

CleanLink Software Limited - Online License Terms and Conditions

CleanLink Software Ltd ("CleanLink") grants you (the "Customer") a non-exclusive, non-transferable licence to use the Program during the term of this agreement subject to the following terms and conditions:

Definitions

"Administrator User Account" means the unique means of access to the Program by the Customer.

"Clients" means Customer's clients to whom the Customer provides User Accounts.

"Customer Data" means the data inputted by the Customer, or CleanLink on the Customer's behalf, for the purpose of using the Services or facilitating the Customer's use of the Services.

"Licence Fee" means the sums payable by the Customer to CleanLink for the Service.

"Platform" means the software and hardware operating platform specified for the Program in the Particulars, as may be revised from time to time by CleanLink by prior notification.

"Particulars" means the online registration form completed by the Customer to the reasonable satisfaction of CleanLink, together with any subsequent agreed amendments.

"Program" means the specified Version of any computer program named in the Particulars for operation on the Platform, together with any related written materials supplied by CleanLink. The term "Program" shall also include any Release.

"Release" means a revised copy of a Program containing error corrections, minor enhancements and/or support for new releases of the Platform which CleanLink may supply to the Customer without charge under this Agreement or under a maintenance agreement relating to such Program.

"Use" means to access the Program on hardware devices by using a User Account.

"User Account" means the unique means of access to the Program by an individual.

"Version" means a revised copy of such Program containing significant enhancements and/or support for new operating platforms which CleanLink may offer to its licensees for an additional licence fee.

"Virus" means any 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, 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, including worms, trojan horses, viruses and other similar things or devices.

Customer Obligations

1. The Customer must complete the Particulars in order to receive the Service. The Customer is responsible for checking the accuracy and completeness of information provided in the Particulars, and CleanLink accept no liability for any errors or omissions resulting from its reliance on any information provided in the Particulars.
2. The Customer shall only set up User Accounts for its employees, sub-contract service providers or Clients. The Customer is responsible for its (and any Client's) use of the Program and the Platform, and any results obtained from it, including any results obtained by combining the Program with any other program or equipment not recommended or furnished by CleanLink
3. The Customer may create separate User Accounts for as many individuals as it deems necessary. A User Account shall only be used by a one individual. For the avoidance of doubt, a generic User Account shared by multiple individuals is not permitted.
4. The Customer is responsible for maintaining the security (including passwords) of its Administrator User Account and any User Accounts. CleanLink will not be liable for, and the Customer will indemnify CleanLink against any loss, damage, costs or claims arising from the Customer's failure to comply with this obligation.
5. The Customer is responsible for providing its means of access to the Platform, including, but not limited to, hardware devices, web-browsing software and internet connectivity.
6. The Customer shall only use the Program and the Platform for processing its data for its internal business purposes.
7. The Customer may, with 30 days' prior written request to CleanLink, downgrade the level of its Service. The Customer acknowledges and agrees that such a downgrade may cause the loss of content, features, or capacity of its Administrator User Account and/or User Accounts and that CleanLink does not accept any liability for such loss.
8. The Customer shall not, and shall procure that any User Account holder shall not, access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
 - a. is unlawful, harmful, threatening, defamatory, obscene, infringing, fraudulent, harmful, 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, disability; or
 - f. in a manner that is otherwise illegal or causes damage or injury to any person or property.
- 9. The Customer may utilise the written materials supplied to it by CleanLink to support its authorised use of the Program providing it does not copy and distribute such written materials to any third party either during the term of this agreement or following its termination, howsoever such termination may arise.
- 10. The Customer shall not, without the prior written consent of CleanLink, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 11. The Customer shall not:
 - a. copy, modify, duplicate, create derivative works from, frame, mirror, republish, display, download, transmit or distribute all or any portion of the Program in any form or media, except to the extent permitted by law or expressly permitted under this Agreement;
 - b. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Program; or
 - c. access all or any part of the Program in order to build a product or service which competes with the Service and/or Program; or
 - d. use the Service and/or the Program to provide services to third parties; or
 - e. subject to clause 2, licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Service and/or Program available to any third party except a User Account holder, or
 - f. attempt to obtain, or assist third parties in obtaining, access to the Service and/or Program, other than as provided under this clause 11.
- 12. The Customer shall use its best endeavours to prevent any unauthorised access to, or use of, the Service and/or the Program and, in the event of any such unauthorised access or use, promptly notify CleanLink.
- 13. The rights provided under this agreement are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.
- 14. CleanLink shall, on reasonable notice and during normal business hours, have the right to enter into any premises of the Customer for the purpose of auditing compliance with the terms of this Agreement.
- 15. The Customer acknowledges and agrees that CleanLink and/or its licensors own all intellectual property rights in the Program. Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Program.

Customer Data

16. The Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Customer Data.
17. CleanLink shall back-up data stored within the Program from time to time. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for CleanLink to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by CleanLink.
18. CleanLink shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by CleanLink to perform services related to Customer Data maintenance and back-up).
19. CleanLink shall comply with its Privacy and Cookies Policy relating to the privacy and security of the Customer Data available at <http://www.cleanlink.co.uk/privacy/> or such other website address as may be notified to the Customer from time to time, as such document may be amended from time to time by CleanLink in its sole discretion.
20. In providing the licence granted in clause 24, CleanLink will be acting as a data processor on behalf of the Customer for the purpose of the Data Protection Act. In processing such Customer Personal Data CleanLink will:
 - a. only process Customer Personal Data in accordance with this Agreement and the Customer's instructions from time to time;
 - b. take reasonable steps to ensure the reliability of its employees who will have access to such Customer Personal Data;
 - c. take appropriate technical and organisational measures against the unauthorised or unlawful processing of such Customer Personal Data and against the accidental loss or destruction of, or damage to, Customer Personal Data to ensure a level of security appropriate to the harm that may result from such unauthorised or unlawful processing, accidental loss destruction or damage;
 - d. ensure that its subcontractors are engaged on contract terms offering an equivalent level of protection for the Customer Personal Data;
21. The Customer warrants and undertakes that it is entitled to transfer the relevant personal data to CleanLink so that CleanLink may lawfully use, process and transfer the personal data in accordance with this Agreement on the Customer's behalf
22. The Customer consents to CleanLink accessing and extracting anonymised, aggregated data for the purpose of provided statistical analysis and benchmarking services provided that at no time will CleanLink extract any Customer Personal Data. Customer acknowledges that such extracted data shall be owned by CleanLink, and

that Customer shall have no rights to such data once extracted provided that CleanLink does not in any way identify Customer as the source of any data.

CleanLink's Rights and Obligations

23. Upon completion of the Particulars, CleanLink will send the Customer an email containing the details of the Administrator User Account.
24. CleanLink will grant to the Customer, a non-exclusive, non-transferable, right and licence to permit the Customer and users authorised by the Customer to use the Platform and the Program available to the Customer under the terms of this Agreement.
25. CleanLink reserves the right at any time and from time to time to modify the Platform and/or the Program (or any part thereof) with or without notice to the Customer.
26. CleanLink will use reasonable efforts to make the Program available during Normal Business Hours, but the Customer acknowledges that CleanLink:
 - a. does not warrant that the Customer's use of the Service will be uninterrupted or error-free; or that the Program and/or the information obtained by the Customer through the Program will meet the Customer's requirements; and
 - b. 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 Customer acknowledges that the Program may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
27. CleanLink may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

Payment

28. CleanLink will invoice the Customer in advance on a monthly basis. The Customer agrees to make full payment of invoiced Licence Fees within 30 days of the date of the invoice.
29. The Customer will be invoiced according to the usage requirements set out in the Particulars of the Service and in accordance with the charges current at the time of invoicing.
30. There will be no refunds or credits for partial months of service, downgrade refunds, or refunds for months unused with an open account. All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and the Customer shall be responsible for payment of all such taxes, levies, or duties.

31. If CleanLink has not received payment within 30 days of the date of the invoice, and without prejudice to any other rights and remedies of CleanLink:
 - a. CleanLink may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Program and CleanLink shall be under no obligation to provide access to the Program while the invoice concerned remains unpaid; and
 - b. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate Barclays Bank, UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
32. For any upgrade or downgrade in the Service, the Customer will automatically be charged the new rate in the following month's invoicing cycle.
33. The prices of all Services, including but not limited to monthly subscription plan fees to the Service, are subject to change upon 30 days' notice from CleanLink. Such notice may be provided at any time by email to the Customer's nominated email address and shall be deemed to be received at the time it was sent.

Support Services and Upgrades

34. CleanLink will at no additional cost to the Customer, provide the Customer with access to CleanLink's standard customer support services via email and by telephone between the hours of 09:00 and 17:00 on normal business working days.
35. CleanLink will, at the Customer's request, provide the Customer with training in the use of the Program at CleanLink's then current rates and charges.
36. CleanLink will take reasonable steps to ensure any corrective actions are implemented where possible within a reasonable timeframe.
37. CleanLink may amend the level of support available at its sole and absolute discretion from time to time. The Customer may purchase enhanced support services or training separately at CleanLink's then current rates.
38. The Customer acknowledges and agrees that from time to time during the term of this agreement, CleanLink may at its sole and absolute discretion apply upgrades to the Platform and/or Program and that such upgrades may result in changes to the appearance and/or functionality of the Platform and/or Program.

Term and Termination

39. Completion of the Particulars shall be an offer by the Customer to purchase a licence to use the Platform and Program in accordance with these terms and conditions. CleanLink will be deemed to have accepted this offer on provision, via email, of the Administrator User Account to the Customer, and this Agreement will remain effective unless and until it is terminated in accordance with its terms.

40. CleanLink or the Customer may terminate this Agreement at any time by providing the other with 30 days' written notice.
41. CleanLink may, suspend and/or terminate this Agreement with immediate effect if the Customer:
- a. fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 10 days after being notified in writing to make such payment; or
 - b. commits a material breach of this Agreement and, if such breach is capable of remedy, the Customer fails to rectify such breach within 30 days of receiving written notice to do so; or
 - c. repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement; or
 - d. suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - e. commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation; or
 - f. goes into liquidation; or
 - g. enters into a scheme or voluntary arrangement with its creditors; or
 - h. becomes subject to an administration order; or
 - i. has a receiver appointed over any of its assets; or
 - j. where the Customer is an individual or partnership, a bankruptcy order is made against it.
42. Upon the termination of this Agreement for whatever reason:
- a. the Customer will cease to use the Program and will destroy all copies of related written materials;
 - b. all licences granted under this Agreement shall immediately terminate;
 - c. CleanLink may destroy or otherwise dispose of any of the Customer's data in its possession unless CleanLink receives, no later than 10 days after the effective date of the termination of this Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer's data. CleanLink shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by CleanLink in returning or disposing of the Customer's data; and
 - d. 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.

Warranties

43. The Customer warrants that it has the legal right and authority to enter into and perform its obligations under this agreement.
44. CleanLink warrants that it has the legal right and authority to enter into and perform its obligations under this Agreement and that it will perform its obligations under this Agreement with reasonable care and skill.
45. CleanLink does not warrant that:
 - a. the Program or Platform will meet the Customer's specific requirements, or that the quality of any Program, information, or other material purchased or obtained from CleanLink will meet the Customer's expectations;
 - b. the Program or Platform will be compatible with any application, program or software not specifically identified as compatible;
 - c. the Program or Platform will be accurate or error-free; or
 - d. any errors in the Program or Platform will be corrected.
46. The Customer acknowledges and agrees that software programs are never wholly free from Viruses, defects, errors or bugs, and that CleanLink gives no warranty or representation that the Program or Platform will be wholly free from such Viruses, defects, errors or bugs. The Customer's sole remedy for any such Virus, defect, error or bug affecting the Program is CleanLink's reasonable endeavours to correct the Virus, defect, error or bug. The Customer shall have no remedy for any such Virus, defect, error or bug affecting the Platform.
47. The Customer acknowledges and agrees that CleanLink uses third party vendors and hosting partners to provide the necessary hardware, software, networking, storage and related technology required to run the Service and that CleanLink can not warrant that the Platform will be available to the Customer at all times.
48. CleanLink will not and does not purport to provide any legal, taxation or accountancy advice under this Agreement or in relation to the provision of the Program or the Platform.
49. CleanLink does not warrant or represent that the use of the Platform will not give rise to any civil or criminal legal liability on the part of the Customer or any other person.
50. Except as expressly stated in this Agreement, all warranties, conditions and terms whether express or implied by statute, common law or otherwise are hereby excluded to the fullest extent permitted.
51. The Customer acknowledges and agrees that CleanLink shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including

but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (irrespective of whether CleanLink has been advised of the possibility of such damages), resulting from:

- a. the use or the inability to use the Platform and/or the Program;
- b. the cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through or from the Program;
- c. unauthorised access to or alteration of the Customer's transmissions or Customer Data;
- d. statements or conduct of any third party using the Program; or
- e. any other matter relating to the provision of use of the Program or the Platform.

52. CleanLink's total liability to Customer, howsoever arising under or in connection with this Agreement will not in any event exceed the total aggregate value of all Licence Fees paid by the Customer in the 12 months prior to the claim arising.

53. The failure of CleanLink to exercise or enforce any right or provision of this agreement shall not constitute a waiver of such right or provision

54. The Customer shall indemnify CleanLink against any losses, claims, damages costs and expenses suffered or incurred by CleanLink arising out of any inappropriate or improper use of the Program by Customer, or any user authorised by Customer, or any other breach of the terms of this Agreement.

General Terms

55. CleanLink shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, provided that the Customer is notified of such an event and its expected duration.

56. This Agreement 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) shall be governed by and construed in accordance with the law of England and Wales, and the parties agree that the courts of England and Wales will have exclusive jurisdiction to settle any such dispute or claim.

57. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

58. No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
59. This Agreement, and any documents referred to in it, constitute the whole agreement between the Customer and CleanLink and supersede any previous arrangement, understanding or agreement between them relating to the subject matter.
60. The Customer and CleanLink acknowledge and agree that in entering into this Agreement they do not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this Agreement.
61. Any Customer questions about this Agreement should be sent to:
admin@cleanlink.co.uk