

1 Applicable Terms

- 1.1 The Noise Sentinel – On Demand Service is subject to these terms and conditions (“Service Terms”) and the Brüel & Kjær Standard Terms and Conditions for Sale and Supply and End User License Agreement for Brüel & Kjær Software (EULA) (“Standard Terms”) which are available at <http://www.bksv.com/AboutUs/LegalNotices.aspx>
- 1.2 In the event of inconsistency these Service Terms shall take precedence over the Standard Terms.
- 1.3 By accepting the Service Terms, Buyer accepts that the Service Terms and the Standard Terms are applicable for the Service and shall take precedence over any Buyer terms and conditions.
- 1.4 Supplier’s acceptance of Buyer’s order is subject to export control checks and final credit approval.

2 Definitions

- 2.1 “Data” means the Buyer’s data collected through the Service.
- 2.2 “Monitoring Location” means the location that the monitoring terminal is placed.
- 2.3 “MT” means the monitoring terminal.
- 2.4 “Service” means the Noise Sentinel – On Demand service.
- 2.5 “Start Date” shall mean the date of Supplier’s approval of Buyer Registration.
- 2.6 “Supplier” means Brüel & Kjær Sound & Vibration Measurement A/S or any of its affiliates as named on an order confirmation or invoice or other document.
- 2.7 “Supplier Equipment” means Supplier owned hardware (including but not limited to MTs) that is provided to Buyer under these Terms.

3 Service Term

- 3.1 The Service shall be valid from Start Date until the Service is terminated by Supplier, by email to Buyer’s registered email address.

4 Ownership and Transport

- 4.1 All Supplier Equipment provided is the property of Supplier. The Supplier Equipment is provided as part of the Service on the understanding that Buyer accepts full responsibility for any loss or damage incurred during the period of the Service. Buyer will be required to pay full sales price or repair cost in compensation for damage or loss.
- 4.2 Buyer’s use of the Service shall, at all times, be consistent with the EULA or any software license terms which apply to the Service.
- 4.3 Supplier shall at all times have and retain title and full ownership of all Supplier Equipment and all software supplied and used by the Supplier for the provision of the Services.

5 Intellectual Property

- 5.1 All intellectual property rights in the Service shall remain vested absolutely in Supplier; nothing in the Service shall have the effect of granting or transferring to, or vesting in, Buyer any intellectual property rights in or to the Service.
- 5.2 Nothing herein shall be deemed to limit any rights of Supplier under copyright, patent or other law.
- 5.3 Buyer shall at all times have full ownership of the collected Data, which shall be stored in the Service for the Service Term plus one month. Supplier shall be entitled to remove Buyer Data from the Service should Buyer not pay Services fees for three months.

6 Deliverables

- 6.1 Supplier shall provide the following as part of the Service:
 - 6.1.1 Supply of the MT(s), if included in the Service
 - 6.1.2 Provision of Data via the Service
 - 6.1.3 Access to the Noise Sentinel application using the Buyer registered email address, through the Internet
 - 6.1.4 Storage and protection of the Data for the Term of the Service and one (1) month after the termination of the Service
 - 6.1.5 Restoration of the Data in the event of a system failure
 - 6.1.6 Help Desk facility available during Supplier local office hours for questions about the Service
- 6.2 Return transport of the Supplier Equipment between Supplier premises and Buyer address is included in the Service.
 - 6.2.1 At the conclusion of the Service, Buyer shall securely pack the Supplier Equipment and inform Supplier that it is ready for collection at Buyer address
 - 6.2.2 Supplier shall collect the Supplier Equipment from the same Buyer address that the Supplier Equipment was delivered to
- 6.3 Supplier will provide cellular telecom network communications service solely and exclusively for operation of the Supplier Equipment and collection of Data. Such communications service shall not be used by Buyer for any other purpose than the operation of the Supplier Equipment.

7 Specific Exceptions

- 7.1 Supplier's service and warranty obligations are solely those expressly described in these Service Terms. Supplier will not cover damages or be liable for loss or damages arising from:
- 7.1.1 Defects that have occurred as a result of changes made to the Supplier Equipment by anyone other than Supplier;
 - 7.1.2 Defects caused by Buyer's or 3rd party hardware, software, operating system, modem, etc, including MT provided by Subscriber;
 - 7.1.3 Remedial action resulting from an error in Buyer's installation or resulting from Buyer not having complied with Supplier's documentation material, manuals or other written or oral instructions and directions;
 - 7.1.4 Recovery of data or other support due to any cause external to the Supplier Equipment;
 - 7.1.5 Main power supply failures and telecom network communications failures;
 - 7.1.6 Attempts to repair or service the Supplier Equipment made by parties other than Supplier;
 - 7.1.7 Use of special attachments or devices not provided by Supplier in connection with the Supplier Equipment;
 - 7.1.8 Repairs associated with misuse, fire, accidental damage, flood, neglect, power failure or power surges, environmental control system failure, water damage, transportation or any cause other than normal usage;
 - 7.1.9 Use or misuse of the Supplier Equipment with any application or function for which it has not been designed.

8 Buyer Responsibilities

- 8.1 Buyer shall:
- 8.1.1 Be responsible for ensuring the necessary permissions, permits and rental agreements for the Monitoring Locations and the associated security of the Monitoring Locations;
 - 8.1.2 Be responsible for selecting Monitoring Locations which are acoustically appropriate, have available power, and have effective cellular communications services coverage;
 - 8.1.3 Be responsible for all costs associated with ongoing power supply services as required;
 - 8.1.4 Compensate the Supplier for any damage to Supplier Equipment beyond the control of Supplier, including but not limited to theft, vandalism and lightning strike;
 - 8.1.5 Archive collected Data from the Service into Buyer storage media within one (1) month of the termination of the Service;
 - 8.1.6 Permit only personnel authorized by Buyer to use the Supplier Equipment and access the Service and shall ensure that the Supplier Equipment and the Service is used in accordance with Supplier's operating instructions;
 - 8.1.7 Not permit any person other than Supplier's personnel (or its authorised sub-contractor) to adjust, repair or modify the Supplier Equipment without prior notification to and the agreement of Supplier;
 - 8.1.8 Notify Supplier immediately if the Supplier Equipment is malfunctioning and provide a full description of the problem in writing;
 - 8.1.9 At the instruction of Supplier, provide simple technical support at the Monitoring Locations.

9 Confidentiality

- 9.1 Supplier will treat the Data as confidential and will only use the Data for the purpose of diagnosis and rectification of problems under the scope of the Service.
- 9.2 Supplier will not transfer or disclose any of the Data to any other party without the prior written consent of Buyer.

10 Termination

- 10.1 Supplier can at any time with 30 days written notice terminate the Service.
- 10.2 Supplier can without notice terminate the Service:
- 10.2.1 if Buyer fails to make any payment when due to Supplier under these Service Terms or any other contract with Supplier,
 - 10.2.2 if any act or omission of Buyer delays Supplier's performance,
 - 10.2.3 if Buyer violates any of these Service Terms,
 - 10.2.4 if Buyer's credit becomes impaired; or Buyer suspends its payments, makes any composition or arrangement with its creditors enters into bankruptcy proceedings or undergoes any analogous act or proceedings under an applicable foreign law;
 - 10.2.5 if the export control classification or status of a specific piece of Supplier Equipment has changed.
- 10.3 Termination under clause 10.2 will not entitle Buyer to any credit for the remaining period.

11 Invoicing and Terms of Payment

- 11.1 Invoicing will be monthly, commencing one (1) month after the Start Date of the Service, for services provided during the month invoiced.
- 11.2 Unless otherwise stated in Supplier's invoice, terms of payment shall be net thirty (30) days from date of invoice.
- 11.3 If Buyer fails to pay any payment due hereunder when due, Supplier may suspend or cancel further the provision of the Service and claim damages and/or receive reasonable cancellation fees.