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AIT Partnership Group Ltd

670 Eskdale Road, Winnersh Triangle, Reading, RG41 5TS

T: 0845 017 7017 E: customer.services@ait-pg.co.uk W: ait-pg.co.uk

TERMS AND CONDITIONS OF SALE FOR GOODS, SOFTWARE, SERVICES AND MAINTENANCE SUPPORT

COMPANY DETAILS

Company Registration	04499201	Registered address
Registration Date	30/07/2002	670 Eskdale Road
VAT Number	860205553	Winnersh Triangle
DUNS Number	640957119	Reading
		Berkshire
		RG41 5TS

How to Order

If you wish to proceed with our quotation and place an order please use one of the methods below and refer to the terms and conditions, as laid out below.

- E-mail customer.services@ait-pg.co.uk with your official purchase order
- Call **+44 (0) 845 017 7017**
- Request a credit account at accounts@ait-pg.co.uk

The Customer's attention is particularly drawn to the provisions of clause 0.

INTERPRETATION

Definitions. In these Conditions, the following definitions apply:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Conditions: these terms and conditions as amended from time to time in accordance with clause 0.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier.

Deliverables: the deliverables set out in the Order.

Documentation: Any user guide(s) or documents published or provided from time to time for the relevant Software or Hardware

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, which are agreed in writing by the Customer and the Supplier.



Hardware: The equipment specified in the Contract and any replacement equipment and/or parts provided by the Supplier from time to time.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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

Licence Fee: the fee as specified in the Order.

Maintenance Contract: the description or specification for the Services provided in writing by the Supplier to the Customer.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Maintenance Contract.

Software: Any operating system or application software to be provided to the Customer by the Supplier under the Contract.

Software Licence: as provided for in Schedule 1

Supplier: AIT PARTNERSHIP GROUP LIMITED registered in England and Wales with the registered office of 670 Eskdale Road, Winnersh Triangle, Reading, Berkshire, RG41 5TS with company number 04499201.

Construction. In these Conditions, the following rules apply:

a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

a reference to a party includes its successors or permitted assigns;

a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

a reference to **writing** or **written** includes e-mails.



BASIS OF CONTRACT

The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**). The Supplier is under no obligation to provide any Goods and/or Services until an Order has been received and confirmed in writing by the Supplier.

The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

GOODS

The Goods are described in the Goods Specification.

The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

DELIVERY OF GOODS

The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.

Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.



If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

If the Customer fails to accept or take delivery of the Goods within 10 Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

delivery of the Goods shall be deemed to have been completed at 9.00 am on the 10th Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

If 15 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

QUALITY OF GOODS

The Supplier warrants that on delivery the Goods shall conform in all material respects with their description and any applicable Goods Specification and be free from material defects in design, material and workmanship.

Subject to clause 0, if:

the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 0;

the Supplier is given a reasonable opportunity of examining such Goods; and

the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.



The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 0 if:

- the Customer makes any further use of such Goods after giving a notice in accordance with clause 0;
- the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;
- the Customer alters or repairs such Goods without the written consent of the Supplier;
- the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

Except as provided in this clause 0, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 0.

The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 0.

RETURNS

Should the Customer wish to return (at its own cost) the Goods to the Supplier for any other reason not provided for in clause 5, the Customer must receive confirmation from the Supplier (who reserves the right to not accept any return for a reason not contained in clause 5) and be issued with an "RMA Number", before dispatching the Goods to the Supplier.

Any returns of Goods will not be accepted after 2 months from delivery, unless in accordance with clause 5.

The acceptance of any returned Goods under this clause is not an admission of any defect in or damage to the Goods.

TITLE AND RISK

The risk in the Goods shall pass:



to the Customer on completion of delivery; or

when agreed between the parties in writing, when the title to the Goods is passed to the Customer in accordance with clause 7.2 whereupon the Supplier shall:

store the Goods separately from all other goods held by the Supplier so that they remain readily identifiable as the Customer's property;

maintain the Goods in satisfactory condition;

give the Customer such information relating to the Goods as the Customer may require from time to time;

abide with any reasonable instructions from the Customer as to delivery of the Goods in accordance with clause 4.

Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods.

Until title to the Goods has passed to the Customer, the Customer shall:

store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

notify the Supplier immediately if it becomes subject to any of the events listed in clause 0 to clause 0; and

give the Supplier such information relating to the Goods as the Supplier may require from time to time.

Subject to clause 0, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

it does so as principal and not as the Supplier's agent; and

title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

If before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 0 to clause 0, then, without limiting any other right or remedy the Supplier may have:

the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and

the Supplier may at any time:



require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

SUPPLY OF SERVICES

The Supplier shall provide the Services to the Customer in accordance with the Maintenance Contract in all material respects and in accordance with these Conditions.

The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Maintenance Contract, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

The response time shall be deemed to start from the issuing of a support ticket number by the Supplier and end when an engineer makes a support call to the Customer regardless of whether the support call is answered.

The onsite support response time shall be deemed to start from the end of the successful support call and end when the engineer arrives on site.

Only products and installations specifically listed in the Maintenance Contract are covered by the Services.

The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

Should the Customer make the decision that a support call is required in the event of a malfunction in the Hardware, the Customer shall telephone the Supplier's contact who shall respond to the malfunction upon the following basis:

Attempt to resolve the fault remotely by advising the Customer who shall use all reasonable means to resolve the fault themselves in full cooperation with the Supplier's instructions;

In certain cases the Supplier may decide that the provision of a fix to a fault may be deferred by a specified time period or until a specified date so that the provision of such a fix would fall outside the response times as stated below;



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If in the opinion of the Supplier it is possible to resolve the fault by attending on site then best endeavours will be employed to attend on site within the Maintenance Contract response times;

Hardware replacements are functional replacements, and may be cosmetically different.

Service level agreements in the Maintenance Contract will be agreed pre-sales and include (but not restricted to) the following options available for terms of 6, 12, 24 or 36 months:

Hot Swap: next Business Day replacement product delivery only;

Monday-Friday: 9-5.30 4 hour response, 2 Business Days engineer on site;

Monday-Friday; 9-5.30 4 hour response, next Business Day engineer on site;

Monday-Friday; 9-5.30 1 hour response, 4 hours engineer on site;

24/7 telephone support only;

24/7 4 hour response, next Business Day engineer on site;

24/7 1 hour response, 4 hours engineer on site;

Extended warranty.

Additional Maintenance Contract options are available for Wireless & Wired Network customers, as outlined below. Service level agreements in the Maintenance Contract will be agreed pre-sales and include (but not restricted to) the following options available for terms of 6, 12, 24 or 36 months:



Wireless Networking Partnership Service

Action	Category	Support Type	Bronze	Silver	Gold
<i>Response time</i> <small>(Ticket raised within 30mins of reported incident)</small>	-	Call	NBD	4hrs	4hrs
<i>Number of support calls</i>	-	Remote	Unlimited	Unlimited	Unlimited
<i>Number of Health Checks per 12 months</i>	Proactive	Remote	1	2	4
<i>Offsite configuration back up</i>	-	Remote	Yes	Yes	Yes
<i>Hardware replacement</i>	Fault	-	As per vendor	As per vendor	As per vendor
<i>Remote configuration of replacement hardware</i>	Fault	Remote	No	Unlimited	Unlimited
<i>Network configuration (half days per quarter)</i>	Proactive	Remote	0	1	3
<i>Monitoring (frequency) *</i>	Proactive	Remote	N/A	N/A	Monthly
<i>Configuration roll back (per 12 months) *</i>	Fault	Remote	4	4	4

*Subject to requirements

Edge & Core Networking Partnership Service

Action	Category	Support Type	Bronze	Silver	Gold
<i>Response time</i> <small>(Ticket raised within 30mins of reported incident)</small>	-	Call	NBD	4hrs	4hrs
<i>Number of support calls</i>	Reactive	-	Unlimited	Unlimited	Unlimited
<i>Number of Health Checks per 12 months</i>	Proactive	Remote Or Onsite	1	2	4
<i>Offsite configuration back up</i>	Proactive	Remote	Yes	Yes	Yes
<i>Hardware replacement</i>	Fault	Onsite	As per vendor	As per vendor	As per vendor
<i>Remote configuration of replacement hardware</i>	Fault	Remote	No	Unlimited	Unlimited
<i>Configuration (half days per quarter) *</i>	Proactive		0	1	3
<i>Monitoring (frequency) *</i>	Proactive	Remote	N/A	N/A	Monthly
<i>Configuration roll back (per 12 months) *</i>	Fault	Remote	4	4	4

*Subject to requirements

Where the Supplier has requested that the Customer meets specific dependencies to allow the Supplier to perform the maintenance services, or other contracted Services, the Supplier will reserve the right to make a charge in respect of such services in line with their published standard charge rates. These can be found at <https://www.ait-pg.co.uk/our-company/terms-conditions/>



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EXCEPTIONS

The Services shall not include:

- The diagnosis and rectification of any fault arising from the improper use, operation or neglect of the Hardware;
- Alterations, modifications or attempts to repair the Hardware are made without the Supplier's approval;
- Causes external to the Hardware including failure or fluctuation of electrical power, inadequate cooling or natural disasters;
- The installation or reconfiguration of Hardware or any associated software unless specifically agreed between the parties;
- Operating supplies or accessories such as magnetic media and antiglare coatings on video display monitors;
- Interference from external sources that do not form an integral part of the Hardware or Software solution supplied by the Supplier. This will include but is not limited to: power or data cables, electrical equipment, dust, natural or unnatural light sources, construction or decorative work of any kind, any environmental changes or any change or alteration that is not under the reasonable control of the Supplier;
- Any major change, modification, upgrade or maintenance of the network or network connections that impacts on the performance of the Hardware and Software installed by the Supplier may not be covered by the Conditions and the Supplier shall in such circumstances reserve the right to make a charge in respect of such services in line with their published standard charge rates. These can be found at <https://www.ait-pg.co.uk/our-company/terms-conditions/>

CUSTOMER'S OBLIGATIONS

The Customer shall:

- ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate;
- co-operate with the Supplier in all matters relating to the Services;
- provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier, such as adequate parking, to provide the Services and to take reasonable precautions to protect their health and safety;



provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

keep and maintain all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;

provide the Supplier with the location and serial number of each device listed in the schedule of the relevant maintenance contract;

comply with the Software Licence contained in Schedule 1;

not wilfully damage any Hardware or Software under the Maintenance Contract.

If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 0; and

the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

CHARGES AND PAYMENT

The price for Goods shall be the price set out in the Order. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.

The charges for the Services are set out in the Maintenance Contract and are those in effect at the date of the agreement and entitle the Customer to the Services during the service hours, at the locations and on the equipment specified in the Maintenance Contract.



The Supplier reserves the right to change the fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase 3 months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 4 weeks of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 4 weeks' written notice to the Customer.

For projects of less than 1 month in duration AIT will issue an invoice for the service element of any quote on receipt of a purchase order, invoices for products will be raised on delivery. For projects of more than 1 month in duration Invoicing Milestones will be agreed at the initial Project Planning meeting. In respect of Maintenance Contracts, the Supplier shall invoice the Customer on receipt of a purchase order.

The Customer shall pay each invoice submitted by the Supplier:

within 30 days of the date of the invoice; and

in full and in cleared funds to a bank account nominated in writing by the Supplier,
and

time for payment shall be of the essence of the Contract.

All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 8% per annum above HSBC Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.



INTELLECTUAL PROPERTY RIGHTS

The Customer acknowledges that all Intellectual Property Rights in or arising out of or in connection with the Services or in the Software belong and shall belong to the Supplier or the relevant third-party owners (as the case may be), and the Customer shall have no rights in or to the Software or the Services other than the right to use it in accordance with these terms and conditions and of the software licence.

The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.

All Supplier Materials are the exclusive property of the Supplier.

NON-SOLICITATION

Neither party shall (except with the prior written consent of the other party) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the other party any person employed or engaged by such other party in the provision of the Services or (in the case of the Customer) in the receipt of the Services at any time during the period that the Services are provided or for a further period of 12 months after the termination of the Contract other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other party.

If either the Supplier or the Customer commits any breach of clause 0, the breaching party shall, on demand, pay to the claiming party a sum equal to one year's basic salary or the annual fee that was payable by the claiming party to that employee, worker or independent contractor plus the recruitment costs incurred by the claiming party in replacing such person.

CONFIDENTIALITY

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the



Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 14 shall survive termination of the Contract.

LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- fraud or fraudulent misrepresentation;
- breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- defective products under the Consumer Protection Act 1987.

Subject to clause 0:

- the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract ; and
- the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price paid to the Supplier from the Customer for the specific product or service giving rise to such liability.

The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

This clause 0 shall survive termination of the Contract.



TERMINATION

Without limiting its other rights or remedies either party may terminate the Contract by giving the other party not less than 3 months' written notice.

Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;

the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;

the other party (being an individual) is the subject of a bankruptcy petition or order;

a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);

the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;



- a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 0 to clause 0 (inclusive);
- the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
- the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

Without limiting its other rights or remedies, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 0 to clause 0, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

On termination of the Contract for any reason:

- the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- all rights granted to the Customer under the Software Licence shall cease;
- the Customer shall cease all activities authorised by the Software Licence;
- the Customer shall immediately destroy or return to the Supplier (as the Supplier's option) all copies of the Software then in its possession, custody or control and, in the case of destruction, certify to the Supplier that it has done so;



the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

clauses which expressly or by implication have effect after termination shall continue in full force and effect.

FORCE MAJEURE

For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, default of suppliers or subcontractors or suppliers or subcontractors unable to provide adequate equipment to the Supplier.

The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 4 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

GENERAL

Assignment and other dealings.

The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

Notices.

Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by



prepaid first-class post or other next working day delivery service, or by commercial courier, or e-mail.

A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 18.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.

The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

Severance.

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

Waiver. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Supplier.



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Governing law. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

Jurisdiction Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).



Software Licence

1. LICENCE

In consideration of the Licence Fee paid by the Customer to the Supplier, receipt of which the Supplier hereby acknowledges, the Supplier grants to the Customer a non-exclusive, worldwide licence to use the Software.

In relation to scope of use:

for the purposes of *clause 0*, use of the Software shall be restricted to use of the Software in object code form for the purpose of processing the Customer's data for the normal business purposes of the Customer (which shall not include allowing the use of the Software by, or for the benefit of, any person other than an employee of the Customer).

the Customer may not use the Software other than as specified in *clause 0* and *clause 0* without the prior written consent of the Supplier, and the Customer acknowledges that additional fees may be payable on any change of use approved by the Supplier.

the Customer may make reasonable backup copies of the Software as may be necessary for its lawful use. The Customer shall record the number and location of all copies of the Software and take steps to prevent unauthorised copying.

except as expressly stated in this *clause 1*, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Customer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.

The Customer may not use any such information provided by the Supplier or obtained by the Customer during any such reduction permitted under *clause 0* to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.



The Customer shall not:

sub-license, assign or novate the benefit or burden of this licence in whole or in part;
allow the Software to become the subject of any charge, lien or encumbrance; and
deal in any other manner with any or all of its rights and obligations under this agreement,

without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed.

The Supplier may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this licence, provided it gives written notice to the Customer.

Each party confirms it is acting on its own behalf and not for the benefit of any other person.

The Customer shall:

shall permit access to or use of the Software only by those employees, contractors or licensees of the Customer who fall within any limiting definition agreed between Supplier and Customer and shall be entitled to use the Software only to the extent of any capacity limitation agreed by both parties;

ensure that the Software is installed on designated equipment only ("Device") however, that, unless otherwise stated, the Customer must acquire and dedicate a license for each Device on or from which the Software is installed, used, accessed, displayed, or run, and the Customer acknowledges that a license for the Software may not be shared or used concurrently on different Devices. By dedicating a license to a Device, the Customer may at its option transfer or migrate the Software for use on another Device at no additional charge, so long as the use on the previous Device is immediately ceased and that Software is removed from such a Device immediately;

keep a complete and accurate record of the Customer's copying and disclosure of the Software and its users, and produce such record to the Supplier on request from time to time;

notify the Supplier as soon as it becomes aware of any unauthorized use of the Software by any person;

pay, for broadening the scope of the licences granted under this licence to cover the unauthorized use, an amount equal to the fees which the Supplier would have levied (in accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced.

The Customer shall permit the Supplier to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is being kept or



used, and have access to any records kept in connection with this licence, for the purposes of ensuring that the Customer is complying with the terms of this licence, provided that the Supplier provides reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times.

EXPORT

Neither party shall export, directly or indirectly, any technical data acquired from the other party under this agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (**Export Control Laws**), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

Each party undertakes:

- contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out above; and

- if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

SUPPLIER'S WARRANTIES

The Supplier warrants that the Software will conform in all material respects to the Specification for a period of 90 days from the date of this licence (**Warranty Period**). If, within the Warranty Period, the Customer notifies the Supplier in writing of any defect or fault in the Software in consequence of which it fails to conform in all material respects to the Specification, and such defect or fault does not result from the Customer, or anyone acting with the authority of the Customer, having amended the Software or used it outside the terms of this licence for a purpose or in a context other than the purpose or context for which it was designed or in combination with any other software not provided by the Supplier, or it has not been loaded onto Supplier-specified or suitably configured equipment, the Supplier shall, at the Supplier's option, do one of the following:

- repair the Software;

- replace the Software; or

- terminate this licence immediately by notice in writing to the Customer and refund any of the License Fee paid by the Customer as at the date of termination



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(less a reasonable sum in respect of the Customer's use of the Software to the date of termination) on return of the Software and all copies thereof,

provided the Customer provides all the information that may be necessary to assist the Supplier in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable the Supplier to re-create the defect or fault.

The Supplier does not warrant that the use of the Software will be uninterrupted or error-free.

The Customer accepts responsibility for the selection of the Software to achieve its intended results and acknowledges that the Software has not been developed to meet the individual requirements of the Customer.

All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.