

SOFTWARE LICENCE

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1 LICENCE

- 1.1 We (Onefocus EU Limited) own the copyright in the software (and/or each part of the software) contained within this package and all other copies which you are authorised by this agreement to make ("**the Software**").
- 1.2 All intellectual property rights of whatever nature and howsoever arising which relate to the Software shall remain vested us and you shall only have the rights to use the Software (and the intellectual property rights therein) to the extent expressly permitted in this Agreement.
- 1.3 All goodwill in and to the Software which may be generated shall vest in us and you hereby assign all such goodwill (if any) you may have in relation to the Software to us.
- 1.4 This licence is personal to you as the purchaser of the Software and the non-exclusive licence granted herein is for your benefit only. All rights which are not expressly granted to you in this agreement are expressly reserved by us.

2 PERMITTED USE

- 2.1 As purchaser of the authorised copy of the Software, you may, subject to the terms and conditions in this Agreement:
 - 2.1.1 load the Software into and use it on a single computer (of the type identified on the package) which is under your control at your business premises (the "**Location**"); and
 - 2.1.2 copy the Software for back-up and archival purposes and make up two copies of the documentation (if any) accompanying the Software provided that the original and each copy is kept in your possession at the Location and that your installation and use of the Software does not exceed that which is expressly allowed by this agreement.

- 2.2 Only you and your employees and authorised contract staff for the time being working for you (and with whom you have a written contract for their services) are allowed to use the Software. You will not permit or allow anyone else to use the Software.

3 RESTRICTIONS ON USE

You must:

- 3.1 not load the Software into two or more computers at the same time. If you wish to transfer the Software from one computer to another, you must erase the Software from the first hard drive before you install it onto a second hard drive;
- 3.2 not sub-license, assign, rent, lease or transfer this, this Agreement, this licence or the Software or make or distribute copies of the Software;
- 3.3 not translate, reverse engineer, decompile, disassemble, modify or create derivative works based on the Software except as expressly permitted by law;
- 3.4 not make copies of the Software except for back-up or archival purposes as permitted hereunder;
- 3.5 not use any back-up copy of the Software (or allow anyone else to use such copies) for any purpose other than to replace the original copy in the event it is destroyed or becomes defective;
- 3.6 not copy the written materials (except as expressly provided by this agreement) accompanying the Software;
- 3.7 not use the Software in combination and/or in conjunction in any way with any other software without our prior written consent or to the extent expressly permitted by applicable law and to the extent that we are not permitted by that applicable law to exclude or limit your right to do so;
- 3.8 not operate a software bureau service or use the Software for or on behalf of third parties or provide any similar services using the Software;
- 3.9 comply promptly with any reasonable instructions given by us from time to time in connection with the use and operation of the Software. You must maintain complete, up to date and accurate records of the number of copies of the Software at the Location and your use of the Software and forthwith, upon our request, deliver this record to us;
- 3.10 promptly notify us if you become aware of any unauthorised use of the Software (or any part thereof) by any third party;
- 3.11 allow or permit us to have access to the Software from time to time in order to update, maintain and modify the Software as we may deem necessary or desirable (including but not limited to us being entitled to access, work on or change the Software remotely and/or to update or modify the Software remotely); and/or
- 3.12 unconditionally accept any updates or modifications that we make (or wish to make) to the Software from time to time. It is agreed that any failure or delay by you to accept any updates or modifications to the Software will be treated as a material breach of this Agreement by you (and clause 8 and the terms and conditions of this Agreement will apply to such breach).

4 TITLE

- 4.1 All copies of the Software will be subject to the terms of this Agreement. If other versions, modifications, updates and/or upgrades to any of the Software are supplied to you then, they shall be subject to all of the terms of this Agreement.
- 4.2 You shall permit us to check the use of the Software at all reasonable times and for that purpose you irrevocably and unconditionally license us to enter during normal working hours any premises owned or controlled by you and you will provide us, at our request, with all reasonable assistance, co-operation and information in relation to checking the use of the Software, updating the Software and/or modifying the Software.
- 4.3 All intellectual property rights of whatever nature and howsoever arising which relate to the Software shall remain vested in us and you shall only have the rights to use the Software (and the intellectual property rights therein) to the extent expressly permitted in this Agreement.
- 4.4 **THE SOFTWARE DOES CONTAIN THIRD PARTY SOFTWARE. ONEFOCUS EU LIMITED GIVES NO ASSURANCES AS TO THE QUALITY, STANDARD OR FITNESS FOR PURPOSE OF ANY SUCH THIRD PARTY SOFTWARE OR ANY RIGHTS RELATING THERETO.**

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5 DISCLAIMER

- 5.1 **WE DO NOT WARRANT THAT THIS SOFTWARE WILL MEET YOUR REQUIREMENTS OR THAT ITS OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE. WE EXCLUDE AND HEREBY EXPRESSLY DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES OR CONDITIONS NOT STATED HEREIN, SO FAR AS SUCH EXCLUSION OR DISCLAIMER IS PERMITTED UNDER THE APPLICABLE LAW.**
- 5.2 **THIS AGREEMENT DOES NOT AFFECT YOUR STATUTORY RIGHTS IF YOU ARE ACTING AS A CONSUMER AS DEFINED IN THE UNFAIR CONTRACT TERMS ACT 1977 (AS AMENDED AND UPDATED).**

6 LIMITATION OF LIABILITY

- 6.1 Our liability to you for any losses shall not exceed the amount you originally paid for the Software.
- 6.2 In no event will we be liable to you for any indirect or consequential damages even if we or you have been advised of the possibility of such damages.
- 6.3 We accept no liability for any programs or data made or stored with the Software nor for the costs of recovering or replacing such programs or data.

6.4 We do not accept and shall not be liable for any loss of profits (direct or indirect), loss of goodwill or reputation, loss of opportunity or anticipated savings or the loss of time on behalf of management or staff in relation to your use of the Software.

6.5 Nothing in this clause limits our liability to you in the event of death or personal injury resulting from our negligence or any matter to the extent that it cannot be excluded or limited by law.

7 CHARGES

7.1 You shall pay us:

7.1.1 any annual licence fee (if applicable); and

7.1.2 any other charges provided for by this Agreement or otherwise.

7.2 The annual licence fee shall be due upon the date set out by us to you and each and every anniversary of this date while this Agreement continues in force. Any other sums payable under this Agreement shall be due as follows:

7.2.1 if in relation to services, at the end of the month in which the services are supplied; or

7.2.2 if in relation to goods, on delivery.

7.3 Once any and/or all licence fees or any other sums have been paid by you then they (or any part of them) shall not be refundable notwithstanding the termination of this Agreement. We may invoice for all sums payable under this Agreement as they become due and each such invoice shall be paid by you within 30 days of the date of the invoice.

7.4 We may charge interest on all sums outstanding beyond the date on which they are due for payment under this Agreement from the date payment was due until the date of payment (and before as well as after judgement) at a rate of 2% per annum above the base rate from time to time of Natwest Bank plc.

7.5 All charges referred to in this Agreement are exclusive of VAT and you shall be responsible for paying us all applicable VAT and any other similar taxes imposed on charges for services or supplies made by us under this Agreement.

8 TERMINATION

8.1 The agreement and the licence hereby granted to use the Software automatically terminates if you:

8.1.1 fail to comply with any provisions of this agreement; or

8.1.2 destroy the copies of the Software in your possession; or

8.1.3 voluntarily return the Software to us.

8.2 In the event of termination in accordance with clause 8.1 you must destroy or delete all copies of Software from all storage media in your possession.

9 SEVERABILITY

In the event that any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications of the same are received by either you or us from any relevant competent authority we shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality, or at our discretion such provision may be severed from this agreement and the remaining provisions of this agreement shall remain in full force and effect.

10 ENTIRE AGREEMENT

- 10.1 You have read and understand this agreement and agree that it constitutes the complete and exclusive statement of the agreement between them with respect to the subject matter hereof and supersedes all proposals, warranties, representations, understandings and prior agreements, whether oral or written, and all other communications between us relating thereto.
- 10.2 No warranties, representations, assurances or guarantees (of whatever nature and howsoever arising) are or will be provided by us to you in relation to any Equipment provided by us to you. You agree that you will rely solely on any manufacturer's written guarantees or warranties (if any) that may be provided by the manufacturer in relation to the Equipment. "Equipment" means any computer equipment and/or materials that are provided by us to you.
- 10.3 Each party hereby expressly agrees that it has not relied on any warranties, representations, guarantees, agreements or understanding except to the extent that these have been set out in writing in this Agreement (save for any fraudulent misrepresentations).
- 10.4 You agree that the exclusions and limitations in this Agreement are reasonable and that both Parties have had the opportunity to obtain professional advice on this Agreement.
- 10.5 Both Parties, in view of the amounts charged for the Software and the terms and conditions of this Agreement (including the limitations and exclusions in this Agreement), have entered into this Agreement in their own respective commercial interests.
- 10.6 You shall be solely responsible for the maintenance and security of the Software and the Equipment and we shall have no liability for any loss or corruption of any such software or data, however caused, where such loss or corruption could have been avoided or corrected if you had taken and retained in a secure place appropriate backup copies.

11 ASSIGNMENT

This agreement is personal to you and you may not assign, transfer, sub-contract, sub-licence or otherwise part or deal with this agreement or any right or obligation under it without our prior written consent.

12 LAW AND DISPUTES

This agreement and all matters arising from it are governed by and construed in accordance with the laws of England whose Courts shall have exclusive jurisdiction over all matters and disputes arising in connection with this agreement.

If you have any questions about this agreement, write to us at Welcome House, Falkland Close, Coventry CV4 8AU or call us on Onefocus EU Limited telephone +44 (0) 203 301 3700.