



Licence Agreement – February 2015

This Licence agreement ("Licence") is a legal agreement between you ("the Licensee" or "you") and Do - It Solutions Limited of Ty Derw Lime Tree Court, Cardiff Business Park, Cardiff, CF23 8AB ("the Licensor" or "we") for the Profiler web-based software tool to assist identification of possible strengths and weaknesses in users ("Software"), which includes printed materials to be provided by the Licensor from time to time and printable online documentation ("Documentation").

You should also note that we use cookies to improve your browsing, understand how you use our site and provide you with the latest technology. Cookies are small snippets of data stored on your device or the devices of authorised users. To learn more about our cookies and how to avoid them, please visit our Cookies Policy. We are now required to ask for your permission to use them when you visit this site.

BY PAYMENT OF THE INVOICE YOU CONFIRM THAT YOU HAVE READ AND UNDERSTAND THE TERMS OF THIS LICENCE AND THAT YOU AGREE TO THE TERMS OF THIS LICENCE WHICH WILL BIND YOU.

1 GRANT AND SCOPE OF LICENCE

1.1 In consideration of payment by you of the agreed Licence fee and you agreeing to abide by the terms of this Licence, the Licensor hereby grants to you a non-exclusive, non-transferable Licence to use the Software and the Documentation on the terms of this Licence.

1.2 Under the terms of this Licence you may:

1.2.1 access and use the Software via the Licensor's server for your own internal purposes only for up to the Permitted Number of Users; and

1.2.2 print and use any Documentation in support of the use permitted under clause 1.1 and make such number of copies of the Documentation as is reasonably necessary for its lawful use ("Scope of Use").

1.3 The Licence shall not extend to any of the Licensor's programs or materials other than the Software and the Documentation.

1.4 The Licensor shall provide such technical support as it deems appropriate in its sole discretion from time to time ("the Technical Support Services").

1.5 The Licensor shall inform you of any updates, developments, relevant modifications and additions developed from time to time in relation to the Software ("Modifications") and shall offer to licence such relevant Modifications to you on substantially the same terms of this Licence (subject to agreement as to the licence fee payable in respect of such Modifications).

2 LICENSEE'S UNDERTAKINGS

2.1 Except as expressly set out in this Licence you hereby irrevocably undertake during the term of and after termination of this Licence:

2.1.1 not to copy the Software or Documentation except where such copying is incidental to normal use of the Software or where it is necessary for the sole purpose of back-up or operational security;

- 2.1.2 not to allow the aggregate number of end-users of the Software to exceed the Permitted Number of Users;
- 2.1.3 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software or the Documentation without the Licensor's prior written consent;
- 2.1.4 to only use the Software and Documentation for your own internal purposes and not to commercially exploit the Software and the Documentation in any way;
- 2.1.5 not to make alterations to, or modifications of, the whole or any part of the Software, nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
- 2.1.6 not to copy, alter, adapt, modify or amend the printed reports and otherwise deal with the results, data, user profilers and other information generated by the Software;
- 2.1.7 not to commercially exploit the printed reports and otherwise deal with the results, data, user profilers and other information generated by the Software;
- 2.1.8 not to disassemble, decompile, reverse engineer or create derivative works based on, the whole or any part of the Software nor attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:
 - 2.1.8.1 is used only for the purpose of achieving inter-operability of the Software with another software program; and
 - 2.1.8.2 is not unnecessarily disclosed or communicated without the Licensor's prior written consent to any third party; and
 - 2.1.8.3 is not used to create any software which is substantially similar to the Software nor to use such information in any manner which would be restricted by any copyright subsisting in it;
- 2.1.9 to supervise and control use of the Software and procure that your employees, representatives and end-users of the Software comply with the terms of this Licence as if a party to it in the same capacity (and subject to the same restrictions) as you;
- 2.1.10 to notify the Licensor immediately in writing if you become aware of any unauthorised use of the whole or any part of the Software or Documentation by any person;
- 2.1.11 to include the copyright notice of the Licensor on all entire and partial copies you make of the Documentation on any medium; and
- 2.1.12 without prejudice to the obligations under clause 2.7, to obtain, and assist us to obtain, the consent of users covered by this Licence to store cookies on any devices used by them to access the Software.

2.2 You shall procure that all questions, queries, complaints and comments received by you from any end-users in relation to the Software and/or Documentation are promptly referred to the Licensor and that unless otherwise directed in writing by the Licensor the Licensee shall not engage in any discussions or correspondence nor make any admission, agreement or compromise with the end-user in relation to such questions, queries, complaints and comments.

2.3 You shall permit the Licensor and its representatives, at all reasonable times and on reasonable advance notice, to inspect and have access to any records kept and all data generated pursuant to this Licence.

2.4 You hereby grant to the Licensor a royalty-free, worldwide Licence to use, process, store, collate:-

2.4.1 printed reports and otherwise deal with the results, data, user profilers and other information generated by the Software during the term of and after termination of this Licence; and

2.4.2 otherwise deal with the results, data, user profiles and other online data generated by the Software during the term of and after termination of this Licence.

2.5 In relation to assignment and sub-licensing:

2.5.1 the Licensee has no right to sub-license the benefit or burden of this Licence in whole or in part;

2.5.2 the Licensee has no right to assign the benefit or burden of this Licence in whole or in part, or to allow the Licensed Software to become the subject of any charge, lien or encumbrance without the prior written consent of the Licensor; and

2.5.3 the Licensor may assign, charge or otherwise transfer any of its rights or obligations under this Licence.

2.6 You will duly observe your obligations under the Data Protection Act 1998, which arise in connection with the use of the Software pursuant to this Licence.

2.7 You shall seek to obtain the consent and permission of each end-user, to allow the details and information provided by that end-user to be passed to the Licensor (including "personal data" and "sensitive personal data" as defined in the Data Protection Act 1998) and for that data to be processed and used by the Licensor pursuant to clause 2.4.

3 LICENCE FEE

3.1 In consideration for the grant of this Licence, you shall pay to the Licensor the Annual Licence Fee before the Software is accessed.

3.2 Upon completion of the registration process and on each subsequent anniversary of the date of completion of the registration process (unless this Licence is terminated before such date), the Licensee shall be entitled to invoice you for the Annual Licence Fee payable by you pursuant to this clause 3 and you shall pay the price due to the Licensor within 30 days of the date of receipt of the relevant invoice.

3.3 You hereby acknowledge and agree that you will be charged an additional fee per additional end-user which shall be determined at the sole discretion of the Licensor from time to time if at any time the number of end-users of the Software exceeds the Permitted Number of Users.

3.4 All sums payable under this Licence are exclusive of VAT, for which you shall be responsible.

3.5 If you fail to pay any amount payable by you under this Licence, the Licensor shall be entitled (but not obliged) to charge you interest on the overdue amount, payable by you forthwith on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 4% per annum above the base rate for the time being of Barclays Bank Plc. Such interest shall accrue on a daily basis and be compounded quarterly.

3.6 The Licensor reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2002.

3.7 Without prejudice to the rights to claim interest or terminate this Licence, where we do not receive payment of the Licence Fee, we shall be entitled to suspend access to the Software until such time as all outstanding payments have been received by us.

4 DISCLAIMER AND LIABILITY

4.1 You hereby acknowledge and confirm that the Software is a profiling tool not a medical or psychological test or a diagnostic tool and that you have satisfied yourself on the application, scope and technical specification of the Software and are relying on your own assessment of the Software in entering into this Licence.

4.2 Subject to clause 4.4, the Licensor shall have no liability to you for any loss or damage suffered by you as a result of:-

- 4.2.1 the use of the Software or the Documentation;
- 4.2.2 your use of any user profile generated by the Software;
- 4.2.3 the provision by the Licensor of the Technical Support Services; or
- 4.2.4 any failure or malfunction of the Licensor's server which hosts the Software

howsoever caused.

4.3 Without prejudice to clause 4.2 and subject to clause 4.4, the Licensor shall not have any liability for loss or damage to physical property, loss of profits anticipated savings, business opportunity, goodwill, loss or corruption of data, special damages even if the Licensor was aware of the circumstances in which such special damage could arise, consequential or other indirect losses (whether arising from any defect in the Software or any other failure or malfunction of the Software or otherwise).

4.4 The provisions of clause 4.2 and clause 4.3 shall not limit or restrict any liability for death or personal injury arising as a result of the negligence of the Licensor, nor any other liability which may not be excluded by law.

5 WARRANTIES

Save as expressly specified in this Licence, all terms, conditions, warranties, representations, or guarantees whether express or implied relating to the performance, quality or fitness for purpose of the Software and the Documentation are hereby excluded to the fullest extent permitted by law.

6 INTELLECTUAL PROPERTY RIGHTS

Unless expressly agreed by the Licensor in writing, no intellectual property rights of whatever nature in respect of any part of the Software shall vest or be deemed to vest in you, including without limitation all patents, patent applications, trademarks, trade mark applications, trade names, service marks, registered designs, design rights, know-how and copyright (in each whether registered or not) and all applications for the same, anywhere in the world.

7 TERM AND TERMINATION

7.1 This Licence shall commence on the date of acceptance of the terms and conditions of this Licence and shall be for an initial period of 36 months from such date ("the Initial Term") unless or

until terminated in accordance with clause 7.2 and after such initial period this Licence shall automatically continue unless or until terminated in accordance with clause 7.2.

7.2 This Licence may be terminated by the Licensor:-

7.2.1 on notice in writing to you with immediate effect:-

7.2.1.1 if you convene a meeting of your creditors;

7.2.1.2 if you make a voluntary arrangement within Part 1 of the Insolvency Act 1986 or make a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) your creditors;

7.2.1.3 if you are unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986;

7.2.1.4 if a trustee receiver, administrative receiver or similar officer is appointed in respect of all or any material part of your business or assets;

7.2.1.5 if a meeting is convened for the purpose of considering a resolution, or other steps are taken for your winding up (otherwise than for the purpose of an amalgamation or reconstruction) or for the making of an administration order or other appointment of an administrator in respect of you; or

7.2.1.6 if you are in material breach of this Licence which breach (if capable of remedy) is not remedied to the reasonable satisfaction of the Licensor within 30 days of written notice having been given by the Licensor to you which notice specifies the breach and requires its remedy;

7.2.2 on giving to you 3 months written notice.

7.3 You may terminate this Licence on giving 12 months' notice in writing to the Licensor such notice to expire on or after the expiry of the Initial Term.

7.4 Upon termination of this Licence for any reason you shall immediately cease to have any right to use the Software and the Documentation and will at the request of the Licensor return to the Licensor (or confirm that the same have been destroyed) all copies of the Documentation.

7.5 Any provision of this Licence which expressly or by implication is intended to come into or continue in force on or after termination of this Licence including clauses 2.1, 2.4 and 4 shall remain in full force and effect.

8 NOTICES

8.1 Any demand, notice or other communication given or made under or in connection with this Licence will be in writing.

8.2 Any such demand, notice or other communication will, if given or made in accordance with this clause 8 be deemed to have been duly given or made as follows:

8.2.1 if sent by prepaid first class post, on the second Business Day after the day of posting; or

8.2.2 if delivered by hand, upon delivery at the address provided for in this Licence; or

8.2.3 if delivered by facsimile, at the time of sending, provided however that, if it is delivered by hand or sent by facsimile on a day which is not a Business Day or after 4pm on a Business Day, it will instead be deemed to have been given or made on the next Business Day.

8.3 Any such demand, notice or other communication will, in the case of service by post or delivery by hand be addressed (subject as provided in this clause 8) to the recipient at the recipient's address stated in this Licence or at such other address as may from time to time be notified in writing by the recipient to the other parties as being the recipient's address for service.

8.4 Any such demand, notice or other communication will, in the case of service by facsimile, be sent to the recipients using a facsimile number at an address which (in accordance with such provisions) could have been used for service by post.

9 INSPECTION

You shall permit the Licensor to inspect and have access to any premises and to the computer equipment located there, at or on which the Software is being used, and any records kept that relate to the Software, for the purposes of ensuring that you are complying with the terms of this Licence, provided that the Licensor provides reasonable advance notice to you of such inspections, which shall take place at reasonable times. Any such inspection shall be at the Licensor's own cost and expense.

10 GENERAL

10.1 This Licence (together with the registration forms that you have completed in relation to the Software) sets out the entire agreement and understanding between the parties in connection with its subject matter and shall override all previous verbal or written agreements and understandings, save in respect of fraudulent misrepresentation.

10.2 Subject to clause 10.3, a person who is not a party to this Licence has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence but this does not affect any right or remedy of a third party which exists or is available apart from that act.

10.3 In the event that an end-user making use of the Software carries out any act or omission that would if it were a party to this Licence (in the place of you) put it in breach of the terms of this Licence, then you shall be liable for any loss or damage caused to the Licensor by such breach and the Licensor shall be entitled to exercise all rights under this Licence (including rights of termination under clause 7.1) against you on the basis that all references in this Licence to "you" or "the Licensee" shall be treated as references to the relevant end-user.

10.4 No party shall be liable to the other for any delay or non-performance of its obligations under this Licence arising from any cause beyond its control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion. For the avoidance of doubt, nothing in this clause 10.4 shall excuse you from any payment obligations under this Licence.

10.5 No forbearance or delay by either party in enforcing its rights shall prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.

10.6 If any provision of this Licence is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions shall not be prejudiced.

10.7 Any amendment, waiver or variation of this Licence shall not be binding on the parties unless set out in writing, expressed to amend this Licence and signed by or on behalf of each of the parties.

This Licence shall be governed by and construed in accordance with the laws of England and Wales and all the parties hereto irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales as regards any claim, dispute or matter arising out of or relating to this Licence.