

## GLOBALG.A.P. Community Membership Terms and Conditions

### 1 Subject of these Terms and Conditions

**1.1** Agraya GmbH, Spichernstr. 55, 50672 Cologne, Germany ("**Licensor**") offers the GLOBALG.A.P. Community Membership. The GLOBALG.A.P. Community Membership includes certain services and licenses provided by the Licensor to the respective GLOBALG.A.P. Community Member ("**Community Member**"). Only legal entities are eligible to become Community Members.

**1.2** These Terms and Conditions ("**Terms and Conditions**") govern the GLOBALG.A.P. Community Membership ("**Community Membership**"). GLOBALG.A.P. and the Community Member are hereinafter also together referred to as "**Parties**" or individually as a "**Party**".

**1.3** The Community Membership includes certain benefits such as discounts, trainings, participation in committees, access to databases, and promotions. More details about the Community Membership are published on the GLOBALG.A.P. website (<https://www.globalgap.org>).

**1.4** For the avoidance of doubt, it is clarified that the Community Member is not legal beneficial owner or shareholder of the Licensor and that there is no corporate relationship between Community Members inter se or between the Community Member and the Licensor; in particular, the Community Member does not become a member of any kind (i) of association (*Verein*) or (ii) civil law partnership (*Gesellschaft bürgerlichen Rechts*) by virtue of its Community Membership. Under these Terms and Conditions, the Community Member does not have any further rights or obligations vis-à-vis the Licensor or other Community Members other than contractual rights and obligations arising from these Terms and Conditions, in particular no kind of corporate law rights or obligations. The only relationship between the Licensor and the Community Member under the Community Membership is as contracting parties (i.e., on sole contractual basis) as set out in these Terms and Conditions.

**1.5** The application for Community Membership is submitted online. The Community Member shall name a responsible person for the Community

Membership and provide the (personal) data required in the online process.

**1.6** By clicking on the order button in the online flow, the Community Member submits a binding offer to the Licensor to enter into the Community Membership. Before sending the offer, the Community Member may correct entries using the correction tools provided and explained in the order process. Receipt of the Community Member's offer is confirmed via email to the Community Member. The Community Membership shall be formed upon the Community Member's receipt of the Licensor's declaration of acceptance in the form of another email.

**1.7** During the order process and before entering into the Community Membership, the Community Member may print or save the text of these Terms and Conditions by means of the print or save function of the Community Member's browser. The language of the contract is English.

**1.8** The Licensor reserves the right to deny any Community Membership application.

**1.9** The reference in Clause 1.3 to committees and to further details on the GLOBALG.A.P. website is provided for informational purposes only. It does not create any rights or obligations for Members. Participation in such committees is governed exclusively by separate Terms of Reference ("**ToR**") adopted by the Licensor, which shall prevail.

### 2 Grant of license: Community Member

The Community Member hereby grants to the Licensor a nonexclusive, nonsub-licensable, and nontransferable license to use the Community Member's trademarks, trade names, logo designs, and company descriptions as delivered to the Licensor by the Community Member, in any medium of advertising, marketing materials, and/or promotional goods distributed solely in conjunction with the Community Membership.

### 3 Grant of license: GLOBALG.A.P.

**3.1** Subject to the following paragraphs in this clause below, the Licensor hereby grants to the Community Member, for the term of the Community

Membership, a nonexclusive, nonsub-licensable, and nontransferable license to the Community Member to use the community member seal and other specified GLOBALG.A.P. trademarks for the purpose of identification as a GLOBALG.A.P. Community Member in accordance with the then-current version of the "*GLOBALG.A.P. Trademarks Use: Policy and Guidelines*" document as published on the GLOBALG.A.P. website (<https://www.globalgap.org>).

**3.2** The Community Member shall not use the Community Member seal, the GLOBALG.A.P. trademarks, or any other IP rights of the Licensor as part of its company name, nor give in any other way the impression that the services provided by the Licensor are part of its business.

**3.3** The Community Member seal, the GLOBALG.A.P. trademarks, and any other IP rights of the Licensor which may be licensed under these Terms and Conditions are the sole property of the Licensor. During the term of the Community Membership and thereafter, the Community Member shall not undertake any actions that could negatively affect the value or validity of the foregoing rights or cause them to become generic, lose distinctiveness, mislead the public, or be detrimental to the good name, goodwill, reputation, or image of the Licensor or any of its affiliates.

**3.4** The Community Member shall, during the term of the Community Membership and with respect to all territories where it makes use of the aforementioned rights, provide the Licensor with all information requested by the Licensor for the purpose of developing, maintaining, or enforcing its rights therein. The Community Member shall cooperate with the Licensor in obtaining and maintaining trademark applications and registrations as may be required, for example by providing usage information.

**3.5** The Community Member shall use the Community Member seal, the GLOBALG.A.P. trademarks, and any other IP rights of the Licensor only in the manner provided by the Licensor and shall not alter, modify, or distort them in any way.

## 4 Membership fee

**4.1** The Community Member shall pay to the Licensor a membership fee in the amount published on the GLOBALG.A.P. website. In case of changes in the membership fee, the procedure described in Clause 12 shall apply. All prices are subject to value-added tax at the applicable statutory rate.

**4.2** Invoices are sent electronically.

**4.3** Invoices issued by the Licensor shall be due and payable within thirty (30) days upon receipt of the respective invoice.

## 5 Indemnification and liability

**5.1** The Community Member shall indemnify and hold harmless the Licensor and its affiliates from and against any direct or indirect damage and cost (including defense costs and reasonable attorneys' fees) arising out of any culpable violation of these Terms and Conditions.

**5.2** The Licensor shall be liable for the full extent of damage in the event of intentional conduct ("*Vorsatz*") or gross negligence ("*grobe Fahrlässigkeit*"), in the case of culpable injury to life, body, and health and under the German Product Liability Act ("*Produkthaftungsgesetz*"). In the case of a slight negligent breach of essential contractual obligations, i.e., principal obligations which enable the proper execution of the contract and upon which the Community Member therefore relies and may rely, the Licensor assumes liability on the merits; in such case the Licensor's liability shall be limited to damage which is typical for the contract and which can be reasonably foreseen. Any further liability of the Licensor shall be excluded. This limitation of liability shall apply also in favor of the Licensor's statutory representatives, executives ("*leitende Angestellte*"), and vicarious agents ("*Erfüllungsgehilfen*").

## 6 Term and termination

**6.1** The Community Membership becomes effective on the date the Community Membership is approved by the Licensor. The Community Membership has a fixed term until the end of the calendar year. Thereafter, the Community Membership will be automatically extended for successive periods of twelve (12) months if neither of the Parties terminates the Community Membership in

writing prior to the end of the fixed or any extended term.

**6.2** Notwithstanding the provision in the paragraph above, either Party is entitled to terminate the Community Membership for good cause.

**6.3** Good cause for either Party shall include, but is not limited to, instances where:

- a) The other Party breaches a provision of these Terms and Conditions, and after having received written notice of the breach, fails to cure the breach within thirty (30) days thereafter.
- b) The other Party commences voluntary bankruptcy or insolvency proceedings, makes a general assignment for the benefit of its creditors, files for dissolution or liquidation, involuntary bankruptcy or insolvency proceedings are brought against the Party which are not dismissed within thirty (30) days, or a receiver is appointed for the assets of the other Party.
- c) The Community Member is in default with payments due under these Terms and Conditions if such default is not cured within thirty (30) days of the Community Member's receipt of a written reminder by the Licensor.
- d) The Community Member has infringed or diluted the status of the Community Member seal, a GLOBALG.A.P. trademark, or another IP rights of the Licensor, and the Community Member, after having received written notice of such violation, infringement, or dilution, fails to cure the violation, infringement, or dilution within thirty (30) days thereafter.

## 7 Assignment of rights

The Community Member shall not be entitled to assign any rights or obligations under these Terms and Conditions to any third parties without the Licensor's prior written consent.

## 8 Data protection

**8.1** Both Parties shall comply with any and all applicable data protection regulations at all times.

**8.2** Further information on the processing of personal data by the Licensor can be found in GLOBALG.A.P.'s privacy policy under [https://www.globalgap.org/uk\\_en/Privacy-Policy](https://www.globalgap.org/uk_en/Privacy-Policy).

**8.3** The Community Member shall – if and where legally necessary – provide the information stipulated in the GLOBALG.A.P. privacy policy to such employees, vicarious agents, and other natural persons working with or on behalf of the Community Member whose personal data will be processed by the Licensor under these Terms and Conditions prior to such processing.

## 9 Confidentiality and return of documentation

**9.1** The Community Member is obliged to treat as strictly confidential all confidential matters and business secrets of the Licensor or its undertakings, including, without limitation, procedures, data, know-how, marketing plans, business plans, unpublished balance sheets, budgets, licenses, pricing, costs, customer and supplier lists, technical and other business information, intentions, experiences, knowledge, and other documents, whether written or oral, of which the Community Member obtains knowledge during its Community Membership or which are designated as confidential by the Licensor.

**9.2** The Community Member shall, without being asked upon effective termination of the Community Membership, and upon request during the existence of the Community Membership, return to the Licensor all of the Licensor's property and all documentation in the Community Member's possession as stated in the paragraph above, where such documentation relates to the Licensor and to its associated undertakings (as well as copies or other reproductions thereof). The same applies to electronically stored data, e.g., computer programs or data on disks.

**9.3** The Community Member recognizes that the Licensor's property and the documentation referred to above are the sole property of the Licensor or its associated undertakings. The Community Member has no right of retention with regard to such property and the documentation referred to.

**9.4** The confidentiality obligation shall not apply to information and documents:

- a) Which are already known to, or in the possession of the Community Member prior to receipt of such information from the Licensor.
- b) Which are legally received by the Community Member from a third party without any confidentiality obligation

- c) Which are in the public domain or enter the public domain through no wrongful act of the receiving Community Member
- d) Which can be proven by the Community Member to have been developed by the Community Member independently of confidential information received from the Licensor.
- e) To the extent and in the manner approved in writing by the Licensor.
- f) Which are required to be disclosed by applicable law, regulation, or legal process (only to the extent necessary)

## 10 Compliance

**10.1** During the term of the Community Membership, the Community Member is obliged to act professionally, accurately, and impartially and not to act in a way that may compromise the integrity of the Licensor or that would prejudice or jeopardize the reputation of the Licensor or any related body, business partners of the Licensor, including GLOBALG.A.P. Community Members, certification bodies and registered producers.

**10.2** The Community Member shall not represent any conflicting or competing interests and shall inform the Licensor about any relationships that may influence the Community Member's behavior and/or judgement.

**10.3** The Community Member shall refrain from any direct or indirect discrimination on the basis of nationality, racial or ethnic origin, sex, religion or belief, disability, or sexual orientation.

**10.4** The Community Member shall not accept any allowance, commission, gift, favor, bribe, or any other benefit from any organizations or from their employees exceeding the value of €50 (fifty euros) and which may influence its judgement or actions.

**10.5** The Community Member shall adhere to international anticorruption standards as set forth in the United Na-

tions' Global Compact and in the respective applicable anticorruption and anti-bribery acts. Without limiting the foregoing, the Community Member is prohibited from offering services, presents, or advantages to third parties that influence such parties' personal conduct regarding their business relationship with the Licensor.

**10.6** The Community Member shall cooperate in any inquiry in the event of any alleged breach of these Terms and Conditions.

## 11 Governing law and jurisdiction

**11.1** The Community Membership is exclusively governed by and construed in accordance with the laws of Germany.

**11.2** In the case of any disputes, the courts of Cologne, Germany, shall have exclusive jurisdiction if the Community Member is a merchant, is a legal person under public law, or has no general venue in Germany.

## 12 Modifications

**12.1** The Licensor may offer the Community Member changes to these Terms and Conditions at any time.

**12.2** The Licensor will notify the Community Member in writing, for example via email, at least three (3) weeks before the anticipated effective date of such change. The changes offered shall become effective if and only if the Community Member accepts them as follows:

- a) If a proposed change is a material change (as defined below), the Licensor will ask for the Community Member's active consent to such a change.
- b) If a proposed change is not a material change, the Community Member will be deemed to have consented to the change unless it explicitly rejects them by notice to the Licensor in writing (e.g., via email) before the anticipated effective date. In the case of such changes,

the Licensor will inform the Community Member, in the notice by which it offers the changes of the right of rejection, the applicable time period, and the Community Member's right of termination (see Clause 12.3 below).

A "material change" is a change of these Terms and Conditions (especially with respect to provisions defining the type and general scope of the agreed services or the term and termination) in the Licensor's favor which would significantly shift the balance between service and remuneration to the Community Member's disadvantage or would effectively establish an entirely new contract. A change which is due to a requirement of law, a legally binding court decision, or an injunction does not constitute a material change.

**12.3** If the Community Member does not agree to proposed changes, the Community Member may terminate its Community Membership at any time.

## 13 Miscellaneous

**13.1** These Terms and Conditions set out the entire agreement and understanding between the Parties relating to the subjects addressed herein and supersede all other agreements, whether oral or written, previously made between the Parties with regard to such subject.

**13.2** If any of the provisions of these Terms and Conditions are unenforceable or invalid for any reason whatsoever, such unenforceability or invalidity does not nullify these Terms and Conditions in total.

**13.3** A waiver of any breach or default under these Terms and Conditions by either Party does not constitute a waiver of any other or subsequent breach or default. The failure by either Party to enforce compliance with any term or condition of these Terms and Conditions does not constitute a waiver of any such term or condition unless such term or condition is expressly waived in writing.