

TERMS & CONDITIONS OF SALE

1 Interpretation

1.1 In these Conditions:

'BUYER' means the person who accepts a quotation of the Seller for the sale of the Goods.
'GOODS' means the goods, (including any instalment of the goods or any parts for them), Licensed Programs or Services which the Seller is to supply in accordance with these Conditions
'SELLER' means PODSystem Ltd
'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller
'CONTRACT' means the contract for the purchase and sale of the Goods
'WRITING' includes e-mails, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Basis of the sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, subject to these Conditions (which include the full terms and conditions applicable for monitoring or software services available at www.podsystem.com/terms&conditions.pdf), which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other documents or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3. Orders and specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.

3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation.

3.3 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

3.4 The Seller reserves the right to make any changes in the specifications of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality of performance.

3.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

4. Price of the goods

4.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.3 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

5. Terms of payment

5.1 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods in advance, on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has tendered delivery of the Goods.

5.2 The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

5.3.1 cancel the contract or suspend any further deliveries to the Buyer;

5.3.2 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 2% per cent per month from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. Delivery

6.1 Delivery of the Goods shall be made by the Seller delivering the Goods to the place specified in the Quotation or order. Goods are supplied 'ex-works' and shipped to the buyer at the buyer's expense.

6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Where delivery of the Goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 10% per cent more or less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.

6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.5 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.6.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage;

6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the contract or charge the Buyer for any shortfall below the price under the Contract.

7. Risk and property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyers at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

8. Warranties and liability

8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 6 months from delivery.

8.2 The above warranty is given by the Seller subject to the following conditions:

8.2.1 The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

8.2.2 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;

8.2.3 the seller shall not accept responsibility for a consequential or resultant loss, expense or damage that the user or other person or organisation may suffer as a result of the partial or complete failure of the goods or any component part thereof. Our liability in respect of any defect or failure or for any consequential loss is limited to the replacement of faulty parts or material and the cost of labour in carrying out such work, plus the cost of return freight and insurance for the journey from the sellers premises to the buyer so long as the seller is notified and agrees in advance that this warranty is applicable.

8.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.4 All equipment sold is operated entirely at the purchasers own risk. Impairment of health or complete or partial loss of life or limb sustained by the user or any other person resulting in any way from the use of the goods shall be the responsibility of the purchaser. Damage or destruction of any other equipment or property or goods of any kind or the incurring any liability resulting in any way from the presence or use of the equipment sold shall be the responsibility of the purchaser.

9. Use or information supplied

9.1 All goods, as well as any parts, manuals, drawings, instructions or other information are supplied by the seller in confidence on the specific understanding that they will not be copied, reproduced or duplicated in full or in part by any person without the prior written approval of the seller. The sole purpose of any goods, software, documentation or instructions issues by the seller is to provide the buyer with adequately detailed information so as to efficiently install, operate, maintain and order spare parts for the equipment supplied. The use of such goods, software, documentation or instruction for any other purpose is specifically prohibited.

10. General

10.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provisions to the party giving the notice.

10.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in questions shall not be affected thereby.

10.4 The Contract shall be governed by the laws of England and the parties hereto submit to the non-exclusive jurisdiction of the English Courts.

ADDITIONAL TERMS AND CONDITIONS

These additional terms and conditions are for use with monitoring and software products supplied by PODSystem Ltd. If you are purchasing goods from PODSystem Ltd which require any further monitoring or software support these Additional terms and conditions will apply. These Additional Terms and Conditions are part of the PODSystem Terms and Conditions which are available at www.podsystem.com/terms&conditions.pdf

11 Definitions

11.1 In these additional terms and conditions mean:

'ADDITIONAL CHARGES' means the Seller's daily rate of £400 & expenses per day for work undertaken on a time and materials basis

'AGREEMENT' means the Agreement signed for the use of the monitoring services by the Seller and Buyer to which these Terms and Conditions are joined.

'DESIGNATED EQUIPMENT' means the Make and Model of the Unit which the software or monitoring is to be based upon, as written in the Agreement.

'LICENCE FEE' means the total monthly fee specified in the agreement payable for the licenses and Services.

'LICENSED PROGRAMS' means the software programs in object code form supplied by the Seller or other monitoring programs to be used on a designated machine including any New Release of the same made or issued pursuant to clause 14 below as well as MESSAGING & MONITORING.

'LICENSED PROGRAM MATERIALS' means the Licensed Programs and the Program Documentation.

'LOCATION SERVICES' means the locating and graphically detailing of phones, modems, receivers, transmitters or other equipment using GSM, Radio Frequency or any other locating technology.

'MESSAGING & MONITORING' means the processing and provision to the Buyer on a monthly basis, using the Designated Equipment or other equipment or Licensed Programs or other programs, of data detailing geographic, numeric or alpha information including, if applicable; the rental of SIM cards and calls using these SIM cards and LOCATION SERVICES. Unless otherwise specified, the provision of messages or other data included within the license fee for the month will not roll over into future months.

'NEW RELEASE' means any improved modified or corrected version of any of the Licensed Programs or Program Documentation from time to time issued by the Seller pursuant to clause 14 below

'PROGRAM DOCUMENTATION' means the documentation provided by the seller in connection with the licensed programs

'PROGRAM SPECIFICATIONS' means the technical specifications from time to time published by the Seller in respect of the Licensed Programs

'RESPONSE TIME' means either of the response times for category C Technical Support set out in clause 14.4 below

'SERVICES' means the provision and delivery of Technical Support and training services in accordance with clause 14 below as well as the provision of call center and recovery services and other telephonic, telematics or telemetry services.

'SITE' means the address as given above for delivery of the Licensed Program Materials and Services unless otherwise specified by the Buyer

'TECHNICAL SUPPORT' means the provision of such categories of technical support in accordance with clause 14 below as shall be specified in respect of each of the Licensed Programs in the Schedule

'USE' means the copying or transmission of the Licensed Programs (or where in machine readable form) the Program Documentation into the Designated Equipment for the processing of the instructions contained in the Licensed Programs (or as the case may be) the Program Documentation

12 Grant of licence and provision of services

12.1 The Seller in consideration of the payment by the Buyer from time to time of the Licence Fee in accordance with clause 13 below hereby:

12.1.1 grants to the Buyer non-exclusive licences to Use the Licensed Programs (and where appropriate the Program Documentation) upon the Designated Equipment and to possess and refer to the Program Documentation; and

12.1.2 undertakes to the Buyer to provide the Services upon the terms and conditions of this agreement.

13 Licence fee and Costs

13.1 The Licence Fee shall include the cost of:

3.1.1 the delivery of the Licensed Program Materials and any New Release thereof to the Site; and

3.1.2 the provision of the Services.

14 Technical support

14.1 For the duration of this agreement the Seller shall provide in respect of each of the Licensed Programs such Technical Support within such Response Time as shall be indicated below.

14.2 Technical Support shall comprise all of the following categories:

14.2.1 advice by e-mail on the Use of the Licensed Programs (category 'A');

14.2.2 information and advice by e-mail on forthcoming New Releases of the Licensed Programs (category 'B');

14.2.3 upon request by the Buyer the remote diagnosis of faults in the Licensed Programs and the rectification of such faults by the issue of fixes in respect of the Licensed Programs and the making of all necessary consequential amendments (if any) to the Program Documentation (category 'C');

14.2.4 the creation and despatch to the Buyer from time to time at the Seller's sole discretion of fixes in respect of the Licensed Programs (category 'D');

14.2.5 the creation and despatch to the Buyer from time to time at the Seller's sole discretion of a New Release of the Licensed Programs or Program Documentation (category 'E'); or

14.3 The Buyer shall supply in writing to the Seller a detailed description of any fault requiring Technical Support within category C above and the circumstances in which it arose forthwith upon becoming aware of the same.

14.4 The Response Time for categories A & C Technical Support shall be between the hours of 9 am and 5.30 pm Monday through Friday (excluding bank and other public holidays). The Seller shall use its reasonable endeavours to respond within 24 hours of receipt of a request.

14.5 Technical Support shall not include the diagnosis and rectification of any fault resulting from:

14.5.1 the improper use, operation or neglect of either the Licensed Program Materials, Services or the Designated Equipment;

14.5.2 the modification of the Licensed Programs or their merger (in whole or in part) with any other software;

14.5.3 the use of the Licensed Programs on equipment other than the Designated Equipment;

14.5.4 the failure by the Buyer to implement recommendations in respect of or solutions to faults previously advised by the Seller;

14.5.5 any repair, adjustment, alteration or modification of the Licensed Programs by any person other than the Seller without the Seller's prior consent;

14.5.6 any breach by the Buyer of any of its obligations under any maintenance agreement in respect of the Designated Equipment;

14.5.7 the Buyer's failure to install and use upon the Designated Equipment in substitution for the previous release any New Release of the Licensed Programs within 4 days of receipt of the same; or

14.5.8 the use of the Licensed Programs for a purpose for which they were not designed.

14.6 The Seller shall upon request by the Buyer provide Technical Support notwithstanding that the fault results from any of the circumstances described in clause 14.5 above. The Seller shall in such circumstances be entitled to levy Additional Charges in the manner set out in clause 14.8 below.

14.7 Without prejudice to clause 14.6 above the Seller shall be entitled to levy reasonable Additional Charges in the manner set out in clause 14.8 below if Technical Support is provided in circumstances where any reasonably skilled and competent data processing operator would have judged the Buyer's request to have been unnecessary.

14.8 Additional Charges shall be levied by the Seller monthly in arrears and shall be payable by the Buyer (together with value added tax thereon) within 30 days of receipt of an invoice thereof.

15 Property and confidentiality in the licensed program materials

15.1 The Licensed Program Materials contain confidential information of the Seller and all copyright trade marks and other intellectual property rights in the Licensed Program Materials are the exclusive property of the Seller.

15.2 The Buyer shall not:

15.2.1 copy the whole or any part of the Licensed Program Materials;

15.2.2 below modify merge or combine the whole or any part of the Licensed Program Materials with any other software or documentation;

15.2.3 assign, transfer, sell, lease, rent, charge or otherwise deal in or encumber the Licensed Program Materials nor use on behalf of or make available the same to any third party; or

15.2.4 reverse compile the whole or any part of the Licensed Program Materials from object code into source code.

15.3 The Buyer shall:

15.3.1 keep confidential the Licensed Program Materials and limit access to the same to those of its employees, agents and sub-contractors who either have a need to know or who are engaged in the Use of the Licensed Programs (including where appropriate the Program Documentation);

15.3.2 reproduce on any copy of the Licensed Program Materials the Seller's copyright and trade mark notices;

15.3.3 maintain an up-to-date written record of the number of copies of the Licensed Program Materials and their location and upon request forthwith produce such record to the Seller; and

15.3.4 without prejudice to the foregoing take all such other steps as shall from time to time be necessary to protect the confidential information and intellectual property rights of the Seller in the Licensed Program Materials.

15.4 The Buyer shall inform all relevant employees agents and sub-contractors that the Licensed Program Materials constitute confidential information of the Seller and that all intellectual property rights therein are the property of the Seller and the Buyer shall take all such steps as shall be necessary to ensure compliance by its employees agents and sub-contractors with the provisions of this clause 15.

16 Warranty

16.1 Subject to the exceptions set out in clause 16.4 below and the limitations upon its liability in clause 17 below the Seller warrants that:

16.1.1 its title to and property in the Licensed Program Materials is free and unencumbered and that it has the right power and authority to license the same upon the terms and conditions of this agreement;

16.1.2 the Licensed Programs conform to the Program Specifications; and

16.1.3 it will perform the Services with reasonable care and skill.

16.2 The Buyer shall give notice to the Seller as soon as it is reasonably able upon becoming aware of a breach of warranty.

16.3 Subject to clause 16.4 below the Seller shall remedy any breach of the warranties set out in clause 16.1.2 above by the provision of Technical Support free of charge.

16.4 The Seller shall have no liability to remedy a breach of warranty where such breach arises as a result of any of the circumstances described in clause 14.5 above.

16.5 Without prejudice to the foregoing the Seller does not warrant that the Use of the Licensed Programs will meet the Buyer's data processing requirements or that the operation of the Licensed Programs (including where in machine-readable form the Program Documentation) will be uninterrupted or error free.

16.6 Subject to the foregoing all conditions warranties terms and undertakings express or implied statutory or otherwise in respect of the Licensed Program Materials and the provision of the Services are hereby excluded.

17 Limitation of liability

17.1 The following provisions set out the Seller's entire liability (including any liability for the acts and emissions of its employees agents and sub-contractors) to the Buyer in respect of:

17.1.1 any breach of its contractual obligations arising under this agreement; and

17.1.2 any representation statement or tortious act or omission including negligence arising under or in connection with this agreement

17.2 Any act or omission on the part of the Seller or its employees agents or sub-contractors failing within clause 17.1 above shall for the purposes of this clause 17 be known as an 'Event of Default'.

17.3 Subject to the limits set out in clause 17.4.1 below the Seller shall accept liability to the Buyer in respect of damage to the tangible property of the Buyer resulting from the negligence of the Seller or its employees, agents or sub-contractors.

17.4 The Seller's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to:

17.4.1 The aggregate of the Licence Fees paid in the immediately preceding period of 3 months.

17.5 The Seller shall not be liable to the Buyer in respect of any Event of Default for loss of profits goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Buyer as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Seller had been advised of the possibility of the Buyer incurring the same.

17.6 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under this agreement.

17.7 The Buyer hereby agrees to afford the Seller not less than 15 days (following notification thereof by the Buyer) in which to remedy any Event of Default hereunder.

17.8 The Seller shall have no liability to the Buyer in respect of any Event of Default unless the Buyer shall have served notice of the same upon the Seller within 3 months of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.

17.9 Nothing in this clause shall confer any right or remedy upon the Buyer to which it would not otherwise be legally entitled.

18 Intellectual property rights indemnity

18.1 The Seller will indemnify and hold harmless the Buyer against any damages (including costs) that may be awarded or agreed to be paid to any third party in respect of any claim or action that the normal operation possession or use of the Licensed Program Materials by the Buyer infringes the patent copyright registered design or trade mark rights of said third party (an 'Intellectual Property Infringement') provided that the Buyer:

18.1.1 gives notice to the Seller of any Intellectual Property Infringement forthwith upon becoming aware of the same;

18.1.2 gives the Seller the sole conduct of the defence to any claim or action in respect of an Intellectual Property Infringement and does not at any time admit liability or otherwise attempt to settle or compromise the said claim or action except upon the express instructions of the Seller; and

18.1.3 acts in accordance with the reasonable instructions of the Seller and gives to the Seller 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.

18.2 The Seller shall reimburse the Buyer its reasonable costs incurred in complying with the provisions of clause 18.1 above.

18.3 The Seller shall have no liability to the Buyer in respect of an Intellectual Property Infringement if the same results from any breach of the Buyer's obligations under this agreement.

18.4 In the event of an Intellectual Property Infringement the Seller shall be entitled at its own expense and option either to:

18.4.1 procure the right for the Buyer to continue using the Licensed Program Materials; or

18.4.2 make such alterations modifications or adjustments to the Licensed Program Materials that they become non-infringing without incurring a material diminution in performance or function; or

18.4.3 replace the Licensed Program Materials with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function.

18.5 If the Seller in its reasonable judgement is not able to exercise any of the options set out at clauses 18.4.1, 18.4.2 or 18.4.3 above within 45 days of the date it received notice of the Intellectual Property Infringement then the Buyer without prejudice to any other rights or remedies it may have hereunder or at law shall be entitled to terminate this agreement by 30 days' notice upon the Seller. Upon any such termination the provisions of clause 24.3 below (but not 24.4) shall apply.

18.6 The provisions of clause 17 above shall not apply to this clause 18.

19 Location requests indemnity

19.1 The Buyer will indemnify and hold harmless the Seller against any damages (including costs) that may be awarded or agreed to be paid to any third party including, but not limited to, the Buyer's directors, managers employees, sub-contractors or agents in respect of any claim or action against the seller in respect to the locating of a phone or other transmitting device in the possession of the said third party.

19.2 The Buyer accepts responsibility to complying with any data protection or privacy laws that may affect the use of any goods, including location requests, supplied by the Seller and holds the Seller harmless for any non-compliance of these laws.

19.3 The Buyer will seek and receive written consent from the user of the phone to be tracked and will on demand of the Seller give proof of this consent.

19.4 The Buyer will inform end users; that their phone is being tracked, how and when the tracking information will be used for the Buyer's use, how end-users may withdraw their consent for a phone to be tracked, help and support lines available to end users and who will have access to the tracking information.

20 Risk in the licensed program materials

20.1 Risk in the Licensed Program Materials will pass to the Buyer upon using the Licensed Program Materials. If subsequently the Licensed Program Materials are (in whole or in part) destroyed damaged or lost the Seller will upon request replace the same subject to the Buyer paying for the same at the then prevailing charges.

21 Confidentiality

21.1 Each of the parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the entering into of this agreement save that which is:

21.1.1 already in its possession other than as a result of a breach of this clause

21.1.2 in the public domain other than as a result of a breach of this clause

21.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of clause 21.1 above by its employees, agents and sub-contractors.

22 Duration of agreement

22.1 This agreement shall continue until terminated in accordance with the provisions of clause 24 below.

23 Buyer's representatives

23.1 The Buyer has appointed the signatory of the agreement as the primary contact points and channels of communication for the provision by the Seller of the Services during the currency of this agreement. The Buyer shall forthwith inform the Seller of any change in the identity of such persons.

24 Termination

24.1 This agreement may be terminated:

24.1.1 forthwith by the Seller if the Buyer fails to pay any sum due hereunder within 7 days of the due date therefor;

24.1.2 forthwith by either party if the other commits any material breach of any term of this agreement (other than one falling within 18.1.1 above) and which (in the case of a breach capable of being remedied) shall not have been remedied within 15 days of a written request to remedy the same;

24.1.3 forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

24.2 Any termination of this agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

24.3 Subject to clause 24.4 below within 15 days of the termination of this agreement howsoever and by whomsoever occasioned) the Buyer shall destroy all copies of the Licensed Program Materials in its possession and a duly authorised officer of the Buyer shall certify in writing to the Seller that the Buyer has complied with such obligation.

24.4 Notwithstanding the provisions of clause 24.3 above the Buyer shall be entitled for a period of 2 years from the date of termination to keep one copy of the Licensed Program Materials free of charge in a fire-proof room for archival purposes. If the Buyer uses any of the Licensed Programs other than for archival purposes it shall forthwith become liable to pay to the Seller its then current charges for the use of the Licensed Programs or any equivalent software then licensed in substitution for the Licensed Programs.

25 Force Majeure

25.1 Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to fires, insurrection or riots, inability to obtain supplies or services or raw materials, requirements or regulations of any civil or military authority (an 'Event of Force Majeure').

25.2 Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

25.3 If a default due to an Event of Force Majeure shall continue for more than three weeks then the party not in default shall be entitled to terminate this agreement. Neither party shall have any liability to the other in respect of the termination of this agreement as a result of an Event of Force Majeure.

26 Selection

26.1 The Buyer accepts that the Licensed Program Materials were not designed and produced to its individual requirements and that it was responsible for their selection.

27 Successors

27.1 This agreement shall be binding upon and enure for the benefit of the successors in title of the parties hereto.

28 Assignment and sub-licensing

28.1 The Buyer shall not be entitled to assign this agreement nor any of its rights or obligations hereunder nor sub-license the use (in whole or in part) of the Licensed Program Materials without the prior consent of the Seller.

29 Headings

29.1 Heading to clauses in this agreement are for the purpose of information and identification only and shall not be construed as forming part of this agreement.