



# End User License Agreement "EULA"



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## Document Control

## Authority

Type	Name	Role	Company
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## Identity

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  - 2.5 The Licensee shall:

- (a) provide to Licensor the details of the Licensee authorised contact. In the event of any change in the Licensee contact, the Licensee will provide written details of a replacement as soon as reasonably practicable of a person with equivalent qualifications and experience;
- (b) where appropriate, make available to the Licensor's directors, employees, agents, consultants and sub-contractors such office and reasonable administrative support as may be necessary for the provision of the Licences and Support (if applicable);
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- (e) comply with the Documentation;
- (f) refrain from arbitrarily changing settings or configuration sets in the Software provided to the Licensee under this License save where authorised in writing to do so by the Licensor;
- (g) inform Licensor as soon as possible about any change of the location.

2.6 The Licensee shall be responsible for ensuring that all its existing equipment used to access the Software is safe and secure. Licensor accepts no liability (other than for wilful damage) for loss of data, interruption of supply of electricity or telecommunications or interruption of business occasioned as a result of the supply of the Software. It is the sole responsibility of the Licensee to take all necessary precautions to protect its data and ensure a regular backup arrangement is implemented prior to, during and after the Licensor's provision of the Software.

2.7 If, in the reasonable opinion of the Licensor, it is necessary to remove or otherwise disconnect any of the Licensee's existing equipment or information technology systems to carry out the Software then the Licensee shall permit and obtain all necessary consents for such removal and/or disconnection and shall give Licensor all necessary assistance to enable such work to be carried out.

2.8 Licensor shall not be liable for losses (for avoidance of doubt such losses shall include special, direct, indirect or consequential losses) sustained or incurred by the Licensee arising directly or indirectly from the Licensee's failure or delay to perform any of its obligations as set out in this clause 2.

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- 4.7 The Licensee shall promptly notify the Licensor if any IPR Claim or demand is made or action brought against the Licensee for infringement or alleged infringement of any third party right which may affect the provision of License.
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  - (b) any modification carried out on behalf of the Licensee to any item supplied by the Licensor if such modification is not authorised by the Licensor in writing where such modification directly gives rise to a claim, demands or action.
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- (e) comply with any other reasonable request from us.

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  - (c) loss of anticipated savings;
  - (d) loss or corruption of data or information;
  - (e) loss of business opportunity, goodwill or reputation;
  - (f) any special, indirect or consequential loss, damage, charges or expenses; or
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- 9.11 The Licensor reserves the right, on giving the Licensee 30 days' notice, to increase the License Fees on an annual basis with effect from each Renewal Term. If the Licensee does not agree with this increase, then they may terminate this License upon 30 days written notice and before such price increase takes effect. If the Licensor does not receive written notice within thirty (30) days, the Licensee is deemed to have agreed to the amendment to the License Fees.



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- 10.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.
- 10.3 The parties have determined that, for the purposes of Applicable Data Protection Laws, the Licensor shall process the personal data set out in Schedule 2, as a processor on behalf of the Licensee.
- 10.4 Without prejudice to the generality of clause 10.2, the Licensee will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Licensee Personal Data to the Licensor for the duration and purposes of this License.
- 10.5 In relation to the Licensee Personal Data, Schedule 2 sets out the scope, nature and purpose of processing by the Licensor, the duration of the processing and the types of personal data and categories of data subject.
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  - (b) implement appropriate the technical and organisational measures to protect against unauthorised or unlawful processing of Licensee Personal Data and against accidental loss or destruction of, or damage to, Licensee Personal Data, which the Licensee has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

- (c) ensure that any personnel engaged and authorised by the Licensor to process Licensee Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
- (d) assist the Licensee insofar as this is possible (taking into account the nature of the processing and the information available to the Licensor), and at the Licensee's cost and written request, in responding to any request from a data subject and in ensuring the Licensee's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the Licensee without undue delay on becoming aware of a personal data breach involving the Licensee Personal Data;
- (f) at the written direction of the Licensee, delete or return Licensee Personal Data and copies thereof to the Licensee on termination of the License unless the Licensor is required by Applicable Law to continue to process that Licensee Personal Data. For the purposes of this clause 10.6(f) Licensee Personal Data shall be considered deleted where it is put beyond further use by the Licensor; and
- (g) maintain records to demonstrate its compliance with this clause 10 and allow for reasonable audits by the Licensee or the Licensee's designated auditor, for this purpose, on reasonable written notice.

10.7 The Licensee hereby provides its prior, general authorisation for the Licensor to:

- (a) appoint processors to process the Licensee Personal Data, provided that the Licensor:
- (b) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Licensor in this clause 10;
- (c) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Licensor; and
- (d) shall inform the Licensee of any intended changes concerning the addition or replacement of the processors, thereby giving the Licensee the opportunity to object to such changes provided that if the Licensee objects to the changes and cannot demonstrate, to the Licensor's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Licensee shall indemnify the Licensor for any losses, damages, costs (including legal fees) and expenses suffered by the Licensor in accommodating the objection.

10.8 transfer Licensee Personal Data outside of the UK as required for the Purpose, provided that the Licensor shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Licensee shall promptly comply with any reasonable request of the Licensor, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK Data Protection Legislation applies to the transfer).

## 11. Support

Licensor offers Support for the Software as set out in Schedule 1 (Support Contract). You acknowledge that by agreeing to the terms of this License you are also agreeing to the terms of the Support Contract.

## 12. Pre-release and evaluation product additional terms

12.1 If the product you have received with this License is pre-commercial release or beta Software (Pre-release Software), then this section applies. In addition, this section applies to all evaluation and/or demonstration copies of the Software, or any Software that is not noted as "General Release" version (Evaluation Software) and continues in effect until you purchase a License. To the extent that any provision in this section is in conflict with any other term or condition in this License this section shall supersede such other term(s) and condition(s) with respect to the Pre-release Software and/or Evaluation Software, but only to the extent necessary to resolve the conflict. You acknowledge that the Pre-release Software does not represent final product from Licensor, and may contain bugs, errors and other problems that could cause system or other failures and data loss. PRE-RELEASE AND/OR EVALUATION SOFTWARE IS PROVIDED TO YOU "AS-IS" WITH NO WARRANTIES FOR USE OR PERFORMANCE, AND LICENSOR DISCLAIMS ANY WARRANTY OR LIABILITY OBLIGATIONS TO YOU OF ANY KIND, WHETHER EXPRESS OR IMPLIED. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED FOR PRE-RELEASE AND/OR EVALUATION SOFTWARE, BUT IT MAY BE LIMITED, LICENSOR'S LIABILITY, ITS AFFILIATES AND THAT OF ITS RESELLERS SHALL BE LIMITED TO THE SUM OF FIFTY POUNDS (GBP £50) IN TOTAL.

12.2 If the Evaluation Software has a time-out feature, then the Software will cease operation after the conclusion of the designated evaluation period. Upon such expiration date, your License will expire unless otherwise extended. Access to any files created with the Evaluation Software is entirely at your risk. You acknowledge that Licensor has not promised or guaranteed to you that Pre-release Software will be announced or made available to anyone in the future, Licensor has no express or implied obligation to you to announce or introduce the Pre-release Software. During the License Term, if requested by Licensor, you will provide feedback to Licensor regarding testing and use of the Pre-release Software, including error or bug reports.

12.3 If you have been provided the Pre-release Software pursuant to a separate written agreement, your use of the Software is governed by such agreement. You may not sublicense, lease, loan, rent, distribute or otherwise transfer the Pre-release Software or Evaluation Software. Upon receipt of a later unreleased version of the Pre-release Software or release by Licensor of a publicly released commercial version of the Software, whether as a stand-alone product or as part of a larger product, you agree to return or destroy all earlier Pre-release Software received from Licensor and to abide by the terms of the license agreement for any such later versions of the Pre-release Software.

### 13. Audit

13.1 Licensee must maintain true and records related to this during the License Term and three (3) years thereafter (Audit Period). If an audit, litigation, or other action involving such records is initiated before the end of the Audit Period, Licensee must retain the records until all issues are resolved.

13.2 Licensor may, at its expense, audit Licensee's compliance with this License upon thirty (30) Days written notice. Any such audit will be conducted during the Licensee's business hours and will not unreasonably interfere with the Licensee's business activities. Licensee shall ensure to provide all reasonable assistance and information required to enable Licensor to determine whether the Licensee is in compliance with this License.

13.3 In the event that the audit reveals that the Licensee has underpaid amounts due under this License, or is not in compliance with this License, the Licensee shall pay such amounts within thirty (30) days from the date of the notice. Licensee shall also reimburse Licensor for all reasonable costs, fees, and expenses associated with such audit which shall be invoiced by the Licensor within a reasonable time after the audit and shall be paid in accordance with clause 9.

### 14. General Terms

14.1 We may transfer our rights and obligations under these terms to another organisation. You may only transfer your rights or your obligations under this License to another person if we agree in writing.

14.2 This License does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this License.

14.3 Each of the clauses of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining sections will remain in full force and effect.

14.4 You agree that the Software will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other export laws,

restrictions or regulations (collectively the Export Laws). In addition, if the Software is identified as an export controlled item under the Export Laws, you represent and warrant that you are not a citizen of, or located within, an embargoed or otherwise restricted nation (including without limitation Iran, Syria, Sudan, and North Korea) and that you are not otherwise prohibited under the Export Laws from receiving the Software. All rights to use the Software are granted on condition that such rights are forfeited if you fail to comply with the terms of this License.

- 14.5 This License, and any applicable Support Contract constitutes the entire understanding between Licensor and Licensee relating to its subject-matter and supersede all oral or written proposals, and all communications between the parties relating to its subject-matter. Licensor reserves the right to amend any terms of this License at any time. Any amendment will be effective on the posting of an updated version at [EULA | Power Sync Pro](#).
- 14.6 Neither party will be liable for any delay in performance or failure to perform its obligations under this License due to any cause or event outside its reasonable control including, acts of God, epidemics or pandemics, civil or military authority, acts of war, accidents, third-party computer or communications failures, natural disasters or catastrophes, strikes or other work stoppages or any other cause beyond the reasonable control of the affected party.
- 14.7 This License contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior written and oral understandings of the parties with respect to the subject matter hereof. Any notice or other communication given under this License shall be in writing and shall have been properly given by either of us to the other if sent by certified or registered mail, return receipt requested, or by overnight courier to the address shown on Licensor's website for Licensor and the address shown in Licensor's records for you, or such other address as the parties may designate by notice given in the manner set forth above.
- 14.8 This License will bind and inure to the benefit of the parties and their respective heirs, personal and legal representatives, affiliates, successors and permitted assigns. The failure of either of party at any time to require performance of any provision hereof shall in no manner affect such party's right at a later time to enforce the same or any other term of this License. This License may be amended only by a document in writing signed by both parties. In the event of a breach or threatened breach of this License by either party, the other shall have all applicable equitable as well as legal remedies.
- 14.9 Each party is duly authorised and empowered to agree to this License. If, for any reason, any provision of this License is held invalid or otherwise unenforceable, such invalidity or unenforceability shall not affect the remainder of this License, and this License shall continue in full force and effect to the fullest

extent allowed by law. The parties knowingly and expressly consent to the foregoing terms and conditions.

- 14.10 This Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by English law. We both irrevocably agree to the exclusive jurisdiction of the courts of England and Wales.

#### Definitions and Interpretation

In this License, the following expressions shall, except where the context otherwise requires, have the following respective meanings:

Applicable Data Protection Laws	means: a) To the extent the UK Data Protection Legislation applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data. b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Licensor is subject, which relates to the protection of personal data.
Applicable Laws	means: a) To the extent the UK Data Protection Legislation applies, the law of the United Kingdom or of a part of the United Kingdom. b) To the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Licensor is subject.
Business Day	means a day, other than a Saturday or Sunday, on which banks are generally open for business in London.
Commissioner	means the Information Commissioner (see section 114, DPA 2018).
EU GDPR	means the General Data Protection Regulation ((EU) 2016/679).
First Year	means 12 months from the date set out in the relevant Order Form for the Licence as set out in the Order Form.
Intellectual Property Rights	means any and all patents, rights to inventions, copyright and related rights, moral rights, trade-marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including

	know-how and trade secrets) and Licensor’s ownership rights extend to any images, photographs, animations, videos, audio, music, text and “applets” incorporated into the Software, all accompanying printed materials and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
License Fee	means the fee for the Software as more fully set out in the Order Form.
License Key	means license keys, codes or files provided by Licensor which allow the Licensee to use the Software subject to the terms and conditions of this License.
License Term	means the First Year which shall automatically renew after the First Year for a further 12 months and every 12 months thereafter (each a “Renewal Term”) unless otherwise terminated in accordance with this License.
Licensee Personal Data	means any personal data which the Licensor processes in connection with this License, in the capacity of a processor on behalf of the Licensee.
Order Form	means the order form or set up form which sets out the number of licenses, the License Fee, the commencement date of the use of the Software as well as any other details necessary.
Purpose	means the purposes for which the Licensee Personal Data is processed, as set out in Schedule 2.
Reseller	means an authorised reseller of the Licensor.
Support	means the support offered by the Licensor as set out in Schedule 1.
Territory	Worldwide.
Trademarks	means those registered trademarks of Licensor.
UK Data Protection Legislation	means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
UK GDPR	means the EU GDPR as it applies in the UK by virtue of section 3 of the European Union (Withdrawal) Act 2018.
Updates	means all updates, upgrades, bug fixes, error corrections, enhancements and other modifications to the Software and backup copies thereof.

## Schedule 1: Schedule for Support Services

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1. Basic Support:
  - 1.1. Basic Support (in accordance with this paragraph 1) is included as part of the License Fee in accordance with the below (which does not include the Out of Scope Basic Support set out in paragraph 2) and the Support Service Availability Hours of Service (as defined in paragraph 5).
  - 1.2. In the event that the Licensee contacts the Service Desk Email Address (as defined in paragraph 5) with an issue relating to the Software, the Licensor shall raise a support ticket and assist the Licensee with ascertaining the root cause of the issue via email.
  - 1.3. The Licensee shall provide the Licensor with all necessary detailed steps, information and access to Licensee's system in order to validate the issue. Licensee must confirm the pre-agreed check list which can be by email to support@powersyncpro.com
  - 1.4. The Licensor undertakes the following during the License Term to support the Software:
    - (a) to use commercially reasonable endeavors to respond to the Licensee's request within four (4) hours; and
    - (b) to use commercially reasonable endeavors to resolve issues via a fix or workaround.For the avoidance of doubt, where the issue is caused by the Licensee installing the Software on a System other than for which it was designed and/or the Licensee has not complied with paragraph 1.3, the Licensor shall have no obligation to provide the Basic Support and accordingly disclaims any and all liability arising from any delay and/or non-performance (in full or in part) in adhering to the Basic Support timing requirements set out in this paragraph 1.4.
  - 1.5. Basic Support may necessitate the Licensor setting changes on the Licensee's tenant, machine or settings deployed to Licensee's machine and the Licensee hereby acknowledges and agrees that the Licensor is permitted to access and make such changes as may be necessary.
  - 1.6. If the issue is caused by Licensee alterations to, or modifications of, the whole of any part of the Software, then Advance Support (as set out at paragraph 4), managed services or consulting services may be required and the parties shall enter into good faith discussions with regard to the commercial terms in respect thereof.
  - 1.7. In the event there is a bug in the Software, the Licensor will keep the Licensee informed on the progress of the fix or workaround but cannot guarantee a defect resolution or timeframe due to the changing nature of cloud software and its interdependencies.
  - 1.8. The Licensor shall provide Basic Support in order to assist the Licensee using commercially reasonable endeavours to establish the root cause and recommend potential fixes but limited to a maximum of two (2) hours investigation duration per support ticket raised.
  - 1.9. If or when Basic support is not sufficient to handle the request, Advance Support, managed services or consulting services should be purchased from the Licensor to increase the level of support offered by the Licensor [and/or SLA] and the parties shall enter into good faith discussions in respect thereof.



2. [Out of Scope Basic Support]
  
3. Service Level Agreement (SLA)
  - 3.1. During the Working Hours, Licensor shall use commercially reasonable endeavours to respond to all emails received from the Licensee at the Service Desk Email Address within four (4) hours.
  - 3.2. No defect resolution SLA is available from Licensor as once issues have been identified and classified the resolution will depend on the partner/ client's project team resolving the required changes.
  - 3.3. There are no restrictions on the number of tickets a Licensee can submit, and the Licensor provides access to the support team, covering 3rd line experience and expertise within the scope of the services described for all tickets.
  
4. Advanced Support
  - 4.1. Advanced Support can be purchased by Licensee to include email and remote online or phone-based diagnosis and troubleshooting to speed up support service. Remote diagnosis may require more than one (1) interaction or call or an extended session, and Licensor may request access to Licensee's environment to troubleshoot the issue, and such access shall be promptly provided by the Licensee. In the event that access to Licensee's environment is not promptly provided, the Licensor disclaims any and all liability arising from any delay and/or non-performance (in full or in part) of the Advanced Support.
  
  - 4.2. After the Licensor has initially validated the issue, the Licensor may offer additional support options at an additional charge, including, without limitation, consulting services or managed services and the parties shall enter into good faith discussions in respect thereof. Remote diagnosis will confirm which support option will be most suitable for the client's need.
  
5. [Out of Scope – Advanced Support]
  
6. Support Service Availability

Licensor	
Service Desk Email Address	support@powersyncpro.com
Hours of Service	9am – 5pm Monday to Friday (excluding UK bank holidays). All remote. UK time zone.

Schedule 2: Particulars of Processing
 

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Data subjects:	Licensee personnel Licensee clients Licensee third parties Business contacts in general
Types of personal data:	Name Job title Email address Phone number Business/home address Date of birth Place of birth Any other personal data provided by Licensee to the Licensor
Special categories of personal data:	None
Purpose of processing:	In the case of data subjects other than staff: for the purpose of providing IT services and support to Licensee's business.  In the case of staff: for the purpose of providing IT services and support for Licensee's employment and HR matters.
Nature of processing:	As set out in the body of the License.
Additional instructions:	None