TERMS AND CONDITIONS

Definitions

'Agreement'   this License Agreement between Belina and the User.

'Licence'   the limited, non-exclusive, and non-transferable authority given to the User, by Belina, to use Belina Software.

'Belina'   Belina Time Systems (Private) Limited or designated 3rd parties supporting Belina Software infrastructure.

'Belina Software'   all software, hardware and systems owned, developed, and/or distributed by Belina including but not limited to Belina Payroll^{HR} software and Belina Connect.

'Parties'   Belina and the User collectively.

'The User'   the organisation or individual licenced to use Belina Software.

1. AGREEMENT

The User is, upon payment of the requisite service fees (as quoted by Belina from time to time) and acceptance of the terms of this Agreement, granted limited, non-exclusive, and non-transferable access to use Belina Software.

2. SCOPE OF LICENCE / USAGE

2.1   The User acknowledges that all right, title, and interest in and to Belina Software (including any compilations, modifications, and updates) and all intellectual property rights therein, including patent, unpatented inventions, copyright, trademark, trade secret, proprietary information and technology used in or comprising the Belina Software, are owned by, and are vested in, Belina.

2.2   This Agreement constitutes a licence-for-use only and is not in any way a transfer of ownership rights to the User.

2.3   It is agreed between the Parties that the scope of the User's license and usage is also subject to Belina's product-specific terms and conditions as may be advised by Belina from time to time. In the event of conflict between these terms and conditions and Belina's product-specific terms and conditions, the product-specific terms and conditions will prevail.

3. RIGHTS AND OBLIGATIONS

3.1   Belina agrees to:

3.1.1   Maintain strict confidentiality as regards to the User's information and data. It shall not disclose to any third party any information concerning the User's trade secrets, methods, processes or procedures, or any other confidential business information of the other party which it learns during, or after, the course of its performance of this Agreement.

3.1.2   Use all reasonable endeavours to respond to requests by the User, and provide software assistance, in accordance with its Service Level Terms and Conditions.

3.2   The User Agrees to:

3.2.1   Ensure that Belina Software meets its requirements before entering into this Agreement.

3.2.2   Select and use capable staff, with comprehensive Belina Software training, to operate the Belina Software.

3.2.3   Use qualified staff from the Belina support team or a certified Belina dealer for support that may be required from time to time on the Belina Software.

3.2.4   Ensure that Licence Fees are timeously paid in accordance with Belina's payment terms.

3.2.5   Allow reasonable requests for Belina technical staff, or any authorised Belina representative, to access the Computer or Computer network / system on which Belina Software has been installed.

3.2.6   Maintain a good history of backup in the usage of Belina Software.

3.2.7　Install recommended updates and upgrades of Belina Software.

3.2.8　Use Belina Software only for the purpose and within the limits set in this Agreement, and not to:

(i)　transfer, re-sell, or sublicense Belina Software to any third party, in whole or in part, in any form, whether modified or unmodified; and/or

(ii)　alter, modify, reverse-engineer, disassemble or de-compile Belina Software in any manner through current or future available technologies; and/or

(iii)　provide or make available Belina Software to any person or entity other than its employees who have a need consistent with the User's use thereof under this Agreement.

3.2.9　Promptly notify Belina if it obtains information as to any unauthorised possession, use, or disclosure of Belina Software by any person or entity, and further agrees to cooperate with Belina in protecting Belina's proprietary rights.

4.　DATA PROTECTION OBLIGATIONS

The User undertakes that it, its employees, representatives, and/or agents, shall, in using Belina Software:

4.1　Ensure full compliance with its obligations under the Data Protection Act [Chapter 12:07] ("DPA") (including any guidelines, standards, directives, regulations, or codes made thereunder) or any other laws enacted from time to time in respect to the collection and processing of data, including but not limited to obtaining all authorisations and/or consents as required at law; and

4.2　Take the appropriate technical and organisational measures that are necessary to protect data from negligent or unauthorised destruction, negligent loss, unauthorised alteration or access, and any other unauthorised processing of data; and

4.3　Comply with its notification obligations under the DPA (including any guidelines, standards, directives, regulations or codes made thereunder) including, but not limited to, the notification obligations arising from any actual or suspected security or data breach.

5.　LIMITATION OF LIABILITY

5.1　Belina Software is provided by Belina and accepted by the User "as is", without warranty of any kind, express or implied, including but not limited to warranties of performance or fitness for a particular purpose.

5.2　The User acknowledges that software such as Belina Software is never wholly free from defects, errors, and bugs and Belina gives no warranty or representation that it will be wholly free from defects, errors and/or bugs.

5.3　Belina will not be liable for:

5.3.1　any damage to the User's computer, network, hardware, software, or other property resulting from the User's use of Belina Software; and/or

5.3.2　any general, special, incidental, or consequential damages including, but not limited to, loss of production, loss of profits, loss of revenue, loss of data, or any other business or economic disadvantage or interruption suffered by the User arising out of the use or failure to use Belina Software.

5.4　Without derogating from clause 5.3 above, the User, by accepting this Agreement, limits the aggregate total liability (if any) of Belina to a maximum figure of the initial Licence Fee.

6.　INDEMNITY

The User agrees to, at its own expense, indemnify and hold Belina (including its officers, directors, and employees) harmless from and against any and all claims, suits, proceedings, losses, liabilities, damages, costs and expenses made against Belina by third parties arising from the User's usage of Belina Software or any alleged violation of this Agreement.

7. **RELATIONSHIP BETWEEN THE PARTIES**

This Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the Parties.

8. **TERMINATION**

8.1 The Agreement between the Parties shall commence on the date of initial payment for the Belina Software (or otherwise as agreed between the Parties) and continue for the duration for which licence fees are paid, by the User, for Belina Software.

8.2 Either party may terminate the Agreement by giving thirty (30) days' written notice to the other party.

8.3 If either Party breaches any provision of the Agreement ("the Defaulting Party") and (if such breach is capable of being remedied), fails to remedy the breach within Ten (10) Business Days after written notice has been given by the other Party requiring the breach to be remedied ("the Aggrieved Party"), the Aggrieved Party shall be entitled, without prejudice to their rights, to take such action as may be available in law:

8.3.1 to seek specific performance of the Defaulting Party's obligations; or

8.3.2 to cancel or terminate the Agreement;

8.3.3 and in the case of both sub-clauses above, to (subject to the terms and conditions contained in this Agreement) claim any costs and/or damages suffered by the Aggrieved Party, without the prior written consent of the other Party.

9. **GENERAL**

9.1 Force Majeure

If Belina's performance of any obligation under this Agreement is prevented, restricted or interfered with by causes including failure or malfunction of the User's equipment, third-party cloud hosting service provider failures, disruptions of Internet protocol ("IP") service through intermediate carriers, acts of God, explosions, vandalism, cable cuts, storms, fires, floods or other catastrophes, power failure, national emergencies, insurrections, riots, wars, strike, lockouts, boycotts, work stoppages or other labour difficulties, or any law, order, regulation or other actions of any governmental authority, agency, instrumentality, or of any civil or military authority, then Belina shall be excused from such performance on a day-to-day basis during such restriction or interference.

9.2 Notice

All notices required or permitted to be given by one party to the other, under this Agreement, will be sufficient if sent by mail, return receipt requested, to the Parties at the respective addresses as provided from time to time, or to such other address as the party to receive the notice has designated by notice to the other party.

9.3 Governing Law

The Agreement between the Parties shall be governed, construed, and have effect in accordance with the laws of Zimbabwe.

9.4 Dispute Resolution

9.4.1 All disputes or differences which shall at any time arise between the Parties whether during the term of the Agreement or afterwards touching or concerning this Agreement or its construction or effect or the rights, duties or liabilities of the Parties under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the subject matter of this Agreement shall, to the extent possible, first be settled amicably between the Parties.

9.4.2 Failing amicable resolution, the dispute shall be referred to an arbitrator mutually agreed to by the Parties. Failing agreement between the parties, the Chairman/President of the Commercial Arbitration Centre in Harare shall be the final appointing authority. The decision by the Arbitrator shall be final, binding and not appealable. The Arbitration shall be held in Harare under the provisions of the Arbitration Act [Chapter 7:15] as amended from time to time. The language of the arbitration shall be English.

9.5   Severability

If any provision of this Agreement is held invalid or otherwise unenforceable, the enforceability of the remaining provisions of the Agreement will not be impaired thereby, but the Agreement shall be construed and enforced as if such invalid or unenforceable provision was omitted.

9.6   No Waiver

The failure or delay by any party to exercise any right, power, privilege, or remedy provided for in the Agreement will not be deemed a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

9.7   Whole Agreement

No alterations or variations of the Agreement shall be of any force and effect unless agreed by both Parties and reduced to writing.

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