ADVANCED EXPERT SYSTEMS LIMITED

TERMS AND CONDITIONS OF SALE

RELATING TO THE SUPPLY OF

GOODS, SOFTWARE & SERVICES

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General Terms and Conditions of Sale relating to the Supply of Goods, Software and Services:-

1. GENERAL TERMS

1.1.   "We" and "us" and "our" means Advanced Expert Systems Limited registered in England and Wales at Woburn House, Vernon Gate, Derby DE1 1UL with company number 2341404. We also trade as AES Group Limited, AES Defence Limited, AES Medical Limited and in appropriate context "we" and "us" refer to any or each of those companies.

1.2.   "You" and "Your" means you the Customer (which includes, but is not limited to, a person, company, business or any other organisation) contracting to obtain goods, software or services from us.

1.3.   Where "You" means more than one person, each one of you is responsible, individually, for each of the obligations of all of you under this agreement.

1.4.   We agree to supply you with the goods, software or services (as appropriate) set out in the quotation for the price set out on the quotation and subject to the terms set out in it, in this agreement and in the other documents referred to in this agreement and the quotation (as appropriate).

1.5.   In this agreement, "Staff" refers to direct employees.

1.6.   "Suppliers" refers to any third party (external organisations) and sub-contractors.

2. THE AGREEMENT

2.1.   These terms and conditions (including documents specifically referred to in it) are the whole of the terms and conditions governing the agreement between us, unless we both agree to any amendments in writing.

2.2.   "This agreement" means (in reverse order of precedence):

2.2.1. these terms and conditions;

2.2.2. terms and conditions referred to in this agreement;

2.2.3. documents explicitly referred to in the quotation;

2.2.4. the quotation;

2.2.5. amendments to the agreement and/or quotation agreed in writing.

2.3.   Where there is any ambiguity or inconsistency between different parts of the agreement, the item having the higher order of precedence referred to in clause 2.2 above shall prevail.

2.4.   You confirm that you have told us everything you know or suspect which may make the goods, software or services significantly more difficult for us to make, provide or carry out.

2.5.   You confirm that you have checked the specifications set out in and/or attached to the quotation and that they are correct.

2.6.   We cannot be held responsible for any statements we have not confirmed in writing. If the quotation contains a statement, or explicitly refers to the document containing it, then it becomes part of the contract and we will accept responsibility for it (subject to these terms and conditions).

2.7.   This agreement supersedes and prevails over all previous terms and/or terms purported to be imposed or incorporated by you unless otherwise expressly agreed in writing.

3. DEFINITIONS

3.1.   Any rule of interpretation that is contrary to common sense does not apply to this agreement. Any part of these terms and conditions, or any terms and conditions referred to in it, which is in italics (*like this*) is not part of it but is simply a comment.

3.2.   Paragraph headings are merely a guide and are not intended to be a part of this agreement (or any agreement referred to in it).

4. QUOTATIONS

4.1.   A quotation does not amount to a contractual offer but is an indication that we may be willing to supply at a particular price.

4.2.   In any event, no quotation is valid after 90 days from the date of issue (unless otherwise specified or agreed in writing).

4.3.   No price specified in the quotation or elsewhere includes VAT or other applicable taxes or duties unless specifically stated otherwise.

4.4.   Your purchase order constitutes an offer on your part that you are willing to accept the quotation and accordingly our written acceptance of your purchase order or commencement or execution of work by us pursuant to the purchase order shall establish a contract between us on these conditions.

5. AMENDMENTS TO SPECIFICATIONS AND CANCELLATION

5.1.   We reserve the right to alter the specifications of goods, software or services from time to time if we believe the alteration(s) will improve the goods, software or services. If you request us to alter the specification after the order has been placed we may consider doing so (at our discretion) but you acknowledge and agree that this may entail an increase in the price. A variation to the specification at your request (including the price) (as opposed to a variation to the contract) is only valid where signed by one of our authorised personnel from the management team.

5.2.   If, after you have placed an order, you wish to cancel it, we may accept cancellation at our discretion, but if we agree to this it may be subject to you paying us our anticipated loss on cancellation (including loss of reasonable profit) and any costs we have incurred up to that point.

6. RIGHTS OF OTHERS AND PERMISSIONS

6.1.   If we have agreed that we are to do anything under this agreement on your instructions, and as a result we are in breach of any rights of anyone else (or anyone else threatens us with proceedings for breach of their rights) you agree to indemnify us against any loss we may suffer, including without limitation legal costs, in defending or resisting the proceedings or claim, or settling the proceedings or claim on legal advice. Your obligations under this clause will remain after the rest of this agreement has terminated whatever the reason for termination.

6.2.   If you come across any circumstances which may lead to a claim under clause 6.1 above, you agree to tell us about them as soon as possible.

6.3.   If, as a result of such a claim or threat, we decide that it is no longer commercially sensible to proceed with your order, we may cancel the order in accordance with the provision set out at 6.4 below.

6.4. We will use reasonable commercial efforts to ensure that nothing we do under this agreement will infringe the rights of others. If we do anything under this agreement which results in an actual or threatened infringement of the rights of anyone else (provided that it was something which was not done at your explicit direction, instruction or with your specific consent) ("a claim") we may at our option:

6.4.1. obtain a license or settlement of the claim;

6.4.2. perform our obligation in a different way to avoid the claim;

6.4.3. cancel the agreement under clause 10.2.

7. COPYRIGHT, PATENTS, TRADE MARKS AND OTHER INTELLECTUAL PROPERTY RIGHTS

7.1. **Retention of ownership rights**. This agreement does not expressly, or impliedly grant, or convey any rights to you, any user or any other third party whatsoever:

7.1.1. of ownership of any software or services or element of either, or

7.1.2. transfer to any third party any rights of ownership to any software or services or element of either.

7.2. Title, copyright and all other intellectual property rights in the software and any documentation provided by us and all parts and copies thereof shall remain vested in us.

7.3. We reserve all ownership rights in the software and documentation provided by us, including without limitation patents, trademarks, copyrights, trade secrets and proprietary rights. All data, techniques, algorithms and processes contained in the software or derivatives thereof constitute confidential trade secrets of ours. You acknowledge and agree that disclosure of such trade secrets to others will cause irreparable damage/injury to us.

7.4. **No removal of trademark or copyright notices**. Under no circumstances shall you or anyone acting through you remove, modify or alter any trademark or copyright notice on any software, documentation, brochures, training manuals or any other document or item delivered by us.

7.5. **Undertakings**. You undertake not to add any other marks or signs except after having obtained the prior written consent from us. You shall inform us promptly of any (actual or perceived) problems or irregularities regarding any trademarks. You agree to maintain and enhance the goodwill of such trademarks for our exclusive benefit as registered owner.

7.6. You acknowledge that material of any nature which we provide you with, either under this agreement or otherwise (for example, quotations or other pre-contractual material) may contain intellectual property which is either our property or licensed to us (including copyright, trade marks, registered and unregistered designs and patents). Nothing in this agreement is intended either:

7.6.1. as a license for you to use such intellectual property;

7.6.2. or as a transfer of such intellectual property unless explicitly stated in writing.

8. SUB-CONTRACTING

8.1. We may sub-contract any of the services we have agreed to provide under this contract at our discretion. However, we shall not be liable for any non-performance or breach of or breach by that third party if you do not allow us reasonable time to rectify that non-performance.

8.2. Where we have sub-contracted any services to a third party specified by you, we shall not be liable for any non-performance of that third party's obligations, and for the purposes of this

agreement, any delay or hindrance caused by or attributable to that third party shall be considered to have been caused by you.

9. THIRD PARTY RECOMMENDATIONS AND STATEMENTS

9.1.   As part of carrying out our obligations under this agreement we may recommend or suggest that a third party carry out work, or supply goods, software or services. By making this recommendation or suggestion, we do not guarantee or warrant such work or those goods, software or services. As part of your normal due diligence process you will have to determine if such work or those goods, software or services is acceptable.

9.2.   Where we provide goods or software originally manufactured or developed by others, we may pass on to you statements or representations about such software or goods. We pass this information on to you in good faith but we do not undertake to verify them or guarantee their accuracy and do not accept any liability or responsibility whatsoever for the same.

10. FORCE MAJEURE AND EXCEPTIONAL CIRCUMSTANCES

10.1.   "Event of Force Majeure" means any act or occurrence beyond the control of the party affected thereby and which directly or indirectly prevents such party from performing all or a substantial part of its obligations under this agreement, including without prejudice to the generality of the foregoing, any acts of God, insurrection, fire, flood, extreme weather condition, act of terrorism, civil commotion, riot, explosion, damage to, or destruction or loss of physical property, epidemic, any strike or labour dispute causing cessation, slow-down or interruption of work provided always that the affected party shall have used its reasonable endeavours to remedy or mitigate the effect of such cause on its ability to perform its obligations under this agreement. If either party is unable to perform its duties and obligations under this agreement as a direct result of the effect of one of those reasons that party shall give written notice to the other party of the inability which sets out full details of the reason in question. The operation of this agreement shall be suspended during the period (and only during the period) in which the reason continues.

10.2.   If exceptional circumstances arise which are beyond our reasonable control, and which make it no longer commercially feasible or sensible for us to continue your order, we may cancel it on the terms set out below:

10.2.1. If we decide to cancel it:

10.2.1.1 we shall give you written notice, and we shall not be responsible for any loss to you which arises because of that decision (although any other rights which you may have arising before we made that decision will still stand); and

10.2.1.2 you will pay us a reasonable sum in relation to the proportion of your order which we have fulfilled;

10.2.1.3 the provisions of this clause shall not, however, relieve you of your obligations to pay when due any amount which you may owe.

11. CONSEQUENTIAL LOSS AND OUR LIABILITY

11.1.   Unless explicitly stated in the quotation in writing, we do not accept liability for consequential or indirect loss of any kind and we have priced this contract on the basis that such loss has been excluded. If you wish us to bear liability for such loss we may consider doing so but on the basis that the contract price will have to be increased to cover the increased risk, whether or not we choose to bear it through our insurance. Consequential and indirect loss includes (but is not limited to) loss of profits, loss of anticipated savings, loss of business, loss of revenue, loss of goodwill and costs of loss of staff time whether suffered or claimed to be suffered by you and /or any third party.

11.2.   If we have not accepted a different level of liability our entire liability under this contract including liability under any express or implied term or condition shall be limited to the value of the goods, software or services provided under it (or, in the case of a breach of any of the terms referred to in clause 16 below, the appropriate level of liability contained within those terms).

11.3.   Nothing at all in this agreement (which includes all documentation referred to in it) is designed or intended to reduce or restrict our liability for the death of or personal injury to anyone caused by our negligence or the negligence of anyone for whom we are directly responsible.

12. PAYMENT OF PRICE

12.1.   You must pay us (without deduction) the price specified in the quotation (or any written variation of such price in accordance with these terms), including any applicable taxes (eg VAT) which may apply in accordance with the terms and on the dates contained in it (if no terms or dates are referred to, the price is payable immediately on acceptance of order).

12.2.   If you fail to pay the whole or part of any sum you owe to us (whether because of this agreement or not) by the time it comes due for payment, all sums which you owe us (whether under this agreement or not) will become due for payment immediately, and we may issue court proceedings against you to recover them without giving you any further notice.

12.3.   You must pay us the whole of the amount due, and may not set off or deduct anything from this amount without our written permission.

12.4.   You agree that any sums due under this agreement that remain outstanding will be subject to interest at the Statutory Rate of Interest applicable and compensation under the Late Payment of Commercial Debts (Interest) Act 1998.

12.5.   We may assign the benefit of any debt owed to us by you to any third party at any time.

13. GUIDELINE DEFINITIONS AND PAYMENT TERMS

13.1.   **No terms specified**: payment is due in full on our acceptance of the purchase order;

13.2.   "30 days": payment is due on the 30th day after our acceptance of the purchase order;

13.3.   "On installation" or "On delivery": payment is due in full immediately upon installation or delivery of Goods, Software or Services;

13.4.   "Lease": means that:

13.4.1. (in the case of Goods) title to Goods does not pass to you (unless explicitly stated in, and subject to the terms of, the quotation);

13.4.2. (in the case of Software) the license is a periodic license and periodic fees are payable under the provisions of the Core Software License Agreement.

13.5.   If we have undercharged you any taxes that should have been due on an order, you agree to pay us the outstanding taxes immediately. If we have overcharged you any taxes, we shall refund you the amount that you have overpaid.

14. TIME FOR PERFORMANCE

14.1.   Whenever we agree to do anything by or on a particular time we will use reasonable commercial efforts to try to do it on or at that time but time shall not be of the essence.

15. INDEMNITY

15.1. Where we do anything for you on your premises (or premises under your control), you agree to indemnify us and keep us indemnified against any loss, damage claim or expense arising out of the physical injury of or death of any of our staff arising in any way from our performance of this agreement and arising by reason of the provision of defective equipment, your failure to provide a safe system of work or otherwise by reason of any negligent act or default on your part or on the part of your employees or servants or agents or other person or any other cause on your premises.

15.2. We shall at our discretion indemnify you against any claim that the use or possession of the goods and/or software (which we have supplied save where you have supplied the specification) infringes the intellectual property rights of any third party including the costs of defending any action and paying the costs and damages awarded in any such action.

15.3. You shall notify us promptly in writing of any action (and all prior claims relating to such action) brought against you alleging that your use of such software infringes the intellectual property rights of any third party.

15.4. Where an injunction is obtained preventing the use of such software by reason of any infringement as is referred to in clause 15.3 or where in our opinion such software is likely to become the subject of a claim for such infringement or such injunction is likely to be obtained we will at our discretion make reasonable efforts to procure for you the right to continue using the software.

16. INCORPORATION OF OTHER TERMS

16.1. Depending upon what is supplied under this agreement, our following additional standard terms (in force at the time of this agreement) apply:

16.1.1. Standard Terms for the Supply and Licensing of Software (for third-party software or standard software developed by us);

16.1.2. Standard Terms for the Development of Software (for bespoke/custom software developed or customised by us);

16.1.3. Standard Terms for the Supply of Software Support and Maintenance;

16.1.4. Standard Terms for the Supply of Services;

16.1.5. Standard Terms for the Supply of Goods;

16.1.6. Standard Terms for the Core Software License.

16.2. Definitions in this agreement also apply to the additional standard terms above.

16.3. In each case, copies of the above standard terms are available on request.

17. ASSINGNABILITY

17.1. Subject to the provisions of clause 8 above or 17.2 below neither party shall assign, transfer, sub-contract or in any other manner make over to any third party the benefit and/or burden of this agreement without the prior written consent of the other.

17.2. We shall be entitled without the prior consent of you to assign, transfer or in any manner make over the benefit and/or burden of this agreement to an affiliate or to any joint venture company where it is the beneficial owner of at least 50 per cent of the issued share capital thereof or to any company with which it may merge or to any company to which it may transfer its assets and undertaking provided that such affiliate or other company undertakes

and agrees in writing to assume observe and perform the rights and powers and/or duties and obligations of us under the provisions of this agreement being assigned transferred or otherwise made over.

17.3. This agreement shall be binding upon the successors and assignees of the parties hereto and the name of a party appearing herein shall be deemed to include the names of its successors and assignees provided always that nothing shall permit any assignment by either party except as expressly provided.

18. NOTICES

18.1. Where any notice is required to be given under this agreement (where the word "notify" is used it means "to give notice"), it is validly given if it is in writing and sent by fax, email or prepaid first-class, or airmail post, or to the correct fax number, email address or postal address of the relevant party as contained on the quotation or prior correspondence, or subsequently notified to the other party:

18.1.1. where sent by fax, the notice is deemed to have arrived immediately upon sending (and full transmission has been separately notified by telephone by the transmitting party).

18.1.2. if sent by email, the notice is deemed to have arrived 24 hours after it was sent (unless within those 24 hours the sender has been sent an email saying that the notice has not been delivered).

18.1.3. if sent by post, the notice is deemed to have arrived on the third working day after the day on which it was sent (if sent to an address within the UK), the fifth working day (if sent to an address within the European Economic Area) or on the seventh working day (anywhere else in the world) (unless in each case within that period it was returned as undelivered).

19. CONFIDENTIALITY AND NON-SOLICITATION

19.1. We may have given you and/or may give you in the future confidential information (which includes but is not limited to information relating to our products, planned products and details of our marketing, support and internal structures and similar information relating to our suppliers or related products). This covers all techniques, concepts, designs, algorithms and processes contained in the software or derivatives thereof, the services and the documentation and thus constitutes confidential trade secrets of ours.

19.2. You agree that you will use such confidential information solely for the purposes of this agreement and for evaluating future products or services supplied by us, and that you shall not disclose, whether directly or indirectly, to any third party any confidential information.

19.3. You must obtain written consent from us before you make any disclosure to any third party and you must obtain from them a binding commitment to keep that information confidential. That commitment must be at least as effective as this obligation is on you.

19.4. You agree not to solicit or engage (whether as employee/worker, agent or consultant) any of our staff (with whom you have had contact) directly or indirectly within at least twelve months after the termination of any contract between you and us. This clause also applies to current contracts between you and us that have not yet expired.

19.5. You agree that for at least the period set out above you will not introduce or identify any of our staff to any other person with a view to that other person engaging (as defined in 19.4 at any time during twelve months before the termination of any contract between us) our staff member.

20. TERMINATION

20.1.   We may terminate this agreement by notice with immediate effect if you are in breach of this agreement and (if the breach is remediable) you fail to remedy it within 28 days of receiving written notice from us requiring rectification of the breach.

20.2.   If, in our reasonable opinion, it appears that you will be unable to meet the payment terms we have agreed we may terminate this agreement immediately without notice, in which case we shall no longer be under any obligation to do any work for you under it, and you immediately become liable to pay us all sums which you owe us (whether or not under this agreement and whether or not they have become due). In addition, you will be liable to pay us a reasonable sum representing the uninvoiced value of work we have done or goods supplied up to the date of termination, which shall be calculated to include the loss of anticipated profit for the whole of the contract.

20.3.   For the avoidance of doubt, it shall be reasonable for us to terminate under clause 20.1 above if any of the following occurs:

20.3.1. the presentation of a bankruptcy, or winding-up petition against you;

20.3.2. the appointment of a manager, receiver or administrator over all or any part of your assets;

20.3.3. the commencement of any winding-up process (other than for the purposes of reconstruction or amalgamation);

20.3.4. the entry into or proposal of any form of arrangement or composition with your creditors;

20.3.5. if you take any steps to obtain a moratorium;

20.3.6. if you make any proposals for a voluntary arrangement;

20.3.7. if you are issued with any order under the Insolvency Act 1986;

20.3.8. anything analogous to the above sub-clauses in any jurisdiction;

20.3.9. material delay by you in settlement of sums becoming due to us.

20.4.   Termination will not prejudice any of our other rights or remedies.

21. LAW

21.1.   This agreement shall be governed and construed in accordance with the Laws of England and shall be subject to the exclusive jurisdiction of the English Courts.

22. WAIVER

22.1.   If we fail to rely on our strict legal rights under this agreement, that shall not prevent us from relying on those rights at any time in the future.

23. LIMIT OF AUTHORITY

23.1.   It is agreed and understood that neither party has an express implied right or authority to bind the other with respect to any matter hereunder. Under no circumstances will either party have the right to act or make any commitment of any kind to any third party on behalf of the other or to represent the other in any way as its agent or principal.

24. NO PARTNERSHIP

24.1.   Nothing contained herein shall be construed to create a partnership or joint venture between the parties hereto. It is further understood that neither party nor its personnel shall be deemed to be in the employment of the other.

25. DISPUTES

25.1.   If any dispute or grievance arises between us out of this agreement, before taking any further action, we each agree that it will be discussed by staff members of each of us who are most closely involved with the running of the contract. If that does not produce a resolution within a reasonable time, the problem will be escalated to the respective superiors of each staff member respectively, until the problem is dealt with. Only if the respective Chief Executive Officers (or equivalent) of each party cannot reach agreement on the dispute will the matter be taken to the next stage as set out below.

25.2.   Should the escalation mechanism set out in 25.1 above fail to be effective, before taking any other action we each agree to submit in good faith to a mediation procedure administered by the Centre for Dispute Resolution (CEDR) of London, or, failing that, such other similar organisation or mediator as the President for the time being of the Law Society of England and Wales shall nominate. Unless we agree otherwise, the costs of the mediation shall be borne equally by each of us.

25.3.   To the extent that 25.1 and 25.2 do not resolve disputes or grievance than clause 21 shall apply.

26. SEVERABILITY

26.1.   If any provision or term of this agreement or any party thereof shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including but without limitation by reason of the provisions of any legislation or other provisions having the force of Law or by reason of any decision of any Court or other body or authority having jurisdiction over the parties or this agreement including the EC Commission and the European Court of Justice such terms or provisions shall be severed from the remainder of this agreement which shall continue to be valid to the fullest extent permitted by Law provided always that if any such deletion substantially affects or alters the commercial basis of this agreement the parties shall negotiate in good faith to amend and modify the provisions and terms of this agreement as may be necessary or desirable in the circumstances. Failure to reach such an agreement shall constitute the terms as set out in clause 10 above.

27. ENTIRE AGREEMENT

27.1.   This agreement embodies and sets forth the entire agreement and understanding of the parties and superseded all prior oral or written agreements, understandings or arrangements relating to the subject matter of this agreement. Neither party shall be entitled to rely on any agreement, understanding or arrangement which is not expressly set forth in this agreement.

27.2.   We reserve the right at our sole discretion to vary, change, alter, amend, add to or remove any of the terms of this agreement at any time and without prior notice that shall become effective immediately.

27.3.   No failure or delay on the part of either party hereto to exercise any right or remedy under this agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in this agreement are cumulative and are not exclusive of any rights or remedies provided by Law.

27.4.   You shall not publish any press release or other communication concerning the subject matter of this agreement without our express approval and written permission.

28. RIGHTS OF THIRD PARTIES

28.1.   This agreement is not intended to convey benefit on any person, or party, not a party to it and accordingly the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded.

29. DATA PROTECTION

29.1.   We will take all reasonable steps necessary to uphold your rights to protect your personal data, including the right to obtain information on, update or amend any personal data on you which we hold but we will not pass on any personal data without your prior written consent. Where we are acting as a Data Controller as defined the Data Protection Act 1998 we agree to maintain the security of such Personal Data as are provided to us by you pursuant to such a relationship to an extent equivalent to that required by the Security Principle of that Act. You undertake to obtain all consents, permissions and notifications necessary to enable you to provide us with personal data about you, and your staff, contractors, suppliers and customers which are reasonably necessary for us to perform this agreement, including such consent as is necessary to administer this agreement including collecting and enforcing payments due under it including passing such information to our financiers for administration and related purposes.

30. ANTI BRIBERY

30.1.   We and you shall ensure that in any dealings with us, neither you nor we nor our respective employees or agents shall commit any offence under the Bribery Act 2010 including not engaging in any activity, practice or conduct which would constitute an offence. Each shall inform the other immediately it becomes aware of any actions between the parties that could constitute an offence.

30.2.   In addition, we and you shall:

30.2.1. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; and

30.2.2. have and shall maintain in place throughout the term of this agreement policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, and will enforce them where appropriate; and

30.2.3. at the request of the other certify in writing signed by your authorised representative, compliance with the above 30.2.2 by all persons associated with it together with such supporting evidence of compliance as is reasonably requested.

APPENDIX 1

Standard Terms for the Supply and Licensing of Software

These terms are supplemental to the General Terms and Conditions of Sale relating to the Supply of Goods, Software and Services (the "General Terms").

1. AGREEMENT TO SUPPLY

1.1. We agree to supply the software (other than custom software) referred to in the quotation subject to the General Terms and these terms and conditions at the price and for the period or periods set out in it ("Supply" in this agreement means "to grant a non-exclusive and non-transferable license and (if appropriate) provide with media").

1.2. Custom software means any software which we have written for you at your request. The supply of custom software is governed by our Standard Terms for the Development of Software (a copy of which is available on request).

1.3. Nothing in this agreement is intended to pass the title in any copyright or other intellectual property to you, and any right which you gain to use intellectual property is obtained solely either under our Core License agreement (a copy of which is available on request) or under the license agreement applicable to the software in question.

2. PAYMENT OF LICENSE FEE

2.1. You agree to pay the license fee contained in the quotation in accordance with the payment terms set out in it.

2.2. If the license fee is a periodic license fee, you agree to pay each periodic fee promptly in accordance with the terms of payment set out in the quotation. If it states in the quotation that you are to pay by direct debit, you authorise us to deduct relevant payments from the appropriate bank account in accordance with the direct debit rules in force from time to time.

2.3. If you fail to pay any periodic fee due, your license to use the software is terminated. You acknowledge and agree that there may be disabling devices in the software which prevent its further use while you remain unlicensed.

3. MEDIA WARRANTY

3.1. If we supplied the software on magnetic, electronic or optical media, we warrant the media (as opposed to any programs or data which the media may contain) to be free from transcription errors or defects in manufacture for 90 days from the date we supply it. During the warranty period, we will repair or replace (at our option) the media with media not containing the transcription error or defect, provided that you have not abused it and you are not in breach of any of your obligations to us or to any licensor of the software or data contained on the media. This warranty is in addition to any rights you may have by Law.

4. SPECIFICATION

4.1. Unless it states in the quotation that we specified the software we shall not be liable for the software's fitness for any purpose or satisfactory quality, and we expressly exclude all other liability for warranties, whether express or implied, except as follows:

4.1.1. we warrant only that it complies with its description as set out in the quotation.

4.2. Where it states on the quotation that we specified the software we shall not be liable for any failure of the software except as otherwise set out in this agreement, or our General Terms.

## 5.	SOFTWARE LICENSED BY US

5.1.	This clause refers to software ("our software") of which we own the copyright, or to which we have been granted a right to sub-license.

5.2.	Where we supply you with our software, it is on the following terms:

5.2.1.	we supply it to you under the terms of our Core Software License, (a copy of which is available on request) and which is incorporated in this agreement.

5.2.2.	we warrant that it generally conforms with its description and generally functions in accordance with the documentation (if any) supplied with it.

5.2.3.	we will use reasonable commercial efforts to correct by patch or new release (at our option) that part of it which does not comply, so long as you notify us (with details) of the non-compliance within 30 days, provided that the non-compliance has not been caused by any modification, variation or addition to the software not performed by or authorised by us, or is caused by the incorrect use, abuse or corruption of the software or by use of the software on equipment other than the equipment specified by us in the specification and/or quotation.

5.2.4.	except as otherwise provided in this clause, we make no other representations or warranties and expressly exclude them whether express, implied, statutory or otherwise especially as to quality or fitness of the software for any particular purpose.

5.3.	If we supply you with upgrades or patches, those upgrades or patches become incorporated into the software and they are covered by this agreement and the Core Software License. New releases are also covered by this agreement and the Core Software License.

5.4.	You agree that you will comply in all respects with the terms of the Core Software License and that if you fail to comply with those terms, or any term of this agreement, then we may terminate the license.

5.5.	You agree that you will keep up-to-date and accurate details of the location of all copies of the software.

5.6.	You agree to seek written permission from us of any proposed assignment of the software license. If we authorise you to re-assign your software license, you agree to keep details of any such assignment (and only to assign it in accordance with the license) and to notify us of details of any assignee. Upon valid assignment of the software you agree to destroy all copies of the software which remain in your possession or under your control. You should note that any assignment of the software only assigns a bare license of it to the assignee. The assignee, if it wishes any further rights in relation to the software (for example, the right to bug-fixes, maintenance or support) will have to re-register the software with us, for which additional charges may apply.

5.7.	You agree to ensure that our copyright notice is faithfully reproduced on all copies you make of all or any part of the software.

5.8.	You acknowledge that the software is not (unless specified specifically in the quotation) designed for mission-critical or safety-related purposes and should not be used in any such context.

5.9.	Where we supply our software to you, you confirm that you have received adequate demonstration of it prior to entering into this agreement.

5.10.	We confirm that we have used reasonable commercial efforts to scan our software for viruses prior to delivery to you but that you are ultimately responsible for implementing virus checking on your own equipment.

5.11.   You acknowledge that the terms on which the software is supported and licensed prohibit the use or installation of non-approved third party software on the system without our written consent. This includes, but is not limited to software agents, games, novelty programs, desktop enhancement products and most shareware programs from magazine cover disks or downloaded from the internet. They also prohibit you from making changes to the configuration of the operating system or software (*for example by using the control panel or registry editors*).

6.   SOFTWARE LICENSED BY THIRD PARTIES

6.1.   We do not provide any warranties in relation to software licensed by third parties ("Third Party Software") and we exclude all liability for loss, damage or claims caused by such software as far as permitted by Law.

6.2.   Other than in the circumstances set out in clause 7, we shall be under no further liability to you in respect of that software.

6.3.   If we decide that it is not practical to obtain replacement software or a valid license in accordance with clause 7, this constitutes "exceptional circumstances" referred to in clause 10 of the General Terms.

6.4.   You agree to comply with the terms of any license relating to Third Party Software which will, unless stated otherwise in the quotation, be on the supplier's standard terms and (if applicable to that software) you authorise us to act as your agent to enter into such license agreement with the third party on your behalf. We make no representation or warranty relating to the terms and effect of such third party license or license agreement.

6.5.   Where we supply software that is not our software, we have taken reasonable steps to ensure that it does not infringe the rights of third parties. We cannot be held responsible for any such infringement, save that if the infringement relates to the whole (as opposed to the part) of any software supplied under this agreement, we shall (at our option and discretion):

6.5.1.   replace that software with non-infringing software;

6.5.2.   obtain a valid license to continue to use the software;

6.5.3.   refund the license fee applicable to that software.

6.6.   In any of those cases, we shall be under no further liability to you in respect of that software.

7.   SOFTWARE WARRANTY

The following Warranty is applicable only to our software:

7.1.   You acknowledge that software in general is not error-free and agree that the existence of such errors shall not constitute a breach of this license.

7.2.   If you discover a material error which substantially affects your use of the software and you notify us of the error within 30 days from the date of delivery of the software (the "warranty period") we shall at our sole option either refund the license fee or use reasonable commercial efforts to correct by patch or new release (at our option) that part of the software which does not comply provided that the non-compliance has not been caused by any modification, variation or addition to the software not performed by us (or with our authorisation) or is caused by its incorrect use, abuse or corruption of the software caused by third party software.

7.3.   Our warranty in relation to the functioning of the software on any particular system only applies where the system complies with the hardware and software requirements detailed in the quotation.

7.4. To the extent permitted by the applicable law, and subject to clause 7.5 below, we disclaim all other warranties with respect to the software, either express or implied, including but not limited to any implied warranties of merchantability or fitness for any particular purpose.

7.5. You acknowledge that the software is not designed for use in mission critical or safety critical situations. The algorithms upon which it is based may involve statistical and other methods of interpolation and extrapolation and visual or other output which it may produce and are therefore liable to artefacts and errors inherent in the use of these techniques. Output from the software should always be confirmed and verified in accordance with recognised scientific and experimental practice. We may be prepared to create a specially modified or re-written version of the software at extra cost to comply with any safety or mission critical requirements.

7.6. Although we do not warrant that the software is free from all known viruses we have used reasonable commercial efforts to check for the most commonly known viruses prior to delivery. You are solely responsible for virus scanning the software.

7.7. You acknowledge that there may be disabling programs or devices in the software designed to inhibit license infringement.

8. UNLICENSED SOFTWARE

8.1. You acknowledge that it is illegal to use unlicensed software and you hereby grant us permission to enter any of your premises where we reasonably suspect that unlicensed copies of our software are located and seize and/or delete them.

9. OUR LIABILITY

9.1. We shall not be liable to you for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the license, the software, its use or otherwise, except to the extent that such liability may not be lawfully excluded under the applicable Law.

9.2. Notwithstanding the generality of 9.1 above, we expressly exclude liability for indirect, special, incidental or consequential loss or damage which may arise in respect of the software, its use, the systems or in respect of other equipment or property, or for loss of profit, business, revenue, goodwill or anticipated savings unless we have explicitly agreed to accept increased liability in the quotation.

9.3. If any exclusion contained in this agreement shall be held to be invalid for any reason and we become liable for loss or damage that may lawfully be limited, that liability shall be limited to the license fee which you paid for the software over the course of the twelve months immediately prior to the event (or omission) giving rise to the liability;

9.4. We do not exclude liability for death or personal injury which arises as a direct result of our negligence only.

10. CONFIGURATION OF SOFTWARE

10.1. You acknowledge that the configurations or arrangements of software or data which we have installed may be subject to copyright (and in the absence of our written permission) you are granted no license to copy that configuration or arrangement onto any system other than the one on which we installed the software.

11. TERMINATION

11.1.   We may terminate this agreement in respect of all or any of the licenses granted under it at any time if:

   11.1.1. you are in breach of any of the terms of this agreement between us;

   11.1.2. you are (or any subsequent transferee is) in breach of the terms of any license granted under it;

   11.1.3. (if a license granted hereunder is a periodic license) we give you notice before renewal of that license that we do not wish to renew it;

11.2.   If we terminate this agreement or any license, that termination shall not affect the rights or obligations of the parties which accrued prior to termination.

12. COMPLIANCE WITH INSTRUCTIONS

12.1.   You agree to comply with all reasonable instructions regarding the use of the software, and to provide adequate training to all operators of it.

12.2.   You will ensure that the system on which the software is running:

   12.2.1. is and continues to be well and adequately maintained;

   12.2.2. is and continues to be contained in the hardware compatibility lists of all suppliers of software intended to be running on that system and in respect of that software;

   12.2.3. is and continues to be within the hardware and performance specifications required by the suppliers of all software running on the system;

   12.2.4. does not contain any extraneous programs, data or hardware which are not reasonably necessary for the use of the system for its intended purpose (this includes but is not limited to software agents, games, most software downloaded from the internet or contained on magazine cover disks).

12.3.   You agree to install patches and upgrades to all software supplied under this agreement (or reasonably necessary for the functioning of software supplied under this agreement) as and when we notify you to do so. You acknowledge and agree that there may be charges for these patches or upgrades.

12.4.   You agree to maintain a comprehensive log of all faults or problems encountered in running the software and agree to allow us to see it on request.

13. INSTALLATION

13.1.   Unless explicitly stated on the quotation, we do not agree to install or configure the software.

13.2.   Where we have agreed to install the software:

   13.2.1. you will ensure that you have taken a full backup of all programs and data on the equipment before installation;

   13.2.2. you will ensure that the equipment (and, if appropriate, operating system and other support software) is of a suitable specification (as specified by us) for the software;

   13.2.3. we do not agree to convert or input data unless explicitly agreed in the quotation in which case:

13.2.3.1 you agree to ensure that the data to be converted is in a suitable format (as specified by us) to be converted as specified in the quotation;

13.2.3.2 you agree to check the integrity of data both before and after the conversion process;

13.2.3.3 you acknowledge and agree that certain aspects of the data may not be amenable to/for conversion.

APPENDIX 2

Standard Terms for the Development of Software

These terms are supplemental to the General Terms and Conditions of Sale relating to the Supply of Goods, Software and Services (the "General Terms").

1. AGREEMENT TO DEVELOP

1.1. We agree to develop the custom software referred to in the quotation at the price set out in it subject to the General Terms and these terms and conditions ("the development agreement").

1.2. You agree to provide us with reasonable assistance (and facilities where necessary) for the development, testing and installation of the software and its associated data. (Note: testing and development work may require down-time on your equipment. If this is the case, unless we have priced for out-of-hours development, we shall expect you to schedule for reasonable amounts of down-time during normal working hours).

2. DEFINITIONS

2.1. "Software" means the custom software described in the quotation to be developed by us in accordance with this agreement.

2.2. "Equipment" means the computer hardware equipment specified in the quotation upon which the software is to operate when complete.

2.3. "Specification" means the specification approved in accordance with clause 4 below.

2.4. "Development Work" means the development work required to produce the software based upon the specification.

2.5. "Development Timetable" means the timetable upon which the development work is proposed to take place which will accompany the specification (or is amended from time to time in accordance with the terms of this agreement).

2.6. "Acceptance" or "Accepted" means acceptance of any part or the whole of the software which has successfully passed the acceptance tests specified in the specification.

3. DURATION

3.1. This development agreement shall continue until the software is accepted unless either party gives to the other not less than 3 months prior written notice, subject always to prior termination as specified in this agreement. Termination of the development agreement shall not affect termination of other elements of this agreement as set out in the quotation.

4. PREPARATION AND APPROVAL OF SPECIFICATION

4.1. Where the quotation requires that a detailed specification is drawn up:

4.1.1. we will draw up the specification for the software in accordance with your requirements as stated in the quotation (the "Specification") and shall give it to you for approval;

4.1.2. you will notify us of any amendments required within 14 days after you receive the specification (or revised specification, as the case may be). If you do not notify us of any amendments within the 14 day period, we may take it that the specification is approved and we will begin work on the software as set out below:

        4.1.2.1 if you notify us of any amendments within the 14 day period, we will amend the specification in accordance with those amendments, but only to the extent that the amendments are minor and within the scope of the quotation. We will then let you have the new quotation for your approval;

    4.1.3. if your amendments to the specification extend beyond the scope of the quotation, we shall (if we agree to do that work) charge you at our normal current rate for doing so. We may also make any consequential changes to the timetable and/or issue you with a revised quotation.

4.2. Upon approval of the specification, we will start the development work.

5. TESTING, ACCEPTANCE AND DELIVERY OF THE SOFTWARE

5.1. Upon completion of the development work the acceptance tests will be run as specified in the specification.

5.2. Upon passing the acceptance tests, the software or that part ("module") of it (if not the whole) shall be considered accepted and we shall deliver it to you to allow a reasonably skilled operator to install and use the software on the equipment.

5.3. Unless explicitly stated on the quotation, we do not agree to install or configure the software.

5.4. Where we have agreed to install the software:

    5.4.1. you will ensure that you have taken a full backup of all programs and data on the equipment before installation;

    5.4.2. you will ensure that the equipment (and, if appropriate, operating system and other support software) is of a suitable specification for the software;

    5.4.3. we do not agree to convert or input data unless explicitly agreed in the quotation in which case:

        5.4.3.1 you agree to ensure that the data to be converted are in a suitable format to be converted as specified in the quotation;

        5.4.3.2 you agree to check the integrity of data both before and after the conversion process;

        5.4.3.3 you acknowledge and agree that certain aspects of the data may not be amenable to/for conversion.

5.5. We will use reasonable commercial efforts to complete and deliver the software in accordance with the development timetable, but we will not be liable for any failure to meet the development timetable; nor will we be in breach of this agreement solely by reason of that failure.

5.6. If you fail to take delivery of any part, module or the whole of the software in accordance with the terms of this agreement or if either of us terminates this agreement for whatever reason, you will be liable to pay to us all sums due for time spent and materials used to date, in addition to any and all costs and expenses incurred by us as a result of your default, termination or of rescheduling delivery to you at a later date.

6. COST OF DEVELOPMENT WORK

6.1.   Unless otherwise agreed, any development work outside the specification will be costed on a time and materials basis using our standard hourly charge-out rates in force at the time the work is done and/or issue you with a revised quotation. Your request and our agreement that we should do such work will be on this basis and it will be covered in all respects by this agreement.

7. SOFTWARE SUPPORT AND ENHANCEMENT

7.1.   This agreement does not include "Support and Maintenance" or enhancement of the software unless specifically stated in the quotation, in which case our Standard Terms for the Supply of Software Support and Maintenance apply (a copy of which is available on request) and which is incorporated in this agreement.

8. WARRANTY

8.1.   We warrant to you that the software, on delivery to you, will generally conform to the specification.

8.2.   We will use reasonable commercial efforts to correct by patch or new release (at our option) that part of the software which does not comply, so long as you notify us (with details) of the non-compliance within 30 days from the date of acceptance, provided that the non-compliance has not been caused by any modification, variation or addition to the software not performed by or authorised by us, or is caused by the incorrect use, abuse or corruption of the software or by use of the software on equipment other than the equipment specified in the specification and/or quotation.

8.3.   Except as otherwise provided in this clause, we make no other representations or warranties and expressly exclude them whether express, implied, statutory or otherwise especially as to quality or fitness of the software for any particular purpose.

8.4.   Although we do not warrant that the software shall be free from all known viruses we have used reasonable commercial efforts to check for the most commonly known viruses prior to delivery but you are solely responsible for virus scanning the software.

8.5.   We do not warrant that the software is error free, but warrant that it will generally function in accordance with the specification and agree to correct notified errors as set out above.

8.6.   We warrant that the disabling devices (if any) in the software are only intended to be used in the event that you are in breach of this agreement.

8.7.   We warrant that we are lawfully able to grant the rights purported to be granted by way of license hereunder within the United Kingdom provided that:

8.7.1.   this warranty does not extend to anything which we have undertaken explicitly at your instruction;

8.7.2.   unless otherwise agreed in writing, this warranty does not extend to registered intellectual property rights (for example patent, registered trademark and registered design) whether within the United Kingdom or elsewhere on the basis that we have not built into the price the cost of patent and equivalent searches and clearances prior to commencing work.

8.8.   Prior to claiming under the warranty contained in clause 8.7 above, you agree to permit us a reasonable opportunity to remedy the breach by (at our option) obtaining a license or settlement with any claimant or re-writing any part of the software so that it no longer

infringes (provided that such re-write does not cause the software to fall materially outside of the specification and/or quotation).

9. OUR LIABILITY

9.1.   Subject to clause 9.2, our maximum aggregate liability under this agreement shall be limited to the cost of the development work. In particular, in the event that any exclusion contained in this agreement shall be held to be invalid for any reason and we become liable for loss or damage that it may otherwise have been lawful to limit, such liability shall (unless otherwise agreed in writing) be limited to the cost of the development work.

9.2.   We do not exclude or restrict liability for death or personal injury where that liability arises as a direct result of our negligence only.

10. COPYRIGHT, PATENTS, TRADE MARKS AND OTHER INTELLECTUAL PROPERTY RIGHTS

10.1.   You agree that this agreement is not intended to transfer any intellectual property rights to you and all such rights are granted to you solely by license and you agree to accept and be bound by the standard terms and conditions of our Core Software License (a copy of which is available on request), and subject to the payment of license fees (if applicable).

10.2.   You acknowledge that all copyright, trade marks, trade names, patents and other intellectual property rights created, developed, subsisting or used in or in connection with the software are and shall remain our sole property (or the property of their respective owners).

10.3.   You agree that you will not, during or at any time after the completion, expiry or termination of this agreement in any way question or dispute our ownership of or right to use those intellectual property rights.

10.4.   If new inventions, designs or processes evolve in performance of or as a result of this development agreement, you acknowledge that they shall be our property unless otherwise agreed in writing.

10.5.   The software may incorporate code or components which are licensed to us by third parties, or for which we procure a license for you (*for example, run-time modules*). You agree to abide by the terms of such licenses. Except to the extent that it was commercially unreasonable for us to have used such third party code or components, we shall not be liable for any claim by a third party for that use of such code or component.

11. YOUR OBLIGATIONS

11.1.   You agree that you will keep up-to-date and accurate details of the location of all copies of the software.

11.2.   You agree to seek written permission from us of any proposed assignment of the software license. If we authorise you to re-assign your software license, you agree to keep details of any such assignment (and only to assign it in accordance with the license) and to notify us of details of any assignee. Upon valid assignment of the software you agree to destroy all copies of the software which remain in your possession or under your control. You should note that any assignment of the software only assigns a bare license to it to the assignee. The assignee, if it wishes any further rights in relation to the software (for example, the right to bug-fixes, maintenance or support) will have to re-register the software with us, for which additional charges may apply.

11.3.   You agree to ensure that our copyright notice is faithfully reproduced on all copies you make of all or any part of the software.

11.4.   You acknowledge that the software is not (unless specified specifically in the quotation) designed for mission-critical or safety-related purposes and should not be used in any such context.

APPENDIX 3

Standard Terms for the Support and Maintenance of Software

These terms are supplemental to the General Terms and Conditions of Sale relating to the Supply of Goods, Software and Services (the "General Terms").

1.   SCOPE OF THE AGREEMENT

1.1.   We agree to provide a Support and Maintenance service as stated in the quotation and subject to the standard terms of this agreement.

1.2.   The Support and Maintenance service will be provided during our normal working hours – which are 9am to 5pm Monday to Friday (excluding public holidays and weekends). All time spent in providing any service outside of these hours will be charged to you at our current charges at the time.

1.3.   If a reported problem is found upon investigation to be due to incorrect operation or unauthorised changes of the software, we will be entitled to charge you for all reasonable costs and expenses incurred by us as a consequence of such investigation calculated on a time and materials basis at our current charges at the time.

1.4.   We will use reasonable endeavours to provide the Support and Maintenance service promptly having regard to the availability of personnel, necessary supplies and facilities and commitments to other customers.

1.5.   Our obligation to provide the Support and Maintenance service is subject to the License Agreement being in force between the parties. If the License Agreement is terminated for any reason then this agreement will automatically terminate without notice.

1.6.   The Support and Maintenance service automatically renews the periodic license of the software for the term set out in clause 2 of these terms and subject to the payment terms set out in clause 4 of these terms.

2.   TERM OF THE AGREEMENT

2.1.   The term of this agreement shall in any event be subject to the existence of a valid and current Licence agreement between us and will be for the initial period of one calendar year and will continue after that for successive periods of one year each unless terminated by either party on giving not less than 12 months prior written notice to take effect at the expiry of the initial period or any time after that subject to earlier termination in accordance with this agreement.

3.   THE SUPPORT AND MAINTENANCE SERVICE

3.1.   We undertake to provide the following Support and Maintenance service based upon remote access only in respect of the Current Release of the software, as follows:

   3.1.1.   we will provide you with telephone advice, email and fax assistance relating to day to day enquiries by you in respect of the use or operation of the software, during normal working hours;

   3.1.2.   if we receive repeated requests for assistance and we consider such requests excessive then we reserve the right to charge for the time spent in responding to such requests.

3.2.   We will use all reasonable endeavours to maintain the software in good working order to perform the functions outlined in the specification.

3.3. We prioritise support into urgent and non-urgent problems. An urgent problem is:

3.3.1. significant degradation or failure of the software;

3.3.2. software performance significantly inconsistent with the specification;

3.4. Any other problem is classified as a non-urgent problem.

3.5. In the course of solving a problem we may issue you with a workaround which will enable you to continue working (albeit with possibly reduced functionality) which may cause your problem to be reclassified as a non-urgent problem.

3.6. We will notify you of each new Release of the software which from time to time is made available by us to users generally.

3.7. The provision of each new Release during the term of this agreement will not be chargeable.

3.8. The provision of any new Version, thereby signifying radical changes in functionality and operating technology to the software will be chargeable at our then current standard new Version charge.

3.9. We will provide technical support for the most Current Release of the software and the immediately preceding Release. Once a new Release has been made generally available, you agree to convert to the latest Release within three months after being notified in writing by us of the availability of such latest Release in order to insure uninterrupted service and continued support.

3.10. In the event that you choose not to convert to the latest Release within the three month period we shall:

3.10.1. quote you for a bespoke Support and Maintenance service for your release of the software;

3.10.2. in the event that you choose to cease all Support and Maintenance services we reserve the right to deactivate the software. If you will subsequently require such services at a later date you will be liable to pay for all the time that you have not paid for the Support and Maintenance services (subject to indexation).

3.11. We will provide training on the new Release (if requested by you to do so) as soon as is reasonably practicable after installation of the new Release. This will be charged at the then current training charges.

3.12. You may from time to time wish to investigate the implications of proposed changes and make such changes to the software. At your request we will submit a written estimate to undertake such work and such estimate will contain time and costs estimates at our then current charges. Any work performed by us following acceptance by you of such an estimate will be the subject of a separate agreement and all related charges arising from it will be separate from, and in addition to, the Support and Maintenance service charge.

3.13. You will, from time to time, be required to make modifications to the software so as to ensure that the Current Release conforms to any change of legislation or new legal requirements which affect the application of any function or facility described in the specification. You will promptly notify us in writing of all such changes and new requirements and we will implement the modifications to the Current Release as soon as reasonably practicable after that, subject to additional charges that may apply.

3.14. We may provide you from time to time with:

3.14.1. corrections for errors in the Current Release identified by us;

3.14.2. modifications, enhancements and other improvements which we elect to incorporate into and make part of the software;

3.15.   Improvements required allowing the software to operate in conformance with new versions or releases of third party software (*including but not limited to operating systems, LIMS, hardware, etc*) will be charged at our then current hourly rates.

3.16.   We shall charge at our applicable hourly rates for any support other than support provided under this agreement.

4.   PAYMENT TERMS

4.1.   You will pay us the Support and Maintenance charge and all other charges which fall due under this agreement or otherwise invoiced by us. Where applicable, VAT and any other taxes, duties or levies will be paid additionally by you at the then prevailing rate.

4.2.   The Support and Maintenance service is based upon remote access only in order to maintain the system. Should you not be able to provide us with remote access we will charge you for any other means of remote access as being necessary for us to perform the Support and Maintenance service under this agreement (*eg VPN equipment and/or service*). Where a visit to site is required because no remote access is available, we reserve the right to charge for, and includes but is not limited to, all time spent away from base at the current hourly rate and any travel, subsistence and other out of pocket expenses incurred by us in respect of the provision of the Support and Maintenance service.

4.3.   The Support and Maintenance charge is payable in advance on the due date for payment specified on the invoice. No support will be provided until we have received payment in full. All other charges and expenses will be invoiced monthly in arrears and be payable within 30 days of the date of invoice.

4.4.   If any sum payable to us under this agreement is in arrears for more than 14 days after the due date, we reserve the right without prejudice to any other right or remedy to:

4.4.1.   charge interest on such overdue sum on a day-to-day basis from the original due date until paid in full subject to interest at the Statutory Rate of Interest applicable under the Late Payment of Commercial Debts (Interest) Act 1998 (irrespective of whether such Act applies to this agreement);

4.4.2.   suspend the provision of the Support and Maintenance service on 5 days prior written notice if any sum payable remains in arrears for more than 30 days after the due date.

4.5.   You will notify us in writing within 10 days of receipt of an invoice if you consider such an invoice incorrect or invalid for any reason; failing which you will raise no objection to any such invoice and shall make full payment in accordance with it.

4.6.   We reserve the right to vary the Support and Maintenance charge for periods subsequent to the first year as outlined by the quotation and in line with Retail Price indexation applicable in any previous twelve month period prior to renewal.

5.   YOUR OBLIGATIONS

5.1.   Throughout the term of this agreement you will:

5.1.1   endeavour to use only the Current Release;

5.1.2   use all reasonable endeavours to ensure that the incumbent Release and the equipment are used in a proper manner by competent trained employees only or by persons under their supervision;

5.1.3 notify us promptly if the software is not operating correctly. You must provide us with sufficient material, information and assistance to enable our support staff to be able to duplicate the problem. This includes providing sample data (including the data on the system when the problem was encountered).

5.1.4 not alter, adapt or modify the incumbent Release in any way, nor permit the incumbent Release to be combined with any other programs without prior consent and approval from us;

5.1.5 not request or permit anyone other than us to provide any Support and Maintenance services in respect of the incumbent Release unless we are unable to provide the Support and Maintenance service in accordance with this agreement;

5.1.6 co-operate to a reasonable extent with our personnel in the diagnosis, investigation and correction of any fault in the incumbent Release;

5.1.7 make available to us free of charge all information, facilities and services reasonably required to enable us to perform the Support and Maintenance service including, without limitation, computer runs, core dumps, print-outs and data preparation;

5.1.8 provide at your expense such telecommunication facilities as are reasonably required by us for remote testing and diagnostic purposes;

5.1.9 provide access to your staff, the software, the equipment and the location during normal working hours and at such other times as we may request on reasonable prior notice;

5.1.10 keep full security copies of the incumbent Release and our databases and computer records in accordance with good computing practice;

5.1.11 ensure you maintain regular back-ups of the software and associated data and databases. It is wholly your responsibility to maintain regular backups of all software. Backups must include the SQL server configuration and maintenance log(s);

5.1.12 ensure you operate a fully up to date anti-virus solution.

5.2. You will ensure that we have access to administrative, or other passwords, to enable us to carry out the Support and Maintenance service under this agreement. We undertake to take reasonable steps to keep such passwords confidential, but you are advised you should employ a prudent password policy involving regular changes of passwords and the use of none-obvious or guessable passwords.

5.3. For customers that choose not to allow remote access for support purposes we reserve the right to charge for any other means of remote access as being necessary for us to perform the Support and Maintenance service under this agreement.

5.4. If any of our staff work on your premises you will ensure that such staff are provided with suitable office accommodation and services, including telephone, facsimile and photocopying facilities without charge. Such accommodation and service will be readily accessible to any required computing facilities including the equipment and network access.

5.5. If you provide any computing and ancillary facilities, you will be responsible for the prompt and continuing availability to us of all such facilities in good working order throughout the term of this agreement to the extent necessary for us to perform the Support and Maintenance service.

5.6. You will supply us without charge throughout the term of this agreement with a complete copy of the latest issue of all documentation and other material notified by us from time to time as being necessary for us to perform our obligations under this agreement.

6. EXCLUSION

6.1.   The Support and Maintenance charge does not include the provision of the Support and Maintenance service in respect of any defect, error or other problem:

6.1.1   resulting from any modification to the software made by any person (other than us) without our prior written approval;

6.1.2   in any version of the software other than the Current Release and the prior release (see clause 3.10);

6.1.3   resulting from incorrect use of the software or operator error;

6.1.4   in or attributable to the equipment or other equipment and programs used in conjunction with the software or to any other reason external to the software.

6.2.   The Support and Maintenance service does not include the provision of the following:

6.2.1   site visits;

6.2.2   configuration of the software;

6.2.3   data migration or data input;

6.2.4   training;

6.2.5   project and/or progress meetings;

6.2.6   user groups;

6.2.7   installation and/or re-installation;

6.2.8   consultancy;

6.2.9   troubleshooting of third party software and/or hardware/equipment;

6.2.10   support and/or maintenance of any third party software, hardware and equipment;

6.2.11   backups;

6.2.12   antivirus.

6.3.   If at your request we agree to provide any Support and Maintenance service in respect of any of the exclusions referred to in clauses 6.1 and 6.2 (but it is confirmed that we are under no obligation to do so and is at our discretion) we will endeavour to undertake the work as soon as reasonably practicable and we will be entitled to make additional charges on a time and materials basis in accordance with our standard rates applicable at the time.

7. WARRANTY

7.1.   We warrant that the Support and Maintenance service will be carried out with reasonable care and skill performed in a timely, workmanlike and cost-effective manner. We undertake to remedy any faulty work arising from a breach of this warranty which is reported to us in writing within one month after performance by us of such work. If we rectify such faulty work by the provision of replacement or additional materials or services within a reasonable period of time, we will have no other liability of any kind in respect of or arising from such faulty work.

7.2.   If a problem is found upon investigation not to be our responsibility under the provisions of clause 7.1 we may charge you for all reasonable costs and expenses incurred by us in the course of or in consequence of such investigation.

7.3.   We will not be liable under clause 7.1 to remedy any problem arising from or caused by any modification (whether by way of alteration, deletion, addition or otherwise) made to any part of the software (including data structure) by any person other than us without our express prior written consent.

8.   LIMITATION OF LIABILITY

8.1.   You acknowledge that our obligations and liabilities in respect of the Support and Maintenance service are exhaustively defined in this agreement and General terms. You agree that the express obligations and warranties made by us are in lieu of and to the exclusion of any warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to anything supplied or services provided under or in connection with this agreement including (without limitation) as to the condition, quality, performance, merchantability or fitness for purpose of the Support and Maintenance service or any part of it.

8.2.   You are responsible for the consequences of any use of the Support and Maintenance service. We will not be liable for any indirect or consequential loss, damage, cost or expense of any kind whatever and however caused, whether arising under contract, tort (including negligence) or otherwise, including (without limitation) loss of production, loss or corruption to data, loss of profits or of contracts, loss of operation time and loss of goodwill or anticipated savings, even if we have been advised of their possibility.

8.3.   We accept:

8.3.1   liability for death or personal injury howsoever resulting from our negligence, gross negligence or intentional misconduct; and

8.3.2   liability for damage to property howsoever resulting from our negligence, gross negligence or intentional misconduct subject to the maximum limit of our insurance per claim or series of claims details of which are available from us on request where such negligence, gross negligence or intentional misconduct has arisen or arises in connection with the provision of the services or in connection with any other activities undertaken by us pursuant to or for any purpose related to this agreement.

8.4.   Any condition or warranty which might otherwise be implied or incorporated within this agreement by reason of statute or common law or otherwise is hereby expressly excluded.

8.5.   You agree that, except as expressly provided in clause 7 and this clause 8, we will not be under any liability of any kind whatever and however caused arising directly or indirectly in connection with this agreement.

8.6.   You acknowledge that we are not liable for how and what purpose you use the results of our Support and Maintenance service as this falls outside of our control.

9.   OWNERSHIP

9.1.   The copyright and all other proprietary rights whatever in all material developed under this agreement in connection with the Support and Maintenance service including the modifications are and shall remain our sole property.

9.2.   Conditional upon payment to us of all sums due under this agreement, this agreement will operate to grant you a non-exclusive and non-transferable license to use and reproduce at your own expense for your own internal purposes only. Those modifications supplied for use

as part of the software will be deemed to form part of the licensed materials and be subject to the License Agreement.

APPENDIX 4

Standard Terms for the Supply of Services

These terms are supplemental to the General Terms and Conditions of Sale relating to the Supply of Goods, Software and Services (the "General Terms").

1. AGREEMENT TO SUPPLY

1.1.   We agree to provide you with the consultancy ("Consultancy") services detailed in the quotation at the price set out in it ("the Consultancy Agreement"). The quotation will have set out the terms of reference which define the scope of the consultancy.

2. STANDARD OF CARE

2.1.   We agree to perform the consultancy with reasonable care and skill to be expected of a consultant carrying out work of a nature similar to the consultancy.

2.2.   Unless it explicitly states in the terms of reference that we are providing independent consultancy services, consultancy may involve advising on solutions provided by suppliers with whom we have a relationship. However, even where we are not providing independent consultancy services, our advice will take into account your needs and requirements (as you have told them to us).

3. CHARGES

3.1.   Unless otherwise stated, our charges do not include hotel accommodation, subsistence or travel costs for staff which we supply to you and which will be charged to you at cost (with the addition of applicable taxes, eg VAT at the current rate).

4. ADDITIONAL SERVICES

4.1.   We may be prepared to carry out additional consultancy services for you but these will be carried out on a time and materials basis at the standard hourly rate of that time.

5. INTELLECTUAL PROPERTY

5.1.   Where we create any intellectual property at your request or pursuant to the provisions of this agreement, you are granted a limited license to use that intellectual property for your own internal purposes. In particular:

    5.1.1.   you may not adapt or amend such intellectual property without our written permission (except to the extent permitted by law);

    5.1.2.   you may not re-use any part (as opposed to the whole) of such intellectual property or incorporate it into any other work without our permission;

    5.1.3.   the license will terminate immediately on notice from us if you are in breach of any of its terms.

5.2.   This agreement is not intended to transfer the title to any intellectual property to you and your license to use any intellectual property as referred to in clause 5.1 above is:

    5.2.1.   dependent upon you having paid all outstanding sums due to us under this agreement or otherwise;

5.2.2. dependent upon your accepting an obligation to reproduce faithfully our copyright symbol or legend on all copies of the intellectual property which you make;

5.2.3. not sole or exclusive.

6. PROVISION OF ASSISTANCE

6.1. You agree to provide us with all reasonable assistance and facilities to enable us to carry out the consultancy, including:

6.1.1. (if the consultancy is to take place on site) providing our staff with suitable space and facilities;

6.1.2. (if the consultancy includes presentation), providing us with a suitable room to perform the consultancy, together with appropriate audio-visual equipment and refreshments;

6.1.3. providing us with access to the hardware, software and data which we reasonably require to carry out the services;

6.1.4. providing us with access to network resources and services which we reasonably require to carry out the services;

6.1.5. carrying out our reasonable instructions relating to the installation, running and testing of any software on your computer equipment. (Note: it may be that the consultancy work requires downtime on your equipment. If this is the case, unless we have priced for out-of-hours consultancy, we shall expect you to schedule for reasonable amounts of down-time during working hours);

6.1.6. providing us with information and access to your staff which we may reasonably require to carry out the services.

6.2. Unless specifically stated in the quotation, this agreement does not oblige us to install, configure, reinstall or reconfigure any software or to reinstate or reload any data and our obligation under it is limited to the terms of reference. You acknowledge that our activities may result in the corruption or erasure of software or data and you must therefore ensure that you keep careful, up-to-date verified backups of software and data using a rotation system and regularly replaced media.

6.3. You agree not to change the location where the consultancy is carried out without our written consent.

7. STAFF

7.1. We do not guarantee that we can supply specific, named or qualified staff to perform the consultancy work.

7.2. We may sub-contract the work to such third parties as we consider appropriate (as defined in clause 8 of the General Terms). Where you have nominated the sub-contractor, you accept liability for their acts and defaults.

8. COPYRIGHT

8.1. You confirm that you have, and will throughout the subsistence of this consultancy agreement continue to maintain, valid copyright and other intellectual property licenses in relation to all third party computer programs, images, logos, trademarks or other items which are the subject of this consultancy agreement so that no one working under this consultancy

agreement will infringe any third party copyright or other intellectual property right in carrying out the consultancy.

8.2. You agree to fully and effectively indemnify us against any loss which we may suffer arising from your breach of the above clause 8.1.

9. TERMINATION

9.1. In addition to the termination provisions set out in the General Terms, we may terminate this consultancy agreement by notice in the following circumstances:

9.1.1. if any sums you owe to us remain outstanding after they become due;

9.1.2. in the event that you fail to provide the staff supplied to you under this agreement and working on your premises (or premises specified by you) with a safe system of work or require that that member of staff works in conditions or with equipment which are in any way unsafe or hazardous or if you otherwise act unreasonably so as to delay for a significant period of time our completion of the services.

9.2. You may terminate this consultancy agreement in the following circumstances:

9.2.1. if any of our staff fails to attend for a period of not less than fifteen (15) consecutive working days unless you authorise the absence in advance or it is due to sickness or injury;

9.2.2. if any of our staff commits any act of gross misconduct;

9.3. Provided that in the case of each of the cases referred to in clauses 9.2 above you may not terminate this agreement unless and until the matter has been referred to the Disputes clause referred to in the General Terms and you have not found the outcome satisfactory.

10. LIABILITY

10.1. Unless specifically stated otherwise in the quotation, we shall not be liable for any physical loss or damage to your hardware or software or other equipment nor for any loss (including loss of business profits), damages, claims or expenses of whatever nature whether direct or consequential arising directly or indirectly as a result of such physical loss or damage or of programming or other error by us in carrying out the consultancy or for any claim whether by you or your employees, agents or customers arising out of any of our acts or omissions or those of any of our staff caused by reason of negligence or breach of duty in excess of the total amount paid by you to us under this agreement over the three months immediately preceding such a claim.

Standard Terms for the Core Software License
These terms are supplemental to the General Terms and Conditions of Sale relating to the Supply of Goods, Software and Services (the "General Terms").

IMPORTANT: UNLICENSED USE OF COPYRIGHT SOFTWARE IS ILLEGAL AND CAN RESULT IN CRIMINAL PROCEEDINGS.

WE TREAT SOFTWARE PIRACY SERIOUSLY AND WILL NOT HESITIATE TO USE ALL LEGAL MEANS AVAILABLE TO STOP IT.

1. DEFINITIONS

1.1.   "We" and "us" means the company as outlined in the General Terms in clause 1.

1.2.   "You" means the party seeking to use the software as outlined in the General Terms in clause 1.

1.3.   "Use" means to cause the software (or part of it) to run, but does not, unless explicitly stated in the quotation or otherwise in writing by us, include processing any data or providing bureau or similar purposes for any other person. It expressly excludes any form of rental (as defined within the Copyright (Computer software) Directive 1992). Rental also includes accepting any reward for permitting anyone else to use the software.

1.4.   "Software" means the software (including but not limited to object code, libraries, all data, help files, etc) licensed by us.

1.5.   A "User" as well as a person or party or organisation also includes another program or macro or other automated process which uses the software.

1.6.   "Loaded" means copied onto a fixed disk or other storage medium.

1.7.   A "System Unit" includes a stand-alone computer system including processing unit (which may or may not contain multiple processor chips), data entry device (*such as keyboard or microphone*) and an output device (*such as screen, printer or loudspeaker*). It includes network computers and terminals.

1.8.   Use is still "Simultaneous" within the meaning of this license if two or more instances of the software are running.

1.9.   "Network Server" includes multiple network servers or disk arrays with network connectivity.

2. LICENSE

2.1.   This license contains the terms on which we permit you to use the software.

2.2.   You only have a right to use the software in two cases:

2.2.1.   the software has been licensed to you by us or by our authorised reseller;

2.2.2.   you have received a valid assignment of this license from someone else ("a former owner");

2.3.   If you do not have a right to use as set out above, you must not use this software, or attempt to assign or grant any license to anyone else. If you attempt to do so, you will be breaking the law and you may be pursued for damages, an injunction and you may also be subject to criminal proceedings.

2.4.   If you received the software from a former owner, you cannot obtain any greater rights to use the software than they themselves had. If you fail to obtain the rights you expected, your remedy will be to issue proceedings against the former owner (*for example, if the former owner did not hold a valid license you will obtain no rights to use the software from them*).

2.5.   A former owner can only assign the software to you after they have received written permission/authorisation from us allowing the transfer from them to you. Any dispute you have with a transfer that has not been authorised by us is between you and the previous owner.

2.6.   NOTE THAT THE SOFTWARE MAY CONTAIN DISABLING DEVICES DESIGNED TO PREVENT ITS UNLICENSED OPERATION.

3.   GRANT OF LICENSE

3.1.   If you have a valid right to use as set out above, you may use the software providing the use falls within the permitted uses set out below, and for no other purposes. Your license is non-exclusive and does not permit you to sub-license or transfer unless agreed in writing by us.

3.2.   The only right that this license grants you is to prevent us from pursuing legal proceedings against you for breach of copyright if you are using the software within the terms of the license. Any other rights you may have against us arise only:

3.2.1   through a valid contract (if any) concluded between you and us; and

3.2.2   through operation of law.

3.3.   Because this is not a contract, it cannot contain any warranties and none can be construed from it.

4.   TYPES OF LICENSE

4.1.   This license will fall within one of the following categories. Because each successive holder of this license can gain no more rights than the previous holder, the category will be that under which the license was obtained by the first legitimate holder of it. Details of that category will be contained on the quotation granted to the first holder. Each transfer/assignment of the software must be authorised by us in writing for the transfer/assignment to be valid.

4.2.   Use Categories:

4.2.1.   Single user: The software may only be loaded onto one system unit and must not be configured so that it is possible for it to be used from any other system unit. It must not, in any event be possible for more than one person to use the software simultaneously or for more than one instance of the software to be running;

4.2.2.   Multiple user: The software may only be loaded onto, at most, the number of system units specified in the quotation. It must not be configured so that it is possible for it to be used from any system units other than those onto which it is validly loaded. It must not, in any event, be possible for more than one person to use it simultaneously. A multiple user license can only be assigned in its entirety, and any purported assignment of a sub-set of the number of users is void;

4.2.3.   Site license: The software can be loaded onto all System Units located at the site or sites specified in the quotation and used by any number of users located at that site. It must not be used from any remote location (whether by remote access software or otherwise), for which an additional license is required. If you hold a site license and wish to assign it you may only do so on the basis that either:

4.2.3.1   the site to which the license refers remains the same; or

4.2.3.2 if you wish to use the software at a different location, the license reverts to a single user license.

4.2.3.3 in the case of 4.2.3.2 above, you agree to inform any future licensees that the license has reverted to a single user license;

4.2.4. Multiuser license (limited user): The software may be loaded onto a server provided that it cannot be used simultaneously by more than the number of users specified in the quotation;

4.2.5. Multiuser license (unlimited user): The software may be loaded onto a server and may be used by any number of users within your organisation.

4.3. Duration Categories:

4.3.1. Indefinite license: An indefinite license expires upon the expiry of Copyright in all elements of the software (unless it terminates earlier pursuant to a breach of this agreement);

4.3.2. Periodic license (e.g. annual license): A periodic license expires automatically at the end of each period referred to in the quotation, unless it is renewed by the payment of relevant license fees to us. Note that in the case of a periodic license the obligation to pay license fees rests with the original owner unless we have entered into a contract with you to the contrary. Your contractual obligation to pay any license fees does not assign with this license and remains in full force and effect unless we agree in writing to the contrary.

5. PERMITTED AND RESTRICTED USES

5.1. In addition to the uses permitted by the category into which the license falls, the following also apply:

5.2. Permitted Uses:

5.2.1. Backups: To make a reasonable number of backup copies of the software;

5.3. Restricted Uses:

5.3.1. Decompilation: You are advised that before embarking on any attempt to decompile or reverse engineer the software you must contact us and give us information as to:

5.3.1.1 why you wish to decompile the software;

5.3.1.2 details of the programs you wish to cause the software to interoperate with;

5.3.1.3 details of the precise information you require to enable the interoperability to take place and;

5.3.1.4 your name, address, and sufficient information to enable us to be reasonably sure that you are a legal licensee of the software.

5.3.2. If we are satisfied that the proposed decompilation falls within the relevant criteria such that we cannot restrict it within the terms of the Copyright Designs and Patents Act 1988 (as amended) we shall make the information required readily available to you at a price, and on reasonable terms as to confidentiality etc;

5.3.3. IN ANY CASE YOU ARE GRANTED NO RIGHT TO DECOMPILE OR REVERSE ENGINEER THE SOFTWARE.

6. ASSIGNMENT

6.1.   You must obtain written authorisation from us to allow you to assign this license in full. You cannot assign any part of this license.

6.2.   If you assign this license you are advised to give all documentation (including but not limited to the quotation, all contractual terms and any other agreements) to the assignee and to give them evidence that you are a valid assignor. Once you have assigned this license, you no longer have a right to use the software and you should destroy all copies you have of the software (or give them to the assignee) as you will be in breach of copyright by using them or loading them.

6.3.   You are reminded that termination or assignment of this license does not necessarily result in the termination or assignment of any contract you may have with us (see the contract's terms as to whether that is the case).

7. TERMINATION

7.1.   This license will terminate automatically if you breach any of its terms and/or if you fail to pay for the annual Support and Maintenance service.

7.2.   This license will terminate automatically if the original licensee breaches any term of the agreement under which it was granted, or if that agreement otherwise provides that this license terminates.

7.3.   Upon termination all rights you have to use and assign the software will cease. You are reminded that it is illegal to use unlicensed software. We may be entitled to visit your premises to seize all unlicensed software and clause 2.6 of these terms may apply.

8. LAW

8.1.   This license is to be construed in all respects under the Laws of England and subject to the jurisdiction of the courts of England.

9. RIGHTS OF THIRD PARTIES

9.1.   This agreement is not intended to convey benefit on any person or party not a party to it and accordingly the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded.