

## Secure Opinion's End User License Agreement (EULA)

Last Revised 28 August 2014

Please read this EULA carefully, as it sets out the terms and conditions upon which we license our Software for use.

Before you use the Software, we will ask you to give your express agreement to the terms and conditions of this EULA.

If you do not agree to this EULA, you must not use the software for any purpose whatsoever.

### 1. Definitions and interpretation

#### 1.1 In this EULA:

**"Computer"** means a desktop, notebook, netbook, tablet, phone or similar device in the control of the Licensee;

**"Effective Date"** means the date when the Licensee agrees to the terms and conditions of this EULA, as detailed in the preamble to this EULA;

**"EULA"** means this end user licence agreement (including the preamble), and any amendments to it from time to time;

**"Intellectual Property Rights"** means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "Intellectual Property Rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

**"Licensee"** means you, the licensee of the Software under this EULA;

**"Upgrade"** an upgrade, update, enhancement, improvement or patch to the Software supplied by the Licensor.

**"Licensor"** means Secure Opinion Ltd, a limited company incorporated in England and Wales (registration number 09016363) having its registered office at Cheltenham Film+Photographic Studios, Hatherley Lane, Cheltenham, Gloucestershire, England;

**"Software"** means the Secure Opinion Web-App;

**"Your Content"** means any content whether text, graphics, photography, video or audio submitted by the you whilst using the Software;

#### 1.2 In this EULA, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

1.3 The Clause headings do not affect the interpretation of this EULA.

## **2. Term of EULA**

2.1 This EULA will come into force on the Effective Date and will continue in force indefinitely, unless and until terminated in accordance with Clause 9.

2.2 We may change these terms at any time by notifying you of a change when you next use the Software. The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of the Software.

## **3. Licence**

3.1 The Licensee may only use the Software for the Licensee's business or internal business or own private and non-commercial purposes and in accordance with the provisions of this Clause.

3.2 Subject to the Licensee's compliance with Clause 3.3 and the other provisions of this EULA, the Licensor grants to the Licensee a non-exclusive non-transferable licence to:

- (a) download the Software;
- (b) install the Software;
- (c) use the Software;

and on one Computer anywhere in the world.

3.3 The Licensee must not:

- (a) copy or reproduce the Software or any part of the Software other than in accordance with the licence granted in this Clause;
- (b) sell, resell, rent, lease, loan, supply, distribute, re-distribute, publish or re-publish the Software or any part of the Software;
- (c) modify, alter, adapt, translate or edit, or create derivative works of, the Software or any part of the Software;
- (d) reverse engineer, decompile, disassemble the Software or any part of the Software;

providing that nothing in this Clause will prohibit or restrict the Licensee or any other person from doing any act expressly permitted by applicable law (including

any act expressly permitted by Section 296A of the Copyright, Designs and Patents Act 1988).

- 3.4 All Intellectual Property Rights in the Software are and will remain, as between the parties, the property of the Licensor.

#### **4. Other Users**

The Licensee must not permit any other person to use the Software or to exercise any of the other rights granted by the Licensor to the Licensee in this EULA.

#### **5. Upgrades**

- 5.1 The Licensee may apply to the Software each Upgrade released by the Licensor and made available by the Licensor to the Licensee from time to time. There may be occasions where an update is required to make the Software compliant with changes in law or regulations, in such situations the Licensee will be notified of the importance of such an upgrade and, if the upgrade is not installed, the Licensor shall have the right to revoke the Licensee's right to use the Software, in accordance with these terms.

#### **6. Support**

- 6.1 The Licensor will provide to the Licensee limited support via the internet for the purpose of resolving issues with the Software raised by the Licensee acting reasonably.

- 6.2 The Licensee acknowledges that:

- (a) the Licensor's obligation under Clause 6.1 is subject to such limits (as to time spent in relation to an issue and in relation to the Licensee in aggregate) as the Licensor may determine from time to time;
- (b) the Licensor is under no obligation under Clause 6.1 is to resolve any issues that may be raised by the Licensee;
- (c) the Licensor does not warrant or represent that issues raised will be solved by means of the support services; and
- (d) the Licensor will not provide any on-site support under this EULA.

- 6.3 The Licensor may subcontract any of its obligations under this Clause 6 to any third party.

#### **7. Acceptable use**

- 7.1 The Licensee must not use the software in any way or take any action that causes, or may cause, damage to our websites or impairment of the performance, availability or accessibility of our websites.

7.2 You must ensure that all the information you supply to us through the software is true, accurate, current, complete and non-misleading.

## **8. Your Content**

8.1 You warrant and represent that Your Content will comply with these terms and conditions.

8.2 Your Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).

8.3 Your Content, and the use of Your Content by us in accordance with these terms and conditions, must not:

- (a) be libellous or maliciously false;
- (b) be obscene or indecent;
- (c) infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;
- (d) infringe any right of confidence, right of privacy or right under data protection legislation;
- (e) constitute negligent advice or contain any negligent statement;
- (f) constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;
- (g) be in contempt of any court, or in breach of any court order;
- (h) be in breach of racial or religious hatred or discrimination legislation;
- (i) be blasphemous;
- (j) be in breach of official secrets legislation;
- (k) be in breach of any contractual obligation owed to any person;
- (l) depict violence;
- (m) be pornographic, lewd, suggestive or sexually explicit;
- (n) be untrue, false, inaccurate or misleading;
- (o) consist of or contain any instructions, advice or other information which may be acted upon and could, if acted upon, cause illness, injury or death, or any other loss or damage;

- (p) constitute spam;
- (q) be offensive, deceptive, fraudulent, threatening, abusive, harassing, anti-social, menacing, hateful, discriminatory or inflammatory; or
- (r) cause annoyance, inconvenience or needless anxiety to any person.

8.4 Your Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behaviour on the internet.

8.5 You must not enter any content that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint.

8.6 You acknowledge that by submitting Your Content to us via the Software you are assigning all rights in Your Content to us.

## **9. Report abuse**

9.1 If another user's content breaches these terms and conditions, please let us know.

9.2 You can let us know by email to [reportabuse@secureopinion.co.uk](mailto:reportabuse@secureopinion.co.uk)

## **10. Limited warranties**

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

11.2 The Licensor warrants to the Licensee:

- (a) that it has the legal right and authority to enter into and perform its obligations under this EULA;
- (b) that the use of the Software by the Licensee in accordance with the terms of this EULA will not infringe the UK Intellectual Property Rights of any third party;
- (c) that the Licensor has tested the Software for computer virus and other malicious third party software infections in accordance with standard industry practice from time to time but does not warrant that the Software is not virus free and strongly recommends that the Licensee undertakes its own virus testing on the Software on a regular basis.

11.3 The Licensee acknowledges that the Software may not be error-free.

11.4 The Licensee acknowledges that the Software has not been developed to meet the Licensee's requirements, and that it is therefore the Licensee's responsibility to ensure that the facilities and functions of the Software meet its requirements.

11.5 All of the parties' liabilities and obligations in respect of the subject matter of this EULA are expressly set out herein. To the maximum extent permitted by applicable

law, no other terms concerning the subject matter of this EULA will be implied into this EULA or any related contract.

## **12. Limitations and exclusions of liability**

12.1 Nothing in the EULA will:

- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
- (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c) limit any liability of a party in any way that is not permitted under applicable law; or
- (d) exclude any liability of a party that may not be excluded under applicable law,

and, if you are a consumer, any statutory rights which you have, which cannot be excluded or limited, will not be affected by the EULA.

12.2 The limitations and exclusions of liability set out in this Clause and elsewhere in the EULA:

- (a) are subject to Clause 8.1; and
- (b) govern all liabilities arising under the EULA or in relation to the subject matter of the EULA, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty.

12.3 The Licensor will not be liable to the Licensee in respect of any business losses, such as loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.

12.4 The Licensor will not be liable to the Licensee in respect of any loss or corruption of any data, database or software.

12.5 The Licensor will not be liable to the Licensee in respect of any special, indirect or consequential loss or damage.

12.6 The Licensor's aggregate liability to the Licensee will not exceed £1,000.00.

## **13. Termination**

13.1 The Licensor shall be entitled to terminate this EULA, and any other associated documents and/or rights and/or licences, without cause upon giving the Licensee not less than 1 weeks' notice of such termination.

13.2 The Licensor may terminate this EULA, and any other associated documents and/or

rights and/or licences, immediately by notifying the Licensee by email if:

- (a) the Licensee breaches any provision of this EULA;
- (b) the Licensee: (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;
- (c) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Licensee;
- (d) an order is made for the winding up of the Licensee, or the Licensee passes a resolution for its winding up; or
- (e) (where the Licensee is an individual) the Licensee dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

#### **14. Effects of termination**

- 14.1 Upon termination all the provisions of this EULA will cease to have effect, save that the following provisions will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 8 and 11.
- 14.2 Termination of this EULA will not affect either party's accrued rights and liabilities.

#### **15. Events outside our control**

- 15.1 The Licensor will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under this EULA that is caused by any act or event beyond the Licensor's reasonable control, including failure of public or private telecommunications networks (Event Outside Our Control).
- 15.2 If an Event Outside Our Control takes place that affects the performance of the Licensor's obligations under this EULA:
  - (a) the Licensor's obligations under this EULA will be suspended and the time for performance of the Licensor's obligations will be extended for the duration of the Event Outside Our Control; and
  - (b) the Licensor will use reasonable endeavours to find a solution by which its obligations under this EULA may be performed despite the Event Outside Our Control.

#### **16. General**

- 16.1 No breach of any provision of this EULA will be waived except with the express written consent of the party not in breach.

- 16.2 If a Clause of this EULA is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of this EULA will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).
- 16.3 The Licensor may freely assign this EULA and/or its rights and/or obligations under this EULA without the Licensee's consent. Save as expressly provided in this EULA, the Licensee must not assign, transfer, charge, license or otherwise dispose of or deal in this EULA and/or any its rights and/or obligations under this EULA.
- 16.4 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.
- 16.5 This EULA constitutes the entire agreement and understanding of the parties in relation to the subject matter of this EULA, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of this EULA. Subject to Clause 8.1, each party acknowledges that no representations or promises not expressly contained in this EULA have been made by or on behalf of the other party.
- 16.6 This EULA will be governed by and construed in accordance with the laws of England and Wales; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this EULA.

Secure Opinion Ltd.