

## End User License Agreement (EULA)

Please read this EULA carefully, as it sets out the terms and conditions upon which we license our Software for use.

By clicking "I accept the agreement" when you first install the Software, you agree to be bound by the terms and conditions of this EULA. You further agree that any person you authorise to use the Software will also be bound by the terms and conditions of this EULA. If you do not agree to this EULA, you must click "I do not accept the agreement" during the installation process and promptly return the Software (on the media upon which the Software was provided) to your supplier. Upon returning the Software and providing proof of purchase, you will be entitled to a refund.

If you do not agree to this EULA, you must not use the software for any purpose whatsoever.

### 1. Definitions and interpretation

#### 1.1 In this EULA:

"**Computer**" means a desktop, notebook, netbook or similar computer or device owned by and in the control of the Licensee;

"**Documentation**" means the documentation concerning the Software supplied by the Licensor or by the Software supplier to the Licensee with the Software;

"**Effective Date**" means [the date when the Licensee agrees to the terms and conditions of this EULA, as detailed in the preamble to this EULA];

"**EULA**" means this end user licence agreement (including the preamble), and any amendments to it from time to time;

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (including [failures of or problems with the internet or a part of the internet,] power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Licensee**" means the licensee of the Software under this EULA;

"**Licensor**" means Pioneer Software Limited, a limited company incorporated in England and Wales (registration number 3634312) having its registered office at 78 Pilleys Lane, Boston, Lincolnshire, PE21 9RB, United Kingdom;

"**Software**" means the ClinicOffice software program; and

"**Update**" any update, enhancement, improvement or patch to the Software supplied by the Licensor.

#### 1.2 In this EULA, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

#### 1.3 The Clause headings do not affect the interpretation of this EULA.

#### 1.4 The ejusdem generis rule is not intended to be used in the interpretation of this EULA.

## **2. Term of EULA**

This EULA will come into force on the Effective Date and will continue in force indefinitely, unless and until terminated in accordance with Clause [9].

## **3. Licence**

3.1 The Licensee may only use the Software and Documentation for the Licensee's business purposes and in accordance with the provisions of this Clause [3].

3.2 Subject to the payment by the Licensee of the relevant charges and fees in respect of the Software licence, and the Licensee's compliance with Clause [3.4] and the other provisions of this EULA, the Licensor grants to the Licensee a non-exclusive non-transferable licence to:

- (a) install 1 instance of the Software and Documentation;
- (b) use 1 instance of the Software in accordance with the Documentation; and
- (c) use 1 instance of the Documentation,

anywhere in the world.

3.3 Subject to the payment by the Licensee of the relevant charges and fees in respect of the Software licence, and the Licensee's compliance with Clause [3.4] and the other provisions of this EULA, the Licensor further grants to the Licensee the rights to:

- (a) print any number of copies of the Documentation; and
- (b) make not more than 1 back-up copy of the Software,

in each case anywhere in the world.

3.4 The Licensee must not:

- (a) copy or reproduce the Software or Documentation or any part of the Software or Documentation other than in accordance with the licence granted in this Clause [3];
- (b) sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Software or Documentation or any part of the Software or Documentation;
- (c) modify, alter, adapt, translate or edit, or create derivative works of, the Software or Documentation or any part of the Software or Documentation;
- (d) reverse engineer, decompile, disassemble the Software or Documentation or any part of the Software or Documentation;
- (e) use the Software other than in accordance with the Documentation; or
- (f) circumvent or remove or attempt to circumvent or remove the technological measures applied to the Software and Documentation for the purposes of preventing unauthorised use,

providing that nothing in this Clause [3.4] will prohibit or restrict the Licensee or any other person from doing any act expressly permitted by applicable law (including any act expressly permitted by Section 296A of the Copyright, Designs and Patents Act 1988).

3.5 All Intellectual Property Rights in the Software [and Documentation] are and will remain, as between the parties, the property of the Licensor.

## **4. Other Users**

4.1 The Licensee may permit any [employee of the Licensee] to exercise the rights granted by the

Licensor to the Licensee under Clause [3.2(c) and (d)], subject always to the restrictions set out in Clause [3].

4.2 The Licensee must ensure that any person using the Software [and/or Documentation] in accordance with Clause [4.1] is made aware of, and agrees to, the terms of this EULA.

## **5. Updates**

5.1 The Licensee may apply to the Software each Update released by the Licensor and provided / made available by the Licensor to the Licensee from time to time.

5.2 The Licensor will have no obligation to repair or replace the Software under Clause 7.2(d) in relation to any version of the Software that does not incorporate the most recent Update.

## **6. Support**

6.1 The Licensor will have no obligation to provide unpaid support for the Software if the Licensee does not to take out a Support Contract with the Licensor. If the Licensee does take out a Support Contract, then the terms and conditions of the support will be governed by a separate document.

## **7. Limited warranties**

7.1 The Licensee warrants to the Licensor that it has the legal right and authority to enter into and perform its obligations under this EULA.

7.2 The Licensor warrants to the Licensee:

- (a) that it has the legal right and authority to enter into and perform its obligations under this EULA;
- (b) that the use of the Software by the Licensee in accordance with the terms of this EULA will not infringe the UK Intellectual Property Rights of any third party;
- (c) that the media upon which the Software is supplied will, for a period of 3 months following the Effective Date, be free from defects in materials and workmanship (and if the media is not free from such defects, the Licensor will, for no additional charge and subject to the Licensee providing proof of purchase, replace the media);
- (d) that the Licensor has tested the Software for computer virus and other malicious third party software infections in accordance with standard industry practice from time to time.

7.3 The Licensee acknowledges that:

- (a) the Software may not be error-free and that non-material errors in the software will not constitute a breach of this EULA;
- (b) the Software has not been developed to meet the specific requirements of the Licensee, and accordingly the Licensee will be responsible for ensuring that the Software is suitable to meet the Licensee's requirements.

7.5 All of the parties' liabilities and obligations in respect of the subject matter of this EULA are expressly set out herein. To the maximum extent permitted by applicable law, no other terms concerning the subject matter of this EULA will be implied into this EULA or any related contract.

## **8. Limitations and exclusions of liability**

8.1 Nothing in the EULA will:

- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;

- (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c) limit any liability of a party in any way that is not permitted under applicable law; or
- (d) exclude any liability of a party that may not be excluded under applicable law,

and, if you are a consumer, any statutory rights which you have, which cannot be excluded or limited, will not be affected by the EULA.

- 8.2 The limitations and exclusions of liability set out in this Clause [8] [and elsewhere in the EULA]:
- (a) are subject to Clause [8.1]; and
  - (b) govern all liabilities arising under the EULA or in relation to the subject matter of the EULA, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty.
- 8.3 The Licensor will not be liable to the Licensee for any losses arising out of a Force Majeure Event.
- 8.4 The Licensor will not be liable to the Licensee in respect of any business losses, such as loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.
- 8.5 The Licensor will not be liable to the Licensee in respect of any loss or corruption of any data, database or software.
- 8.6 The Licensor will not be liable to the Licensee in respect of any special, indirect or consequential loss or damage.
- 8.7 The Licensor's aggregate liability to the Licensee will not exceed the amount paid by the Licensee for the Software.

## **9. Termination**

The Licensor may terminate this EULA immediately by giving to the Licensee written notice of termination if:

- (a) the Licensee or any employee of the Licensee or person authorised by the Licensee to use the Software and/or Documentation breaches any provision of this EULA;
- (b) the Licensee: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (c) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Licensee;
- (d) an order is made for the winding up of the Licensee, or the Licensee passes a resolution for its winding up; or
- (e) (where the Licensee is an individual) the Licensee dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

## **10. Effects of termination**

- 10.1 Upon termination all the provisions of this EULA will cease to have effect, save that the following provisions will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 8 and 11.

- 10.2 Termination of this EULA will not affect either party's accrued rights and liabilities.
- 10.3 Save as expressly provided in this EULA, the Licensee will not be entitled to a refund upon the termination of this EULA.

## **11. General**

- 11.1 No breach of any provision of this EULA will be waived except with the express written consent of the party not in breach.
- 11.2 If a Clause of this EULA is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of this EULA will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).
- 11.3 The Licensor may freely assign this EULA and/or its rights and/or obligations under this EULA without the Licensee's consent. Save as expressly provided in this EULA, the Licensee must not assign, transfer, charge, license or otherwise dispose of or deal in this EULA and/or any its rights and/or obligations under this EULA.
- 11.4 This EULA is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this EULA are not subject to the consent of any third party.
- 11.5 This EULA constitutes the entire agreement and understanding of the parties in relation to the subject matter of this EULA, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of this EULA. Subject to Clause [8.1], each party acknowledges that no representations or promises not expressly contained in this EULA have been made by or on behalf of the other party.
- 11.6 This EULA will be governed by and construed in accordance with the laws of England and Wales; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this EULA.