

Access Agreement and Terms of Service

This Access Agreement and Terms of Service (the “Agreement”) is between the entity set out on the invoice (the “Customer”) and the Company. If Customer is located in the United States or Canada, this Agreement is between Customer and Sona Systems LLC, a limited liability company with its principal office address in Bethesda, Maryland. If Customer is located elsewhere, this Agreement is between Customer and Sona Systems, Ltd., an Estonian limited company having its principal office address in Tallinn, Estonia. For purposes of this Agreement Sona Systems, LLC and Sona Systems, Ltd. will be referred to collectively as the “Company.” The Agreement governs access to the software and services provided by the Company, including the Company’s software. The time period during which Customer is granted access is set out on the invoice. The Effective Date of this Agreement is the date set out on Customer’s invoice (“Effective Date”).

1. **Format of this Agreement.** The Agreement consists of this document, the invoice, the Company’s privacy policy, the current version of which can always be found at <https://www.sona-systems.com/privacy>, and any other document executed by the parties that references this Agreement. Each of the listed documents is incorporated into the Agreement by reference. Unless necessary for clarity, they are collectively referred to as the “Agreement.” If there is a conflict between any of these documents, they prevail in the following order: the privacy policy and the invoice, followed by the Agreement. Company may modify the Agreement and/or the privacy policy upon thirty days’ written notice to Customer. Company will provide this notice to the contact address set out below. If any modification materially alters Customer’s rights or imposes new obligations on Customer, Customer may terminate the Agreement without penalty by providing Company with written notice of such a termination prior to the expiration of the thirty day period set out above. If Customer does not provide notification of termination to Company within this period of time, the modifications will be deemed accepted. Upon receipt of a valid notice, Company will refund the Fees prorated for the remainder of the Term.

2. Grant of Access and Limitations on Use.

- a. Upon payment of all Fees (as defined in this Agreement) due, Company grants to Customer a limited, non-exclusive, worldwide, non-transferable license to access, for Customer’s internal use only, the suite of services and software set out on the invoice during the Term, according to the terms of this Agreement, and, if set out on it, limited by the number of sessions set out on the invoice (the “Access”). Access is personal to Customer and may not be transferred, sub-licensed or assigned. Customer may provide access to the software only to Customer’s employees, students, and third-parties who have a research relationship to Customer (collectively, the “End Users”). Customer agrees that it shall not: (i) transfer access or otherwise make it available to any third party not set out in this Agreement other than End Users; (ii) provide any service based on its Access without Company’s prior written permission; or (iii) use its Access for any illegal purposes. Customer expressly understands and agrees that the Access is for use of Customer’s services and software only and that Customer will not receive any code related to the software, whether in physical or downloadable format. In particular, the software is designed solely for the management and conduct of research (the “Software Use”). Access to the software is limited to the Software Use.

- b. Subject to the Access rights set out above, Company reserves all right, title and interest in and to the software, including all related intellectual property rights. All title and copyrights in and to the software (including but not limited to all code, images, photographs, video, audio, music, text, and other information incorporated into the software), are owned by the Company, or its suppliers. The software is protected by copyright laws and international treaty provisions. No rights are granted to Customer in this Agreement other than as expressly set forth in it. In particular, Customer agrees not to create derivative works based on the software, reverse engineer the software, or copy any features, functions or graphics of the software, and shall be responsible for any such acts by its End Users.
 - c. Company will provide general support to the administrator(s) identified by Customer, to allow Customer to access the software. However, Customer shall provide support to its End Users. Company will use commercially reasonable efforts to make the software available 24x7x365 except for: (i) planned downtime; or (ii) any unavailability caused by circumstances beyond Company's control. These circumstances shall include, without limitation, acts of God, government, floods, fires, earthquakes, civil unrest, acts of terror, labor problems, internet access or bandwidth failure or delays, or denial of service attacks. Company will provide the software only in accordance with applicable laws and government regulations.
 - d. Company may make commercially reasonable changes to the software from time-to-time. If Company makes a material change to the software, Company will inform Customer of such a change by email. If such a change materially diminishes Customer's ability to use the software from the manner in which it was previously used, Customer may terminate this Agreement within thirty days of Company's notice to Customer of such a change and receive a refund of the Fees prorated for the period of time remaining in the Term.
3. **Customer Administration of the Software.** Customer is responsible for the protection of the passwords provided by Company, or the algorithm used by Customer to generate these passwords. Customer will have varying levels of authorization for Access. Customer is responsible for ensuring that only those individuals having the necessary authority and training within Customer's organization have access to higher levels of authorization. Customer agrees that Company's responsibilities do not extend to the internal management or administration of the software for Customer.
4. **Customer Data.**
- a. Customer and End Users may input and manipulate customer information using its Access (the "Customer Data"). Company has no ownership interest in the Customer Data. Customer shall be solely responsible for the content, use, dissemination and/or publication of Customer Data by any person or entity accessing it using Customer's credentials. It is Customer's responsibility to educate End Users on the proper use of its Access, including the software and Customer Data, to ensure that it is not used in a manner that is contrary to law. Customer Data only includes information related to the Software Use. Any Customer Data which is determined by Company to be outside the Software Use, will be deleted upon ten days written notice to Customer, unless deletion within a shorter period of time is required by law.

- b. The parties expressly recognize that it is impossible to maintain flawless security, but Company shall take the industry standard measures to prevent security breaches in the operation of its network. Company's responsibility for security extends only to network security, and expressly excludes the security of Customer Data when access to Customer Data has been authenticated using credentials provided to Customer by Company or generated using tools provided by Company to Customer. Company will provide SSL security for the transmission of that data. Company makes no representations or warranties regarding the security of information transmitted over the Internet. Customer agrees to provide Company with immediate notice upon learning of any unauthorized access. Company shall provide Customer with written notice of any such breach as soon as is possible, but in no circumstances later than two business days after such a breach has been identified by Company.
- c. Customer may make suggestions to Company to improve the software (the "Suggestions"). Customer agrees that Suggestions are separate from Customer Data and are fully owned by Company. To the extent that Suggestions may not be fully owned by Company, Customer gives Company a worldwide, exclusive, fully paid-up, perpetual license to use, and make derivative uses of, the Suggestions.

5. Fees.

- a. Customer is responsible for the fees and charges set out on the invoice (the "Fees"). Customer must pay the Fees in the currency set out on the invoice. Company's obligation to provide Access is contingent on Customer's payment of the Fees by the due date set out on the invoice. Customer must pay the Fees without set off or deduction. Company reserves the right to disable Customer's Access or terminate this Agreement, for failure to pay invoices when due. If this Agreement is terminated because Customer, or an End User, has breached it, the Fees will not be refunded.
- b. Unless otherwise stated on the invoice, the Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, value-added, sales, use or withholding taxes imposed by any governmental entity (the "Taxes"). Customer is responsible for paying all Taxes associated with the software, other than Taxes assessed on Company's income.
- c. If Customer wishes to dispute a charge listed on an invoice (the "Disputed Amount"), Customer must submit a written dispute notice to Company which includes reasonably sufficient supporting documentation to support the dispute. The written notice must be received by Company within thirty days of receipt of the initial invoice on which the Disputed Amount appears. If Customer does not submit such written dispute notice to Company within the thirty day period, then notwithstanding anything in this Agreement to the contrary, Customer waives all rights to dispute the invoice or to file a claim of any kind relating to the Disputed Amount.

6. Term and Termination.

- a. The Term for this Agreement is set out on the invoice. The Term shall begin on the Effective Date and continue for the period of time set out on the invoice, unless this Agreement is terminated early as expressly permitted in this Agreement.

- i. Either party may terminate this Agreement: (i) for a material breach of its terms, provided that the breaching party is given written notice of that material breach, and a ten day opportunity to cure, unless cure is impossible; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
 - ii. Company may terminate this Agreement for: (i) Customer, or an End User's, activity which endangers Company's ability to provide access to Company's software or services to others; or (ii) Customer, or an End User's, use of the software to violate the law.
 - iii. Upon expiration of the Term, this Agreement will renew for an additional term of equal length upon receipt of Customer's payment of Company's invoice applicable to such renewal term.
- b. Upon Customer's termination for cause, Company will refund pre-paid Fees prorated by the number of months in the Term during which Company had Access. Any such refund will be paid to Customer thirty days after the date termination is effective. Customer will not receive any refund of Fees for Company's termination for cause.
- c. Upon expiration of the Term or termination by either party for cause, Customer Data will be preserved for a period of thirty days following the date Access is terminated. Should Customer seek access to Customer Data following termination, and within the period set out above, Company's sole and exclusive obligation shall be to make Customer Data available to Customer on Company's servers in the format in which it is maintained by Customer. On the thirty-first day following the date Access is terminated, Company shall no longer be obligated to provide Customer Data to Customer and may delete Customer Data.

7. Confidentiality.

During the Term, and for two years thereafter, neither party shall disclose any terms or pricing contained in the Agreement or any confidential or proprietary information disclosed by the other party ("Confidential Information"). Confidential Information shall remain the property of the disclosing party and shall be labeled as either "Confidential" or "Proprietary." Notwithstanding the foregoing, all information concerning either party's traffic volume or distribution, pricing, Customer Data, and financial information is hereby deemed to be Confidential and Proprietary regardless of whether it is marked. Confidential Information may not be disclosed to any person or entity except for the recipient's employees, contractors, consultants, lenders and/or legal advisors who have a need to know and who are bound in writing to protect the information from unauthorized use or disclosure. The term "Confidential Information" does not include any information which: (i) was already known by the receiving party free of any obligation to keep it confidential at the time of its disclosure (ii) becomes publicly known through no wrongful act of the receiving party; (iii) is rightfully received from a third person without knowledge of any obligation of confidentiality; (iv) is independently acquired or developed without violating any of the obligations under this Agreement; or (v) is approved for release by written authorization of the disclosing party. Confidential Information shall remain the property of the disclosing party and shall be returned to the disclosing party or destroyed upon request of the disclosing party. The recipient shall use the Confidential Information only for the purposes of this Agreement and shall protect it from disclosure using the same degree of care used to protect its own Confidential Information, but in no event less than a reasonable degree of care.

8. **Compelled Disclosures.**

- a. To the extent allowed by applicable law, the recipient of Confidential Information agrees to provide the other party with written notice that it may be required to disclose Confidential Information (including Customer Data, which is, by definition, Confidential Information). Recipient will use reasonable efforts to provide such notice to the other party with sufficient time to enable the other party to protest this disclosure before a court having jurisdiction.
- b. Company agrees to assist Customer in responding to Freedom of Information Act requests (or an equivalent request or requirement if Customer is located outside of the US, each a "FOIA Request"). Customer agrees to cooperate with Company to ensure that no Company Confidential Information is disclosed in response to a FOIA Request. Customer shall reimburse Company for its reasonable expenses within thirty days of the date of Company's invoice for FOIA Request expenses.

9. **Warranties.**

- a. **Mutual Warranties.** Each party represents and warrants to the other party that it has the power, authority and legal right to enter into this Agreement and to perform its respective obligations.
- b. **Customer's Representations and Warranties.** Customer represents and warrants to Company that: (i) it has the experience and knowledge necessary to use its Access; (ii) it will comply with all laws and regulations that apply to use of its Access to access, display, manipulate, collect and otherwise use Customer Data; (iii) Customer has sufficient knowledge to administer, design and operate the functions facilitated by Access to the software to take advantage of it; (iv) legally binding consent has been procured to use the Customer Data for the Software Use or any other use made of it by the software, Access in general, or by Customer or an End User; (v) Customer has read the privacy policy and that it meets Customer's legal obligations regarding the Customer Data.
- c. **Disclaimers and Limitations of Liability.**

NOTWITHSTANDING ANY ORAL OR WRITTEN COMMUNICATIONS BETWEEN THE PARTIES ABOUT OR IN CONNECTION WITH ACCESS, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT (WITHOUT REFERENCE TO THE INVOICE WHICH IS EXCLUDED FROM THIS DEFINITION OF "AGREEMENT") AND TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, NEITHER COMPANY NOR ANY OF ITS EMPLOYEES, AFFILIATES, AGENTS, SUPPLIERS, SUB-CONTRACTORS OR LICENSORS MAKE ANY WARRANTIES OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, COMPLETE SECURITY, FREEDOM FROM ERRORS, NON-INTERRUPTION, NON-INTERFERENCE OR NON-INFRINGEMENT. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT (WITHOUT REFERENCE TO THE INVOICE WHICH IS EXCLUDED FROM THIS DEFINITION OF "AGREEMENT"), ACCESS PROVIDED UNDER OR ASSOCIATED WITH THIS AGREEMENT IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.

To the maximum extent permitted by applicable law, under no circumstances shall Company be

liable for any lost revenues, profits, data or business, or consequential, indirect, incidental, exemplary, special or punitive damages of any nature, whether such liability is asserted on the basis of contract, tort (including negligence or strict liability) or otherwise, and whether or not the possibility of such damages is foreseeable or Customer has provided Company with notice thereof; provided, however, that this exclusion shall not apply to our indemnification obligations under Paragraph 10a.

Aggregate Limit of Liability. Except for Company's indemnification obligations under Paragraph 10.a., and Customer's indemnification obligations under Paragraph 10.b., either of our warranty obligations, or Paragraph 11, Company's total aggregate liability to Customer under this Agreement for all losses suffered by Customer as a whole and Customer's total aggregate liability to Company under this Agreement for all losses suffered by Company as a whole, in each case, whether in contract, tort (including negligence or strict liability) or otherwise, shall not exceed the actual amount of Fees paid by Customer to Company for the software that gave rise to such losses during the Term immediately prior to the date of occurrence of the event giving rise to such losses. Under no circumstances shall Company be liable to any End Users or for the misuse of Customer Data by Customer or an End User. The foregoing limitations of liability shall not apply to any suits brought against Company by third parties alleging such misuse, unless the proximate cause of such a claim is Company's deliberate breach of this Agreement.

10. Indemnification

- a. Company shall indemnify and hold Customer harmless from, and at Company's own expense agrees to defend, or at Company's option to settle, any claim, suit or proceeding brought or threatened against Customer so far as it is based on a claim that the software infringes any issued U.S. patent or registered copyright. This indemnification provision is expressly limited to the software only, and not to any Customer Data. This paragraph will be conditioned on Customer notifying Company promptly, in writing, of the claim and giving Company full authority, information, and assistance for the defense and settlement of that claim. Customer shall have the right to participate in the defense of the claim at Customer's expense. If such claim has occurred, or in Company's opinion is likely to occur, Customer agrees to permit Company, at Company's option and expense, either to: (i) procure for Customer the right to continue using the software; (ii) replace an individual component of the software with a product or service, regardless of manufacturer, performing the same or similar function as the infringing aspect of the software, or modify the same so that it becomes non-infringing; or (iii) if neither of the foregoing alternatives is reasonably available, immediately terminate Company's obligations (and Customer's rights) under this Agreement with regard to such software and refund to Customer the Fee received by Company from Customer prorated for the period of time prior to the date of termination in which Customer had use of the software. This shall be Customer's only remedy, and Company's only obligation to Customer, should a third party allege that the software infringes any issued U.S. patent or registered copyright.
- b. Customer agrees to indemnify, defend and hold harmless Company, Company's parent, subsidiary and affiliated companies, third party service providers and each of their respective officers, directors, employees, shareholders and agents (each an "indemnified party" and, collectively, "indemnified parties") from and against any and all claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or

administrative), and expenses (including, but not limited to, reasonable attorney's fees) threatened, asserted, or filed by a third party against any of the indemnified parties arising out of or relating to: (i) Customer's use, or End Users' use, of the Access, including, but not limited to, the software; (ii) any violation by Customer, or End Users, of laws regarding Customer Data; (iii) any breach of any of Customer's representations, warranties or covenants contained in this Agreement; and/or (iv) any acts or omissions by Customer.

11. **Compliance with Laws.** Each party shall obtain and maintain all permits, licenses, or certificates required by any regulatory body for provision or use, as applicable, of Access. Each party will comply with all applicable, state, regional and local laws, rules and regulations in performing its obligations hereunder and, in your case, in your and your End Users' use of the software, including, without limitation, all applicable export control, intellectual property and data protection laws. Customer acknowledges that (i) violation of applicable laws may include using Customer Data in a way that violates health care, privacy, and/or data protection laws; and (ii) Customer and End Users are responsible for the security of Customer Data which is accessed using credentials provided to Customer.

12. **General**

- a. **Government use provisions.** Company provides the software for ultimate U.S. federal government end use solely in accordance with the following restrictions: government technical data and software rights related to the software include only those rights customarily provided to the public as defined in this Agreement. The License is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software). Any other rights must be negotiated with Company and incorporated into a written agreement signed by the parties. There shall be no transfer of rights according to any state law to any state, local or provincial entity.
- b. **Notice.** Unless otherwise set out in this Agreement or the privacy policy, all notices to be given from one party to the other shall be made in writing and delivered by first-class mail (or equivalent non-U.S. post), by overnight courier, or by email to the party's address for notice set out herein. Company may provide notices to Customer about changes in this Agreement or the Software by email. Other than notices about changes in this Agreement, which will be deemed received at the time they are sent, notices will be deemed to have been given upon actual receipt or upon confirmation of delivery.

Notices to Company:

To Sona Systems, Ltd: Trummi 5, 12616 Tallinn, ESTONIA

To Sona Systems, LLC: 6106 Wilson Lane, Bethesda, MD 20817 USA

Email: info@sona-systems.com

Notices to Customer shall be sent to the address (or email address) set out in Customer's invoice.

- c. **Governing Law, Jurisdiction and Venue.** If Customer is located in the United States or Canada, this Agreement will be governed by the laws of the State of Delaware, without regard to its conflicts of law statute, and the parties agree that venue shall be proper, and exclusively, before the U.S. District Court for the District of Delaware. If Customer is located

outside the United States or Canada, this Agreement will be governed by the laws of the Republic of Estonia, and the parties agree that venue shall be proper, and exclusively, before the Harju County Court situated in Tallinn, Estonia. The parties agree not to contest notice from the applicable court, and to accept service of process from such court. Customer acknowledges and agrees that the pricing provided in this invoice is based, in large measure, on the parties' respective rights and obligations, and limitations to them set out in it.

- d. **Waiver of Jury Trial.** EACH PARTY HEREBY WAIVES ANY RIGHT TO JURY TRIAL IN CONNECTION WITH ANY ACTION OR LITIGATION IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT.
- e. **Independent Contractors.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between them.
- f. **No Third Party Beneficiaries.** There are no third-party beneficiaries to this Agreement. Customer expressly agrees that suits brought against Company by End Users are within the scope of its indemnification obligations set out above.
- g. **Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.
- h. **Counterparts.** The parties may enter into this Agreement in counterparts, which may include facsimile, PDF or other electronic copies, which, taken together, will constitute one agreement.
- i. **Severability.** If any provision of this Agreement is held by a court having jurisdiction over it to be contrary to law, the provision shall be modified by that court and interpreted by the court and the parties so as best to accomplish the objectives of the original provision, to the extent permitted by law, and the remaining provisions of this Agreement shall remain in effect. If, however, that court is unable to modify the provision, its removal shall not render this Agreement void, and the remaining provisions shall remain in full force and effect.
- j. **Assignment.** Either party may assign its rights and obligations hereunder to an entity acquiring a controlling interest in the company, or the assets making up the software. Any other assignment, whether by operation of law or otherwise shall be void, unless the party seeking consent has received the prior written consent of the non-assigning party.
- k. **Entire Agreement.** This Agreement, including all exhibits and addenda, constitutes the entire agreement between the parties, and supersedes all prior agreements, proposals or representations, whether written or oral, concerning its subject matter. No modification, amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by the part against whom the modification, amendment or waiver is to be asserted. If there is a conflict between any portions of this Agreement, they shall have the precedence set out in paragraph 1.

- I. **Survival.** The parties hereby agree that those provisions that by their nature are intended to survive the termination of this agreement shall survive the termination notwithstanding the cause of termination of this agreement.