and/or the Production License granted by the Licensor on LocalSolver and its Documentation to the Client. The type of the License (Academic, Development or Production) is indicated on the Purchase Order signed by the Client. The Client does not need to sign a Purchase Order for a Trial License.

**“License Effective Date”**: means (i) for the Academic License and Trial License, the date on which the Client downloads LocalSolver on the website [www.localsolver.com](http://www.localsolver.com) and (ii) for the Development License and Production License, the date written on the the Purchase Order.

**“License Fees”**: means the fees, the amount of is indicated in the Purchase Order, paid by the Client in consideration of the License.

**“License Key”**: means the key sent by the Licensor to the Client in order to allow the Client to use LocalSolver pursuant his type of License.

**“License Period”**: means the periods indicated in article 7.1 for each type of License.

**“LocalSolver”**: means the software downloaded by the Client from the website [www.localsolver.com](http://www.localsolver.com).

**“Local Network”**: refers to computers located on a single physical site, including the surrounding campus and satellite offices located within 1 kilometer of the Client site address.

**“Documentation”**: means the documentation included in the package downloaded by the Client from the website [www.localsolver.com](http://www.localsolver.com).

**“Purchase Order”**: means the purchase order signed by the Client to order a License acquired for valuable consideration and the Services if needed. The Purchase Order indicates the type of License, the License Fees, and the License Period.

**“Services”**: means the maintenance and support services provided by the Licensor to the Client pursuant to article 5.

**“Services Days”**: means the days during which the Services will be available for the reporting of Errors, from Monday to Friday, during French working days, from 9:00 AM to 5:00 PM Paris Time (**“Services Hours”**) from 2<sup>nd</sup> January to 24<sup>th</sup> December of each year.

## **Article 2 – Purpose**

This Agreement sets forth the terms and conditions under which the Licensor agrees to grant to the Client the License and to perform the Services on LocalSolver.

## **Article 3 – License**

3.1 There are four different types of License:

### 3.1.1 “Academic License”:

The use of this Academic License is limited to education and research purposes only and comes with absolutely no warranty.

The Client must be an entity specialized in education and research in order to benefit of the Academic License.

The Client asks for an Academic License on the website [www.localsolver.com](http://www.localsolver.com) and the Licensor decides, on his own discretion, if he grants the Academic License or not.

The Academic License is free when limited to 1 computer and 1 simultaneous use. Except this case, License Fees shall be paid by the Client to the Licensor. The License Key will be sent to the Client after receipt of the Purchase Order by the Client and payment of the License Fees.

Any commercial use is strictly prohibited.

Only strictly personal use is authorized. Using the software (whether for a fee or not) for the benefit of any other entity is forbidden to the Client regardless of the commercial or non-commercial nature of this entity.

### 3.1.2 “Trial License”:

A time-limited Trial License can be granted by the Licensor on demand, on the Licensor own discretion, for a specified period. The use of this Trial License is limited to evaluation purposes only and comes with absolutely no warranty.

Any commercial use is strictly prohibited.

### 3.1.3 “Development License”:

Any Development License is granted by the Licensor for development purposes only. use. To develop means to model optimization problems by using the LocalSolver programming language (namely LSP) or its application programming interfaces (namely Python, Java, C#, or C++ APIs).

License Fees shall be paid by the Client to the Licensor. The License Key will be sent to the Client after receipt of the Purchase Order signed by the Client and payment of the License Fees.

### 3.1.4 “Production License”:

Any Production License is granted by the Licensor to exploit an application based on LocalSolver inside a company. Here to exploit means to use the results produced by an application based on LocalSolver for business or industrial purposes.

License Fees shall be paid by the Client to the Licensor. The License Key will be sent to the Client after receipt of the Purchase Order signed by the Client and payment of the License Fees.

## 3.2 Conditions for all types of License

The Licensor grants to the Client a nonexclusive and nontransferable right to use LocalSolver during the License Period.

This usage is limited to 1 identified computer or to several identified computers on a Local Network, with a given maximum number of simultaneous uses, as defined in the Purchase Order. Licenses granted on a free basis are always limited to 1 identified computer and 1 simultaneous use.

Licenses are granted to the Client only and cannot be made available to any other company, by any mean.

The associated License Keys are locked to identified computers. An application developed by the Client and running on one of the allowed computers may not be accessed directly or indirectly by other computers (even within the same company and on the same Local Network), unless stated otherwise in the purchase order.

LocalSolver remains the entire and exclusive property of the Licensor.

The License prohibits redistribution, transfer or resale of LocalSolver.

The Client may make a reasonable number of copies of LocalSolver in machine-readable, object code form, for nonproductive backup purpose only.

The Client may not use, copy, modify or distribute LocalSolver, or make any copy, adaptation, transcription, or merge any portion thereof, except as expressly authorized by the Licensor by written notice. The Client may not reverse assemble, reverse compile, or otherwise translate LocalSolver.

This License cannot be transferred, leased, assigned, or sublicensed by the Client. The Client cannot make LocalSolver available to a third party, whether against payment or not.

This License may be terminated automatically by Licensor, without prior written notice, in the event of a breach of any Client's obligation under this Agreement.

#### **Article 4 – License Fees**

**4.1** The Academic License is free when limited to 1 computer and 1 simultaneous use.

**4.2** The Trial License is free.

**4.3** Subject to articles 4.1 and 4.2, the Client shall pay to the Licensor the License Fees in consideration of the License granted by the Licensor.

The License Fees shall be paid by the Client to the Licensor in order to receive the License Key for a License.

Any amount due in respect of the License shall be invoiced and payable in euro, or in the currency stated in the purchase order.

The payment of the License Fees to the Licensor by the Client shall be made upon receipt of the invoice.

In case of late payment by the Client, the sum not paid at the payment due date shall, automatically and without notification, bear interest until paid at a rate of 3 times the legal interest rate in force in France on the payment due date, without prejudice to the damages that may be sought by the Licensor.

Furthermore, the Licensor shall be entitled to obtain from the Client, as a minimum, automatically, without prior notification, a fixed sum of 40 euros as compensation for recovery costs. If the amount of the recovery costs exceeds that fixed sum of 40 euros and is duly documented, the Licensor may ask for an additional compensation.

The Licensor shall send bills to the Client at the address indicated by the Client on the Purchase Order.

The Client shall pay, in connection with a License, any tax applicable at the date of the invoice.

### **Article 5 – Description of Services**

**5.1** For free Licenses, the Services are not available. Otherwise, for Licenses purchased through a Purchase Order, the Services are necessarily subscribed together with the License.

**5.2** The Licensor shall, during the License Period and subject to the payment by the Client of the License Fees, make any reasonable commercial effort to correct or circumvent possible Errors identified by the Client, and notified by the Client to the Licensor, in the latest release of LocalSolver.

The Licensor shall not have to furnish Correction or Bypass on LocalSolver if LocalSolver is modified by the Client or by a third party, unless the Licensor has given prior written agreement to integrate such modifications.

**5.3** The Client shall notify to the Licensor an Error by e-mail sent to the Licensor at the following address: [contact@localsolver.com](mailto:contact@localsolver.com). Such notification shall only be made by the Client. Support will be initiated at most 24 Services Hours after the receipt of his email.

The Client is responsible for providing any input and output data necessary for the reproduction of the Error.

**5.4** The Licensor may, during the License Period and subject to the payment by the Client of the License Fees, furnish to the Client some updates and some upgrades of LocalSolver, that is, some new releases of the software which correct bugs and add capabilities to LocalSolver.

**5.5** During the License Period, the License Key may be transferred at most once to another computer. The Client commits himself to destroy the previous License Key without keeping any copy.

### **Article 6 – Warranty and Limitation of Liability**

**6.1** The Licensor does not warrant that LocalSolver will be error free in all circumstances.

The Licensor has provided the Client with the necessary Documentation in connection with LocalSolver.

Therefore, the Client knows if the specifications of LocalSolver confer with its expectations. The Client has examined the Documentation provided to it and accepts the terms and conditions of this Agreement. The Client shall be solely responsible for the gap between its real needs and the specifications of LocalSolver.

The Licensor warrants only that the Services will be performed in a good and workmanlike manner in accordance with the industry standards. Notwithstanding the Licensor's reasonable efforts towards correction, the Licensor does not warrant that every Error can or will be corrected or bypassed.

**6.2** Except as expressly stated in article 6.1, there are no other warranties, express, implied or statutory provided under this Agreement. All implied warranties, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose and non-infringement are disclaimed.

The above warranties do not apply to defects resulting from accident, disaster, improper or inadequate use, maintenance or calibration by the Client or third party, unauthorized modification or repairs, improper electrical current, misuse, abuse, improper installation, environment conditions that do not conform to the Licensor specifications, or loss or damage in transit.

**6.3** The Licensor will only be liable to the Client for direct damages.

To the extent permitted by law, in no event, the Licensor will be liable to the Client or to any third party in connection with the Agreement, the License and/or the Services, for any loss of profits, loss of business, loss of data or interruption of business nor for indirect, special, incidental or consequential damages of any kind, whether in an action in contract, tort, (including negligence) product liability or otherwise, even if the Licensor has been advised of the possibility of such loss or damage.

To the extent permitted by law, in no event, the Licensor's liability (including the liability of Licensor's officers or employees), whether based on an action or claim in contract, tort or otherwise, including but not limited to negligence and strict liability, to the Client shall exceed the amounts actually paid to the Licensor by the Client for the License and the Services, over the 12 last months ended on the date of the claim.

**6.4** The Licensor does not make any representation or give any warranty to the Client in connection with Licenses granted to the Client on a free basis and accordingly, in no event, the Licensor, including the Licensor's officers or employees, shall incur any liability, in connection with the download and/or the use of LocalSolver by the Client, whether based on an action or claim in contract, tort or otherwise, including but not limited to negligence and strict liability.

By agreeing the terms and conditions of this Agreement, the Client hereby acknowledges that he is using LocalSolver at his own risk and, accordingly, the Client waives, irrevocably, any right of action or claim he may have against Licensor or any of his officers or employees.

**6.5** The Licensor does not make any representation or give any warranty to a Client who does not pay the License Fees.

## **Article 7 – Term and Termination**

### **7.1 License Period**

**7.1.1** The Academic License is granted by the Licensor for a 30-day period from the License Effective Date.

**7.1.2** The Trial License is granted by the Licensor for a 30-day period from the License Effective Date.

**7.1.3** The Development License or the Production License is granted by the Licensor from the License Effective Date for the period defined in the Purchase Order.

### **7.2 Term of Services**

The Services commence on the License Effective Date and shall remain into effect for the period defined in the Purchase Order.

### **7.3 Termination of the Agreement**

This Agreement may be terminated by Licensor without prior notice automatically in the event of a breach of any Client's obligation.

The provisions of Articles 6, 7, 8 and 10 shall survive to the termination of this Agreement for any reason.

## **Article 8 – Governing Law – Dispute Resolution**

This Agreement shall be governed by and construed in accordance with the laws of France.

Any claim, controversy, dispute arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of the competent Paris Court (France). The Client irrevocably waives any right it may have to object an action being brought in this Court, to claim that the action has been brought in an inconvenient forum, or to claim that this Court does not have jurisdiction.

## **Article 9 – Transfer and outsourcing**

The Client shall not transfer in any way this Agreement to any third Party.

The Licensor may transfer in any way this Agreement on the condition that the Client is informed by the Licensor prior to the transfer.

The Licensor may outsource the execution of the Services to any outsourcer on the condition that the Client is informed by the Licensor prior to the outsourcing.

## **Article 10 – Confidentiality**

Neither Party shall disclose any Confidential Information during this Agreement and during a three-year period after the termination of this Agreement for any reason, unless required by law. Recipient shall provide written notice to Disclosing Party without undue delay of any misuse or misappropriation of Confidential Information which may come to the attention of Recipient.

The Disclosing Party retains all rights on Confidential Information disclosed and grants no license or right to the Confidential Information to the Recipient, either expressly or by implication. All Confidential Information provided under this Agreement is provided "AS IS" and specifically excludes any warranty, whether express or implied, including without limitation, any implied warranty of merchantability, fitness for a particular purpose, or accuracy.

**Article 11 – Force Majeure**

No Party to this Agreement shall be in default of this Agreement to the extent that any delay or failure in performance of its obligations results from or arises out of a force majeure event (as this term is defined by French Tribunals and Courts).

The Party invoking a force majeure event shall notify the other Party as soon as reasonably possible of the nature and occurrence of the force majeure event.

Within 30 days from the date of the notice, the Parties shall endeavor to mutually agree on an appropriate extension of time for the performance of the obligations which were affected by the force majeure event. If the Parties are unable to agree on any such extension within this 30-day period, the Party who is subjected to the force majeure event may terminate the Agreement with a prior written notice to the Party invoking the force majeure event.

**Article 12 – Client acceptance**

The present terms and conditions are expressly agreed and accepted by the Client who declares and acknowledges complete awareness of them and, in consequence, relinquishes the right to impose any contradictory document, particularly his own purchasing terms and conditions.