

## **OSMOSiS SOFTWARE LICENCE AGREEMENT, DISCLAIMER, AND LIMITATION OF LIABILITY**

This Software Licence Agreement, Disclaimer, and Limitation of Liability (together called "Agreement") is a legal agreement between you (a Company, an individual or a single entity) and SC Sys Ltd ("SCSys").

In this Agreement, the term "OSMOSiS" means all SCSys software, files, instruction files, associated CD-ROM media ("Media"), printed materials, and electronic documentation ("Program Documentation") that may be used in connection with the software accompanying this Agreement;

You are requested to affirmatively confirm your acceptance of this agreement during the download or installation of OSMOSiS, however regardless of your affirmative acceptance, by downloading, installing or using OSMOSiS, you acknowledge that you have read this Agreement and agree to be bound by its terms. If you do not agree to the terms of this Agreement, do not download, install or use OSMOSiS.

### **Licence for Individual Use**

This copy of OSMOSiS is licenced to you ("Licensee") for your individual use only on a single computer compatible with the operation of OSMOSiS ("Designated Equipment"). You may make one additional copy of the Software Product, for archive purposes only.

SCSys reserves all rights not specifically granted in this Agreement.

### **1 Payment of Licence and Support Fee and related Charges**

If fees, then validly due, for license or Technical Support of OSMOSiS are not paid in full to SCSys then OSMOSiS will no longer be validly licensed, this license agreement will be terminated in accordance with clause 9 of this Agreement and OSMOSiS will attempt to stop functioning. In the event that OSMOSiS does not stop functioning you must remove OSMOSiS from your computer by deleting all electronic files related to OSMOSiS.

### **2 Technical Support**

Where fees have been validly paid to SCSys for Technical Support, SCSys shall provide Technical Support in respect of OSMOSiS as more particularly set out below:

#### **2.1 Technical Support ("Technical Support") shall comprise of the following services**

- a) Advice by email to support@sc-sys.com, and/or by telephone where available, on the use of OSMOSiS;
- b) Information and advice by email to support@sc-sys.com, and/or by telephone where available on forthcoming modifications or improvements (together "Point Releases") to OSMOSiS;
- c) The creation and dispatch to the Licensee from time to time of Point Releases to OSMOSiS or the Program Documentation and Media.

#### **2.2 Other Technical Support Matters**

Any releases which are developed, which are not incorporated in Point Releases, may be licensed by the Licensee at the then current price quoted by SCSys whereupon such releases shall be incorporated into this Licence Agreement;

In the event, a Licensee shall require Technical Support at its premises, the Licensee shall pay the then current charges of SCSys for the provision of such Technical Support;

SCSys reserves the right to serve an end of life notice on the Licensee indicating any particular Release shall no longer be supported by SCSys;

SCSys shall use its reasonable endeavours to provide Technical Support as soon as reasonably practicable following receipt of notice of any fault or request for assistance.

#### **2.3 Technical Support exclusions**

Technical Support shall not include the diagnosis and rectification of any fault resulting from:

- a) the improper use, operation or neglect of OSMOSiS, the Program Documentation and Media, or the Designated Equipment;
- b) the modification of OSMOSiS;
- c) the use of OSMOSiS on equipment other than the Designated Equipment;
- d) the failure by the Licensee to implement recommendations in respect of or solutions to faults previously advised by SCSys;
- e) any repair, adjustment, alteration or modification of OSMOSiS by any person other than the Licensor without SCSys's prior approval;
- f) any breach by the Licensee of any of its obligations under any maintenance agreement in respect of the Designated Equipment;
- g) the Licensee's failure to install and use upon the Designated Equipment any modifications or amendments to OSMOSiS within 60 days of receipt of the same, or

h) use of OSMOSiS for a purpose for which they were not designed.

### **3 Warranties of Licensee**

The Licensee warrants the following:

- a) That the Designated Equipment is compatible with the operation of OSMOSiS;
- b) Not to display the OSMOSiS software on a public bulletin board, ftp site, worldwide web site, chat room or by any other unauthorised means.
- c) Not to use OSMOSiS for immoral, illegal or for any other purpose which may be determined threatening, abusive or harmful including but not limited to the creation or transmission of any virus, worms, trojan horse, cancelbot or any other destructive or contaminating program;
- d) That the Licensee has obtained all necessary licenses as shall be necessary in order to operate such other software as shall be required in conjunction with OSMOSiS.

### **4 Warranty of SCSys**

SCSys warrants to the Licensee that it has the right to license the use of OSMOSiS. Save as provided below, all other warranties are expressly excluded and any information given or statements made by SCSys to the Licensee, whether before or after the date of the grant of the Licence and whether or not contained in the Program Documentation and Media shall be deemed to be expressions of the Licensor's expectations and not representations of fact.

### **5 Limitation of Liability**

Where the Licensee has not contracted for the provision of Technical Support, SCSys warrants that the Media on which OSMOSiS is distributed will be free from defects for a period of 30 days from the date of delivery to Licensee. In the event of breach of this warranty, SCSys shall at its option, replace the defective Media returned to SCSys within the warranty period, or refund any fees paid for the Media.

Where the Licensee has, or subsequently does, contract for the provision of Technical Support, and faults cannot be rectified, the Licensee is obliged to return OSMOSiS together with any Media to SCSys for investigation during the Term and SCSys shall at its option, replace OSMOSiS or refund the Licence Fee.

SCSys does not warrant that OSMOSiS meets the Licensee's requirements or that the operation thereof will be uninterrupted or error free.

SCSys has relied upon assurances from the providers of the set-up programs contained within OSMOSiS and on the Media. No warranties with respect to the same are provided by SCSys.

SCSys shall not be liable to the Licensee for loss of profits, goodwill, loss of data or any type of special indirect or consequential loss arising out of the use or inability to use OSMOSiS even if such loss was reasonably foreseeable or SCSys had been advised of the possibility of the Licensee incurring the same.

Notwithstanding the limitations on liability detailed above, SCSys' liability to the Licensee hereunder, if any, shall in no event exceed the total of the fees (if any) paid to in respect of OSMOSiS by Licensee.

### **6 Copyright**

OSMOSiS and the Program Documentation and Media contain confidential information of SCSys and all copyright trademarks and other intellectual property rights in OSMOSiS and the Program Documentation and Media are the exclusive property of SCSys.

The Licensee shall not:

- a) Copy the whole or any part of OSMOSiS or the Program Documentation or Media with any other software or documentation;
- b) Reverse engineer, decompile, disassemble, modify or otherwise manipulate, merge or in any other way interfere either in whole or in part with OSMOSiS or the Program Documentation or Media or combine them with any other software or retrieval system or documentation;
- c) Make any attempt to discover the source code of OSMOSiS, or create derivative works from OSMOSiS;
- d) assign, transfer, sell, rent, charge or otherwise deal in or encumber OSMOSiS or the Program Documentation or Media nor use on behalf of or make available the same to any third party by any means whatsoever, including, but not limited to transmitting the same by electronic or mechanical means or otherwise;

### **7 Confidentiality**

No party may take or remove from the Licensee possession of OSMOSiS, or the Program Documentation or the Media;

All such other steps as shall be necessary from time to time shall be taken by the Licensee to protect the confidential information and intellectual property owned and/or licensed by SCSys in OSMOSiS and the Program Documentation and Media.

The Licensee hereby grants SCSys permission to use their name in user lists for the OSMOSIS product.

## **8 Assignment**

The Licence shall not be assignable in whole or in part by the Licensee.

## **9 Termination**

In the event of any breach by the Licensee of any of its obligations hereunder, which is incapable of remedy or is not rectified within 14 days of being brought to the Licensee's attention, the Licence shall thereupon terminate and the Licensee shall, at the Licensee's cost, immediately expunge or otherwise remove OSMOSiS from the Designated Equipment and return the Program Documentation and Media to SCSys.

## **10 Termination by Licensee**

The Licensee may terminate the Licence any time after the date hereof by, at the Licensee's cost, immediately expunge or otherwise remove OSMOSiS from the Designated Equipment and return the Program Documentation and Media to SCSys forthwith, save that the Licence Fee (or any accrued charges for Technical Support, or such other accrued charges, as contemplated herein) shall not be refundable in whole or in part.

## **11 Access**

The Licensee shall permit access to representatives of SCSys to its sites and facilities and Designated Equipment to determine the proper use of OSMOSiS in accordance with these Conditions upon reasonable notice given by SCSys to the Licensee (which for the avoidance of doubt, shall be not less than [7] days notice).

## **12 Jurisdiction**

These Conditions and the Licence shall be governed by and construed in accordance with English law and the Licensor and the Licensee submit to the non-exclusive jurisdiction of the English Courts.