

LICENSE AGREEMENT FOR AUDIENCE RESPONSE SYSTEM SOFTWARE

THIS license agreement for audience response system software is a legal agreement between You (either an individual or an entity), hereinafter in this agreement referred to as “**You**” and as “**Licensee**”, and Sendsteps B.V., a company with limited liability and having its registered office at Overhoeksplein 2, 1031 KS Amsterdam, hereinafter referred to as “**Sendsteps**”, for the use of software applications in accordance with the terms and conditions further set out below. The software may also contain any updates and upgrades that Sendsteps may provide to You, or that You obtain after the date on which You obtain the initial copy of the software, to the extent that such software items are not accompanied by a separate or additional license agreement or general conditions. By installing, copying, downloading, accessing or otherwise using the software, you agree to be bound by the terms and conditions of this license agreement. If You do not agree to the terms of this license agreement, you have no rights to the software and should not install, copy, download, access or use the software in any way, the parties above hereinafter separately referred to as “**Party**” and jointly as “**Parties**”,

WHEREAS:

- Shakespeak is a brand name of Sendsteps B.V.
- Sendsteps has developed a software tool comprising an audience response system to electronically vote and ask questions during a presentation via a branded Sendsteps response website, Twitter or SMS. The audience response system furthermore consists of a PowerPoint add-in software program and a management portal;
- Licensee has requested Sendsteps to make these systems available to Licensee by granting Licensee a license, and
- Sendsteps is willing to grant such license under the terms and conditions set forth in this license agreement and all its schedules thereto (together referred to as the “**Agreement**”),

HAVE AGREED AS FOLLOWS:

1. DEFINITIONS

The following terms when used in this Agreement shall have the respective meanings ascribed thereto below:

1. “**Administrator**” means the person or entity responsible for activating and administrating all Authorized Users’ accounts specified in the Order Form during the Term of this Agreement;
2. “**Authorized Users**” means the users duly and explicitly granted access and user rights to the Licensed Technology by Sendsteps, as specified in the Order Form;
3. “**Facilities**” means any telecom network connection and/or WiFi connection and a Microsoft Windows™ computer connected to the internet with Microsoft PowerPoint™ software installed;
4. “**Improvement**” means any enhancement, addition, modification, derivative work or change (whether or not patented or patentable) in or with respect to the Licensed Technology;
5. “**Licensed Technology**” shall mean all (software) elements, services and functionality of the audience response system, including the Sendsteps add-in software program and the management portal. The software allows for real-time interaction during a PowerPoint presentation between the audience and the presenter via laptops, tablets and smartphones;
6. “**Order Form**” means the document setting out Licensee’s order, as included as Schedule A to this Agreement;

7. “Schedules” means all schedules to this Agreement, as further defined in clause 9 below;
8. “Start Date” means the date specified in the Order Form, on which the license as set forth in clause 2.1 below was granted to Licensee,
9. “Term” means the term of the Agreement, as further defined in clause 5 below.

2. GRANT OF RIGHTS

1. Subject to the terms and conditions of this Agreement, Sendsteps hereby grants to Licensee, and Licensee hereby accepts, a non-exclusive and non-transferable license to use the Licensed Technology for the Term of this Agreement (“License”). The License does not include the right to assign the License or grant sub-licenses, except that Licensee may - upon receipt of prior written consent from Sendsteps and at additional charge - grant sub-licenses to its affiliates and/or subsidiaries at the rates specified in the Order Form. The License allows Licensee to use the Licensed Technology both within its own organization and at Licensee’s clients.
2. Licensee may not use the Licensed Technology in any other manner than as specified in clause 2.1, without Sendsteps’ prior written consent. Any implied licenses in the Licensed Technology are hereby explicitly excluded.
3. If so desired, Licensee may upgrade any aspect of and therewith broaden the scope of the License at any time during the Term, at the rates specified in the Order Form. Licensee is entitled to upgrade the License either on a day-to-day basis or for the remainder of the Term.
4. It is expressly acknowledged and agreed between Parties that the Licensed Technology is merely licensed to Licensee for the Term by Sendsteps and not sold and/or transferred in any way to Licensee.

3. LICENSE RESTRICTIONS

1. Except as explicitly permitted in clause 2.1, to the maximum extent permitted by Dutch law, Licensee shall not (neither explicitly permit any third party to):
 - a) copy, reproduce or (externally) distribute any part of the Licensed Technology;
 - b) assign, sub-license, lease, rent, loan, disclose or otherwise make available any part of the Licensed Technology or grant (limited) rights to any part of the Licensed Technology;
 - c) change, modify, adapt, alter, translate, make error corrections or create derivative works from any part of the Licensed Technology, and
 - d) reverse assemble, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code of any part of the Licensed Technology.

4. FEES

1. Licensee shall pay to Sendsteps the fees specified in the Order Form (“License fees”). Licensee may be due additional fees upon any change of use of the Licensed Technology, insofar as such change of use has been approved by Sendsteps.
2. Sendsteps shall invoice the License fees on the Start Date. Licensee shall pay any installment of the License fees to Sendsteps within 30 days of receipt of the applicable Sendsteps invoice.
3. Licensee may opt for the License fees being deducted directly from its banking account. If the Licensee fees are paid via automatic deduction, an order of Licensee to its bank resulting in the automatic deduction process to stop, will be considered an early termination as referred to in clause 5.1 below. The aforementioned will not lead to a refund of any License fees already paid to Sendsteps.
4. License fees do not include taxes (such as withholding taxes and VAT).

5. All (stamp) duties, taxes (such as withholding taxes and VAT) and other similar levies arising from or in connection with the conclusion of this Agreement, shall be borne by Licensee.

5. TERM

1. This Agreement is effective as of the Start Date and has a Term of one (1) month and will be automatically tacitly renewed for a period of one (1) month, unless either Party has informed the other Party in writing that said Party is terminating the Agreement with immediate effect.

2. During the Term the Administrator has the right to upgrade the License, on Licensee's behalf and account, electronically via Sendsteps' website. Each upgrade starts a new Term as stipulated in clause 5.1.

3. If Licensee downgrades its License via the internet to a so-called 'free account', for which no specific license needs to be obtained, this will be considered an early termination as referred to in clause 5.1. The aforementioned will not lead to a refund of any License fees already paid to Sendsteps.

6. SENDSTEPS' RESPONSIBILITIES

1. During the Term, Sendsteps shall:

- a) make reasonable best efforts to provide Licensee with continuous access to the Licensed Technology;
- b) make reasonable best efforts to provide Licensee with updates of the Licensed Technology generally made available to Sendsteps' Licensees,
- c) provide Licensee at the start of the License with a one-hour training session regarding the use of the Licensed Technology free of charge.

7. LICENSEE'S RESPONSIBILITIES

1. Licensee shall:

- a) ensure that the number of users of the Licensed Technology does not exceed the number of Authorized Users and shall ensure that the access codes provided to Authorized Users will not be shared with other people/parties;
- b) ensure that the Licensed Technology is installed on Microsoft Windows™ computers with the Microsoft PowerPoint™ software only;
- c) always install and use the latest available version of any part of the Licensed Technology as provided by Sendsteps;
- d) notify Sendsteps as soon as it becomes aware of any unauthorized use of the Licensed Technology by any person/party;
- e) in the event of d), pay, for broadening the scope of the License granted pursuant to clause 2.1 to cover the unauthorized use, an amount equal to the License fees which Sendsteps would have levied (in accordance with its then current normal commercial terms) had it licensed any such unauthorized use on the date when such use commenced.

8. INDEPENDENT CONTRACTORS

1. Sendsteps and Licensee are and intend to remain independent contractors. Nothing in this Agreement shall be construed as an agency, joint venture or partnership between the Parties.

9. MISCELLANEOUS

1. If any part or parts of this Agreement shall be held invalid or unenforceable for any reason, the validity of the remaining part of the Agreement shall not be affected thereby and continue in full force and effect. If any provision of the Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to read as so limited.
2. A waiver or failure by a Party to enforce its rights under this Agreement at any time in respect of any breach of any term of this Agreement by the other Party or otherwise shall not be deemed a waiver of such breach, or any breach of any term of this Agreement, or of any right in the future and shall not prevent the subsequent enforcement of that term or any other right.
3. All Schedules to this Agreement shall be incorporated into and be deemed part of this Agreement and all references to this Agreement shall include the Schedules. Rights and obligations allocated to the Parties in the Schedules form part of this Agreement. In the event of any contradiction between a Schedule and this Agreement, the content of the Agreement shall prevail, except for Schedule A. The contents of Schedule A prevail over the Agreement.
4. The following Schedules apply to and comprise the Agreement:
 - (a) Schedule A - Order Form
 - (b) Schedule B - General Conditions, and can be found [here \(link\)](#)
 - (c) Schedule C - Data Protection, and can be found [here \(link\)](#)
 - (d) Schedule D - Service Level Agreement, and can be found [here \(link\)](#)
5. By entering into the Agreement, Licensee acknowledges that it has received, read, understood and accepted the contents and applicability of the Schedules to the Agreement.
6. Unless otherwise specifically stipulated in this Agreement, this Agreement, or any term or condition therein, may only be changed or amended in writing and if both Parties' have confirmed the change or amendment with the signatures of their duly authorized representatives.

10. GOVERNING LAW

1. This Agreement is construed and governed under the laws of the Netherlands.
2. Before submitting to the courts any dispute or controversy that may arise between the Parties in connection with the Agreement, Parties will firstly attempt to amicably resolve the dispute. They will negotiate in good faith in order to achieve a result acceptable to both Parties.
3. Any dispute or controversy arising out of or in connection with this Agreement which cannot be settled between Parties amicably, shall be submitted by the competent courts in Amsterdam, the Netherlands.

This Agreement has been accepted by duly authorized representatives of both Licensee and Sendsteps.