DynamicLTA

lawyers trust account software

End User License Agreement

Please read this EULA carefully, as it sets out the basis upon which we license the Software for use.

By downloading the Software from our website, you give your express agreement to the provisions of this EULA.

When opening the software on your computer you will be prompted to accept this EULA, by clicking "accept agreement" when you using the Software, you agree to be bound by the provisions of this EULA. If you do not agree to be bound by the provisions of this EULA, you must click "do not accept agreement".

By agreeing to be bound by this EULA, you further agree that your employees and/or any person you authorise to use the Software on your behalf will comply with the provision of this EULA. Any other person requires a separate license.

WARNING:

THIS PRODUCT IS USED BEYOND THE CONTROL OF THE VENDOR.

USE OF THIS SOFTWARE OTHER THAN INTENDED OR DIRECTED MAY RESULT

IN DEATH OR SERIOUS INJURY

1.   Definitions

Ordinary English is used in this document. It should be read and interpreted as drafted by lay persons and not be held to high standards of legal language use.

Generally genders should be considered neutral, and singular and plural used interchangeable. Words are used to facilitate understanding in the ordinary sense of the word.

1.1   Except to the extent expressly provided otherwise, in this EULA:

"**Act of God**" means an event, or a series of related events, that is outside the reasonable control of the party affected of any nature, including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars; not keeping backups of data is the end-Client's responsibility and is excluded from this definition; also known as 'force majeure';

"**Charges**" means the standard annual license renewal fee, and any additional charges which may be levied for support provided to the end-Client ;

"**Documentation**" means primarily the Help file documentation supplied with the software; as well as any other supporting documents supplied;

"**EULA**" means this end user licence agreement, including any amendments to this end user licence agreement from time to time; the vendor reserves the right to amend this document at any time without prior notice;

"**Effective Date**" means the date from which the annual license is issued by the vendor;

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights and these "intellectual property rights" include copyright and related rights, including but not limited to rights to database design and layout,, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, utility models, and rights in designs, regardless of whether such rights can be legally registered in the Client's own jurisdiction;

"**Licensee**" means the entity to which an annual license is issued and requires the name and email address the legal entity, for such a license to be issued; it is the express duty of the Vendor to inform the vendor within 30 days of a change of name and or change of email address and such change shall be affected by verifiable instruction; generally the terms 'Client' and 'User' shall be considered equivalent in meaning;

"**Licensee Indemnity Event**" means any event caused by the Vendor which constitutes a breach of this agreement and could potential result in damage for the vendor;

"**Maintenance Services**" means the supply of advice, recommendations and Updates and Upgrades and any after sales service(s) as may be required by the Vendor from time to time;

"**Minimum Term**" means, in respect of this EULA, the period of 12 months beginning on the Effective Date, annual licenses are typically issued on a non-refundable basis;

"**Services**" means any services that the Vendor provides to the Client, or has an obligation to provide to the Client, under this EULA;

"**Software**" means the application software ("binary") identified as the dLTA application, or DynamicLTA software application, the Software is only supplied in English.;

"**Software Defect**" means a defect, error or bug in the Software having a material adverse effect on operation, functionality or performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

(a)   any use of the Software contrary to the Documentation or direction by the Client or any person authorised by the Client to use the Software;

(c)   a failure of the Client to perform or observe any of its obligations in this EULA; and/or

(d)   an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"**Software Specification**" means the specification for the Software set out in the Documentation and specifically the suitability of use for managing attorney's trust accounts;

"**Source Code**" means the Software code in human-readable form or any part of the Software code in human-readable form, including code compiled to create the Software or decompiled from the Software, but excluding interpreted code comprised in the Software;

"**Support Services**" means support in relation to the use of the Software and the identification and resolution of errors in the Software, but shall not include the provision of training services whether in relation to the Software or otherwise; such support is primarily provided by way of email or remote access software solutions;

"**Term**" means the terms of this EULA and any additional conditions expressly agreed between the parties ;

"**Trademark**" means the lettering "DynamicLTA" and any associated imagery, especially when printed in the Cooper Black font, and/or accompanied by the tag line "lawyers trust account software" ;

"**Update**" means any software release intended to replace the software currently in use to fix or prevent and anticipated problem or error, typically issued in terms of a current license;

"**Upgrade**" means a major version upgrade of the Software and will typically be associated with a renewed license;

"**Client**" means the legal entity to whom the software is licensed and a person to whom the Vendor grants a right to use the Software under this EULA; and

"**Client Indemnity Event**" has the meaning given to it in Clause 13.3.

"**Vendor**" or Vendor has the meaning of owner of the software source code or licensed distributor on behalf of the owner in a local jurisdiction.

2.   Purpose and Suitability for Use

2.1   The Software is created specifically to provide an system or the keeping of attorneys trust books, where an integrated environment is required to provide for the clear distinction between accounting transactions pertaining to the business, and those pertaining to trust, where trust constitutes the handling of monies not belonging to the business.

2.2   This Software is designed to be generic in nature and provide basic infrastructure in many jurisdiction with similar basic requirements. It was not designed for any specific jurisdiction and is not intended to comply with the requirements of any specific jurisdiction.

2.3   Although care has been taken to ensure compliance with Generally Accepted Accounting Practice and International Financial Reporting Standards, no provision is made for local accounting conventions.

2.4   Standard Financial Reports are included, and custom Management Reports are used to facilitate interpretation, accessibility and reporting.

3.   Term

3.1   This EULA shall come into force upon the Effective Date.

3.2   This EULA shall continue in force until all copies of the software and its documentation has been destroyed by the Client.

4.   Licence

4.1   The Vendor hereby grants to the Client from the date of first use of the software by the Client until the end of the Term a worldwide, non-exclusive licence to:

(a)   use a a single instance of the Software per license;

(b)   use a single instance of the Software in accordance with the Documentation; and

(c)   create, store and maintain an unlimited number of data backups created by the software;

4.2   The Client may not sub-license and must not purport to sub-license any rights

4.3   Save to the extent expressly permitted by this EULA or required by applicable law, any licence granted under this end user license agreement shall be subject to the following prohibitions:

(a)   the Client shall not sell, resell, rent, lease, loan, supply, publish, distribute or redistribute the Software;

(b)   the Client shall not alter, edit or adapt the Software;

(c) the Client shall not decompile, de-obfuscate or reverse engineer, or attempt to decompile, de-obfuscate or reverse engineer, the Software; and

(d) in the event that the license holder undergoes a change of name, a new license shall be issued to Client, subject to such conditions of proof which may apply, further in the event that the current annual license has expired, an annual license renewal may be requested;

4.4 The Client shall be responsible for the security of copies of the Software supplied to the Client under this EULA[or created from such copies and shall use all reasonable endeavours (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorised to use them under this EULA; in the event that a Client suffers an act of God an holds a valid annual license, this my used to re-activate the software.

4.4 Student License shall be governed by all the other applicable terms of this EULA except that any bona fide student may use a free copy of this software in pursuit of academic purpose. It is a condition of use that a demonstrable link between the use of the software and the academic pursuit exists. The license indicates "Student Number:" and this text must not be changed. Add the applicable name or student registration number after this text. Failure to comply this paragrapgh invalidates the Student License and requires a valid commercial license.

5. Source Code

5.1 Nothing in this EULA shall give to the Client or any other person any right to access or use the Source Code or constitute any licence of the Source Code;

5.2 The Client is only entitled to use the binary product as supplied and is not entitled to investigate the source code;

5.3 The software, the data source, database, data connection and internal operation of the product is not available to the public and any investigation, interference or any unauthorized access to same constitutes a material breach of this agreement.

6. Maintenance Services

6.1 The Vendor provides software. The Vendor does not provide personnel or services to operate the software. The Vendor shall provide Maintenance Services to the Client if required.

6.2 The Vendor shall provide Software Maintenance Services with reasonable skill and care / in accordance with the standards of skill and care reasonably expected from a leading software vendor, and not that of a legal professional or accounting professional;

6.3 The Vendor may suspend the provision of the license and or provision of Maintenance Services if any amount due to be paid by the Client to the Vendor under this EULA or for any other reason whatsoever is overdue;

6.4 In the event that the Client does not renew its license as is required, the license lapses and the Client is under obligation to remove the software as per this agreement;

7. Support Services

7.1 Support Services constitute any additional services beyond the scope of actually operating the software and includes, but is not limited to providing training, installation, guidance and additional documentation;

7.2 It may be necessary to install a bouquet of software applications on the Client's computer in order to achieve full operational potential. The Client grants permission to the Vendor to perform such

installation

8. No assignment of Intellectual Property Rights

8.1 Nothing in this EULA shall operate to assign or transfer any Intellectual Property Rights from the Vendor to the Client, or from the Client to the Vendor.

9. Charges

9.1 The software supplied by the Vendor is strictly license on a pay-for-use basis. The software is not freeware, shareware or otherwise free to use. An pay-for-use annual license is required to operate the software.

9.2 The Client shall pay the Charges to the Vendor in accordance with this EULA.

9.3 All amounts relating to the use of the software, including the license and maintenance and support charges shall be paid by the Client;

9.4 Depending on local licensing agreements and local law, amounts charged shall be inclusive of any applicable value added taxes .

10. Payments

10.1 The Vendor shall issue invoices, receipts for the Charges to the Client as and when necessary and an annual license on request.

10.2 The Client must pay the Charges to the Vendor in advance prior to the issue of a license, and within the period of 30 days following the issue of an invoice for Maintenance or Support Services;

11. Warranties And Data Protection

11.1 The Vendor warrants to the Client that it has the legal right and authority to enter into this EULA and to perform its obligations under the EULA.

11.2 The Vendor warrants to the Client that:

(a) the Software as provided will conform in all material respects with the Software Specification as set out in the documentation;

(b) the Software will be scanned by reputable anti-virus software prior to being supplied to the Client and may be considered free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs;

11.3 The Vendor warrants to the Client that the Software, when used by the Client in accordance with this EULA, will not breach any laws, statutes or regulations applicable under English common law.

11.4 The Client warrants to the Vendor that it has the legal right and authority to enter into this EULA and to perform its obligations under the EULA.

11.5 Dynamic shall keep any client and third party information confidential.

11.6 Dynamic shall not mine data or use personal information for any purpose other than instructed, but may use such anonymized data for

(a) analytical and/or statistical purposes;

(b) training purposes;

11.7 Dynamic shall maintain a reasonable standard of security based on industry standards for software providers.

11.8 Dynamic shall inform client of any security breach which may affect the Client.

11.9 All of the parties' warranties and representations in respect of the subject matter of this EULA are expressly set out in this EULA. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this EULA will be implied into the EULA or any related contract.

12.   Acknowledgements and warranty limitations

12.1 The Client acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this EULA, the Vendor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.

12.2 The Client acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this EULA, the Vendor gives no warranty or representation that the Software will be entirely secure.

12.3 The Client acknowledges that the Software is only designed to be compatible with that software specified as compatible in the Software Specification; and the Vendor does not warrant or represent that the Software will be compatible with any other software.

12.4 The Client acknowledges that the Vendor will not provide any legal, financial, accountancy or taxation advice under this EULA or in relation to the Software; and, except to the extent expressly provided otherwise in this EULA, the Vendor does not warrant or represent that the Software or the use of the Software by the Client will not give rise to any legal liability on the part of the Client or any other person.

13.   Indemnities

13.1 The Client must:

(a)   upon becoming aware of an actual or potential event infringing the rights of the Vendor, notify the Vendor;

(b)   provide to the Vendor all such assistance as may be reasonably requested by the Vendor in relation to the Software or the Vendor;

(c)   allow the Vendor the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Software or the Vendor; and

(d)   not admit liability to any third party in connection with the Software or the Vendor, nor settle any disputes or proceedings involving a third party and relating to the Software or the Vendor without the prior written consent of the Vendor;

13.3 The Client shall indemnify and shall keep indemnified the Vendor against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Vendor and arising directly or indirectly as a result of any breach by the Client of this EULA.

13.4 The Vendor must:

(a)   upon becoming aware of an actual or potential event affecting the Client, notify the Client;

(b)   provide to the Client all such assistance as may be reasonably requested by the Client in relation to the Event;

(c)   allow the Client the exclusive conduct of all disputes, proceedings, negotiations and

settlements with third parties relating to the event; and

(d)   not admit liability to any third party in connection with the Client or settle any disputes or proceedings involving a third party and relating to the Client without the prior written consent of the Client,

14.   Limitations and exclusions of liability

14.1   Nothing in this EULA will:

(a)   limit or exclude any liability for death or personal injury resulting from negligence;

(b)   limit or exclude any liability for fraud or fraudulent misrepresentation;

(c)   limit any liabilities in any way that is not permitted under applicable law; or

(d)   exclude any liabilities that may not be excluded under applicable law,

and, if a party is a consumer, that party's statutory rights will not be excluded or limited by the EULA, except to the extent permitted by law.

14.2   The Vendor will not be liable to the Client in respect of any losses arising out of an Act of God.

14.4   The Vendor will not be liable to the Client in respect of any loss of profits or anticipated savings.

14.5   The Vendor will not be liable to the Client in respect of any loss of revenue or income.

14.6   The Vendor will not be liable to the Client in respect of any loss of business, contracts or opportunities.

14.7   The Vendor will not be liable to the Client in respect of any loss or corruption of any data, database or software.

14.8   The Vendor will not be liable to the Client in respect of any special, indirect or consequential loss or damage.

15.   Termination

15.1   Failure by the Client to obtain an annual license constitutes termination of this agreement.

15.2   Either party may terminate this EULA immediately by giving written notice of termination to the other party if:

(a)   the other party commits any breach of the EULA, and:

(i)   the breach is not remediable; or

(ii)   the breach is remediable, but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied or

(b)   the other party persistently breaches the EULA (irrespective of whether such breaches collectively constitute a material breach).

15.4   Either party may terminate this EULA immediately by giving written notice of termination to the other party if:

(a)   the other party:

(i)   is dissolved;

(ii)   ceases to conduct all (or substantially all) of its business;

(iii)   is or becomes unable to pay its debts as they fall due;

(iv)   is or becomes insolvent or is declared insolvent; or

(v)   convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b)   an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c)   an order is made for the winding up of the other party, or the other party passes a resolution for its winding up[(other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the EULA)];

(d)   [if that other party is an individual:

(i)   that other party dies;

(ii)   as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii)   that other party is the subject of a bankruptcy petition or order].

15.5   The Vendor may terminate this EULA immediately by giving written notice to the Client if:

(a)   any amount due to be paid by the Client to the Vendor under the EULA is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and

(b)   the Vendor has given to the Client at least 30 days' written notice, following the failure to pay, of its intention to terminate the EULA in accordance with this Clause 15.5.

16.   Effects of termination

16.1   Upon the termination of the Client's License, all of the provisions of this EULA shall continue to have effect, until the Software has been removed by the Client as set out herein.

16.2   The termination of this EULA shall not affect the accrued rights of either party.

16.3   Within 30 days following the termination of this EULA for any reason:

(a)   the Client must pay to the Vendor any Charges in respect of Services provided to the Client before the termination of the EULA and in respect of licences in effect before the termination of the EULA; and

(b)   the Vendor must refund to the Client any Charges paid by the Client to the Vendor in respect of Services that were to be (but are not) provided to the Client after the termination of the EULA and in respect of licences that were to be (but are not) in effect after the termination of the EULA,

without prejudice to the parties' other legal rights.

16.4   For the avoidance of doubt, the licences of the Software in this EULA shall terminate upon the termination of the license; this EULA shall terminate upon the removal of the Software; and, accordingly, the Client must immediately cease to use the Software upon the termination of this License.

16.5   Within 20 Business Days following the termination of the License, the Client must:

(a)   irrevocably delete from all computer systems in its possession or control all copies of the Software

(b)   the EULA terminates upon deletion of the Software;

(c)   the intention is to allow the Client to retain an unlicensed copy of the software, subject to the EULA while a new license is obtained;

(d)   If no license renewal is requested, the client must extract reports and export all client data from the system. The Client is not entitled to a copy of the dLTA database, but is entitled to the content of the dLTA database in the standard system report and export formats.

17.   General

17.1   No breach of any provision of this EULA shall be waived except with the express written consent of the party not in breach.

17.2   If any provision of this EULA is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the EULA will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

17.3   This EULA may not be varied except by a written document signed by or on behalf of each of the parties.

17.4   Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this EULA.

17.5   This EULA is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this EULA are not subject to the consent of any third party.

17.6   Nothing in this EULA shall exclude or limit any liability of a party for fraud or fraudulent misrepresentation, or any other liability of a party that may not be excluded or limited under applicable law.

17.7   Subject to Clauses 14.1 and 17.6, this EULA shall constitute the entire agreement between the parties in relation to the subject matter of this EULA, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

17.8   This EULA shall be governed by and construed in accordance with the law of the country in which the Software is used.

DynamicLTA
lawyers trust account software
Web: www.DynamicLTA.com
Email: eula@DynamicLTA.com
[end]