

## GENERAL TERMS AND CONDITIONS OF USE

VERSION 02/2022

### 1. Introduction

These Terms and Conditions of Use ("TERMS") set forth the general conditions for the use of services provided by THIAGO DOS SANTOS SOUZA CONSULTORIA EM TECNOLOGIA DA INFORMAÇÃO LTDA ("Excapy"). By electronically accepting the Terms, accessing, or using any of the services provided, the USER confirms their free and explicit agreement with all the terms and conditions provided herein, through a program provided by Excapy ("SOFTWARE") at the website <https://www.excapy.com> ("SITE"), using any access means, including mobile devices, phones, tablets, personal computers, internet browsers, and other access means that may be developed. Additionally, in the absence of explicit acceptance through the acknowledgment of its existence via the access provided on the SITE, you ("User"), as an individual or legal entity, have read, understood, agree with, and accept (and have the legal capacity to do so) the clauses and conditions set forth herein, thereby binding yourself entirely to these TERMS.

EXCAPY and the CONTRACTING PARTY are referred to collectively as the "Parties" and individually as a "Party," as the context requires.

### CONSIDERING

- EXCAPY is an information technology consulting company primarily engaged in the development and licensing of non-customizable computer programs;
- EXCAPY has developed, over years of experience in Travel and Tourism Agencies, software aimed at tour organizers (the "Software");
- The CONTRACTING PARTY has accessed the demonstration videos available online, benefited from a free trial period, and understood the operation of the Software under this Agreement, expressing interest in contracting it;

The Parties agree to enter into this "Software as a Service License Agreement" ("Agreement"), governed by the following terms and conditions:

#### CLAUSE ONE: Grant of License

Through this Agreement, EXCAPY grants the CONTRACTING PARTY a non-exclusive license to use the software for managing information in domestic and international tours, owned by EXCAPY, according to the functionalities set forth in the Commercial Conditions detailed in Annex I, which is an integral and complementary part of this instrument.

- **First Paragraph:** In the event of any discrepancy between the Agreement and the Commercial Conditions presented by EXCAPY, the terms of the Commercial Conditions shall prevail.
- **Second Paragraph:** The CONTRACTING PARTY acknowledges the "Terms of Use" and "Privacy Policy" for using the Software and undertakes to comply with them while conducting their activities.

#### CLAUSE TWO: Compensation

For the Software License ("License to Use"), the CONTRACTING PARTY will pay a monthly fee to EXCAPY, varying according to the plan contracted, as specified in the Commercial Conditions attached.

- **First Paragraph:** Unless otherwise agreed in the Commercial Conditions, the monthly payment must be made through an online and recurring payment platform, via credit card or another available method, at the CONTRACTING PARTY's sole discretion.
- **Second Paragraph:** The monthly fee will be adjusted every 12 (twelve) months according to the positive variation of the IPCA (Consumer Price Index) or any other legal index that may replace it. If the index provided in this clause is terminated or its use is expressly prohibited by law, the adjustment will be made based on the variation of the index chosen by EXCAPY among those legally permitted.
- **Third Paragraph:** Each Party shall be responsible for collecting taxes related to their respective activities and mutually commit to indemnify each other at any time.
- **Fourth Paragraph:** In case of delayed payments as set forth in this Clause, late payment interest of 1% (one percent) per month and a late payment penalty of 2% (two percent) on the overdue amount, adjusted by the IPCA (or any other official index that may replace it), will be applied until the effective payment date.
- **Fifth Paragraph:** After 7 (seven) days of delay in the monthly payment, the CONTRACTING PARTY's access to the Software will be automatically suspended until the financial issues are resolved, without prejudice to EXCAPY considering this Agreement terminated by operation of law, with the definitive cancellation of the service without prior notification.

### **CLAUSE THREE: Usage Restrictions**

The Software may be used on any computer and data network provided by the CONTRACTING PARTY, with login and password access to the system. The CONTRACTING PARTY and/or their registered users are prohibited from redistributing, sublicensing, renting, or lending Software access to unauthorized third parties or disclosing or presenting it to unauthorized third parties.

- **First Paragraph:** The CONTRACTING PARTY will not acquire rights under this Agreement for specific functionalities, including any related intellectual property rights. Some platform content and features may be developed during the Agreement and/or provided through a separate contract, such as issuing invoices, reconciling financial transactions via bank statements, reconciling receivables via receivables statements, WhatsApp notifications, etc. Even if such features are visible on the toolbar, they are not part of the basic package covered by this Agreement, and access and use will depend on a specific contract.
- **Second Paragraph:** EXCAPY may periodically alter, terminate, or remove features and/or functionalities of the service without notice. EXCAPY may also impose limitations or restrictions on the CONTRACTING PARTY's access to Software functionalities, which, despite being available in the platform's tool menu, are still under development and therefore unavailable, without implying any liability to EXCAPY and/or any right to the CONTRACTING PARTY.
- **Third Paragraph:** The CONTRACTING PARTY is responsible for keeping their Software access data confidential and secure and must immediately notify EXCAPY of any unauthorized use or suspected unauthorized use of such data.
- **Fourth Paragraph:** The CONTRACTING PARTY declares and agrees to use the Software in compliance with applicable laws and regulations in Brazil and abroad, avoiding conduct that may constitute storing or distributing child pornography, violating copyright, promoting prejudice of any kind, or invading privacy. The CONTRACTING PARTY agrees to defend, indemnify, and hold EXCAPY harmless from any liability related to non-compliance with this clause.
- **Fifth Paragraph:** The CONTRACTING PARTY acknowledges that the software is not prepared for the use of RPA (Robotic Process Automation) resources.

### **CLAUSE FOUR: Duration and Termination**

The Software License will remain in effect for an indefinite period until canceled. The CONTRACTING

PARTY may cancel the License at any time by submitting a written request to [assinatura@excapy.com](mailto:assinatura@excapy.com). EXCAPY reserves the right to process the cancellation request within fifteen days after confirming receipt of the email formalizing the cancellation request, with a prorated monthly fee due for the number of days the access was available.

- **First Paragraph:** The License may be automatically terminated for just cause, by operation of law, without judicial or extrajudicial notification, and without prejudice to the collection, by the affected Party, of existing contractual and legal penalties, as well as possible indemnification for lost profits and damages in the following cases:
  - (i) In the event of any action or omission by the CONTRACTING PARTY that may be financially damaging and/or harmful to the reputation of EXCAPY, its partners, or any other company related to EXCAPY, regardless of court decisions in Brazil or abroad;
  - (ii) Partial or total non-compliance by either Party with the obligations assumed in this Agreement, as well as the falsehood or inaccuracy of any statements made in this Agreement;
  - (iii) In the event of judicial liquidation, bankruptcy, judicial recovery, or notorious insolvency of either Party;
  - (iv) In the event of force majeure or acts of God, as provided by Brazilian law, that prevents the continuation of the contracted object or suspends its execution for a period exceeding 30 (thirty) days; and/or
  - (v) Assignment to a third party, without the express consent of the other Party, of the obligations or rights herein agreed upon.
- **Second Paragraph:** In the event of termination of this Agreement for any reason, EXCAPY will not be responsible for maintaining or exporting any part of the CONTRACTING PARTY's database. The CONTRACTING PARTY is responsible for exporting or processing the platform data, whether by backup, migration, and/or deletion of all information, including confidential information, within 15 (fifteen) days after the termination of the Agreement.

#### **CLAUSE FIVE: Copyrights, Intellectual Property, and Exclusivity**

The CONTRACTING PARTY acknowledges and agrees, irrevocably and irreversibly, that the Software and any material (regardless of its media) developed, particularly but not exclusively, the codes, as well as the associated economic and moral rights (to the extent possible), shall be the sole and exclusive property of EXCAPY. Consequently, for clarification, EXCAPY shall have exclusive rights of use, enjoyment, and exploitation of all intellectual property in question, in Brazil and abroad.

- **Sole Paragraph:** The CONTRACTING PARTY is prohibited from reverse engineering, decompiling, disassembling, modifying, adapting, altering, translating, creating derivative works, or attempting, in any way, to obtain the source code related to the Software, or any part thereof.

#### **CLAUSE SIX: Privacy**

EXCAPY undertakes to maintain the utmost secrecy regarding any data, materials, information, documents, or technical and commercial specifications of the CONTRACTING PARTY entrusted to them under this Agreement, whether of interest to the CONTRACTING PARTY or third parties. Under no circumstances may they disclose, reproduce, use, share, or make them known to third parties, outside of this Agreement, at any time. The only exception to this rule is that EXCAPY contracts a cloud computing service to store the CONTRACTING PARTY's data in a company with a protection level equal to or higher than that established by Brazilian law.

- **First Paragraph:** The Parties, as well as their representatives, agents, and employees, are responsible for fully complying with the General Data Protection Law (LGPD - Law No.

13.709/2018) and other regulations on the subject, including those published by the National Data Protection Authority (ANPD), making every effort to protect personal data accessed due to the execution of this Agreement.

- **Second Paragraph:** The CONTRACTING PARTY will process personal data only for the purposes stated in this Agreement, unless necessary to comply with legal or regulatory obligations, as well as to comply with judicial and administrative decisions, in accordance with its Privacy Policy, with the knowledge and consent of the CONTRACTING PARTY for such use.
- **Third Paragraph:** The CONTRACTING PARTY is responsible for complying with all obligations established in the General Data Protection Law (LGPD - Law No. 13.709/2018), including the exercise of data subjects' rights, the adoption of security, technical, and administrative measures in their operations, or any other obligations under the LGPD that are within their responsibility, and is solely responsible for processing the personal data of their clients. EXCAPY is not responsible for the export or import of the personal data of the CONTRACTING PARTY's clients stored in the CONTRACTING PARTY's systems.
- **Fourth Paragraph:** EXCAPY may use passive tracking mechanisms and tools to collect information and data to assess the general use of the Software by users and implement improvements and updates.

#### **CLAUSE SEVEN: Updates**

The Software is provided to the CONTRACTING PARTY "as is" and may undergo constant improvements and updates without prior notice, such as: (i) new features and (ii) changes to existing Software features. EXCAPY is not obligated to maintain any specific operating structure or layout, except for its own convenience.

#### **CLAUSE EIGHT: Technical Support**

The Software is provided in a self-service mode, meaning it is the CONTRACTING PARTY's responsibility to have a qualified professional to operate the Software and actively seek detailed instructions provided in the videos available on EXCAPY's YouTube channel (<https://www.youtube.com/channel/UCvURKM0Uq-twKtFe6-o5iKQ>) or at the website [www.excapy.com](http://www.excapy.com). The scope of this Agreement does not include the provision of support services or individual training, whether in person or in-company, for the CONTRACTING PARTY.

- **First Paragraph:** Technical support services provided by EXCAPY will be limited to correcting errors and inconsistencies identified by the CONTRACTING PARTY and reported to EXCAPY via WhatsApp at (21) 99801-9460 or by email at [info@excapy.com](mailto:info@excapy.com).
- **Second Paragraph:** Upon notification of a technical non-compliance, EXCAPY commits to diagnosing and correcting the Software's defects or technical incidents within 5 (five) business days, unless the severity of the problem requires a longer period, to be informed to the CONTRACTING PARTY in advance.

#### **CLAUSE NINE: Disclaimer and Minimum Availability**

EXCAPY does not guarantee that: (i) the functions contained in the Software will meet your requirements; (ii) the Software will work on the data access infrastructure provided by the CONTRACTING PARTY or third parties, such as equipment, devices, or internet network; or (iii) its operation will be uninterrupted or error-free. However, EXCAPY guarantees a minimum Software availability of 99.5% (ninety-nine point five percent) of the monthly time. If for any reason this percentage is not achieved by EXCAPY due to a failure attributed to it, a proportional discount will be granted for the downtime exceeding this percentage.

- **First Paragraph:** To the fullest extent permitted by law, under no circumstances shall EXCAPY be liable for any actual, direct, indirect, incidental, special, consequential, or punitive damages,

including loss of profits, loss of savings, costs of acquiring substitute products or services, or other damages resulting from the use or inability to use the Software, even if EXCAPY has been advised of the possibility of such damages.

- **Second Paragraph:** The CONTRACTING PARTY is responsible for ensuring that the content included and its use by clients do not violate any Privacy Policies, Terms of Use, or current laws.
- **Third Paragraph:** EXCAPY is not responsible for the content distributed through its Software, nor for its truthfulness, frequency, format, quality, periodicity, legality, and other characteristics. The CONTRACTING PARTY is solely responsible for including all content, including distributing legal notices, guidelines, and information relevant to their business activities.
- **Fourth Paragraph:** The CONTRACTING PARTY is responsible for performing its activities in compliance with the regulations and standards applicable to its professional activity.

## **CLAUSE TEN: Representations and Warranties**

The Parties declare and warrant that:

- (i) They are considered independent contractors, and nothing in this Agreement will create any other link between them, whether employment or any other relationship, such as commercial agency, subsidiary relationship, legal representation, or business association.
- (ii) They have prior knowledge of all the clauses and conditions of this Agreement and expressly agree to all its terms.
- (iii) They carry out their activities in compliance with the applicable legislation and hold the necessary approvals to enter into this Agreement and fulfill the obligations provided for herein.
- (iv) They have anti-corruption policies, processes, and procedures in compliance with national or foreign laws, regulations, and normative provisions that address the fight against corruption and bribery, and these policies are and have always been followed by their shareholders, directors, employees, subcontractors, and representatives.
- (v) They comply with all guidelines and obligations stipulated by the applicable legislation regarding data storage, use, and protection, particularly, but not limited to, the Civil Rights Framework for the Internet and the General Data Protection Law, and have policies, processes, and procedures for data security and protection in compliance with all applicable national or foreign laws, regulations, and normative provisions, followed by their shareholders, directors, employees, subcontractors, and representatives.
- (vi) They will keep the data and information they have access to due to this Agreement, including the operations and businesses of the other Party, such as secrets and/or financial, operational, economic, technical, and legal information, confidential. Confidential Information may only be disclosed to their partners, administrators, attorneys, consultants, representatives, employees, and collaborators, present or future, who need access to the Confidential Information by virtue of complying with the obligations set forth in this Agreement.
- (vii) There is no third-party claim that has the potential to make any of these representations and warranties untrue or incomplete.

## **CLAUSE ELEVEN: General Provisions**

The Parties hereby agree that:

- (i) **Entire Agreement:** This Agreement constitutes the only and entire understanding between the Parties regarding the matters addressed herein. The Parties agree that this Agreement accurately records all prior negotiations and intentions, replacing and fully revoking any other documents, agreements, messages, and/or memoranda exchanged or signed between the Parties regarding the matters addressed herein.
- (ii) **Communications:** All notices, warnings, or communications between the Parties will be formalized in writing and sent with acknowledgment of receipt by email, registered letter, or delivered by the Registry Office to the addresses listed in the preamble of this Agreement.



- (iii) **Changes to Parties' Qualification:** Any changes to the data contained in the preamble of this Agreement must be immediately and formally communicated to the other Party under penalty of the validity of acts performed based on outdated data.
- (iv) **Amendments:** Changes to this Agreement will only be considered valid and effective when signed in writing by all Parties.
- (v) **Tolerance and Liberality:** Any omission, concession, or tolerance by either Party in exercising the rights and faculties attributed to it under this Agreement will not constitute a waiver of such rights nor prejudice the Party's ability to exercise them at any time.
- (vi) **Irrevocable and Irretractable Nature:** This Agreement is entered into by the Parties irrevocably and irretractably, binding the Parties, their heirs, and successors.
- (vii) **Validity and Enforceability of Clauses:** The nullity or unenforceability of any clause of this Agreement shall not affect the other clauses of this Agreement, which will remain valid and in full force concerning all other clauses and conditions.
- (viii) **Enforceable Title:** This Agreement, signed in the presence of two (2) witnesses, serves as an extrajudicial enforceable title in the form of the civil procedural legislation (Art. 784, III, of the Brazilian Civil Procedure Code) for all legal purposes.
- (ix) **Exclusive Responsibility:** Each Party agrees to release, defend, indemnify, and hold the other Party and its directors and employees harmless from all claims, lawsuits, liabilities, costs, expenses, fines, penalties, damages, based on, related to, attributable to, or arising from the performance of this Agreement and which are their exclusive responsibility or failure to fulfill any obligation provided for herein, including, but not limited to, labor or social security matters, tax issues, and civil liability, including lawsuits filed by the CONTRACTING PARTY's clients. To this end, the Party that is administratively or judicially sued due to the other Party's responsibility undertakes to notify the opposing Party of the existence of such a claim, so that the latter may take the necessary measures for its defense and/or possible intervention in the case in question.

#### **CLAUSE TWELVE: Applicable Law and Jurisdiction**

This Agreement shall be governed and interpreted exclusively in accordance with Brazilian law. The Judicial Court of the city of Rio de Janeiro, state of Rio de Janeiro, is hereby chosen to settle any and all disputes arising from or relating to the interpretation or application of this Agreement, excluding any other jurisdiction, however privileged it may be.