

Software Licence Agreement

LICENCE AGREEMENT NUMBER

BETWEEN:- SOFTWARE (EUROPE) LIMITED		and
"SEL"		"Licensee"
Registered office address: Nibley House Low Moor Road Doddington Road Lincoln LN6 3JY		Registered office address:

"Program"	expenses
"Type of Licence"	Annual renewable licence
"Licensed For"	Licensed for a maximum of x claimants per month
"Duration"	For an initial period of x from the Date of Licence, should this Licence not be cancelled with the appropriate notice, the Licence is automatically renewable for subsequent years.
"Date of Licence"	
"Annual Charge"	

1. LICENCE

SEL grants to the Licensee a non-exclusive and non-transferable Licence to use the Program. The Program will be hosted on a server controlled by SEL, in accordance with the terms and conditions contained herein.

2. USAGE

- a) This Licence entitles the Licensee to use the Program for the number of monthly claimants Licensed For.
- b) The Licensee agrees to test the usage of the Program, prior to releasing for use by their users.

3. CHARGES

- a) On signing this Licence, the Licensee shall pay SEL the Annual Charge.
- b) Unless terminated in accordance with Clause 5, the Annual Charge will be due on each anniversary of the Date of Licence. The Annual Charge will not increase in any single year by more than 10% or the percentage increase in the retail price index during the preceding 12 months, whichever is the greater.
- c) Interest on overdue amounts shall be charged at the rate of 3% above the base rate of Barclays Bank plc from time to time, such interest to run from the due date for payment until the date the payment is received.
- d) All charges are exclusive of VAT and any other taxes. The Licensee agrees to pay all present and future applicable VAT and other taxes.
- e) SEL licenses the Program to the Licensee for the number of claimants each month. SEL will audit the usage monthly and if the number of claimants is greater than what is Licensed for, SEL will invoice Licensee the current Annual Charge for the increase in number of claimants, based on SEL's then current list price at that time, and upgrade the Licence accordingly.
- f) If the Licensee seeks to transfer the Licence whether as part of a facilities management, outsourcing arrangement, acquisition or merger the Licensee shall notify SEL of its intention. SEL at its sole discretion may enter into a novation or other agreement with the Licensee and/or the other party concerned subject to a charge of 10% of the Program's then current list price.

4. MAINTENANCE AND SUPPORT

- a) SEL will provide technical support by qualified staff during normal UK office hours (9am to 5pm, Monday to Friday excluding UK bank holidays). SEL will provide emergency out of hours support at all other times.
- b) The technical support provided by SEL will include implementation of new releases, advice on the use of the Program, and resolution of reported errors.
- c) Resolution of reported errors shall be conditional upon the Licensee having provided all requested information.
- d) SEL shall use reasonable endeavours as soon as reasonably practicable to diagnose and provide corrections for problems in the operation of the Program. SEL will attempt to diagnose and correct

faults by telephone; if necessary a qualified technical consultant will attend the Licensee's location. Provided that the fault was not due to an amendment, error or any other breach made by Licensee, no charge will be made for error resolution on site.

- e) SEL shall not be responsible for providing the service or maintenance and support services, when any payment is more than one month overdue.
- f) Any support required, additional to that provided under this Licence, (i.e. customer requested product change) shall be subject to agreement in writing between SEL and Licensee and shall be the subject of an additional charge calculated in accordance with SEL's then current list price.
- g) Subject to the obligation of confidentiality set out in Clause 10 below, the Licensee shall permit full access to the Program and any associated non-confidential data created by Licensee, which SEL reasonably deems necessary to enable SEL to perform its obligations under this Licence.

5. TERMINATION

- a) This Licence shall continue until terminated in accordance with the terms hereof. This Licence shall automatically be renewed annually for the duration of the agreed term of service noted herein (the "Term"), unless terminated by either party giving not less than three months written notice prior to expiry of the Term.
- b) In the event of a failure to comply with the obligations of this Licence, the non-defaulting party shall give the defaulting party thirty days written notice to rectify the problem. If the problem is not rectified within the thirty-day period, then the non-defaulting party shall have the right to terminate this Licence forthwith by written notice.
- c) Subject to Clause 7(b) no refund of charges shall be made by SEL.
- d) At termination of the Licence (at its own expense) Licensee shall return all documentation to SEL and shall retain no copies. The Licensee will additionally certify to SEL in writing, that all relevant information held by it has been returned.
- e) On termination of the Licence Agreement by either party, all Licensee's data with regards to the Program will be made available to Licensee.

6. WARRANTY

- a) SEL warrants that it is the owner of the Program and has the right and authority to licence the Program to the Licensee upon the terms and conditions contained herein.
- b) SEL warrants that for the Duration of the Licence the Program will substantially and materially provide the facilities and functions set out in the Program's current published specification, when properly used by the Licensee. SEL also warrants that the user documentation will provide adequate instruction to enable the Licensee to properly use the Program.
- c) SEL's obligation under this warranty shall be as specified in Clause 4 (d).
- d) The warranty shall not apply if: (i) an item of the Program was not used in accordance with SEL's reasonable instructions as notified to it from time to time; (ii) an item of the Program shall have been altered, modified or converted by the Licensee not in accordance with the user documentation, as supplied by SEL, or without SEL's written approval, (iii) any of the Licensee's

hardware or operating system shall malfunction causing the defect in the Program, or (iv) the Licensee fails to provide SEL with all reasonable requested documentation.

- e) This warranty is in lieu of all other warranties expressed or implied, including but not limited to, the implied warranties of satisfactory quality and fitness for particular purpose.

7. LIABILITY

- a) SEL maintains a (world-wide) public liability insurance policy with a limit of indemnity of £1,000,000.
- b) SEL's liability arising from the supply or use of the Program shall be the portion of monies paid to the unexpired term of the Licence from the date that SEL's liability arose up to the anniversary of the Date of Licence and shall in any event not exceed the total amount paid to SEL by the Licensee in the preceding twelve (12) months under this Licence. SEL shall not be liable for loss of profits, goodwill or any type of special, indirect or consequential loss even if reasonably foreseeable. No claim under this Licence can be advanced if more than one year has elapsed after the reason for the claim arose.

8. INDEMNITY

- a) SEL shall indemnify the Licensee at its own expense against all claims of infringements of patents, trademarks, industrial designs, copyrights or other intellectual property rights affecting the Program provided that the Licensee shall not have done, permitted or suffered to be done anything which caused or contributed to the infringement.
- b) The Licensee undertakes that SEL shall be given prompt notice of any claim specified in Clause 8(a) that is made against the Licensee and SEL shall have the right to defend any such claims and make settlements thereof at its own discretion and the Licensee shall give such assistance as SEL may reasonably require to settle or oppose any such claim.
- c) In the event that any such infringement occurs or may occur, SEL may at its sole option and expense (i) procure for the Licensee the right to continue using the Program or infringing part thereof, or (ii) modify or amend the Program or infringing part thereof so that the same becomes non-infringing without detracting from the overall performance of the Program, or (iii) terminate this Licence. In the event of termination in accordance with this Clause 8(c), SEL will reimburse the Licensee the total amount paid by the Licensee to SEL under this Licence during the preceding twelve months.

9. INSOLVENCY AND BANKRUPTCY

- c) If either party becomes insolvent or bankrupt or (being a company) makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for the purposes of amalgamation or reconstruction), the other party may, without prejudice to any other of its rights, terminate this Licence forthwith by written notice to the other party or any person in whom the Licence may become vested. Termination will take effect when the written notice is delivered to the last known trading address of the party.

10. CONFIDENTIALITY

- a) SEL is vested with and retains full and exclusive ownership of the Program. The Licensee agrees that the Program is a proprietary product and trade secret of SEL and that all copyrights and patent rights of the Program are the sole and exclusive property of SEL.

- b) The Licensee undertakes that it shall hold the Program in confidence and shall not disclose it or any part of it to any third party, other than its employees and authorised contractors, auditors and agents. The Licensee shall impose upon its employees the same duty of confidentiality as is contained in this Licence. The Licensee will take all reasonable steps to safeguard the confidentiality of the Program in the same fashion as it would safeguard its own proprietary information or trade secrets. SEL undertakes to be bound by a similar obligation of confidentiality attaching to data and other confidential information of the Licensee and any companies associated with the Licensee. Clause 10(b) shall not apply to information: (i) in the public domain other than through breach of this License, (ii) already known to the parties prior to this Licence, or (iii) obtained from a third party entitled to disclose it.
- c) The Parties acknowledge that in providing the provisions of Clause 4, SEL is acting as a Data Processor under the Data Protection Act 1998 (the "Act") and the Licensee is the Data Controller under the Act. The Parties shall comply with their respective obligations under the Act and any other applicable legislation relating to the processing of personal data. Without limitation to the foregoing, (i) the Licensee shall obtain appropriate consents to enable personal data to be transferred between the Parties in connection with the Support Services and for the Support Services to be performed in compliance with the Act and (ii) SEL shall, in relation to personal data (as defined in the Data Protection Act 1998) of the Licensee or its agents, only use the personal data as necessary to perform its obligations under this Licence, shall not pass the personal data to any third party nor transfer it outside of the EEA and SEL shall treat the personal data of the Licensee and its agents to at least the same degree as it would its own personal data that it is the data controller for.
- d) All extensions and modifications to the Program (whether or not patentable and copyrightable) developed by SEL or any other party on behalf of the Licensee shall be deemed to be part of the Program and all rights therein shall be the sole and exclusive property of SEL.
- e) The Licensee agrees to SEL naming the Licensee on a list of named customers and that the request for approval of publicity copy will not be unreasonably withheld.

11. FORCE MAJEURE

- a) Neither party shall be responsible for failure to fulfill its obligations under this Licence if such failure results from circumstances beyond the party's reasonable control for a period commencing from the time at which notice is given in writing of the existence of the Force Majeure event by the party invoking this Clause and terminating at the time when the circumstances creating the Force Majeure conditions are removed.
- b) Should such Force Majeure conditions apply for a period of more than four weeks from the date of notification by the non-performing party, and then the other party shall have the right to cancel this Licence without incurring any further liability.

12. GOVERNING LAW

f) This Licence shall be governed by and construed in accordance with English law and the parties hereby agree to submit to the non-exclusive jurisdiction of the English Courts.

13. GENERAL

- a) No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the parties. Any consent by any party to, or waiver of, a breach of the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- b) SEL have configured the VAT rules within the Program using best endeavours to be accurate, however, some VAT authorities may interpret the rules differently. It is the responsibility of the Licensee to ensure the rules implemented are appropriate for their local VAT authority.

14. HOSTED SERVICE

- a) SEL provides the Program as a hosted service running on a server controlled by SEL. A backup server is kept at a separate location to the primary server, using a replication server to ensure every transaction on the primary server is kept up to date on the backup server. If SEL’s primary server becomes inoperable for any reason, the backup server will become the primary server, a switch that would take place within an hour of Licensee being notified.
- b) All access to the website from Licensee’s browsers is encrypted, using HTTPS. The Server is password protected, requiring Company Name, User Id and Password and a valid entry only allows the user or administrator to see the data the users are allowed to.
- c) Configuration. SEL will help Licensee configure and tailor the system for Licensee’s use to the best of SEL’s ability, however it is the responsibility of Licensee to ensure the configuration is correct as far as Licensee is concerned. This configuration includes the VAT rules within the Program, which are configured as SEL believe to be accurate, however, some VAT authorities may interpret the rules differently. It is the responsibility of the Licensee to ensure the rules implemented are appropriate for their local VAT authority.
- d) SEL reserve the right to a maintenance period, where the service may not be available from time to time. This will generally be on a Saturday morning between the hours of 6am and 8am unless notified otherwise.

Software (Europe) Ltd		
SEL		LICENSEE
Company Signature		Licensee’s signature
Name		Name

Position of signing person		Position of signing person
Date		Date