

SOFTWARE LICENSE

Made on 2015

BETWEEN MOONWALK UNIVERSAL PTY LTD ACN 093 832 538

(‘Licensor’)

AND THE PERSON OR ENTITY NAMED IN SCHEDULE 1

(‘Licensee’)

OPERATIVE PROVISIONS

1. DEFINITIONS

In this License, except to the extent the context otherwise requires:

‘Business Day’ means a day other than a Saturday, Sunday, a public holiday or other holiday.;

‘License’ means this Software License;

‘License Fee’ means the license fee due for the specific configuration of the software;

‘Licensor’ means Moonwalk Universal Pty Ltd and its subsidiaries, agents and assigns,

‘Location’ has the meaning set out in the schedule;

‘IPR’ means all intellectual property rights, including but not limited to:

patents, copyright, registered designs, trademarks, and any right to have confidential information kept confidential; and

any application or right to apply for registration of any of the rights referred to in paragraph patents, copyright, registered designs, trademarks, and any right to have confidential information kept confidential; and of this definition;

‘Software’ means the software type and version set out in the schedule;

‘Upgraded Versions’ means enhancements, improvements or modifications to the Software.

2. LICENSE

The Licensor is the sole and exclusive owner of the Software and upon execution of this License, the Licensor grants and the Licensee accepts a non-exclusive, non-transferable License to Use the Software, on the Designated System(s), and upon the terms and subject to the conditions of DIR Contract No. DIR-TSO-3407 and terms in this License.

3. PERMITTED USE

This License entitles the Licensee to:

- a. receive 1 copy of the Software for use on the Designated System, at the specified Location, together with the necessary documentation to install and use the Software;
- b. Use the Software in accordance with this License; and
- c. receive information on Upgraded Versions at such cost (if any) as may be notified to the Licensee.

4. License Fee and Other Charges

- a. The License Fee is payable in advance and in accordance with Appendix A, Section 8J of DIR Contract No. DIR-TSO-3407.
- b. Taxes shall be handled in accordance with Appendix A, Section 8E of DIR Contract No. DIR-TSO-3407.

5. Software Enhancement and Other Services

- a. The Licensor offers information on upgrades to and enhancements of the Software at such cost (if any) as may be notified to the Licensee.

6. Licensee's Undertakings

- a. The Licensee agrees not to perform any of the acts referred to in this clause except to the extent and only to the extent permitted by the applicable law and only then for the specific limited purposes stated in such applicable law or in this License.
- b. The Licensee must:
 - i. not copy the Software (other than for normal system operation) nor otherwise reproduce the same provided that the Licensee may copy the Software for back-up purposes or incidentally, in the course of converting the Software in accordance with clause;
 - ii. not translate, adapt, vary, or modify the Software;

- iii. not disassemble, decompile or reverse engineer the Software, other than incidentally decompile the Software which is permitted to the extent allowed by copyright laws.
- c. In addition, the Licensee must:
- i. replace the current version of the Software with the updated or Upgraded Version as soon as possible upon receipt;
 - ii. not 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 the Licensee's employees without prior written consent from the Licensor; and
 - iii. subject to record retention laws and policies, within 14 days after the date of termination or discontinuance of this License for whatever reason:
 - 1. return or destroy (as the Licensor instructs) the Software and all updates, upgrades or copies, in whole and in part, in any form including partial copies or modifications of the Software received from the Licensor or made in connection with this License and all documentation relating to it; and
 - 2. furnish the Licensor with a certificate, certifying that the same has been done,
 - 3. pay to the Licensor all undisputed costs and expenses owed.

7. Licensor's Liability

- a. Limitation of liability shall be handled in accordance with Appendix A, Section 10K of DIR Contract No. DIR-TSO-3407.

8. Copyright, Patents, Trade Marks and Other Intellectual Property Rights

- a. The Licensee acknowledges that any and all of the IPR subsisting in or used in connection with the Software including all documentation and manuals relating to it, are and remain the sole property of the Licensor.
- b. The Licensor encourages the use of the Software for product development and the creation of new products by the Licensee that are not in breach of the Licensor's IPR. The Licensee undertakes that the distribution, dissemination and/or sale of any product created with or incorporating the IPR will only occur in circumstances where the party receiving such new products enters into a License agreement, in respect of the IPR with the Licensor and covenants use as set forth in Appendix A, Section 8 of DIR Contract No. DIR-TSO-3407.

9. Warranty

- a. The Licensee acknowledges that software in general is not error-free and agrees that the existence of such errors (including viruses) does not constitute a breach of this License.
- b. In the event that the Licensee discovers a material error which substantially affects the Licensee's use of the Software and notifies the Licensor of the error within 90 days from the date of this License ('warranty period') the Licensor must at its sole option either:

- i. refund the License Fee; or
- ii. use all reasonable endeavors to correct by patch or new release (at its option) that part of the Software which does not so comply,

provided that such non-compliance has not been caused by any modification, variation or addition to the Software not performed by the Licensor or caused by its incorrect use, abuse or corruption of the Software or by use of the Software with other software or on equipment with which it is incompatible.

10. Termination

- a. Terminations shall be handled in accordance with Appendix A, Section 11B of DIR Contract No. DIR-TSO-3407.

11. Assignment

Assignments shall be handled in accordance with Appendix A, Section 4D of DIR Contract No. DIR-TSO-3407.

12. Waiver

Failure or neglect by the Licensor to enforce at any time any of the provisions of this License are not to be construed nor are they to be deemed to be a waiver of the Licensor's rights or in any way affect the validity of the whole or any part of this License nor prejudice the Licensor's rights to take subsequent action.

13. Severability

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

14. Notice

Notices shall be handled in accordance with Appendix A, Section 12 of DIR Contract No. DIR-TSO-3407.

15. Governing law and jurisdiction

This Agreement is governed by the laws of Texas and each party irrevocably submits to the exclusive jurisdiction of the state courts located in Travis County, Texas. Nothing herein shall be construed to waive the sovereign immunity of the State of Texas.

EXECUTED by **MOONWALK UNIVERSAL** in accordance with Section 127 of the *Corporations Act 2001 (Cth)* with the authority of the Directors:

Name: _____

Signature: _____

Date: _____

SIGNED by, for and on behalf of the Licensee in the presence of:

Name: _____

Signature: _____

Date: _____

Name of Witness (BLOCK LETTERS)

Signature of Witness

Date: _____

SCHEDULE 1

LICENSEE:

Software SKU's (File Systems)	
Software SKU's (Gateways/Device Plug-ins)	
Location(s):	
Number of CPUs (OTLF Model)	
Number of Users (Annual Subscription Model)	
Capacity (Capacity Model)	

ANNUAL SOFTWARE MAINTENANCE

- (1) Annual Software Maintenance is included in the Annual Subscription Model.
- (2) Annual Software Maintenance is an additional annual charge with the OTLF Model.

Standard Maintenance Response Time is one Business Day

- 1. The Standard Maintenance Services
 - 1.1 Help Desk
 - (a) Provide a Help Desk service to:
 - (i) receive reports of problems (including suspected problems) with the Software from [a single point of contact at Customer], and advise [a

single point of contact at Customer] on the progress of their correction; and

- (ii) answer questions from [a single point of contact at Customer], and provide technical assistance to [a single point of contact at Customer], on the installation, operation and/or maintenance of the Software.
- (b) Help Desk is available by fax and email. Moonwalk Support may elect to phone the Customer and/or request login access to the site for trouble shooting in extraordinary circumstances.

1.2 Problem Diagnosis and Defect Correction

- (a) Diagnose Problems and report cause to Customer.
- (b) Provide Customer with Workarounds.
- (c) Correct Defects.

1.3 Provision of New Releases

Provide New Releases to Customer within 7 days of the date on which the first New Release is made generally available (GCA).