

Bottomline Transactional Services Ltd HandsFreeFinance.com User Agreement

In this User Agreement the following words shall have these meanings ascribed to them respectively as follows:

"Agreement" means this User Agreement the Sale Agreement Software Support Agreement

"Company" Bottomline Transactional Services Ltd whose registered offices are at 115 Chatham Street Reading RG1 7JX

"Customer" or "Group" means any person, firm, body corporate, association or independent department or organisation to whom equipment and or software and or Product Services are supplied

"HFF.Com" means HandsFreeFinance.com the Company's Internet application through which the Customer utilises the relevant Product Services

"Product Services" means those services offered by the Company and supplied under the Agreement as set out in the Sales Agreements

"Sale Agreement" means the agreement for the Company to sell and the Customer to buy software and or equipment and Product Services therein

"Support Agreement" means the agreement by the Customer with the support therein

"User Agreement" means these terms and conditions and any alterations or variations pursuant to clause 1 hereof

"User Guides" means the guidelines published by the Company from time to time and displayed on the www.handsfreefinance.com "click on terms & conditions"

"URL" means Universal Resource Locator

1. General

1.1 These terms and conditions and Agreement shall apply to the Customer's purchase of Product Service(s) and software licenses, from Company and shall apply to the exclusion of all oral representations and all other terms and conditions printed on any purchase order or other documents prepared by Customer. The parties agree that they have not relied upon any other representations, terms or conditions in entering in to this Agreement. These terms and conditions may be added to or amended by the Company at the absolute discretion of the Company provided that any changes are notified to the Customer in writing.

2. Price

2.1 The price for the Product Services software and any support services provided under this Agreement is exclusive of value added tax and any other applicable taxes or duty relating to the manufacture, transportation, export, import, sale, delivery or provision of the software and any Product Services (whether initially charged on or payable by Company or the Customer). Prices are subject to annual alteration and shall be no greater than the average increase in the Retail Price Index plus 2% for the current year for which the Customer has paid for the services provided that the Customer has been notified in writing at least thirty days before any such price increase will take effect. Prices quoted are in Pounds Sterling unless otherwise agreed.

3. Payment

3.1 Payment for the goods or supply of Product Services is at the charges detailed in the Sales Agreement(s) and will be collected by direct debit. The Customer agrees to complete and enter into a direct debit mandate in favour of Company in respect of all charges to be made under this agreement. Payment of the first monthly subscription and or fees shall be due the month following the issuance to the Customer the; customer ID, user ID and password when it will be deemed that delivery has occurred and will thereafter will be collected monthly by direct debit. Failure to make any due payment in accordance with the foregoing terms shall entitle Company to suspend the services without prejudice to any other right Company may have. If payment is delayed for more than 30 days the Customer agrees to pay interest at a rate of 2% per annum over the Bank of England base rate from the date payment was first due until payment is received in full, unless the Customer has raised a bona fide objection to the charges raised in the invoice. Such objection to be communicated in writing to Company.

4. Customer Obligations

4.1 To ensure they use suitable systems to store and transfer data/files.

4.2 That all files uploaded using HFF.com are in the agreed format and contain the correct account details.

4.3 To control access to the files to authorised users only.

4.4 Transmit files/data via HFF.Com in a timely manner.

4.5 The Customer acknowledges and undertakes that it:

(a) will use the Services only for lawful purposes and in accordance with this Agreement; and

(b) will comply in every respect with all the instructions which the Company provides concerning the Services, including the requirements set out in the Service Procedures; and

4.6 The Customer will not:

(a) reproduce, disseminate or otherwise disclose the content of any Product Service except as expressly set out in this Agreement;

(b) electronically transmit any Product Service over a network except as necessary for the Customer's licensed use of the Product Service;

(c) use run-time versions of any third-party products which may be embedded in any Product Service, for any use other than the use of that Product Service;

(d) modify, disassemble, decompile, or reverse engineer any Product Service except to the extent permitted by law, and must first give 90 days' notice to the Company;

(e) sub-license or otherwise grant or transfer possession of any copy of any Product Service to any other party outside the terms of this Agreement;

(f) use any Product Service in any way not expressly provided for by this Agreement.

4.7 The Customer is responsible for using only Customer equipment which is in good working order. If any such Customer equipment is not compatible with the Product Service, the Company will promptly inform the Customer in writing, and the Customer must promptly rectify the situation.

4.8 The Customer is responsible for acquiring and maintaining all licences and permissions necessary in respect of any third party software it may use in connection with the Services. The Customer confirms that any Customer equipment, Customer Information or other materials provided by the Customer to the Company or utilised by the Customer in the Services will not infringe any Intellectual Property Rights of any third party, and will not be obscene or defamatory, and will not violate the laws or regulations of any state which may have jurisdiction over such activity.

4.9 If, for the purpose of providing the Services, it is necessary or desirable for the Company to access or use any Customer equipment, Customer Information, facilities or services the Customer will make these available to the Company for access free of charge to enable the Company to perform its obligations under this Agreement, and the Customer grants to the company a non-exclusive, royalty-free licence solely for such purposes.

4.10 The Customer acknowledges that it is responsible for its input to the Services and for any use that it or its authorised users make of such input, and that the Company has no responsibility for such input or its use.

4.11 If the Customer is in breach of any of its obligations above, then, without prejudice to the other terms and conditions in this Agreement:

(a) the Company cannot be held liable for any failure to meet the Service Levels which arises as a direct or indirect result of such Customer breach;

(b) the Company will be entitled to charge the Customer for staff time engaged on rectifying any resulting problems at the Company's standard charge rates for the time being.

4.12 If the Company suffers any loss, damage or expense as a result of:

(a) any unauthorised access to, or use or misuse of, the Services by any employee, agent or sub-contractor of the Customer;

(b) any unauthorised access to, or use or misuse of, the Services by any third party if such access, use or misuse was permitted or facilitated by such employee, agent or sub-contractor,

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the Customer will fully indemnify the Company in respect of such loss, damage or expense.

- 4.13 The Customer acknowledges that it is its sole responsibility to determine that the Product Service meet the needs of its business and to satisfy itself that the Product Service is ready for operational use in its business before it is so used.

5. Licence and Service

- 5.1 The Company grants to the Customer subject to clause 13 below a non-exclusive, non-transferable licence to access HFF.Com to use the Product Service as set out below for the Customer's normal business purposes.
- 5.2 The Customer may use the Services only in the jurisdiction in which the Customer is registered as a company only by:
- (a) accessing the Services in accordance with the procedures set out in the User Guides;
 - (b) entering, editing, transferring or deleting and moving its input comprising Customer Information, documents, data, files and other content within the Services
- 5.3 The Customer is responsible for maintaining validation, error correction, back up and reconstruction of its own software and Customer Information.
- 5.4 The licence granted to the Customer in clause 5.1 is personal to the Customer and the Customer is not permitted to assign, transfer, sub-licence, or otherwise dispose of any of the licensed rights to use the Service or any component to a third party. Nothing in this Agreement transfers any proprietary rights in the Services from the Company to the Customer.

6. Warranty

- 6.1 The Company warrants that it is either the sole and exclusive owner or an authorised licensee or user of all Intellectual Property Rights in the Product Service (including any databases, images, 'applets', graphics, animations, video, audio and text incorporated into them), and reserves all its rights.
- 6.2 The Company warrants that it will provide the Services using all reasonable skill and care in accordance with the terms of this Agreement, and so that they conform to their current published description and that they operate in accordance with the User Guides.
- 6.3 The Company uses all reasonable endeavours to maintain the Services free of bugs and viruses but the Company strongly recommends that the Customer should have its own effective anti-virus programs.
- 6.4 The Company does not and cannot control the network on which the technology operates or the flow of data to or from its network. Such flow depends largely on the performance of services provided or controlled by third parties. At times, actions or omissions of such third parties can impair or disrupt connections. Although the Company will use all commercially reasonable efforts to avoid such events and take all actions it deems appropriate to remedy such events, the Company cannot guarantee that such events will not occur. Accordingly, the Company cannot and does not warrant that the Services will be uninterrupted, error-free or entirely secure, and disclaims any and all liability resulting from or related to such events.
- 6.5 The Customer acknowledges that the Company does not provide any back-up software or processing facilities covering equipment, data, operating systems or Product Service software unless any are specified in the Service Procedures, and the Customer agrees that the Company will not be responsible or liable if, for any reason concerning any of these, the Service cannot be provided.
- 6.6 The Company does not make any other warranties, guarantees or representations concerning the operation or performance or the Services. The Customer is entirely responsible for deciding to select the Services for its own business purposes and the Company accepts no liability for any use to which the Customer puts the Services.
- 6.7 The Company does not accept any responsibility or any liability for enabling the Customer to link to any site on the World Wide Web, or the contents of any other site, whether one from which the Customer may have been linked to, or to which the Customer may link from, other than the Company's website.
- 6.8 Each party represents and warrants to the other that it has obtained, where required by law or regulatory authority, all registrations, permits, licences and approvals necessary in any relevant country for it to perform its obligations hereunder, or alternatively, that it is exempt from obtaining them. Upon request, each party will provide

the other with copies of all such registrations, permits, licences and approvals. Each party further warrants and undertakes to the other that in performing its obligations under the terms of this Agreement it will comply with all applicable national and local laws and regulations.

The Customer's sole and exclusive remedy in the event of breach of the above warranty provided any such breach is Notified to Company within 72 hours of a problem occurring. Company will during the same or next working day as the case may be investigate and if necessary (re) perform the action/service within 4 hours of being notified by client. If found to be Company's fault the (re) performance will be at Company's own cost.

7. Support

- 7.1 Support for the Product Services is available and is provided subject to the Company's applicable Support Agreement. A copy of which is available on request.

8. Limits of Liability

- 8.1 The Customer acknowledges that it has accepted these terms and conditions in the knowledge that the Company must limit its liability and that the Charges have been calculated accordingly.
- 8.2 If the Customer suffers loss or damage as a result of the Company's negligence or failure to comply with the provisions of this Agreement, any claim by the Customer against the Company arising from the Company's negligence or failure will be limited in respect of any one incident, or series of connected incidents to, in the case of direct damage to property: £1,000,000 and, in respect of any other loss or damage arising in connection with any Service, the Charges payable by the Customer for the supply to the Customer of such Service in the 12-month period preceding the month in which the loss or damage occurs (to be calculated pro rata if the period is less than 12 months from the date of this Agreement) or the sum of £200,000 whichever is the greater.
- 8.3 The Company will not be liable to the Customer for any indirect, special, incidental or consequential loss or damage which may arise in respect of the Customer's use of any Service or any component of it, nor for loss of profits or loss of data.
- 8.4 The Customer undertakes that if the Company suffers any loss, damage, fine or expense as a result of:
- (a) any unauthorised access to, or use or misuse of, any Product Service by any employee, agent or sub-contractor of the Customer;
 - (b) any unauthorised access to, or use or misuse, by any third party if that access or use or misuse was enabled or permitted by such an employee, agent or sub-contractor; or
 - (c) the ownership or nature or any use made of Customer Information;

the Customer will fully indemnify the Company in respect of such loss, damage, fine or expense.

- 8.5 Nothing in this clause 8 will be construed as attempting to limit the liability of either party in respect of injury to or the death of any person caused by any wilful or negligent act or omission of either party, or its employees or agents.
- 8.6 The Company will not be liable for any damages arising from negligence or otherwise unless the Customer has established reasonable back up, accuracy checks and security precautions to guard against possible malfunctions, loss of data or Customer Information, or unauthorised access, and has taken reasonable steps to minimise any loss.
- 8.7 Except as expressly provided in these Terms and conditions all warranties (express or implied statutory or otherwise) including, without limitation, any implied warranty of satisfactory quality are hereby excluded to the fullest extent permitted by law.

9. Intellectual Property

- 9.1 Company agrees to defend, at its expense, any suit against Customer based upon a claim that any software licensed to Customer under this Agreement infringes any patent or copyright, and to pay any settlement, or any damages finally awarded in any such suit.

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- 9.2 Company's obligations under this section shall not be effective unless Customer notifies Company in writing of any claim or threatened or actual suit within 10 days of knowledge thereof and Customer give full control of the defence and settlement, along with Customer's full co-operation, to Company.
- 9.3 Company may, at its own expense, (i) procure for Customer the right to continue to use the licensed software; (ii) make the licensed software non-infringing; or (iii) terminate the software licenses
- 9.4 Company shall have no liability for any claim based on (i) Customer's continued use, after written notification, of a non-current URL so long as a current URL was made available to Customer without additional charge, (ii) Customer's use of the license other than in accordance with the rights granted under this Agreement, or (iii) intellectual property rights owned by Customer or any of its affiliates.
- 9.5 This Section 9 states Customer's sole remedy and Company's exclusive liability in the event that Customer's use of any software provided under this Agreement infringes on the intellectual property rights of any third party.
- 9.6 The indemnity provisions of this Section specifically do not apply to equipment or third party software (e.g. software which may be provided to the Customer by the licensee or the Company where the Company is operating as a distributor for the third party licensor). Company's sole obligation in the event that Customer's use of equipment or third party software infringes on the intellectual property rights of any third party is to provide reasonable co-operation to the Customer, as necessary, for the Customer to benefit from any intellectual property indemnity that may be provided by the equipment manufacturer or the third party licensing such software to Customer.
- 10 Not used
- 11. Service Availability**
- 11.1 Subject to the provisions set out in this clause, the Company will use all reasonable endeavours to make the Product Service available 24 hours a day every day of the year.
- 11.1.1 Authorised files to be submitted same day to BACS by the Product Service must be received by Company no later than 4.15pm each weekday, excluding public and Bank Holidays. Confirmation reports that authorised files have been received by BACS will be available to be downloaded by the customer directly from the BACS website, within 4 hours of submission by the Product Service
- 11.2 Notwithstanding the above, the Services or any particular Service Levels may be suspended for so long as is reasonably necessary subject to prior agreement with the Customer, such agreement not to be unreasonably withheld or delayed:
- (a) to enable either party to comply with an order or request from a governmental, or other competent regulatory body or administrative authority; or
- (b) to enable the Company to carry out work which is necessary in its reasonable opinion to maintain or improve the Services; or
- (c) to carry out standard maintenance and support,
- provided that the Company will use all reasonable endeavours to schedule such Downtime during hours of low usage of the Services in order to minimise impact on the Services, and to ensure that there is no permanent material degradation of the Services.
- 11.3 If the Product Service requires immediate correction to enable it to run effectively or for immediate compliance with a governmental or regulatory requirement, the Company may suspend that Product Service without advance warning for so long as reasonably necessary to implement the correction or to ensure compliance.
- 11.4 The Company will be entitled in its sole discretion to make changes or upgrades to the Product Service or their accessibility, to the Technical Environment or to the User Guides, provided that such changes or upgrades do not cause any material reduction in functionality. The Company will endeavour to give at least seven days' written notice of any such changes. The Product Service may be suspended for so long as is reasonably necessary, but the Company will use all reasonable endeavours to minimise the Downtime that may be caused by such change or upgrade. If as a result of such changes, the Customer's ability to use the Services or the cost to the Customer of using the Services is materially and adversely affected, the Customer may terminate the Agreement on seven days' written notice to the Company.
- 11.5 In the event of Downtime as specified in sub-clauses 11.2, 11.3 or 11.4 above, the Company will provide status reports to the Customer's representative nominated for such purposes by the Customer, at two-hourly intervals by telephone or e-mail during working hours, or as otherwise agreed by the parties.
- 12 Confidentiality & Data Protection**
- Confidentiality**
- 12.1 Each party shall treat as confidential information all information (including software) obtained from the other pursuant to the contract between them and shall not divulge such information to any person (except to such party's own employees and then only to those employees who need to know the same) without the other party's prior written consent provided that this shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to the order (and not subject to any confidentiality undertakings), which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach) or which is trivial or obvious. Each party shall ensure that its employees are aware of and comply with the provisions of this condition and ensure that it is observed and performed by them.
- Data Protection**
- 12.2 Company undertakes to comply at all times with its obligations under the Data Protection Act 1998 (the "Act") to the extent it processes any personal data on behalf of the Customer. "Personal Data" shall have the meaning given to it in the Act.
- 12.3 In particular, but without limitation, Company shall:
- 12.3.1 only carry out processing of Personal Data in performance of its obligations under the Agreement,
- 12.3.2 only disclose it or allow access to its employees or agents who have had appropriate training in data protection and whose use of personal data relates to their job function, and
- 12.3.3. Assist Customers with all subject information requests received from data subjects
- 12.3.4 Company warrants that it has appropriate operational and technical processes in place to safeguard against any unauthorised access, loss, destruction, theft use or disclosure of Customers Personal Data. In addition, Company will provide Customer any assurances in respect of the security of any data processed by Company as may be reasonably required by the Customer to comply with its obligations under the Act.
- 12.5 For the avoidance of doubt, Company and its agents shall acquire no rights in any Customer's Personal Data and shall only be entitled to process it in accordance with its obligations under this Agreement. On termination of this Agreement, Company and its agents shall immediately cease to use the Personal Data and shall arrange for its safe destruction.
- 13 Term & Termination**
- 13.1 This Agreement shall come in to force on the date of acknowledgement and shall continue for the minimum period of 36 months from the date of commencement of the first live file transmission or six (6) months after delivery (as set out in clause 3.1 above) which ever is the sooner. Save for in the event that the Customer is utilising HFF.Com as a contingency for disaster recovery when the minimum period shall commence from delivery as set out in clause 3.1 above and in either case shall automatically renew on the anniversary date year on year provided that neither party has given to the other 3 months notice in writing to terminate the Agreement.
- 13.2 Notwithstanding this clause 13 either party may terminate this Agreement if;
- 13.2.1 the other party commits any material breach of any term of these terms and conditions and (in the case of a breach capable of being remedied) shall have failed, within 30 days after the receipt of a request in writing so to do, or
- 13.2.2 the other party has an interim or bankruptcy order made against it or enters into or becomes subject to a scheme, composition or voluntary arrangement with its creditors or becomes subject to a winding-up, dissolution, administration or receivership proceedings;
- 13.3 The Company may further without prejudice to its other rights, suspend the performance of Product Services and/or terminate this Agreement and any licences granted to Customer forthwith

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on giving notice in writing to the Customer if Customer fails to pay any invoice in accordance with the foregoing payment terms.

13.4 Following termination save for the Companies breach of 13.2.1: 13.2.2 any monies whatsoever owing including any unpaid subscriptions contractually due from the Customer to the Company shall immediately become due and payable.

14 BACS Payment Schemes Ltd ("BACS")

14.1 The Company utilise BACS on behalf of the Customer through the Company's BACS approved Bureau for those Product Services that are licensed for this purpose. In such instances the Company shall not be liable to the Customer for any loss, damage, fraud, theft, misappropriation, duplication, delay or failure which may occur as a fault of BACS actions.

15. Assignment

15.1 The Customer shall not be entitled to assign, sub-licence or otherwise transfer the rights and obligations granted hereunder, or under any software license, whether in whole or in part unless otherwise agreed in writing by a duly authorised representative of the Company. The Company shall be entitled to sub-contract any work relating to the sale order without the consent of the Customer or giving notice but shall indemnify the Customer in respect of any liability arising from such sub-contracting of any work.

16 Force Majeure

Neither party shall be liable for any delay in performing any of its obligations hereunder if such delay is caused by circumstances beyond the reasonable control of the party which include but are not limited to acts of war, plane crash or embargo; riot or civil commotion; Act of God - e.g. earthquake, cyclone, storm, flood, fog.

17 Notices

- a. Any notice or other communication to be given under these terms and conditions must be in writing and may be delivered or sent by pre-paid first class letter post to the Company at its registered address or facsimile transmission.
- b. Any notice or document shall be deemed served: if delivered at the time of delivery, if posted, 48 hours after posting and if sent by facsimile or electronic mail transmission at the time of delivery.

18 Invalidity

The invalidity, illegibility or unenforceability of any provision shall not affect any other part of this Agreement.

19 Entire Agreement

These terms and conditions, Sale Agreement and User Guides and/or Support Agreement comprise the entire agreement and understanding between the parties in relation to the subject matter referred to herein.

20 Third Party Rights

A person who is not a party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This condition does not affect any right or remedy of any person which exists or is available otherwise pursuant to the Act.

21 Law and Jurisdiction

The terms of this Agreement shall be governed by and construed in accordance with the Laws of England and shall be subject to the exclusive jurisdiction of the English Courts.

22 Publicity

Company reserves the right to include the Customer's name on its published customer list, for the avoidance of doubt such inclusion shall not imply an endorsement by the Customer. Subject to Customer's prior written approval, Company may also work with the Customer to pursue other promotional opportunities including, but not limited to, media interviews, case studies, press releases, advertising, speaking opportunities and other customer reference programs.