

End-User Licence Agreement for Citicus MOCA Product & Services

1. By downloading, installing, or using **Citicus MOCA** software, using the content available within or through **Citicus MOCA** or accessing or using the associated **Citicus Barista** processing service (together comprising the "**Citicus MOCA** Product & Services") you agree:

a) to the terms of this licence (the "Licence") between you and Citicus Limited, a company registered in England, company number 4111746, address 71-75 Shelton Street, Covent Garden, London WC2H 9JQ, United Kingdom (hereafter referred to as Citicus);

b) that Citicus is solely responsible for **Citicus MOCA** Product & Services.

2. Scope of Licence

2.1 Citicus grants you a non-exclusive, non-transferable and non-sub-licensable licence to download **Citicus MOCA** to an iPhone®, iPad™ or other supported device that the you own or control and to use it on your own behalf as permitted by (i) this Licence and (ii) the usage rules set forth in the Apple App Store's Terms of sale and Terms of service.

2.2 Citicus transfers no title or ownership of **Citicus MOCA** Product & Services to you and Citicus reserves all rights that are not expressly granted to you by this Licence.

3. Restrictions on use

3.1 You agree not to:

a) access or use **Citicus MOCA** Product & Services except through facilities provided by **Citicus MOCA**;

b) copy, translate, modify, or make derivative works of **Citicus MOCA** Product & Services or any part thereof;

c) redistribute, sub-license, rent, publish, sell, assign, lease, market, transfer or otherwise make **Citicus MOCA** Product & Services available to third parties;

d) modify, reverse engineer, decompile or otherwise attempt to extract the source code of **Citicus MOCA** Product & Services or any part thereof;

e) delete, obscure, or in any manner alter any warning, notice (including but not limited to any copyright or other proprietary rights notice), or link presented by **Citicus MOCA** Product & Services;

f) use or otherwise export or re-export **Citicus MOCA** except as authorised by U.S. law and the laws of the jurisdiction in which **Citicus MOCA** was obtained.

3.2 **Citicus MOCA** may not be exported or re-exported into any U.S. embargoed countries or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By downloading or using **Citicus MOCA**, you represent and warrant that you are not on any such list or located in any such country. You also agree that you will not use these products for any purposes prohibited by U.S. law, including, without limitation, the development, design, manufacture or production of nuclear, missiles, or chemical or biological weapons.

4. Maintenance and Support

4.1 Citicus will provide the maintenance and support services described below with respect to **Citicus MOCA** Product & Services, along with any further maintenance or support services required under applicable law:

a) Citicus will provide you with an e-mail address (citicusmoca-support@citicus.com) to which you can direct suggestions, queries, complaints or claims regarding your use of the **Citicus MOCA** Product & Services;

b) Citicus will record incoming suggestions, queries, complaints and claims as issues and prioritise them for action;

c) Citicus will acknowledge issues you raise courteously, constructively and promptly;

e) Citicus may, at its discretion, provide advice or guidance to help you resolve issues you raise or to try and diagnose them but does not commit to responding to any issue you raise beyond acknowledging it, or to resolving it within a particular timescale;

d) when determining its upgrade plan for **Citicus MOCA** Product & Services, Citicus will consider recorded issues systematically, taking into account their priority, reproducibility, impact on current and projected users, the effort involved in upgrading **Citicus MOCA** Product & Services, and the risks involved in doing so.

4.2 You agree:

a) to raise issues clearly, courteously and constructively and to provide Citicus with such information as may be requested to enable their diagnosis and resolution;

b) that Apple has no obligation whatsoever to furnish maintenance and support services with respect to **Citicus MOCA** Product & Services.

5. Warranty

5.1 Citicus is providing **Citicus MOCA** Product & Services in good faith 'as is' and for use at your own risk. Citicus:

a) makes no representation or warranty regarding the accuracy or completeness of **Citicus MOCA** Product & Services or that your use of them will be uninterrupted and error free;

b) disclaims all other warranties in connection with **Citicus MOCA** Product & Services.

5.2 You are responsible for backing up the device on which **Citicus MOCA** will run.

5.3 Apple's and Citicus' respective obligations: To the maximum extent permitted by applicable law, Apple has no warranty obligation whatsoever with respect to **Citicus MOCA** Product & Services except to refund the purchase price you paid (if any) for **Citicus MOCA** Product & Services in the event of its failure to function as described by Citicus. Any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Citicus' sole responsibility.

5.4 Limitations of liability: Nothing in this Licence removes or limits Citicus' liability for fraud, or for death or personal injury caused by its negligence. Subject to these exceptions:

a) Citicus shall not be liable for any death, physical injury, damage, loss, expense or claim (whether in contract, tort or under statute and however and whensoever arising) to the extent that such death, physical injury, damage, loss, expense or claim is caused by your breach of this Licence or any negligent act or omission by you or your employees, agents or sub-contractors;

b) neither you nor Citicus shall in any event be liable to the other for any loss of business; loss of income, loss of profits, loss of goodwill, loss of anticipated savings (even when advised of such possibility), loss of revenue, or any indirect or consequential losses, liabilities or costs;

c) Citicus' entire liability to you for all claims made in respect of or in connection with this Licence, whether in contract, for any representation (other than fraudulent misrepresentation), tort (including without limitation negligence), or under statute, and however and whenever arising, will not exceed the licence fee paid or payable by you under this Licence.

5.5 Product Claims: Citicus is responsible for addressing claims made by you or any third party relating to **Citicus MOCA** Product & Services or to your possession and/or use of the **Citicus MOCA** Product & Services, including, but not limited to:

a) product liability claims;

b) any claim that **Citicus MOCA** Product & Services fail to conform to any applicable legal or regulatory requirement;

c) claims arising under consumer protection or similar legislation.

5.6 Claims must be communicated to Citicus in writing as stated in [Section 7](#) below.

5.7 Intellectual Property Rights: All title, including but not limited to copyrights, in and to **Citicus MOCA** Product & Services are owned by Citicus or our suppliers.

5.8 Title and intellectual property rights in **Citicus MOCA** Product & Services and to the content which may be accessed through use of **Citicus MOCA** Product & Services remain the property of their respective content owners and are protected by applicable copyright or other intellectual property laws and treaties.

5.9 Citicus grants you rights to view such content through the facilities provided by **Citicus MOCA** Product & Services.

5.10 All rights not expressly granted are reserved by Citicus.

5.11 Infringement: In the event that your possession or use of **Citicus MOCA** Product & Services infringes or appears to infringe the Intellectual Property of any third party ("Intellectual Property Infringement") you:

a) will advise Citicus of the Intellectual Property Infringement as soon as reasonably practicable;

b) will give Citicus the sole conduct of the defence to any claim or action in respect of the Intellectual Property Infringement;

c) shall not at any time admit liability or otherwise attempt to settle or compromise the said claim or action except upon the express instructions of Citicus;

d) will act in accordance with the reasonable instructions of Citicus and give to Citicus such assistance as it shall reasonably require in respect of the conduct of the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.

6. Legal Compliance

6.1 You represent and warrant that you are not, and Citicus likewise warrants that it is not:

a) located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country;

b) listed on any U.S. Government list of prohibited or restricted parties.

7. Citicus Name and Address

7.1 Suggestions, queries, complaints or claims regarding your use of **Citicus MOCA** Product & Services should be communicated to Citicus in writing. Emails should be addressed to citicusmoca-support@citicus.com. Letters should be addressed to **Citicus MOCA** Support Team, Citicus Limited, 71-75 Shelton Street, Covent Garden, London WC2H 9JQ, United Kingdom.

8. Third Party Terms of Agreement

8.1 You will comply with applicable third party terms of agreement when using **Citicus MOCA** Product & Services, including Apple's terms of service and terms of sale for its iTunes App Store.

8.2 Third Party Beneficiary: Apple, and Apple's subsidiaries, are third party beneficiaries of this Licence, and Citicus and you agree that, upon your acceptance of its terms and conditions, Apple will have the right (and will be deemed to have accepted the right) to enforce the terms of the agreement against you as a third party beneficiary thereof.

8.3 A person or body who is not a party to this Licence, other than Apple and its subsidiaries, has no rights under the UK Contracts (rights of third parties) Act 1999 to enforce any terms of this Licence but this does not affect any rights or remedies of a third party which exist or are available apart from that Act.

9. Privacy

9.1 Citicus understands the value of your personal information, respects your right to privacy and is committed to maintaining your confidence and trust. This commitment includes:

a) obtaining your consent before collecting or using data provided either by you or by the device supporting **Citicus MOCA** (ie your user, device and locational data) and before disclosing any such data to a third party;

b) collecting and using your data only as necessary in order to provide a service or function that is directly relevant to your use of **Citicus MOCA** Product & Services;

c) providing clear and complete information to you regarding collection, use and disclosure of your data;

d) promptly ceasing all collection, use or disclosure if you cease to consent or revoke consent for such use of your data

e) taking appropriate steps to protect your data while held by Citicus from unauthorized use, disclosure or access by third parties.

9.2 Data we may collect: Citicus may collect three classes of data from you in connection with **Citicus MOCA** Product & Services:

a) Completed assessments: **Citicus MOCA** is designed to help you assess how critical individual assets are to your enterprise. The application will yield high-quality results when used as a free-standing application. If you choose to send completed assessments to its companion **Citicus Barista** service for processing, **Citicus Barista** will email additional results to you in PDF form, to an email address you supply. These results include a Criticality Status Report, a completed Criticality assessment form and Recorded notes and comments.

b) Feedback and service requests: If you communicate with Citicus in connection with **Citicus MOCA** Product & Services, Citicus will record your email address, identity, the substance of your communication and our response(s) to you.

c) Website usage data: If you visit our public web site (www.citicus.com) or the web site supporting the **Citicus Barista** service, our web servers will automatically collect and aggregate information about your visit, including your IP address, service provider, browser type, domain names of referring websites, operating system, pages accessed on our website, and the date and time of your access.

9.3 How your data will or may be used: Citicus may and normally will use the data you provide as follows:

a) Criticality assessments you send to **Citicus Barista** for processing will be used solely for the purpose of compiling the results we send back to you in PDF form via email. Your data and results are entirely confidential to you. For continuity, Citicus will store each completed assessment you send but it will be used for no other purpose than for providing your results. No information you provide will be viewed by Citicus for any purpose other than diagnosing and remedying any problem that arises in producing them.

b) Feedback and service requests will be recorded and used for the purpose of resolving queries and for prioritising fixes and enhancements. If we need additional information from you to respond to a service request, we will explain why we need the additional information and how it will be used at the time of the request and it will be used solely for that purpose.

c) Website usage data will be used solely for the purpose of optimising our websites.

d) Your name and email address may be used to provide you with tips or alerts regarding your use of **Citicus MOCA** Product & Services and for advising you of special offers, new services or products that are directly related to **Citicus MOCA** Product & Services (for example, availability of new features, workarounds, or new products that extend the Citicus range of risk and compliance management software).

e) No data you provide will be shared with third-parties.

9.4 Protecting your data: Any data you provide will be backed up overnight. Back-ups are encrypted and moved to a secure off-site storage facility periodically. If you choose to send completed assessments for processing by **Citicus Barista**, **Citicus MOCA** will transmit your data to **Citicus Barista** via a secure means of communication (HTTPS) and it will be processed entirely automatically in our secure processing facility with your results being returned to you by email which you can secure as follows:

a) you can enter a **PDF encryption password** into **Citicus MOCA** which will be passed to the remote processing service you select (either an instance of **Citicus ONE** licensed to your organisation or the **Citicus Barista** service) which will use it to encrypt your PDF results before they are emailed to you;

b) you will be able to decrypt your PDF results on receipt using the cryptographic capabilities of WinZip® or equivalent, subject to the availability of editions that can decrypt files encrypted in 256 bit AES in your country.

9.5. Ceasing or withdrawing consent: You can use **Citicus MOCA** to cease collection, use or disclosure of any data you have sent to **Citicus Barista** for processing by clicking the button labelled **Delete all my data** on the **About my data** screen presented by the application. This will cause all your data to be deleted.

9.6 Your data will be re-deleted automatically in the event that a back-up containing your data is restored (eg to resume the **Citicus Barista** service after an unscheduled outage).

9.7 If you wish to opt out of receiving tips, alerts and advisory material from Citicus via email, you can at any time request an opt out by emailing citicusmoca-feedback@citicus.com or by following the 'unsubscribe' instructions contained within a communication.

9.8 Your consent: By sending completed criticality assessments to **Citicus Barista** for processing or by communicating to Citicus in connection with **Citicus MOCA** Product & Services you consent to our storing and using the information you provide for the purposes and in the ways outlined above.

10. Upgrades

10.1 The terms of this Licence shall apply to any upgrades to **Citicus MOCA** Product & Services issued by Citicus unless such upgrade is accompanied by a separate licence in which case the terms of that licence will replace this.

11. Continuity

11.1 Citicus or Apple may withdraw **Citicus MOCA** Product & Services from the iTunes App Store at any time and for any reason, with or without cause and without notice.

11.2 Citicus may suspend, withdraw or modify the **Citicus Barista** service and suspend, withdraw or restrict use of its support and maintenance services at any time and for any reason, with or without cause and without notice.

12. Termination

12.1 This Licence is effective until terminated by you or Citicus.

12.2 Your rights under this Licence will terminate automatically without notice from Citicus if you fail to comply with any of its terms.

12.3 Upon termination of the Licence, you shall:

- a) cease all use of the **Citicus MOCA** Product & Services;
- b) destroy all copies, full or partial, of **Citicus MOCA** and any content available within or through **Citicus MOCA**.

13. Assignment and sub-contracting

13.1 Citicus shall be entitled to assign, mortgage or sub contract (in whole or in part) this Licence or any of its rights or obligations hereunder.

13.2 You are not entitled to assign this Licence nor any of its rights or obligations hereunder.

14. Governing law

14.1 This Licence shall be subject to the non-exclusive jurisdiction of the English Courts and shall be governed by and be interpreted in accordance with English Law.