
SMARTFLOW END USER LICENSE AGREEMENT

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- 3.7 vary, delete or obscure any notices of proprietary rights or any product identification or restrictions on or in the Software.

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You undertake to:

- 4.1 ensure that, where relevant, prior to use of the Software by your employees or agents, all such parties are notified of this licence and the terms of this Agreement;
- 4.2 ensure that, where relevant, prior to use of the Software by your employees or agents, all such parties are suitably competent and skilled in the use of the Software;
- 4.3 reproduce and include our copyright notice (or such other party's copyright notice as specified on the Software) on all and any copies of the Software, including any partial copies of the Software;
- 4.4 hold all drawings, specifications, data (including object and source codes), software listings and all other information relating to the Software, confidential and not at any time, during this licence or after its expiry, disclose the same, whether directly or indirectly, to any third party without our consent.

5. **Title**

We shall at all times retain ownership of the Software.

6. **Limited Warranty and Remedy**

- 6.1 The Software, as delivered to Customer, will substantially conform to the applicable Manuals during the License Term, to the extent that the Software is used in accordance with the Manuals and the purchased Licensing Models. Customer must notify us of a Claim under this warranty within 30 days of the date on which the condition giving rise to the Claim first appeared. To the extent permitted by law, Customer's sole and exclusive remedy and our sole liability under or about this warranty will be a replacement of the Software component, or if replacement is not commercially reasonable, a termination of the applicable Software component or services and a refund of pro rata fees pertaining to the Software component or service, computed on the basis of the prepaid and unused License Fees.
- 6.2 except for the express warranties herein, the Software is provided on an "as-is" basis. Neither party makes any warranty of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any implied warranties of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable law. We do not warrant that this Software will meet your requirements or that its operation will be uninterrupted or error free (including without limitation, loss of profits, loss or corruption of data, business interruption or loss of business). You bear the entire risk as to the use of the Software. Each party disclaims all liability for any harm or damages caused by any third-party hosting providers.

7. **Liability**

- 7.1 Our liability to you for any losses shall not exceed the amount you originally paid for the Software.
- 7.2 In no event will we be liable to you for any indirect or consequential damages, loss of profit, even if we have been advised of the possibility of such damages. Neither Party will be liable to the other Party for any special, indirect, moral, consequential, incidental, punitive, or exemplary damages, the use or inability to use the Software, computer malfunction or failure, server down time, failure of the Software to operate with any other programs, loss of profits, reputation, use, or revenue, loss or corruption of data, or interruption of business.
- 7.3 You acknowledge and agree that the limitations contained in this Clause 7 are reasonable in the light of all the circumstances.

8. **Termination**

- 8.1 The Agreement and the licence granted to use the Software automatically terminates if you:
 - 8.1.1 fail to comply with any provisions of this Licence Agreement;
 - 8.1.2 destroy the copies of the Software in your possession;
 - 8.1.3 voluntarily return the Software to us.
- 8.2 In the event of termination in accordance with sub-Clause 8.1 you must destroy or delete all copies of the Software from all installation media in your control.

9. **No Waiver**

No failure or delay by us in exercising any of our rights under this Licence Agreement shall be deemed to be a waiver of that right, and no waiver by us of a breach of any provision of this Licence Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

10. **Assignment**

This Licence Agreement is personal to you. You may not assign, sub-licence or otherwise delegate any of your rights hereunder without our prior written consent.

11. **Entire Agreement**

- 11.1 This Agreement contains the entire agreement between us, the Licensor, and you with respect to its subject matter.
- 11.2 You acknowledge that, in entering into this Licence Agreement, you do not rely on any representation, warranty or other provision except as expressly provided in this Licence Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 11.3 We may amend the terms and conditions of this End User Licence Agreement

at any time by giving reasonable notice, including without limitation by posting revised terms on our website at <https://www.maximiseit.co.uk/terms-and-conditions>, which amended terms and conditions shall be binding upon you.

12. Severance

In the event that one or more of the provisions of this Licence Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of this Licence Agreement. The remainder of this Licence Agreement shall be valid and enforceable.

13. Law and Jurisdiction

13.1 This Licence Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

13.2 Any dispute, controversy, proceedings or claim relating to this Licence Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.