

CLCKWRK LICENSE AGREEMENT

These terms (the "Agreement") will create a binding legal agreement between you (the "Licensee" or "you") and Clckwrk Limited ("Licensor", "us" or "we") please read them carefully before clicking 'Accept' at the foot of this document.

This Agreement sets out the terms on which you may use a Hosted Services Platform (or "HSP") provided pursuant to a Clckwrk Master Services Agreement (an "MSA") for the purposes of hosting and receiving the benefit of software provided by a third party ("Software") which is provided to you by that third party subject to the terms of a licence agreement (a "Third Party Licence"). Where this Agreement uses terms that are defined in the MSA which are not otherwise defined herein, the definitions used in the MSA shall apply.

This Agreement does not grant you any form of licence to use Software; accordingly your attention is specifically drawn to clause 2(a) which sets out your responsibility for obtaining and maintaining a valid licence to use all relevant Software. Further, this Agreement does not grant you any release from any terms relating to 'BYOL' arrangements which may be stipulated by the provider of the underlying hosting service on which the HSP is maintained; accordingly your attention is specifically drawn to clause 2(f).

This Agreement is offered subject to the Licensee continuing to comply with the terms of the MSA. In the event that the MSA is terminated or suspended for any reason then, in the absence of a specific agreement between the parties to the contrary, this Agreement will be terminated or suspended in the same fashion.

1. Grant of Licence

1.1 In consideration of the Licensee complying with the terms of this Agreement and continuing to comply with the terms of the MSA, the Licensor hereby grants to the licensee a non-exclusive, non-transferable licence to use the HSP for the purpose of hosting the Software in accordance with the terms set out in this Agreement.

1.2 Save to the extent explicitly set out herein, the terms of this Agreement shall not amend the terms of the various licences granted pursuant to the MSA.

2. Restrictions

The Licensee agrees:

- (a) that it will only upload (or instruct Clckwrk to upload) Software in respect of which it is the beneficiary of a valid Third Party Licence;
- (b) that it shall accept all Third Party Licences (and all similar or associated 'end user licence agreements', 'migration policies' and outsourcing terms) required to permit it to upload the Software to the HSP;
- (c) that it shall instruct Clckwrk immediately if any Third Party Licence of the kind described in clause 2(a) is terminated or suspended for any reason;
- (d) that its right to include an instance of the Software within a HSP is subject to the conditions of the relevant Third Party Licence, and that it shall refrain from uploading (or instructing Clckwrk to upload) or using any Software in any fashion that breaches any:
 - (i) provision which stipulates that migration of that Software to the HSP (or any similar platform) is prohibited;
 - (ii) provision that stipulates that migration or use of that Software is subject to provisions which would be breached as a result of that uploading or use;
 - (iii) other relevant term of a Third Party Licence.
- (e) that its use of the Software is contingent on its compliance with all relevant Third Party Licences and that it shall comply with the terms of all

such licences at all times and shall refrain from exceeding and/or breaching those terms;

(f) that it shall comply with all terms and policies relevant to the use of Software on a BYOL basis which are required by the provider of the platform on which the HSP is configured for use;

(g) that it shall not use the Software in any way that infringes the intellectual property rights of any third party;

(h) to consult with its advisors in order to ensure that it complies with the terms of this clause 2.

2.2 The Licensee recognises that its use of the HSP shall continue to be subject to the terms of the MSA and that, accordingly, the hosting of the Software by Clckwrk as part of any HSP shall be subject to those terms.

2.3 The Licensee undertakes to indemnify and hold harmless Clckwrk from any loss or damage which Clckwrk may suffer as a result of any breach by the Licensee of the obligations set out in this clause 2.

3. Intellectual property rights

3.1 The Licensee acknowledge that all intellectual property rights in the Software belong to its respective owners and that, save for as may be set out in Third Party Licences (or other relevant agreements) no rights in the Software shall be transferred from their owners to the Licensee (or any other party) as a result of this Agreement's terms.

4. Pricing

4.1 Clckwrk shall be entitled to charge the Licensee for the hosting of Software as part of any HSP on the basis set out in the MSA under which that HSP is provided.

4.2 To the extent that Clckwrk provides any assistance with the migration, upload or configuration of the Software it shall, unless entitled to compensation pursuant to more favourable terms which may be included in the MSA, be entitled to charge the Licensee for all staff time (and any reasonably incurred expenses) incurred in the provision of such services.

4.3 The Licensee accepts that it is solely responsible for procuring access to and implementing any updates to the Software. To the extent that Clckwrk assists the Customer in achieving the same it shall be entitled to charge for its time on the basis set out in clause 4.2.

5. Warranty

5.1 Clckwrk makes no warranties in respect of Software (or the uploading, configuration or use of the same) and, to the extent permitted by law, excludes all warranties (implied or otherwise) to the maximum extent that it is permissible to do so.

5.2 The terms of this Agreement shall not modify or diminish any warranties set out in any MSA and/or any Third Party Licence.

6. Exclusion of Liability

6.1 Clckwrk accepts no liability for any loss or damage which may be caused by the Software or otherwise incurred as a result of its use or configuration. Accordingly, to the maximum extent permitted by law, Clckwrk excludes liability for all loss or damage which may arise as a result of the same, including all indirect or consequential loss, and all loss of profit, revenue, anticipated savings, use of money, goodwill, reputation or data, whether arising directly or indirectly, whether or not such loss was foreseeable by either party to this Agreement, and howsoever such claims may arise (by way of breach of contract, tort claims including negligence, breach of statutory duty, or otherwise).

6.2 In any event, Clckwrk's maximum aggregate liability for all claims which may arise pursuant to this Agreement shall be limited to the total value of the fees paid to it by the Licensee for services provided pursuant to this Agreement's terms.

6.3 The Licensee acknowledges that the Software has not been developed by Clckwrk and that Clckwrk has no control over the content or capabilities of the Software. The Licensee accepts that it is solely responsible for ensuring that the Software is suitable for its requirements and for any purpose to which it may wish it to be put.

6.4 The Licensee accepts that it shall bear full responsibility for use of the Software by end users and shall be responsible for their actions as if they were its own.

7. Termination

7.1 Clckwrk may terminate this Licence immediately by written notice if it considers that the Licensee is in breach of its terms.

7.2 Where the Licensee wishes to cease using the HSP to host Software it shall deal with any reduction in services pursuant to the relevant terms of the MSA.

7.3 Upon termination for any reason all rights granted to the Licensee pursuant to this Agreement shall cease.

8. Other important terms

8.1 Clckwrk may transfer its rights and obligations under these terms to another organisation. Clckwrk will endeavour to inform the Licensee in writing if this occurs.

8.2 This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 and no third party shall be entitled to enforce any term of this agreement.

8.3 This Agreement shall be governed by English law and the courts of England and Wales shall have exclusive jurisdiction over any disputes arising in relation to its terms.

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Oracle Fusion Middleware Licensing Agreement -

https://docs.oracle.com/cd/E55108_01/doc.62016/e56762.pdf