

HOPEX Store - TERMS AND CONDITIONS – (Rev 2019-01-16)

The following terms and conditions apply to **HOPEX Store add-on** and specify the terms under which LICENSEE may access and use the add-on located on <https://community.mega.com/t5/HOPEX-Store/bd-p/hopex-store> for either On Premise or SaaS installation. These terms and conditions is a legal agreement between MEGA and the LICENSEE who download the add-on. If you do not agree to this agreement, do not click "Agree" and do not download the add-on and do not use the HOPEX store.

1. DEFINITION.

- "add-on" means customizations of the HOPEX Platform offered on Store
- "add-on conditions" means the terms and conditions applicable to a particular add-on
- "MEGA add-on" means an add-on developed by MEGA International that is expressly designated as such on Store. All add-on are licensed by third parties and not MEGA except MEGA add-on MEGA is not a party to any add-on conditions except add-on condition for MEGA add-on.

2. PURCHASE AND PAYMENT OF ADD-ON.

Rights to access the add-on are subject to the applicable add-on conditions and your agreement for use of the HOPEX Platform. Prices and licensing conditions are stated on the Store for each add-on. Add-on marked as Free are not subject to additional fees yet may need HOPEX platform licensing to work. Add-on marked as billable will be purchased through a Purchase Order and MEGA will invoice the fees upfront for the term of the licenses. In the event that the LICENSEE fails to pay an invoice by its due date, MEGA may (without prejudice to any other right of remedy it may have) impose a finance charge on all amounts past due, equal to one and one half percent (1-1/2%) per month or the maximum allowed by law and charge LICENSEE for MEGA's reasonable expenses of collection therefor, including but not limited to, attorneys' and experts' fees and court costs

3. ADD-ON RIGHTS AND RESTRICTIONS.

You will use the add-on solely as run on HOPEX Platform. Purchase or use of an add-on does not entitle you to use HOPEX Platform which you must purchase separately. You may not: (a) provide a third party with access to an add-on except as necessary to provide services to you as an agent or contractor; or (b) use the add-on to develop a product that is operable apart from the HOPEX Platform or to circumvent HOPEX Platform APIs. Upon notification of overuse of an add-on from MEGA, you will purchase additional subscription rights or stop such overuse within thirty (30) days.

4. PLATFORM USER RIGHTS.

If you use or purchase an add-on, you are permitted to use solely that add-on and no further right to run other applications or customizations on HOPEX Platform is provided. Unless expressly marked on the Store description web page for the particular add-on as including platform subscription rights to use the add-on, add-ons available for free require the additional purchase of the right to run the add-on to the same extent that you would require platform rights to use applications or customizations if the add-on were developed by you as a customization of the HOPEX Platform.

5. RESPONSABILITIES.

You use the add-on at your own risk. MEGA will have no liability or obligation to you with respect to add-on, other than MEGA add-on as provided in the applicable add-on conditions. Your use of an add-on with an HOPEX Platform constitutes a modification or customization of that HOPEX Platform by you for purposes of any separate agreement between you and MEGA and such customization or modification (or malfunction caused thereby) will not be subject to any support, warranty or indemnity under any such separate agreement.

6. TERM / TERMINATION.

6.1. TERMINATION FOR CONVENIENCE.

Either Party may terminate this Agreement for any reason whatsoever at any time by giving the other Party a thirty (30) day notice and either Party acknowledges that it will not be allowed to claim any compensation or damages of any kind whatsoever pursuant to such termination.

6.2. TERMINATION FOR BREACH.

MEGA reserves the right to terminate this Agreement without judicial intervention in the event that LICENSEE uses the Software in a way not authorized by this Agreement and such use will constitute an infringement by LICENSEE of the MEGA intellectual property rights.

6.3. EFFECTS OF TERMINATION.

After expiration or termination of this Agreement, LICENSEE shall cease the use of the add-on, decommission the add-on from its computers or servers. Termination of this agreement or any add-on conditions have no effect on your subscriptions or HOPEX Platform licensing.

7. DISCLAIMER.

The add-on (including its updates, documentation and any other materials provided hereunder) is provided "as is". MEGA makes no warranties with respect to the add-on and disclaims any and all express, implied or statutory warranties, including without limitation any warranties of title, merchantability, non-infringement, fitness for a particular purpose, availability, error-free or uninterrupted operation as well as any warranties arising from a course of dealing, course of performance or usage of trade.

8. LIABILITY.

To the extent allowed by applicable law, LICENSEE agrees and acknowledges that in no event shall MEGA be held liable for any direct and indirect damages arising out of the use of the add-on (including but not limited to, when relevant, the access to a remote server) and the performance of any services under this Agreement including, but not limited to, compensation, reimbursement or damages on account of the loss of present or prospective profits, expenditures, investments or commitments, whether made in the establishment, development or maintenance of business reputation or goodwill, for loss of data, cost of substitute software, cost of capital, however caused and regardless of the legal theory of liability, even if MEGA has been previously advised of the possibility of such damages.

To the extent that MEGA may not as a matter of applicable law disclaim any liability, the liability of MEGA under this Agreement shall not be in excess of the greater of the fees paid for this add-on by LICENSEE to MEGA during the last six (6) months or two thousand (2 000) Dollars.

9. SERVICES.

Upon LICENSEE's request and subject to payment of additional fees, MEGA may agree to provide certain services in connection with the add-on. Such services will be set forth in a separate Purchase Order.

10. INTELLECTUAL PROPERTY.

LICENSEE shall obtain no rights in any MEGA intellectual property (including but not limited to the add-on and any modifications, enhancements, improvements or any algorithms, methodologies, models, data included in or provided with the add-on) except for those rights expressly granted under this Agreement. MEGA will retain all ownership rights in and to all MEGA intellectual property.

LICENSEE shall take all reasonable steps to prevent unauthorized use, access, copying or disclosure of MEGA intellectual property and LICENSEE shall promptly notify MEGA in writing of any known unauthorized use of the MEGA intellectual property.

11. **REPRESENTATION** Each party represents and warrants that: (i) it has the full right, power, and authority to enter into this Agreement; and ii) it shall comply with all applicable federal, state, and local laws, rules, and regulations in the conduct of its business and in the performance of its obligations under this Agreement. MEGA represents and warrants that it has the necessary rights and authority to grant the rights set out in this Agreement.

12. **CONFIDENTIALITY.** Both Parties acknowledge that all Confidential Information obtained through this relationship must be protected by each Party as their own, and must not be disclosed without prior written consent of the owner of said information ("**Disclosing Party**") by the recipient ("**Receiving Party**").

For the purposes of this relationship, Confidential Information includes but is not limited to Disclosing Party's businesses, business plans, affairs and activities, financial statements, financing documents, know-how, trade secrets, methodologies, sales information, product information, services information, customer information, manufacturing information, marketing information, research and development, inventions, copyrights, patents, software, organizational information, and any other information which is confidential or proprietary and provided by a third-party in accordance with any applicable confidentiality agreement or undertaking granting the right to disclose such information on a need-to-know basis for rendering certain professional services. For greater certainty, Confidential Information also includes the proprietary information of either Party's subsidiaries, affiliated companies, business partners and clients.

Confidential Information does not include: (i) information that is or becomes part of the public domain through no act or omission of the Receiving Party, (ii) information that is lawfully acquired by the Receiving Party from a third party without any breach of confidentiality, (iii) information that is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, (iv) information already known by the Receiving Party where such knowledge can be demonstrated through appropriate existing documentation, or (v) information that is required to be disclosed in accordance with judicial or other governmental order, provided that the Receiving Party shall give the Disclosing Party reasonable notice prior to such disclosure.

This section shall survive for a period of three (3) years following the end of the Agreement.

13. **GENERAL PROVISIONS.**

13.1. **SEVERABILITY.** If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, that provision shall be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.

13.2. **INDEPENDENT CONTRACTORS.** MEGA and LICENSEE are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the Parties. Neither Party is an agent or representative of the other or is authorized to make any warranties or assume or create any other obligations on behalf of the other.

13.3. **ENTIRE AGREEMENT.** This Agreement constitutes the complete and exclusive understanding and agreement between the parties relating to the subject matter hereof and supersedes all prior or contemporaneous understandings, agreements and communications with respect to such subject matter. If there is a conflict between this Agreement and any of the parties' documents and general terms and conditions of trade and other similar preprinted forms that purport to govern the same matter as set forth in this Agreement, then this Agreement prevails for the add-on only.

13.4. **GOVERNING LAW.** This Agreement shall be governed by the laws of the United States of America, as applied to contracts to be performed wholly within such jurisdiction, and without regard to the U.N. Convention on Contracts for the International Sale of Goods. The parties hereby consent to the exclusive jurisdiction of the courts of Massachusetts, in any action arising out of or relating to this Agreement, and agree that any action arising out of or relating to this Agreement shall be maintained in the same jurisdiction. In the event of a dispute arising out of or in connection with this Agreement, the party prevailing in such dispute shall be entitled to recover its reasonable expenses, costs and attorneys' fees, in addition to all other appropriate relief. The English language shall control the interpretation of this Agreement and all other writings and resolution of disputes between the parties.