

## **END-USER AGREEMENT**

### **essensys Limited**

Registered in England and Wales no. 05959557  
Registered office: 1 St Andrews Hill, London EC4V 5BY

## **END-USER AGREEMENT**

### **1. INTRODUCTION**

- 1.1 This End-User Agreement relates to the telephone, Internet and email facilities and any other items or services which essensys Limited ('we/us/our') agree to supply (referred to as the 'Telephone Service'; 'Internet Service', 'Email Service' and 'Other Services' respectively, and together as 'the Services') for customers of Northern Trust Company Limited ('you/your').
- 1.2 The terms of this End-User Agreement are intended to set out the basis on which the Services are supplied, to ensure that you make fair use of the Services, and to ensure that you do not put our computer systems at risk.
- 1.3 We may from time to time notify you in writing of changes to the terms of this End-User Agreement, to provide further detail about or reasonable restrictions on your fair use of the Services. Your continued use of the Services will constitute an acceptance of the terms of this End-User Agreement as they are changed from time to time.
- 1.4 You are responsible for ensuring compliance with the terms of this End-User Agreement by you or anyone using any of the Services, including your employees, whether authorised by you or not, and for any breach of the terms of this End-User Agreement.
- 1.5 Your access to the Services may be suspended or terminated for breach of the terms of this End-User Agreement.
- 1.6 The Services are supplied as an IT and Telephone Package as more particularly described below.
- 1.7 If you have any questions, please contact us.

### **2. HELPDESK SERVICE**

- 2.1 We will:
  - 2.1.1 provide a helpdesk service ('Helpdesk') for the reporting of problems relating to the Services (a 'Service problem'); and
  - 2.1.2 provide Helpdesk contact details to your authorised representatives ('Authorised Representatives').
- 2.2 Helpdesk support will be provided by telephone or email, or by remote access, as appropriate.

- 2.3 Helpdesk support will be available to Authorised Representatives on the following basis:
- 2.3.1 IT and Telephone Package: 8.30 am to 6.00 pm (UK time), on any Business Day (Monday to Friday (inclusive) excluding Bank Holidays);
- 2.4 You must:
- 2.4.1 identify the Authorised Representatives to us;
- 2.4.2 ensure that the Authorised Representatives provide the following information to us when contacting the Helpdesk:  
(a) name and contact telephone number;  
(b) description of the Service problem or required assistance.
- 2.5 We will:
- 2.5.1 receive, log (date stamped at the time the call is logged) and dispatch or transfer calls, as appropriate;
- 2.5.2 assess and determine the impact of a Service problem;
- 2.5.3 open a problem ticket to document a Service problem;
- 2.5.4 perform initial Service problem determination;
- 2.5.5 provide Service problem fixes according to the timescales set out in paragraph 3 below;
- 2.5.6 provide a summary of all problem records in a monthly service review report; and
- 2.5.7 resolve any third party service provider performance problems affecting provision of Services.
- 2.6 You will:
- 2.6.1 maintain and provide to us an Authorised Representative contact list including names, telephone numbers and email addresses for use by the Helpdesk for problem determination assistance and escalation and ensure such personnel are available as required; and
- 2.6.2 be responsible for the resolution or closure of all problems related to products and services that are not within the Services.

### **3. RESPONSE TIMES**

#### **3.1 Start Of the Services**

We will use our reasonable endeavours to ensure that the Services are available to be used by you within 3 Business Days after receipt by us of all the necessary information relating to the Services to be provided, subject to the availability of the relevant third party products and services.

#### **3.2 Problem response and resolution**

We will use our reasonable endeavours to respond to and resolve any Service problem within the following target timescales:

|                        | Response Target | Problem Resolution Target |
|------------------------|-----------------|---------------------------|
| IT & Telephone Package | 4 hours         | Next Business Day         |

### 3.3 **Serious problem response and resolution**

Where it is determined pursuant to paragraph 2.5 above that the Service problem is likely to have a serious impact on your business, we will use our reasonable endeavours to respond to and resolve the Service problem within the following target timescales:

|                        | Response Target | Problem Resolution Target |
|------------------------|-----------------|---------------------------|
| IT & Telephone Package | 2 hours         | 4 hours                   |

### 3.4 **Additional or changed Services**

Where you wish to add to or change the Services and we have agreed this with you in writing, we will use our reasonable endeavours to provide the agreed additional Services or implement the agreed change in the Services within the following target timescales:

|                        | Additional Services | Changed Services |
|------------------------|---------------------|------------------|
| IT & Telephone Package | 2 Business Days     | 2 Business Days  |

### 3.5 **Calculation of response times**

The target timescale will run in each case from the time when the problem is reported to the Helpdesk, or when the Service change is agreed in writing. Where any part of the target timescale would otherwise fall outside the hours of availability listed in paragraph 2.3 above, it will be suspended until the commencement of the hours of availability on the next Business Day.

## 4. **AVAILABILITY OF THE SERVICES**

### 4.1 **Service monitoring and reporting**

4.1.1 For the purposes of this paragraph, the availability of the Services means the proportion of time in any month (24 hours a day, seven days a week) that the Services are effectively operational, expressed as a percentage, but excluding Scheduled Service Downtime and Planned Maintenance Shutdown.

4.1.2 We will ensure that the availability of the Services is monitored 24 hours a day, 365 (or 366) days a year by appropriately qualified and experienced personnel in order to ensure that any problems, defects or delays in the operation of the Services are promptly resolved with the minimum of inconvenience to you.

4.1.3 We will inform you as soon as reasonably practicable of any problems in the provision of the Services.

4.1.4 We will immediately report to you all periods when any of the Services is not available (**'Service Outage'**) and will notify you of any Service Outage that occurs for more than thirty (30) continuing minutes within the period of Helpdesk availability.

4.2 **Scheduled Service Downtime**

We will be entitled to shutdown access to the Services, for not more than an aggregate of three (3) hours per week (unless otherwise agreed in writing with you) for the purpose of carrying out scheduled maintenance (a **'Scheduled Service Downtime'**) provided that:

4.2.1 we will notify you when a Scheduled Service Downtime is to take place;

4.2.2 no Scheduled Service Downtime will commence prior to 9:00 pm or continue after 8:00 am;

4.2.3 We will give you not less than 5 Business Days' notice in writing of any Scheduled Service Downtime.

4.3 **Emergency Shutdown**

In the event that we require an emergency shutdown of access to the Services otherwise than for the purpose of a Scheduled Service Downtime or a Planned Maintenance Shutdown (as defined below) (an **'Emergency Shutdown'**), we will notify you forthwith upon becoming aware of the need for an Emergency Shutdown (and in any event not more than one hour after the Emergency Shutdown taking effect) giving clear details of the reason for the Emergency Shutdown, the action required to be taken by us and the estimated time scale for carrying out such action in order to restore the Services to normal availability.

4.4 **Planned Maintenance Shutdown**

4.4.1 In the event that we require the planned shutdown of access to the Services otherwise than for the purpose of a Scheduled Service Downtime or an Emergency Shutdown (a **'Planned Maintenance Shutdown'**), we will notify you forthwith upon becoming aware of the need for a Planned Maintenance Shutdown.

4.4.2 We may make a maximum of four (4) Planned Maintenance Shutdowns per year, will not normally exceed more than four (4) hours. The dates and length of the Service Outage will be notified to you at least ten (10) Business Days in advance.

4.5 **Third party suppliers**

We shall not be liable to you for any loss of availability of any of the Services or be deemed to be in default of our obligations under this End-User Agreement by reason of any delay or failure in the supply of third party services such as telecommunications providers.

4.6 **Target availability**

Subject to the foregoing provisions, we will use our reasonable endeavours to achieve the following targets for availability of the Services:

| Network        | Voice          |
|----------------|----------------|
| 100% per month | 100% per month |

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#### 4.7 **Security of the Services**

- 4.7.1 We will take such reasonable steps through the use of appropriate encryption and firewall technology as may be required to ensure that the Services are protected against unauthorised access, manipulation or misuse.
- 4.7.2 We shall not be liable to you or be deemed to be in default of our obligations under this End-User Agreement for any loss of availability of any of the Services by reason of any failure by you, or any person authorised by you to have access to the Services, to comply with the terms of this End-User Agreement, or by reason of any unauthorised access, manipulation or misuse by any person notwithstanding our compliance with paragraph 4.7.1.

#### 5. **INTERNET SERVICE**

5.1 You may not use the Internet Service to engage in illegal, abusive, or irresponsible behaviour, including:

- 5.1.1 unauthorised access to or use of data, services, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorisation of the owner of the system or network;
- 5.1.2 monitoring data or traffic on any network or system without the authorisation of the owner of the system or network;
- 5.1.3 interference with service to any user, host or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks;
- 5.1.4 use of an Internet account or computer without the owner's authorisation, including, but not limited to Internet scanning (tricking other people into releasing their passwords), password robbery, security hole scanning, and port scanning;
- 5.1.5 forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting; or
- 5.1.6 any activity or conduct that is likely to result in retaliation against the Services.

5.2 You must not download any illegal material.

5.3 If you overload the network (for example by using peer to peer or file sharing software), we reserve the right to manage your bandwidth (which could result in reduced service speeds).

#### 6. **TELEPHONE SERVICE**

- 6.1 You may not use the Telephone Service to operate an automated call centre service.
- 6.2 You may not use the Telephone Service for any illegal purpose or in any illegal manner.

## **7. SECURITY AND ADDITIONAL DEVICES**

- 7.1 You must take reasonable security precautions regarding your use of any of the Services.
- 7.2 If you wish to add any additional devices to the **Genesis Centre** network (LAN), other than your own PCs and/or laptops, printers, scanners or fax machines, you must first obtain approval from us through the Helpdesk.

## **8. OFFENSIVE CONTENT**

- 8.1 You may not publish, display or transmit via the Services any content that we reasonably believe:
  - 8.1.1 constitutes child pornography or is otherwise obscene, sexually explicit or morally repugnant;
  - 8.1.2 is excessively violent, incites violence, threatens violence, or contains harassing content or hate speech;
  - 8.1.3 is unfair or deceptive under the consumer protection laws of any jurisdiction, including chain letters and pyramid schemes;
  - 8.1.4 is defamatory or violates a person's privacy;
  - 8.1.5 creates a risk to a person's safety or health, creates a risk to public safety or health, compromises national security, or interferes with a investigation by law enforcement;
  - 8.1.6 improperly exposes trade secrets or other confidential or proprietary information of another person;
  - 8.1.7 is intended to assist others in defeating technical copyright protections;
  - 8.1.8 clearly infringes another person's trade or service mark, patent, or other intellectual property right;
  - 8.1.9 promotes illegal drugs, violates export control laws, relates to illegal gambling, or illegal arms trafficking;
  - 8.1.10 is discriminatory in any way, including by way of sex, race, or age discrimination;
  - 8.1.11 is otherwise illegal or solicits conduct that is illegal under laws applicable to you or to us; or
  - 8.1.12 is otherwise malicious, fraudulent, or may to result in retaliation against us by offended viewers.
- 8.2 Content "published, displayed or transmitted" via the Services includes Web content, email, bulletin board postings, chat, and any other type of posting, display or transmission that relies on the Internet.

## **9. COPYRIGHT MATERIAL**

- 9.1 You may not use the Services to download, publish, distribute, or otherwise copy in any manner any music, software, art, or other work protected by copyright law unless:
- 9.1.1 you have been expressly authorised by the owner of the copyright for the work to copy the work in that manner; or
  - 9.1.2 you are otherwise permitted by copyright law to copy the work in that manner.

## **10. MONITORING**

- 10.1 We may monitor your use of the Services to:
- 10.1.1 ensure that you comply with this End-User Agreement;
  - 10.1.2 prevent or detect crime;
  - 10.1.3 investigate or detect the unauthorised use of our facilities (as explained in this End-User Agreement or as prescribed by law); and
  - 10.1.4 ensure the effective operation of the Services.
- 10.2 We may use “traffic monitoring” software to track the sites and pages visited, the time of day sites are visited and the length of stay at sites. Traffic monitoring is used to analyse the sites people use so that we can plan for providing additional services if needed. Traffic monitoring will also be used to detect unauthorised or excessive use of the Internet.
- 10.3 Notwithstanding the above, we are under no duty, and under the terms of this End-User Agreement we are not deemed to undertake a duty, to monitor or police our users’ activities and we disclaim any responsibility for any misuse of the Services.

## **11. COOPERATION WITH INVESTIGATIONS AND LEGAL PROCEEDINGS**

- 11.1 We may, without notice to you:
- 11.1.1 report to the appropriate authorities any conduct by you that we believe violates applicable criminal law, and
  - 11.1.2 provide any information we have about you and co operate in response to a formal or informal request from a law enforcement or regulatory agency investigating in any such activity, or in response to a formal request in a civil action that on its face meets the requirements for such a request.

## **12. OTHER SERVICES**

- 12.1 Where at your request we arrange the supply of any items such as headsets or peripheral hardware, or managed software, we do so as agent for the supplier, and the items or software in question will be supplied on and subject to the terms and conditions of the relevant supplier, which you undertake to comply with.

### **13. GENERAL**

13.1 You must have valid and current information on file with your domain name registrar for any domain hosted on our servers.

13.2 You may only use IP addresses assigned to you by our staff.

### **14. CONSEQUENCES OF BREACH OF THIS END-USER AGREEMENT**

14.1 We may, without notice to you, suspend your Services or remove any content transmitted via the Services if we reasonably believe you are in breach of this End-User Agreement. You must cooperate with our reasonable investigation of any suspected breach of this End-User Agreement.

14.2 You are strictly responsible for the use of the Services in breach of this End-User Agreement, including use by your employees, and including unauthorised use that you could not have prevented. We will charge you our standard hourly rate for work required as a result of any breach of this End-User Agreement together with the cost of equipment and material needed to (i) investigate or otherwise respond to any suspected breach of this End-User Agreement, (ii) remedy any harm caused to us or any of our customers by your use of the Services in breach of this End-User Agreement, (iii) respond to complaints, and (iv) have our Internet Protocol numbers removed from any "blacklist".

### **15. BASIS OF THE SERVICES**

15.1 The Services are supplied pursuant to your contract with Northern Trust Company Limited ("Contract"). It is your responsibility to abide by the terms of the Contract.

15.2 Except as expressly provided in this End-User Agreement, we make no representation and give no warranty or undertaking, whether express or implied, concerning the Services, and all terms implied by statute or otherwise are excluded to the full extent permitted by law.

15.3 Any difference, disagreement, dispute or claim arising out of or in connection with the supply of the Services (or any failure to supply the Services) must be taken up with Northern Trust Company Limited.

### **16. LIMITATION OF LIABILITY**

Except in the case of death or personal injury caused by negligence, fraudulent misrepresentation or any other liability that may not be legally excluded or restricted, we shall have no liability to you arising out of or in connection with the supply of the Services, or any failure to supply the Services, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by negligence or otherwise), and our entire liability to you so arising in respect of any one event or series of events in any period of 12 months (or any lesser period for which you may use the Services) shall not exceed the amount of the charges payable by you for the Services in respect of the period in question or £100,000, whichever is the lesser amount.

### **17. APPLICABLE LAW AND JURISDICTION**

This End-User Agreement is subject to English law and the jurisdiction of the English courts.