

## WEB-WRAP SOFTWARE LICENCE FOR QUICKBUY<sup>®</sup>

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  - (ii) is not unnecessarily disclosed or communicated without the Licensor's prior written consent to any third party; and
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- (g) not to provide or otherwise make available the Software in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any person other than your employees or contractors without prior written consent from the Licensor.

2.2 You must permit the Licensor and his representatives, at all reasonable times and on reasonable advance notice, to inspect and have access to any premises at which the

Software or the Documentation is being kept or used, to the computer equipment located there, and to any records kept pursuant to this Licence, for the purpose of ensuring that you are complying with the terms of this Licence.

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The Licensor's technical support staff will endeavour to answer any queries which you, as the original registered purchaser, may have regarding the use or application of the Software. For details of this support service please see our website at [www.sur.co.uk/quickbuysupport](http://www.sur.co.uk/quickbuysupport)

### **4. REGISTRATION**

It is a condition of using the Software that the Licensee registers certain details during the purchase of the Software including the domain name URL to work in conjunction with the Software. Licensee warrants that it complies with all UK data protection laws in relation to this obligation.

### **5. INTELLECTUAL PROPERTY RIGHTS**

5.1 You acknowledge that all intellectual property rights in the Software and the Documentation anywhere in the world belong to the Licensor, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software or the Documentation other than the right to use them in accordance with the terms of this Licence.

5.2 You acknowledge that you have no right to have access to the Software in source code form or in unlocked coding or with comments.

### **6. WARRANTY**

6.1 The Licensor warrants that for a period of 30 days from the date of installation (**Warranty Period**) the Software will, when properly used, perform substantially in accordance with the functions described in the Documentation (provided that the Software is properly used on the computer and with the operating system for which it was designed as referred to in the accompanying documentation), and that the Documentation correctly describes the operation of the Software in all material respects;

6.2 You acknowledge that the Software has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documentation meet your requirements.

- 6.3 You acknowledge that the Software may not be free of bugs or errors, and agree that the existence of minor errors shall not constitute a breach of this Licence.
- 6.4 If, within the Warranty Period, you notify the Licensor in writing of any defect or fault in the Software in consequence of which it fails to perform substantially in accordance with the Documentation, and such defect or fault does not result from you having amended the Software or used it in contravention of the terms of this Licence, the Licensor will, at its sole option, either repair or replace the Software, provided that you make available all the information that may be necessary to help the Licensor to remedy the defect or fault, including sufficient information to enable the Licensor to recreate the defect or fault.

## **7. LICENSOR'S LIABILITY**

- 7.1 Nothing in this Licence shall limit or exclude the liability of either party for death or personal injury resulting from negligence, fraud, fraudulent misrepresentation.
- 7.2 Subject to condition 7.1, the Licensor's liability for losses suffered by you arising out of or in connection with this agreement (including any liability for the acts or omissions of its employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall exclude:
- (a) loss of income;
  - (b) loss of business profits or contracts;
  - (c) business interruption;
  - (d) loss of the use of money or anticipated savings;
  - (e) loss of information;
  - (f) loss of opportunity, goodwill or reputation;
  - (g) loss of, damage to or corruption of data; or
  - (h) any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise;

provided that this condition 7.2 shall not prevent claims for loss of or damage to your tangible property that fall within the terms of condition 6 or any other claims for direct financial loss that are not excluded by any of categories (a) to (h) inclusive of this condition 7.2.

- 7.3 Subject to condition 7.1 and condition 7.2, the Licensor's maximum aggregate liability under or in connection with this Licence, or any collateral contract, whether in contract, tort (including negligence) or otherwise, shall be limited to the licence fee

paid by the Licensee in the preceding 12 months from the date of such liability arising.

- 7.4 Subject to condition 7.1, condition 7.2 and condition 7.3, the Licensor's liability for infringement of third-party intellectual property rights shall be limited to breaches of rights subsisting in the UK.
- 7.5 This Licence sets out the full extent of the Licensor's obligations and liabilities in respect of the supply of the Software and Documentation. In particular, there are no conditions, warranties, representations or other terms, express or implied, that are binding on the Licensor except as specifically stated in this Licence. Any condition, warranty, representation or other term concerning the supply of the Software and Documentation which might otherwise be implied into, or incorporated in, this Licence, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.

## **8. TERMINATION**

- 8.1 The Licensor may terminate this Licence immediately by written notice to you if:
- (a) You commit a material or persistent breach of this Licence, including to pay the license fees, which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so; or
  - (b) a petition for a bankruptcy order to be made against you has been presented to the court; or
  - (c) the Licensee (where it is a company) becomes insolvent or unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), enters into liquidation, whether voluntary or compulsory (other than for reasons of bona fide amalgamation or reconstruction), passes a resolution for its winding-up, has a receiver or administrator manager, trustee, liquidator or similar officer appointed over the whole or any part of its assets, makes any composition or arrangement with its creditors or takes or suffers any similar action in consequence of its debt, unable to pay your debts (within the meaning of section 123 of the Insolvency Act 1986).
- 8.2 The Licensee may terminate this License by giving not less than three (3) months written notice prior to an anniversary of the licence fee payment date.
- 8.3 Upon termination for any reason:
- (a) all rights granted to you under this Licence shall cease;
  - (b) you must cease all activities authorised by this Licence;
  - (c) you must immediately pay to the Licensor any sums due to the Licensor under this Licence; and

- (d) you must immediately delete or remove the Software from all computer equipment in your possession, and immediately destroy or return to the Licensor (at the Licensor's option) all copies of the Software then in your possession, custody or control and, in the case of destruction, certify to the Licensor that you have done so.

## **9. TRANSFER OF RIGHTS AND OBLIGATIONS**

- 9.1 This Licence is binding on you and us, and on our respective successors and assigns.
- 9.2 You may not transfer, assign, charge or otherwise dispose of this Licence, or any of your rights or obligations arising under it, without our prior written consent.
- 9.3 We may transfer, assign, charge, sub-contract or otherwise dispose of this Licence, or any of our rights or obligations arising under it, at any time during the term of the Licence.

## **10. NOTICES**

We may give notice to you at either the e-mail or postal address you provided to us or our representative when purchasing the Software. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## **11. EVENTS OUTSIDE OUR CONTROL**

- 11.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by events outside our reasonable control (**Force Majeure Event**).
- 11.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:
  - (a) strikes, lock-outs or other industrial action;
  - (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
  - (c) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;

- (d) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- (e) impossibility of the use of public or private telecommunications networks;
- (f) the acts, decrees, legislation, regulations or restrictions of any government.

11.3 Our performance under this Licence is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under this Licence may be performed despite the Force Majeure Event.

## **12. WAIVER**

12.1 If we fail, at any time during the term of this Licence, to insist upon strict performance of any of your obligations under this Licence, or if we fail to exercise any of the rights or remedies to which we are entitled under this Licence, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

12.2 A waiver by us of any default shall not constitute a waiver of any subsequent default.

12.3 No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

## **13. SEVERABILITY**

If any of the terms of this Licence are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

## **14. ENTIRE AGREEMENT**

14.1 This Licence and any document expressly referred to in it represents the entire agreement between us in relation to the licensing of the Software and Documentation and supersedes any prior agreement, understanding or arrangement between us, whether oral or in writing.

14.2 We each acknowledge that, in entering into this Licence, neither of us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between us prior to entering into this Licence except as expressly stated in this Licence.

14.3 Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date we entered into this Licence (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these terms and conditions.

**15. LAW AND JURISDICTION**

This Licence, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and submitted to the non-exclusive jurisdiction of the English courts.