

END-USER LICENCE AGREEMENT

PLEASE READ THE FOLLOWING CAREFULLY BEFORE USING ANY DEVICE AUTHORITY SOFTWARE.

1. INTRODUCTION, DEFINITIONS, AND INTERPRETATION

Introduction

- 1.1 This EULA (also available online at <http://www.deviceauthority.com/assets/eula.pdf> and updated from time to time) is, subject to clause 1.3, a binding legal agreement between Device Authority and the Licensee (as each party is defined below).
- 1.2 By clicking to accept, or otherwise by using the Software after a copy of this EULA has been made available through the Website, the Licensee accepts the terms and conditions of this EULA.
- 1.3 This EULA does not apply if the Licensee has entered into a formal written, signed licence agreement with Device Authority in relation to use of the Software. It applies only to customers using the Software who have not entered into such an agreement.

Definitions

- 1.4 The following definitions, when used in this EULA, have the meanings set out below:

- 'Business Day':** any day other than a Saturday, a Sunday, or a bank or public holiday in England.
- 'Contract Year':** a twelve-month period, with the first such period commencing on the Start Date, the second commencing on the first anniversary of the Start Date, and so on.
- 'Data Protection Laws':** means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018; and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and all equivalent legislation in any other territory applicable to this EULA.
- 'Device Authority':** Device Authority Limited, a company incorporated and registered in England and Wales with registered number 04676191, whose registered office is at L2 Thames Tower, Station Road, Reading RG1 1LX.
- 'Documentation':** the documents made available by Device Authority as updated from time to time, which describe the Software and the user instructions for it.
- 'EULA':** this end-user licence agreement.

'Intellectual Property':	copyright, rights in inventions, patents, know-how, trade secrets, trade marks and trade names, service marks, design rights, database rights and rights in data, rights in software, the right to sue for passing off, utility models, domain names and all similar rights and, in each case, (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future, (v) wherever existing, and (vi) including all other rights of a similar nature or having equivalent effect anywhere in the world.
'Licensee':	the business or individual that uses the Software, and which is forming an agreement with Device Authority under these terms and conditions.
'Licensee Portal':	the support and maintenance portal operated by Device Authority and to be accessed by Licensee using its allocated username and password.
'Software':	the software applications developed, provided and maintained by Device Authority, that Device Authority permits the Licensee to use subject to the terms and conditions of this EULA.
'Start Date':	the date on which the Licensee enters into this EULA or otherwise commences installation of or makes use of the Software with Device Authority's consent.
'Subscription Term':	the period during which the Licensee is permitted to use the Software, as agreed in writing by Device Authority (either directly with the Licensee or via the reseller or service provider with which the Licensee deals).
'Third-Party Software':	the third party software identified at https://support.deviceauthority.com/hc/en-us/articles/217483878-Third-Party-Product-Licenses .
'Third-Party Terms':	the additional terms and conditions relating to Third-Party Software as set out at https://support.deviceauthority.com/hc/en-us/articles/217483878-Third-Party-Product-Licenses
'Virus':	a thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, any equipment or network, or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in

whole or part or otherwise); or adversely affect the user experience; and it includes worms, trojan horses, viruses, and other similar things or devices.

'Website': www.deviceauthority.com.

- 1.5 Clause, schedule and paragraph headings do not affect the interpretation of this EULA.
- 1.6 A **'person'** includes an individual and a corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 A reference to a **'company'** includes any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.8 Unless the context otherwise requires, words in the singular include the plural and those in the plural include the singular, and a reference to one gender includes a reference to the other genders.
- 1.9 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this EULA.
- 1.10 A reference to writing or written includes e-mail.
- 1.11 The words **'include'**, **'including'**, **'for example'**, or similar, are non-restrictive and will be deemed to be followed by the words **'without limitation'**.

2. LICENCE

- 2.1 With effect from the Start Date, Device Authority hereby grants the Licensee a non-exclusive, non-transferable, non-sublicensable right to use the Software and the Documentation during the Subscription Term for the Licensee's internal business operations, subject to the terms and conditions of this EULA.
- 2.2 In relation to scope of use:
 - (a) use of the Software is restricted to use in object code form for the purpose of processing the Licensee's data for the normal business purposes of the Licensee, by any such numbers or categories of staff as confirmed in writing by Device Authority;
 - (b) the Licensee shall ensure that the Software is installed only on equipment of the type and number agreed in writing by Device Authority;
 - (c) the Licensee may make backup copies of the Software for its lawful use. The Licensee shall record the number and location of all copies and Authorised Users of the Software and take steps to prevent unauthorised copying;
 - (d) except as expressly stated in this clause 2.2, and save to the extent permitted by any law that may not be limited or excluded, the Licensee has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole

or in part, except to the extent that any reduction of the Software to human-readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Licensee; and

- (e) the Third-Party Software is deemed to be incorporated within the Software for the purposes of this licence (except where expressly provided to the contrary) and use of the Third-Party Software is subject to the Third-Party Terms.

2.3 The Licensee shall not, save as permitted under this EULA:

- (a) copy the Software or Documentation save to the extent that it is incidental to the Licensee's permitted use of the Software;
- (b) access any part of the Software or Documentation in order to build a product or service which competes with the Software or the Documentation or to create any software whose expression is substantially similar to that of the Software, or use such information in any manner that would be restricted by any copyright subsisting in it; or
- (c) use the Software or Documentation to provide software to third parties; or
- (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit the Software, or make the Software or Documentation available to any third party; or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Software or Documentation, other than as provided under this clause 2.3.

2.4 The Licensee shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software or the Documentation and, in the event of any such unauthorised access or use, promptly notify Device Authority.

2.5 During its use of the Software, the Licensee shall not access, store, distribute or transmit any Viruses, or any material that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, or disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property.

2.6 Device Authority reserves the right, without liability for doing so, and without prejudice to its other rights and remedies, to disable the Licensee's access to the Software, to suspend the licence granted under this EULA, and/or to terminate this EULA, if the Licensee breaches the provisions of clauses 2.1 to 2.5.

2.7 The rights provided under this EULA are granted to the Licensee only and not to any subsidiary or holding company of the Licensee.

3. COMMERCIAL TERMS

3.1 The fees, invoicing terms, usage remit, Subscription Term, support terms, and any other relevant commercial terms for the Licensee's use of the Software will be as agreed by Device Authority in writing (either directly with the Licensee or via the reseller or service provider with which the Licensee deals). In the absence of confirmation in writing as to fees, the fees will be based on Device Authority's then-current list price.

3.2 The Licensee shall permit Device Authority to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is kept or used, and to have access to any records kept in connection with this EULA, for the purposes of ensuring that the Licensee is complying with the terms of this EULA. Device Authority will provide not less than 15 days' notice to the Licensee of such inspections.

4. DATA PROTECTION

4.1 In this EULA 'personal data', 'data', 'data subject' and 'processing' have meanings given to them in Data Protection Laws.

4.2 Each party shall comply with all applicable Data Protection Laws in relation to any personal data that it processes in connection with this EULA ('**Protected Data**').

4.3 Without prejudice to the generality of clause 5.2 above, each party shall maintain appropriate technical and organisational measures (including policies communicated to employees and management, and review of ongoing compliance and effective security measures) to:

- (a) prevent any unauthorised or unlawful processing of the Protected Data; and
- (b) guard against accidental loss or destruction or damage to, the Protected Data.

4.4 In its day-to-day performance of the agreement, each party acts as an independent controller and not as joint controllers or as a processor on behalf of the other party.

5. THIRD-PARTY PROVIDERS

5.1 The Licensee acknowledges that the Software may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites ('**Third-Party Access**').

5.2 The Licensee undertakes all Third-Party Access at its own risk. Device Authority makes no warranty or commitment, and has no liability or obligation, in relation to Third-Party Access. Any contract entered into in pursuance of Third-Party Access is between the Licensee and the relevant third party, and Device Authority is not a party to such.

5.3 Device Authority recommends that the Licensee refers to the third party's website terms and conditions and privacy policy prior to undertaking any Third-Party Access. Device Authority does not, however, endorse or approve any third-party website or the content of such, whether made available via the Software or otherwise.

6. AVAILABILITY AND WARRANTIES

- 6.1 During the Subscription Term, Device Authority shall use reasonable endeavours to provide the Software and access to the Licensee Portal, and to make available the Documentation, to the Licensee on the terms of this EULA, excluding periods of planned maintenance and any delays not caused by Device Authority (such as slow or non-operation of any networks).
- 6.2 If there are any functionality issues with the Software (excluding those to the extent caused by the Licensee, a third party, or circumstances outside Device Authority's reasonable control):
- (a) Device Authority will repair or replace the Software to the extent reasonably practicable; and
 - (b) if neither repair nor replacement can be achieved practically and economically within 30 days, and the remaining issue renders the Software materially unusable, either party may terminate this EULA immediately upon notice in writing to the other party, in which case Device Authority will refund any fees that relate to the period after termination on return of the Software and all copies thereof.
- 6.3 Device Authority does not warrant that the use of the Software will be uninterrupted or error-free.
- 6.4 The Licensee acknowledges that the Software has not been developed to meet the individual requirements of the Licensee.
- 6.5 All other conditions, warranties or other terms that might have effect between the parties or be implied or incorporated into this EULA, whether by statute, common law or otherwise, are hereby excluded to the maximum extent permissible.
- 6.6 The undertaking at clause 6.1 does not apply to the extent of any non-conformance that is caused by use of the Software contrary to Device Authority's instructions, or modification or alteration of the Software by any party other than Device Authority or Device Authority's duly authorised contractors or agents.
- 6.7 Device Authority is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Licensee acknowledges that the Software may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 6.8 Nothing in this EULA prevents Device Authority from entering into similar agreements with third parties or from independently developing, using, selling or licensing documentation, products or services that are similar to those provided under this EULA.
- 6.9 Save as set out in this EULA:
- (a) all warranties, representations, conditions and other terms implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this EULA; and

- (b) the Software, Licensee Portal, and Documentation are provided "as is".

7. LICENSEE'S OBLIGATIONS

7.1 The Licensee shall:

- (a) provide Device Authority with:
- (i) all necessary co-operation in relation to this EULA; and
 - (ii) all necessary access to such information as may be required by Device Authority,
- in order to provide the Software, including but not limited to Licensee Data, security access information and configuration services;
- (b) without affecting its other obligations under this EULA, comply with all applicable laws and regulations with respect to its activities under this EULA;
- (c) carry out its obligations under this EULA in a timely manner. In the event of any delay by the Licensee, Device Authority may adjust any agreed timetable or delivery schedule as is reasonably necessary;
- (d) ensure that its authorised users use the Software and the Documentation in accordance with the terms and conditions of this EULA, and the Licensee acknowledges that it is responsible for use; and
- (e) obtain and maintain all necessary licences, consents, and permissions necessary for Device Authority (including its contractors and agents) to perform its obligations under this EULA.

7.2 The Licensee is responsible for securing its network connections and telecommunications links from its systems to Device Authority's data centres. Device Authority has no liability for any problems, conditions, delays, delivery failures or other loss or damage arising from, or relating to, the Licensee's network connections or telecommunications links or the internet.

7.3 The Licensee owns all right, title and interest in all Licensee data and is responsible for ensuring its legality, reliability, integrity, accuracy and quality.

7.4 The Licensee acknowledges and agrees that:

- (a) it is best placed to assess, and therefore responsible for assessing, whether the Software is suitable for its requirements;
- (b) the Software can only work to the extent that the Licensee's network and systems comply with the relevant specifications provided by Device Authority from time to time; and
- (c) due to the very nature of the product and as is standard in supply of such products, Device Authority does not warrant that the Software will be uninterrupted, error-free or free from Viruses.

8. PROPRIETARY RIGHTS

- 8.1 As between the parties, Device Authority remains the absolute legal and beneficial owner of all Intellectual Property in the Software, the Licensee Portal, and the Documentation.
- 8.2 Except as expressly stated herein, this EULA does not grant the Licensee any rights to or under any Intellectual Property of any kind (wherever existing and whether registered or unregistered) in the Software, the Licensee Portal, and the Documentation.

9. LIMITATION OF LIABILITY

- 9.1 Except as expressly and specifically provided in this EULA:
- (a) the Licensee assumes sole responsibility for the results it obtains from the use of the Software and the Documentation and for conclusions it draws; and
 - (b) Device Authority has no liability for any damage caused by errors or omissions in any information, instructions or scripts provided by the Licensee, or for any actions taken by Device Authority at the Licensee's direction.
- 9.2 Nothing in this EULA excludes or limits the liability of Device Authority for:
- (a) death or personal injury caused by that party Device Authority's negligence;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any other liability that may not be excluded or limited at law.
- 9.3 Subject to clause 9.1 and clause 9.2:
- (a) Device Authority has no liability for any special, indirect or consequential loss of the Licensee; and
 - (b) Device Authority's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with this EULA is limited to lower of:
 - (i) the total fees payable by the Licensee to Device Authority (or, if applicable, to the reseller or service provider with which the Licensee deals) in the Contract Year in which liability first occurs; and
 - (ii) £100,000.

10. TERM AND TERMINATION

- 10.1 This EULA commences on the Start Date and will continue for the Subscription Term, unless otherwise terminated pursuant to clause 6.2(b) or this clause 10.
- 10.2 Without affecting any other right or remedy available to it, either party may terminate this EULA with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;

- (b) the other party commits a material breach of any other term of this EULA and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other party is insolvent; or suspends (or threatens to suspend) payment of its debts or is deemed unable to pay its debts; or enters into any compromise with its creditors generally; or is subject to an order for its winding-up; or has an administrator or receiver appointed; or is subject to any event or circumstances in any jurisdiction similar to those in this clause 10.2(c); or ceases to carry on its business.

10.3 On termination of this EULA for any reason:

- (a) all licences granted under this EULA immediately terminate and the Licensee shall immediately cease all use of the Software and the Documentation (but, for the avoidance of doubt, termination does not affect any agreement that the Licensee may have with any other party, including a reseller or service provider with which the Licensee deals);
- (b) Device Authority may destroy or otherwise dispose of any Licensee data in its possession unless Device Authority receives, no later than ten days after the date of termination of this EULA, a written request for the delivery to the Licensee of the most recent back-up of the Licensee data, in which case Device Authority shall use reasonable commercial endeavours to deliver the back-up to the Licensee within 30 days of its receipt of such a written request, provided that the Licensee has paid all sums due to Device Authority and agrees to pay all reasonable expenses incurred by Device Authority in returning or disposing of Licensee data; and
- (c) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

11. VARIATION

11.1 Device Authority may vary this EULA at any time. Any such variation will be posted on to the Website and will apply to the Licensee with effect from any subsequent Subscription Term agreed between the parties, with the exception of any variation made to comply with law, which will apply immediately once the new version of the EULA is posted on the Website.

11.2 Subject to clause 11.1, no variation of this EULA will be effective unless it is in writing, is expressed to vary this EULA, and is accepted on behalf of each of the parties.

12. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this EULA or by law constitutes a waiver of that or any other right or remedy or prevents or restricts the further exercise of that or any other right or remedy. No single or partial exercise of

such right or remedy prevents or restricts the further exercise of that or any other right or remedy.

13. RIGHTS AND REMEDIES

Except as expressly provided in this EULA, the rights and remedies under this EULA are in addition to, and not exclusive of, any rights or remedies provided by law.

14. SEVERANCE

14.1 If any provision or part-provision of this EULA is or becomes invalid, illegal or unenforceable, it will be deemed deleted, but that shall not affect the validity and enforceability of the rest of this EULA.

14.2 If any provision or part-provision of this EULA is deemed deleted under clause 14.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

15. ENTIRE AGREEMENT

15.1 This EULA, and any agreed written commercial terms between the parties, constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this EULA it does not rely on, and has no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this EULA. However, nothing in this clause 15 limits or excludes any liability for fraud.

16. ASSIGNMENT AND SUBCONTRACTING

16.1 Neither party may, without the prior written consent of the other party, assign, transfer, charge or deal in any other manner with any of its rights or obligations under this EULA.

16.2 Device Authority may at any time subcontract any of its obligations under this EULA.

17. NO PARTNERSHIP OR AGENCY

Nothing in this EULA is intended to, or will operate to, create a partnership between the parties, or authorise a party to act as agent for the other party. Neither party has the authority to act in the name of, or on behalf of, or otherwise to bind, the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability, or the exercise of any right or power).

18. THIRD-PARTY RIGHTS

This EULA does not confer any rights on any person who is not a party to this EULA pursuant to the Contracts (Rights of Third Parties) Act 1999.

19. NOTICES

- 19.1 A notice given by one party to the other under this EULA (excluding a notice given in the course of, or in commencement of, any proceedings) will be properly served if it is in English and is sent by courier to the other party's registered office or usual place of business, or by email to legal@deviceauthority.com (for emails to Device Authority) or to any email address on file for the Licensee (for emails to the Licensee).
- 19.2 A notice will be deemed to have been received at the time of delivery (as assessed by reference to the records of the courier) for notices by courier; and at the time at which it is sent for notices by email; save, in all cases, that if such time does not fall on a Business Day, the notice will not be considered received until 0900h on the next Business Day.

20. GOVERNING LAW AND JURISDICTION

This EULA, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), is governed by and must be construed in accordance with the law of England and Wales. The courts of England and Wales have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this EULA or its subject matter or formation (including non-contractual disputes or claims).