

Trackora Beta Testing Terms and Conditions

Introduction

The provision of the Trackora recorded delivery Software (“the Software”) by DG legal and use and beta testing of the Software by you is subject to the following terms and conditions which you should read carefully. By logging on to the account, you are agreeing to be legally bound by these terms and conditions. If you do not accept these terms and conditions, please do not log on to the Software and/or proceed with the beta testing.

DG Legal is the trading name of DG Legal Limited (a company registered in England and Wales with number 7934502). Here and elsewhere, except where the context requires otherwise, any references to DG Legal are references to DG Legal Limited.

A list of the directors of DG Legal Limited is open to inspection at its registered office 39 The Rushes, Loughborough, LE11 5BG.

Definitions

The following terms of engagement apply to all work carried out by DG Legal Limited except as otherwise agreed. The expression “Developer”, “we”, “us” and “our” refer to DG Legal Limited and “Tester”, “you” and “your” refer to you.

“Beta Test Period” means the period for which the Software will be beta tested by you in agreement with DG Legal.

“Confidential Information” means all confidential information (howsoever recorded or disclosed) that is disclosed by the Developer to the Tester, whether verbally, in writing or by any other means, whether marked as confidential or not, except for information in the public domain other than through the act or omission of the Tester, including:

- (a) any information relating to the Software including any information relating to the operations, processes, designs, trade secrets, know-how, codes and data of the Software as well as all documentation, reports and data produced by the Software;
- (b) any other information that would be regarded as confidential by a reasonable business person concerning the business affairs, processes, plans, intentions, market opportunities, products or clients of DG Legal; and
- (c) any information developed by the Parties in the course of carrying out the beta testing.

“Employee” means any of your employees or consultants unless specifically stated otherwise.

“Licence” means the licence granted by DG Legal to you.

“Output Data” means any data or other output produced by the front end of the Software.

“Premises” means your usual business premises or other confirmed locations at which your Employees’ officially work for you such as at their home addresses

Instructions

DG Legal has completed initial testing of the Software and is now initiating a period of beta testing. You are being provided with access to the Software for beta testing purposes.

DG Legal is willing to disclose to you or to grant access to the Software and Confidential information on the basis that it is protected as provided by these Terms and Conditions.

Beta Testing

DG Legal requires the testing of the Software in a business environment by users that would normally use such a product in the course of their employment.

As a tester, you have agreed to the testing of the Software at your Premises by Employees that would normally use such a product in the course of their employment and who have the appropriate skills, qualifications and experience to test and evaluate the functionality, content and quality of the Software.

The Software can only be downloaded on to computers and other devices owned by or otherwise fully controlled by you. No user or any of your Employees is permitted to instal the Software on to or access Confidential Information through any of their personally owned devices.

You will be required to provide to DG Legal, in advance of their being granted access to the Software, the name and contact details of each of your users and Employees who is assigned by you, now or in the future, to beta test and/or be given access to the Software or Confidential Information as well as technical information about the devices and computers on which the Software or Confidential Information is to be downloaded or used.

Licence and Use of Software

DG Legal grants to you a non-exclusive licence to use the Software subject to these Terms and Conditions.

In particular, you:

- shall use the Software for testing purposes only
- shall not, without the prior written consent of DG Legal, use the Software in any location except the Premises
- shall provide us with details of the names and contact details of the Employees who have been assigned access to the Software or Confidential Information before they download or have access to it
- shall not permit your Employees to download, instal or use the Software on any of their personally owned computers or devices
- shall ensure that your Employees uninstall the Software and/or delete Confidential Information before they leave your employment
- shall not make any copies of the software or installation media without the prior written consent of DG Legal
- shall not allow access to the Software to any third party, and

- shall not at any time do or permit any act which may affect DG Legal's rights, title or interest in the Software.

The Licence shall not be deemed to extend to any other software, programs or materials of DG Legal other than the Software unless specifically agreed to in writing by DG Legal.

Disclaimer of Warranties and Liability

The Software is currently in development and is released solely for the purposes of testing. The Software is not a finished product and as such may contain defects. The Software is provided "as is" and your use of the Software is at your own risk.

DG Legal makes no representation or warranty that the Software is suitable for use in a business environment or that it will produce accurate data which will be usable in the course of your business.

Testers acknowledge that use of the Software is at their own risk and DG Legal shall not be liable for any direct, indirect, consequential or incidental loss or damage of any kind resulting from or relating to the Software or its use.

Nothing in these Terms and Conditions shall exclude our liability for death or personal injury arising out of our negligence.

Beta Test Period

The Beta Test Period shall continue for a defined period of time as agreed between DG Legal and you or until terminated in accordance with these Terms and Conditions.

The Beta Test Period may extend beyond the initial testing period as the Parties shall mutually agree.

At the end of the Beta Test Period, unless otherwise agreed by DG Legal as part of a further agreement or licence, you shall uninstall the Software from all your computers, devices or physical media and must delete or to return to DG Legal:

- all Confidential Information from your computer systems or which is stored in electronic form (to the extent possible)
- all documentation and materials supplied by DG Legal or created by you relating to the Software (unless such documentation is freely available to the general public outside of the beta test), and
- all reports and other data created by DG Legal or by you relating to the Software.

DG Legal may reasonably request evidence to demonstrate your compliance with the above.

At the end of the Beta Test Period you may not retain any and all Output Data produced by the Software without our consent.

At the end of the Beta Test Period DG Legal may, but is not obliged to, offer you a new agreement, licence or commercial arrangement for the ongoing use of the Software.

If you or your Employees develop or use a product or process including other software which, in our reasonable opinion, might have involved the use of any of our Confidential Information, you shall, at our written request, supply to us information reasonably necessary to establish that our Confidential Information has not been used or disclosed.

Software Updates

DG Legal may from time to time during the Beta Test Period release updates for the Software. If DG Legal wishes such updates to form part of the testing, you shall either be notified of their availability and provided with a URL for downloading or shall be sent physical media containing the updates.

All required updates must be installed by you and your Employees as soon as is reasonably possible following notification.

Reports and Feedback

Throughout the Beta Test Period you shall obtain regular feedback from your Employees assigned to testing the Software and shall use such feedback to report to the DG Legal on the performance of the Software in a format and at a frequency reasonably specified by us from time to time.

Reports should provide details of the Software's performance including details of any errors, anomalies, omissions, shortcomings or similar faults. General feedback including comments and observations (both positive and negative) should also be included in reports.

Where error reports or other diagnostic files are produced by the Software you should ensure that such reports and files are maintained and shall take appropriate steps to ensure that they are manually sent to DG Legal.

DG Legal may, from time to time, require direct contact with you and your Employees assigned to testing. We may contact you or your Employees using email or telephone and may require meetings to discuss the Software and testing.

Confidentiality and Non-Disclosure

Unless expressly authorised in writing DG Legal, you shall, at all times during the Beta Test Period and after its conclusion:

- keep confidential all Confidential Information
- not disclose any Confidential Information to any other party
- not use any Confidential Information for any purpose other than as contemplated by and subject to these Terms and Conditions
- not make any copies of, record in any way or part with possession of the Software or any Confidential Information; and
- ensure that none of your directors, officers, employees, consultants, agents or advisers does any act which, if done by you, would be a breach of the provisions above.

You shall establish and maintain adequate security measures (including any reasonable security measures proposed by DG Legal from time to time) to safeguard the Software and Confidential Information from unauthorised access or use.

Prior to the commencement of testing of the Software you shall take all reasonable endeavours to ensure your Employees are aware of these Terms and Conditions and that they are bound to comply with the provisions herein.

You may disclose Confidential Information to:

- any of your sub-contractors or suppliers
- any governmental or other authority or regulatory body, or
- any of your employees or officers or any of the aforementioned persons

to such extent only as is necessary for the purposes contemplated by these Terms and Conditions, or as required by law, and only with DG Legal's prior written consent.

These provisions shall continue in force in accordance with their terms, notwithstanding the termination or expiry of the Beta Testing Period for any reason.

Reservation of Rights

All Confidential Information shall remain the property of DG Legal.

No rights, including but not limited to, intellectual property rights in respect of the Software and Confidential Information, are granted by DG Legal to you and no obligations are imposed on DG Legal other than those expressly stated in these Terms and Conditions.

Termination

DG Legal shall be entitled to terminate your licence to use the Software prior to the end of the Beta Test Period in the event that you:

- have committed a material breach of these Terms and Conditions, unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if you have failed to remedy the breach within 14 days after a written notice to do so, or
- go into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of your assets.

Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration shall survive termination under these Terms and Conditions.

Notices

All notices under this Agreement shall be in writing.

Notices shall be deemed to have been duly given:

- when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
- when sent, if transmitted by e-mail and a successful transmission report or return receipt is generated, or
- on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
- on the tenth business day following mailing, if mailed by airmail, postage prepaid.
- in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

Relationship of Parties

Nothing in this beta testing arrangement or in these Terms and Conditions shall create, or be deemed to create, a partnership, the relationship of principal and agent, or of employer and employee between the DG Legal and you.

Enforcement

In the event that any of these terms and conditions is held to be invalid, the remainder of the terms and conditions will remain in full force and effect.

This Agreement shall bind and inure to the benefit of and be enforceable by DG Legal and their respective permitted successors, assigns and transferees. DG legal will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of its business and/or assets to assume expressly and agree to perform this Agreement in the same manner and to the same extent that DG Legal would be required to perform it if no such succession had taken place.

You may not assign, transfer, sub-licence, sub-contract, or in any other manner make over to any third party the benefit of these Terms and Conditions and/or any of its obligations hereunder without the prior written consent of DG Legal. No assignment, transfer, sub-licence, sub-contract shall relieve the assigning party of any of its obligations hereunder.

Governing Law

These terms and conditions shall be governed by, and construed in accordance with, English law.

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