OpenVPMS software licence

Part 1: Background

1.   About this document

        This is a software licence for OpenVPMS software (called 'the software' from this point on.)

2.   The software is copyright

        The software consists of original source and object code that was created and is owned by OpenVPMS Ltd ACN 113 542 162 (called 'licensor' from this point on).

        The software may utilise community code licensed to the licensor under this licence.

        The software also utilises software licensed under open source licences e.g. the 'Apache' open source software licence, and links to software libraries licensed e.g. under the 'LGPL' open source software licence – (together called the 'open source components' from this point on). Full details of the licensing of the open source components are contained in NOTICE.txt that accompanies the software.

        Worldwide copyright and all other intellectual property rights whatsoever in the software are the sole and exclusive property of the licensor.

Part 2: What subscribers may do – overview

3.   Part 7 explains who is a 'developer subscriber'.

        (Subject to this licence) a developer subscriber may:

        •   modify, adapt or add to the software, or create derivative works from or based on the software and / or linking to its libraries (and all source or object code created in doing so is called 'community code' from this point on); and

        •   publish and distribute their community code.

        Part 8 and Part 9 explain this in detail.

4.   Part 3 explains who is a 'user subscriber'.

        (Subject to this licence) a 'user subscriber' may:

        •   install and use the software and / or community code to support the operations of a veterinary practice, or

        •   subject to Part 5 – install and use the software and / or community code to support any other kind of operations.

5.   You may be both a developer subscriber and a user subscriber.

        If you are:

        •   you must comply with this licence as it applies to developer subscribers with respect to any community code you create, publish or distribute; and

- you must comply with this licence as it applies to user subscribers with respect to any software and / or community code you use to support the operations of a veterinary practice or otherwise.

Part 3: User subscribers, subscription fees and subscription periods

6. You are a 'user subscriber' for a certain 'subscription period' if you have paid to the licensor the then current 'subscription fee' applicable to you for that subscription period.

7. When that subscription period ends, you cease to be a user subscriber unless you have paid the then current subscription fee for the next subscription period.

8. The subscription fee depends on the maximum number of 'Full-time Vet Equivalents' (called 'FVEs' from this point on) you are licensed to support using the software and / or community code during the subscription period (called the 'FVE limit' from this point on).

9. The licensor may publish details of subscription fees and subscription periods at http://www.openvpms.org/subscription, or otherwise as it sees fit.

Part 4: Full-time Vet Equivalent ('FVE') – veterinary clinics

10. Vet

    A 'vet' is a professionally qualified veterinary surgeon (or equivalent).

11. Clinic

    A 'clinic' is premises at or from which one or more vets conduct veterinary practice.

12. Vet on duty

    A vet is 'on duty at a clinic' if s/he:

    - is performing veterinary or ancillary services at the clinic, or

    - is at or in the vicinity of the clinic and available to perform veterinary or ancillary services there, or

    - is rostered on to be available to perform veterinary or ancillary services there, or

    - is traveling from there to perform veterinary or ancillary services at another place, or returning there after doing so, or

    - is performing veterinary or ancillary services at another place having come from, or intending to return, there, or

    - is at the clinic or connected to it through a computer communications system for purposes of a professional or business nature.

13. Number of FVEs at a clinic

A   A 'full time vet' is a vet who is on duty at a clinic for an average weekly aggregate of 25 hours or more over a given period.

B   A 'part time vet' is a vet who is on duty at a clinic for an average weekly aggregate of less than 25 hours over a given period.

C   The number of FVEs for a clinic for a given period is:

- (number of full time vets x 1.0) + (number of part time vets x 0.33),
- rounded to the nearest whole number.

Part 5: Full-time Vet Equivalent ('FVE') – other than veterinary clinics

14.   If a person who is not a vet wishes to become a user subscriber:

- They should first contact the licensor with details of their proposed application of the software and / or community code that makes use of it.
- The licensor will notify them of a substituted basis for 'FVE' calculation for that application.
- This licence will then apply to them, and their proposed application, on that basis.

Part 6: FVE limit and permitted software use

15.   A user subscriber may use the software to support the operations of one or more clinics during a subscription period, provided that

15.1.   the user subscriber complies with this licence, and

15.2.   the aggregate FVEs of the clinic/s at no time exceed the FVE limit that the user subscriber is licensed for – subject to the exceptions below.

16.   FVE limit for user subscribers with 10 or fewer FVEs

If:

- a user subscriber pays fees for a subscription period in good faith based on their circumstances as at the start of the period, and
- during the period, their FVEs exceed their FVE limit (but never exceed 10 FVEs) –

they have not breached clause 15.2.

17.   FVE limit for user subscribers with more than 10 FVEs

If:

- a user subscriber has more than 10 FVEs, and
- they exceed their FVE limit during a calendar month, and
- within 14 days after the end of that month they pay the licensor the then current upgrade fee to increase their FVE limit (to cover the excess) for the balance of their subscription period –

the FVE limit excess is taken to be remedied.

Part 7: Developer subscribers

18.   You are a 'developer subscriber' if you:
   - are preparing to create; or
   - are undertaking a project to create; or
   - have created –

   community code, and you are not in breach of the community code rules in Part 8.

19.   There is no subscription fee for being a developer subscriber.

Part 8: Community code rules

20.   A 'library' is a collection of functions and subroutines that:
   - is part of the software, and
   - is comprised in discrete files (whether or not compiled), and
   - can link to other code, without being modified, so as to support the operations of that other code.

   For instance, a .dll file or a .jar file may be a 'library'.

21.   A 'library application' is community code that:
   - makes use of one or more unmodified libraries by linking to them, and
   - does not otherwise make use of or incorporate the software in any way.

22.   To avoid doubt, community code that makes use of a modified library is not a library application. A developer subscriber may create community code incorporating or based on the software or linking to its libraries, but only in accordance with these community code rules.

23.   A developer subscriber may reverse engineer the software for the purpose of debugging its community code.

24.   By creating community code, you are taken to agree to these rules, and they apply to your community code in spite of any inconsistent licence or contract term you purport to apply to it.

25.   All community code must make it clear (by way of commentary, readme files or some other recognised means) what changes have been made to the software, by whom and when.

26. On the creation of any community code (except a library application), you grant the licensor a perpetual, worldwide, non-exclusive, no charge, royalty-free irrevocable licence to copy, reproduce, modify, adapt or add to it, or create derivative works from or based on it, and to publish, distribute, communicate to the public, perform, commercialise and sub-license the in source or object form:

- the community code; and

- all such copies, reproductions, modifications, adaptations, additions and derivative works.

27. Patent licence

On the creation of any community code, you grant the licensor a perpetual, worldwide, non-exclusive, no charge, royalty-free irrevocable licence patent licence to make, have made, use, offer to sell, sell, import, and otherwise transfer all patents embodied in it. If you institute or defend patent litigation against any entity alleging that the software infringes any patent rights, then you cease to be a developer user or a subscriber user.

28. The licensor may transfer or sub-license its rights under clauses 26 and 27.

29. Obligation to deliver community code to the licensor

29.1. Clause 29.2 does not apply to library applications.

29.2. A developer user must deliver a complete and current copy of any community code they create, in source and (if the source is then able to be compiled) object form, to the licensor before or within seven days after:

- giving access to any part of the community code to anyone else (whether another developer user, a subscriber use or anyone else);

- publishing any part of the community code;

- granting anyone any licence or other legal rights over the community code;

- deploying or permitting the deployment of any part of the community code in a production environment;

- the community code is used to support the operations of a veterinary practice;

- development of the community code is substantially completed;

- the licensor requests it in writing.

29.3. If community code is currently under development by a team of five or fewer persons (e.g. employees of the same corporation or project partners), clause 29.2 is not triggered just because they share access to it within that team.

29.4. To avoid any doubt, the licensor's rights under clauses 26 and 27 apply whether or not the community code has been delivered to it under this clause.

30. All community code in source or object form:

- must incorporate or be accompanied by a complete copy of this licence;

- may be subject to other licence terms that are consistent with this licence;

- must contain prominent statements that:

  o it is community code within the meaning of and subject to this licence;

  o the licensor has legal rights in the community code under this licence; and

  o the licensor may be contacted at license@openvpms.org;

  o it may only be used to support the operations of a veterinary practice by a current user subscriber;

  o fees are payable by user subscribers to the licensor.

31. If a person publishes or distributes community code that does not comply with clause 30, they indemnify the licensor against subscription fees lost or foregone as a result.

Part 9: Distribution of community code

32. A developer user who otherwise complies with this licence in all respects may publish and distribute community code they have developed.

Part 10: User subscriber licence

33. A user subscriber:

- Has a non-exclusive licence to use the software in accordance with this document.

- May not adapt, extend, develop or enhance the software or any part of it (except as a developer subscriber).

- Must not alter, modify, tamper with, reverse engineer or attempt to reverse engineer, decompile or disassemble the software in any way (except as a developer subscriber).

- Must pay the licensor subscription fees applicable from time to time.

- Must not copy the software (except to make reasonable copies in disk form bearing the same notices as the original and only for security and backup purposes).

- Must not remove or tamper with any copyright or other notices on or associated with the software.

- Must comply with all reasonable directions of the licensor from time to time relating to use of the software.

- Must establish and carry out reasonable back up procedures for the software and associated data.

- Agrees that this document does not transfer to the licensee any copyright, patent or other intellectual property rights in the software.

Part 11: Liability

34. The *Trade Practices Act 1974* and corresponding legislation in other jurisdictions in certain circumstances imply mandatory conditions and warranties ('consumer warranties'). This Part does not exclude or limit the application of any consumer warranties or other warranties where to do so:

   34.1. would contravene the law of the relevant jurisdiction; or

   34.2. cause any part of this clause to be void.

35. The licensor excludes all terms, conditions and warranties implied by custom, the general law or statute except any consumer warranties.

36. The licensor's liability to you for breach of any consumer warranty (other than a warranty as to title implied by the *Trade Practices Act 1974* or equivalent in another jurisdiction) is limited, at the licensor's option, to:

   • replacing the software,

   • paying the cost of replacing the software, or

   • refunding the current subscription fee.

37. Subject to clauses 34 and 35, the licensor excludes all liability including but not limited to liability for any indirect or consequential loss or damage (including but not limited to lost revenue, lost profits or loss of data) incurred or suffered by you arising directly or indirectly out of:

   37.1. the supply, delay in supplying or failure to supply the software,

   37.2. use of the software,

   37.3. any errors in the software,

   37.4. infringement of copyright, patents or any other intellectual property rights by the software,

   37.5. this licence, or

   37.6. termination of this licence.

38. You indemnify the licensor against all loss, damage, expense and cost that the licensor may sustain or incur arising directly or indirectly out of:

   38.1. any wilful, unlawful or negligent act or omission of you, your employees, agents or sub-contractors in connection with this licence,

   38.2. any community code that you create, distribute or use,

   38.3. infringement of copyright, patents or any other intellectual property rights by community code that you create or distribute,

   38.4. your use of the software.

39. If you are a developer user, you indemnify the licensor against harm suffered or claims by any person arising from community code that you developed and / or distrubuted.

40. If you are a developer user, you indemnify the licensor against any harm, liability, loss or claims to the extent they arise or are increased by virtue of:

40.1. the law of a jurisdiction that the licensor is not subject to, but you are;

40.2. any licence, liability, warranty or support terms or promises made by you in excess of those that apply under this licence;

40.3. any misleading or deceptive or other wrongful conduct of you.

Part 12: General

41. You acknowledge that you have no right to use the software in any way, except as permitted by this document.

42. If part or all of any clause of this document is illegal or unenforceable it will be severed from and will not affect the continued operation of the remaining provisions.

43. This licence:

43.1. is governed by the laws of Victoria, Australia, and

43.2. does not create a relationship of employment, agency or partnership between the parties.

44. The licensor reserves all rights not expressly hereby granted in relation to the software and any copy, reproduction, modification, adaptation of or addition to it, or derivative works created from or based on it, and all rights to publish, distribute, communicate to the public, perform, commercialise and sub-license it in source or object form.]

45. Nothing in this document gives you any right to trade under the name 'OpenVPMS' or to use 'OpenVPMS' as a trade mark.