

This Agreement is made between you and digit8 Limited (digit8) (Company Registration No: 04551614) whose registered office is at FOSSE BANK, PARKER ROAD, BIGBURY ON SEA, KINGSBRIDGE, DEVON TQ7 4AT.

INSTALLATION AND/OR USE OF THE SOFTWARE PROVIDED WITH THIS AGREEMENT CONSTITUTES YOUR ACCEPTANCE OF THIS AGREEMENT. IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT, PROMPTLY RETURN THE SOFTWARE AND ANY ACCOMPANYING ITEMS TO DIGIT8.

1. CONTEXT

- 1.1 The 'Encore Plus' system comprises a full back-office system integrated with the Encore Sourcing System provided by Mortgage 2000. digit8 Ltd is the provider, to you the client, of software licences for MortgageStream, the integrated back-office system for mortgage brokers.
- 1.2 Any entered into agreement to purchase licences is made between the client and digit8 Ltd and Mortgage 2000.
- 1.3 Fees shall be charged for licences on a recurring basis of monthly direct debits between you and Mortgage 2000.

2. TERM

- 2.1 This Agreement shall commence on the Start Date and shall continue thereafter unless terminated in accordance with clause 10 of this Agreement.
- 2.2 digit8 Ltd retain the right to only supply the software to registered FSA Brokers holding a Consumer Credit Licence, and valid regulatory registration.
- 2.3 By downloading the software, you grant digit8 Ltd and Mortgage 2000 permission to contact you.
- 2.4 digit8 Ltd and/or Mortgage 2000 reserve the right to amend this licence agreement at any time. It is you (the Client's) responsibility to check the website as necessary to check the latest licence conditions; see www.mortgagestream.co.uk/encoreplus_tandc.asp
- 2.5 Any infringements of these Terms & Conditions of the licence may result in licence revocation without refund.

3. DIGIT8'S OBLIGATIONS

- 3.1 Subject to you complying with your obligations under this Agreement, digit8 will provide the Software on the following terms and conditions.
- 3.2 digit8 Ltd will supply you with a copy of the Software Application under the terms of this Agreement.
- 3.3 Supply of any interfaces to third party software or systems is provided by digit8 Ltd as a non-chargeable additional feature. Removal of such interface or interfaces resulting from the actions of said third party or parties is not the responsibility of digit8 Ltd: digit8 Ltd cannot be held responsible for reduction of functionality resulting from such third party actions.
- 3.4 For Windows 2000 Server, for remote users accessing MortgageStream via Terminal Services (RDP) connection; Connectivity of the Sourcing System import tools to the remote user's sourcing system is not possible, due to restrictions in Windows 2000 Server. This facility *is* available for Windows 2003 Server.
- 3.5 Supply of any interfaces to third party software or systems is provided by digit8 Ltd in order to reduce the amount of re-keying of data required. digit8 Ltd does not warrant that all relevant data is transferred to third party software or systems: It is you (the client's) responsibility to ensure that any extra data is entered into the third party software or systems in order to ensure their correct functioning. This is particularly true of mortgage and insurance sourcing systems, where complete information is required for those systems to source the correct product(s).
- 3.6 digit8 Ltd reserve the right to amend the cost of the system licences from time to time.

4. SOFTWARE LICENCE

- 4.1 digit8 grants to you, subject to the terms and conditions in this Agreement, a non-exclusive, non-transferable, licence to use the Software.
- 4.2 Without prejudice to the other provisions of this Agreement the licence granted in clause 4.1 is subject to the following conditions:
 - 4.2.1 You may, subject to the Copyright (Computer Program) Regulations 1992, only make so many copies of the Software as are reasonably necessary for operational security and lawful use. Such copies and the media on which they are stored shall be the property of digit8. You shall make full and accurate records of such copying and location of the copies and make these available to digit8 on request from time to time.
 - 4.2.2 You shall not modify or remove any copyright or proprietary notices on the Software and shall reproduce such notices on any copies of the Software.
 - 4.2.3 The Software may only be used by you:
 - 4.2.3.1 solely for processing Content; and
 - 4.2.3.2 on a computer system running a compatible operating system. Details of such compatible operating systems are available on request from digit8 Ltd.

- 4.2.4 You shall not permit any third party to use the Software nor use the Software on behalf of or for the benefit of any third party (except Clients) in any way whatsoever, including any consulting, service-bureau, time-sharing, rental or services of any other kind.
- 4.2.5 Except to the extent permitted by law, you shall not decompile, reverse engineer, disassemble or otherwise derive the source code or database of the Software nor permit any third party to do so.
- 4.2.6 Save as otherwise provided, you shall not, and shall not permit any third party to, copy, make error corrections to or otherwise modify or adapt the Software nor create derivative works based upon the Software or permit any part of the Software or database to be combined with or become incorporated in any other computer programs.
- 4.2.7 You shall effect and maintain adequate security measures to safeguard the Software against access to or use by unauthorised persons and ensure that the Software and all copies are kept under your control and shall notify digit8 Ltd immediately on becoming aware of any unauthorised use of the Software by any person.
- 4.2.8 You shall not copy the licence onto more than one machine, without the express permission of digit8 Ltd.
- 4.2.9 You shall not read data from or write data to the Encore Plus database using any other software than the Encore Plus program, or any other program supplied to you by digit8 Ltd, without the express written permission of digit8 Ltd.
- 4.3 You shall permit digit8 Ltd or its authorised representatives to inspect and have access to any premises and equipment where the Software is located to ensure that you are complying with your obligations under this Agreement. Such access may be required from time to time to ensure the correct operation of the system, help in the diagnosis of any defects, and for licencing of the system. Such access may be in person, or via remote control from digit8 Ltd's or their authorised representatives' computers.
- 4.4 Any refusal on your part to grant such access as requested, may result in the temporary or permanent revocation of your licence, without recourse or refund.
- 4.5 You shall indemnify digit8 Ltd, keep digit8 Ltd indemnified and hold digit8 Ltd harmless from and against all claims, liabilities, proceedings, costs, damages, losses, or expenses incurred by digit8 Ltd caused by, or in any way connected with your use of the Software or the unauthorised use of the Software by any third party whether through breach of this Agreement or any other negligent or wrongful act.
- 4.6 The purchase of a specific number of user licences entitles you to have the system installed on that number of already networked PCs.
- 4.7 In some cases it may be possible for digit8 Ltd to import existing client data into the system. The level of such import will be made clear to you if requested. digit8 Ltd reserve the right to charge for this one-off service and will quote on a case by case basis.

5. YOUR OBLIGATIONS

- 5.1 You shall:
 - 5.1.1 use the Software for your own internal business purposes only;
 - 5.1.2 comply with the terms and conditions of this Agreement;
 - 5.1.3 register with Mortgage 2000 by calling 0845 345 5711 or FAX-ing your order to 0870 486 0715;
 - 5.1.4 be responsible for ensuring your IT system is compatible with the Software. In particular you should ensure that your computer network is of such a standard of reliability as is compatible with running a client-server database application; namely CAT 5e standard network cabling, and NOT wireless networking.
 - 5.1.5 You shall pay Mortgage 2000 for your use of the Software the sum specified from time to time in our published tariffs or as otherwise agreed. The tariffs will be notified to You from time to time. You shall pay all sums due by You to Mortgage 2000 by direct debit. You are obliged to pay for the full term of the software licence granted to you by Mortgage 2000, irrespective of whether you continue to use the software for the period of that licence.
 - 5.1.6 You are responsible for maintaining adequate storage and backup processes for your data (including reports, templates and call recordings as well as client data)
- 5.2 You are fully responsible for the accuracy of any information stored on the Software.
- 5.3 You are licensed to use the database on the specified server (or single) computer. You shall not move that database to any other computer, without prior consultation with and permission from digit8 Ltd. Failure to comply will involve revocation of digit8 Ltd's support responsibility. Subsequent to digit8 Ltd's permission to move the database, digit8 Ltd will require the removal of the licence from the original computer prior to moving to another computer. digit8 Ltd reserve the right to charge for this service of database relocation.
- 5.4 Should you require now or later to increase the number of simultaneous users beyond our recommended maximum, we shall advise a migration of data to, or installation of, a SQLServer database. This may necessarily incur extra costs by you to Microsoft Corp., for the SQLServer licence(s), should you not already own such a valid licence (such licence costs being outside the scope of any licence payments payable to digit8 Ltd) and will incur extra costs by you to digit8 Ltd for the SQLServer version of the system.

5.5 You should be aware of any limitations imposed by Microsoft on the maximum number of network users that can simultaneously access shared folders on the network. If your nominated Encore Plus 'server' is an XP Home machine, this limit is five (5); if your nominated Encore Plus 'server' is an XP Professional machine, this limit is ten (10); for server operating systems, the limit is set by the number of installed Client Access Licences (CALs). These limits are not the responsibility of digit8 Ltd, but of your company or IT Provider, the licence fees for such CALs being payable to Microsoft Corp.

6. DATA PROTECTION

6.1 You acknowledge that you are a Data Controller (as defined in the Act) of the Personal Data (as defined in the Act) and that digit8 is a Data Processor (as defined in the Act) for the purposes of the Act.

6.2 You will obtain all necessary consents from Clients or other originators of Content to comply with your obligations under the Act.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 All IPR in the MortgageStream back-office Software belongs to digit8 Ltd.

7.2 digit8 Ltd shall defend or, at its option, settle any claim brought against you that your normal use or possession of the Software in accordance with this Agreement infringes any IPR of any third party and shall pay any damages finally awarded against you in respect of such claim and any reasonable costs and expenses incurred by you provided that:

7.2.1 digit8 Ltd is given immediate and complete control of such claim, all information and assistance as digit8 Ltd reasonably requires at digit8 Ltd 's cost, and you do not prejudice the defence of such claim; and

7.2.2 the claim does not arise from use of any release other than the most recent or penultimate versions of the Software or from any circumstances set out at clause 8.3 or breach of clause 4.2.

7.3 In the event that a claim as contemplated by clause 7.2 is made or in digit8 Ltd's opinion is likely to be made, digit8 Ltd may at its option:

7.3.1 procure the right for you to continue to use the Software;

7.3.2 change or replace all or any part of the Software; or

7.3.3 terminate this Agreement immediately on written notice in respect of the Software.

7.4 Clauses 7.2 and 7.3 state the entire liability of digit8 to you in respect of any a claim as contemplated by clause 7.2.

8. WARRANTIES

8.1 digit8 Ltd warrants that:

8.1.1 for a period of 14 days, or your subsequent paid licence term, the Software will function in all material respects with the documentation and the media on which the Software is provided will be free from defects in workmanship and materials when properly used in accordance with this Agreement; and

8.1.2 it has tested for viruses in the Software using commercially available virus checking software, consistent with current industry practice.

8.2 If during the warranty period digit8 Ltd receives written notice from you of any breach of the warranties given in clause 8.1, together with any information as may be reasonably necessary to assist digit8 Ltd in resolving the breach, then digit8 Ltd shall at its own expense and within a reasonable time remedy the breach in question by repair or replacing the Software or part thereof. The remedies in this clause 8.2 are your sole and exclusive remedies for breach of the warranty in clause 8.1.

8.3 The warranties in clause 8.1 shall not apply if the Software:

8.3.1 has been altered by any person other than digit8 Ltd.

8.3.2 is used in combination with any software or materials not supplied or approved by digit8 Ltd; or

8.3.3 is used in a manner for which it was not intended or other than as permitted by this Agreement.

8.4 digit8 further represents and warrants that:

8.4.1 it possesses the full power and authority to enter into and perform this Agreement;

8.4.2 it is registered or notified as appropriate under the Act.

8.5 You acknowledge that:

8.5.1 it is your own responsibility to ensure that the Software meets your requirements and that digit8 does not warrant that it shall be suitable for your requirements;

8.5.2 software in general is not error free and that the existence of such errors in the Software shall not by themselves constitute a breach of this Agreement.

8.6 You represent and warrant that:

8.6.1 you possess the full power and authority to enter into and perform this Agreement;

8.7 Clauses 8.1 and 8.4 constitute the only warranties given by digit8 Ltd in respect of the Software. Express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.

9. FEES AND PAYMENT

- 9.1 digit8 Ltd is licensing the Software to you for an agreed regular fee paid by Direct Debit Agreement to Mortgage 2000.
- 9.2 There is no charge for initial installation of the software. However, changes to your network configuration and/or changes to the server location resulting in the requirement to move the location of the Encore Plus server on your network will incur a fee.
- 9.3 Further installation of the system on extra PCs, without the concurrent purchase of further system licences will incur a fee.
- 9.4 Should the period of the initial trial licence have been extended beyond the 14 day norm, this extension will be subtracted from the full licence period, should you wish to proceed with a full licence.
- 9.5 Should maintenance work be required to be carried out on the system by digit8 Ltd staff as a result of the Client failing to maintain adequate computer network reliability (see 5.1.4), then digit8 Ltd reserve the right to charge a fee for this service.
- 9.6 The initial Agreement Period on decision to proceed with the full licence of the system is 1 month.

10. LIMITATION OF LIABILITY

- 10.1 Neither party will be liable to the other for any losses arising out of or under this Agreement, save that both parties will have unlimited liability to the other for personal injury or death resulting from that party's negligence; for fraud and deceit; for breach of clauses 6, 7, 8.4 and 13; and for any other liability for which they cannot limit or exclude liability by law.
- 10.2 The liability provisions in clause 10.1 have been set by digit8 Ltd on the basis the Software is being provided for an agreed periodic fee. In the circumstances, you agree that those provisions are reasonable and will accept the risk and/or insure accordingly.
- 10.3 digit8 Ltd accepts no responsibility for the compliance and accuracy of the letter templates supplied. They merely serve as a guide for standard letters: It is the responsibility of the individual broker or adviser to ensure that the contents of the letters correspond and comply with their individual requirements.
- 10.4 digit8 Ltd will not be liable to You for loss of profit; business interruption; loss of business information; loss of goodwill; other commercial loss; loss of opportunity or for any indirect, special or consequential loss (whether or not the possibility of such loss was brought to our attention or was foreseeable by Us) suffered by You or damages suffered by any Client arising out of or in connection with Your use of the software or its unavailability regardless of whether such damages arise in tort or in contract and regardless of whether We have been advised.
- 10.5 digit8 Ltd accepts no responsibility for loss or damage to data as a result of defects in third-party software, misuse of the system, or hardware failure. It is the Client's responsibility to ensure that adequate data backup procedures are in place and adhered to (including reports, templates and call recordings as well as client data)
- 10.6 We would remind brokers that any calculators in Encore Plus are for illustrative purposes only, for internal use, and that it is the broker's responsibility to ensure they provide accurate information in the form of a KFI.

11. TERMINATION

- 11.1 Either party may terminate this Agreement by giving 30 days written notice to the other at any time.
- 11.2 Either party may terminate this Agreement immediately upon written notice to the other if the other:
 - 11.2.1 is in material breach of this Agreement and fails to remedy such breach within 30 days of notice being served by the other party; or
 - 11.2.2 becomes the subject of a petition in bankruptcy, whether voluntary or involuntary, which if involuntary is not dismissed within 60 days, or becomes insolvent, or ceases to do business in the normal course or any other similar situation arises.
- 11.3 The clauses in this Agreement which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

12. CONSEQUENCES OF TERMINATION

- 12.1 You shall cease use of the licence granted under clause 4.1 and return all copies of (and delete from your systems) the Software to digit8 Ltd.
- 12.2 You shall, return or destroy all the Confidential Information (hereinafter defined in clause 13) of digit8 Ltd's on termination. In the case of destruction, you shall certify such destruction to digit8 Ltd within 14 days following request for such certification.
- 12.3 In the event that you terminate this agreement in this manner described in Clause 11.1, Mortgage 2000 reserves the right to charge the full periodic fee for the period in which termination occurs.

13. CONFIDENTIAL INFORMATION

- 13.1 "Confidential Information" means all information of a confidential or proprietary nature (including information imparted orally) relating to digit8's products and services including the Software and related

IPR, processes, potential or actual customers, suppliers', business revealed to or learnt by you at any time from digit8.

13.2 You shall:

13.1.1 keep the Confidential Information secret;

13.1.2 only disclose the Confidential Information to any of your employees on a need to know basis and you shall ensure that such employee keeps the Confidential Information secret;

13.1.3 use the Confidential Information only in connection with this Agreement; and

13.1.4 not copy the Confidential Information without the prior written consent of digit8 Ltd.

14. GENERAL

14.1 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

14.2 digit8 Ltd may modify or add to this Agreement at any time by notifying you. If you do not accept any such modification you must stop using the Software immediately and inform us of your objection to the modification.

14.3 Except as expressly provided for in this Agreement nothing in this Agreement shall be construed as creating, a partnership or joint venture of any kind between the parties. Neither party shall have the authority or power to bind the other party.

14.4 You shall not assign, sublicense or otherwise transfer this Agreement or any of its rights or obligations whether in whole or in part without the prior written consent of digit8 Ltd.

14.5 Failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights.

14.6 If any provision in this Agreement is found or held to be invalid or unenforceable, then the meaning of such provision shall be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it shall be severed from the remainder of this Agreement which shall remain in full force and effect. However, if the severed provision is essential and material to the rights or benefits received by either party, the parties shall use their best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly effects their intent in entering into this Agreement.

14.7 This Agreement, constitutes and contains the entire agreement of the parties and supersedes any and all prior agreements including any previous the Software Agreement, negotiations, correspondence, representations (except fraudulent representations), understandings and communications between the parties, whether written or oral, respecting the subject matter.

14.8 All notices that are required to be given under this Agreement shall be in writing and shall be sent to the registered or trading addresses as appropriate of each party, or as otherwise notified to the other, by first class pre-paid letter or fax transmission and shall be deemed to have been received:

14.8.1 by first class post, 48 hours after the date of mailing;

14.8.2 by fax, immediately upon transmission.

14.9 This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties hereto irrevocably submit to the exclusive jurisdiction of the English Courts.

15. DEFINITIONS

"Act" means the Data Protection Act 1998 and any future legislation enacted in replacement or amendment of the Act.

"Clients" means your customers which are the mortgage applicants.

"Content" means the data and information you input, including but not limited to personal data of Clients.

"IPR" means all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, database rights, and any other rights in any invention, discovery or process, in each case in the UK.

"Software" means "Encore Plus" which is the proprietary mortgage case management software and all related IPR.

"Start Date" means the date when you have accepted this Agreement by clicking on the acceptance button below.

I HEREBY CONFIRM THAT I HAVE READ AND ACCEPT THE ABOVE TERMS AND CONDITIONS.