**LICENSE AGREEMENT – NON TRANSFERABLE AND**

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**NON EXCLUSIVE LICENSE**

This licence Agreement – Non-Transferable and Non-Exclusive (the "Agreement") is effective [DATE],

**BETWEEN: [PROGRAMMER NAME]** (the "Programmer/Programmer"), a company organised and existing under the laws of the [PROVINCE/STATE] of [COUNTRY], with its head office located at:

[YOUR COMPLETE ADDRESS]

**AND: [YOUR COMPANY NAME]** (the "Developer/Developer"), a company organised and existing under the laws of the [PROVINCE/STATE] of [COUNTRY], with its head office located at:

[COMPLETE ADDRESS]

**Background:**

A. Programmer has developed, and is entitled to licence to others including Developer, a computer programme called [SPECIFY] (the "Software"), capable of running on [SPECIFY] IBM compatible PC or higher, and related user documentation (the "Documentation") (collectively, the Software and the Documentation constitute, the "Work").

B. Developer wishes to licence the use of the Work, and Programmer has agreed to licence such use, pursuant to the terms of this agreement.

1. **GRANT OF LICENSE**

Programmer hereby grants to Developer, for the internal use of Developer only, a personal, non-transferable and non-exclusive licence to use: (i) the Software, solely in executable object code format, on a single workstation (the "Workstation"); and (ii) the Documentation provided therewith at the location(s) noted under "Specific Use Permitted" in Schedule "A" (the "Authorized Location(s)"). Developer's right, if any, to use the Software on a network or to otherwise use the Software on more than a single workstation at a particular authorised Location is subject to Developer having been granted an express license, under "Specific Use Permitted" in Schedule "A", to access the Software for each workstation thereon from which Developer intends to use the Software. Unless otherwise provided under "Specific Use Permitted" in Schedule "A", one copy of the Documentation will be provided with each copy of the Software that Developer is to be provided with hereunder. At the written request of Developer, additional copies of the Documentation will be licenced to Developer at Developer's cost.

1. **RESTRICTIONS ON USE**

Developer shall (a) not copy the Software except to copy it onto a hard disc attached to Developer's Workstation and to make one copy of the Software solely for backup purposes; (b) not copy any of the Documentation for any purpose; (c) not assign this agreement or transfer, lease, export or grant a sublicense of the Work or the licence contained herein to any Person except as and when authorised to do so by Programmer in writing; (d) not network the Software or otherwise use it on other than Developer’s Workstation except as expressly provided for in Schedule "A"; (e) not reverse engineer, decompile or disassemble the Software; (f) not use the Work except as authorised herein; (g) take all reasonable precautions to prevent third parties from using the Work in any way that would constitute a breach of this agreement including, without limitation, such precautions as Developer would otherwise take to protect its own proprietary software or hardware or information. In addition, Developer shall not use the Work to act as a service bureau, in whole or in part, for any other Person, including any affiliate of Developer except as expressly provided in Schedule "A". For the purposes of this agreement, "Person" includes an individual, company, partnership, joint venture, trust, unincorporated organisation, the Crown or any agency or instrumentality thereof or any other judicial entity recognised by [YOUR COUNTRY LAW].

1. **AUTHORISED LOCATION (S)**

Provided that Developer is not in default of any term of this agreement, Developer may change the Authorised Location (s) from time to time, without the consent of the Programmer, by delivering [NUMBER] days prior written notice of the change of location to the Programmer together with written confirmation that Developer will comply with the following conditions:

* 1. The proposed Authorised Location shall be within the same municipality as the current Authorised Location; and
  2. The use of the Work at the current Authorised Location shall cease by the time of commencement of the use of the Work at the proposed Authorised Location.
  3. Otherwise, unless expressly provided under "Specific Use Permitted" in Schedule "A", Developer may change an Authorised Location only with the prior written consent of Programmer, which shall not be unreasonably withheld.

1. **DELIVERY, INSTALLATION AND DATA CONVERSION**
   1. As indicated in Schedule "A", Programmer shall deliver that number of copies of the executable object code for the Software to those Authorised Locations (together with such Documentation as is reasonably required by Developer to operate the Software in the manner contemplated hereunder) and instal the Software on the applicable Workstation(s) at each Authorised Location.
   2. The installation of the Software at an Authorised Location shall be deemed to be completed on the date that Programmer provides written notice to Developer that the Software, including those modifications (the "Modifications"), if any, as set out in Schedule [SPECIFY] hereto, has been properly installed, is in good working order, capable of meeting those requirements mutually agreed to by Programmer and Developer as set out in Developer's current user documentation as modified by Schedule [SPECIFY] (the "Developer's Specifications") and otherwise ready for Developer to commence acceptance testing of the Software at the particular Authorised Location as contemplated in Section 6.
   3. In conjunction with, and as part of, the installation of the Software at an Authorised Location, if specifically contracted for in Schedule [SPECIFY] hereof, Programmer, in consultation with and with the reasonable assistance of Developer, shall be responsible for and shall carry out an electronic conversion of Developer's data, as more particularly described in Schedule [SPECIFY], from its current electronic form into a form suitable for processing with the Software and as required for the testing of the Software and for use of the Software as contemplated hereunder.
2. **TRAINING**

In conjunction with the installation of the Software at each Authorised Location, and prior to the commencement of acceptance testing at such Authorised Location, Programmer shall provide, for a period of up to [NUMBER] man-days at the first Authorised Location and [NUMBER] man-days at each subsequent Authorised Location, suitably qualified employees and appropriate documentation and manuals to train, and shall train, Developer's personnel in the proper use, and day-to-day routine support, of the Software at such time as is mutually convenient for both Programmer and Developer.

1. **ACCEPTANCE TESTING AT EACH authorised LOCATION**
   1. *In re*spect of each Authorised Location, upon written notice by Programmer of the completion of the installation of the Software as provided for in Section 4 and the basic training provided for in Section 5, for a period of [NUMBER] days, Developer shall operate the Software in accordance with Developer's normal operating practices. At the end of each day during such [NUMBER] day operational period, Developer shall notify Programmer of any instances in which the Software does not perform in accordance with Developer's Specifications.
   2. If Programmer receives such notification, then it shall take such actions as are necessary to allow the Software to perform in accordance with the Developer's Specifications. Once it has completed such action, the Software shall be retested by Developer in accordance with Section 6(a). Such testing and notification by Developer and remedial action by Programmer shall be repeated until the Software has been accepted by Developer, acting reasonably, as performing in accordance with such criteria.
   3. Notwithstanding (a) and (b) of this Section 6, Developer acknowledges and agrees that there may be minor deficiencies in the Software and provided that on notification thereof Programmer promptly rectifies such deficiencies, the acceptance of the Software will not be delayed thereby.
   4. If Programmer does not receive notice of any deficiencies within [NUMBER] days after the completion of the acceptance period, then Developer shall be deemed to have accepted the Software at that Authorised Location.
2. **OPTION TO REJECT SOFTWARE**

If during the [NUMBER] day period described in Section 6, the Software has failed to perform in accordance with the Developer's Specifications and Programmer has been unable to correct the deficiency within the latter of (i) [NUMBER] days written notice being provided to Programmer of such failure and (ii) [NUMBER] days from the start of acceptance testing at such Authorised Location, then Developer shall have the option, exercisable on [NUMBER] days written notice to Programmer, in lieu of any other remedy, to reject the Software. Such option shall terminate if in the interim, the Software should successfully complete acceptance testing.

1. **OPTION TO REJECT EXERCISED**

If Developer exercises its option to reject the Software in accordance with Section 7, then the [COMPANY NAME] hereto shall forthwith carry out the following actions and this agreement will terminate upon their completion:

* 1. Developer shall return all copies of the Work and all of Programmer’s Confidential Information in its possession or control to Programmer; and
  2. Programmer shall return to Developer the amounts paid to Programmer hereunder, if any, and all of Developer’s Confidential Information in its possession or control.

1. **COOPERATION AND IMPLEMENTATION**
   1. Each of Programmer and Developer have designated in Schedule [SPECIFY], a responsible individual from their respective organisations with the authority and competence to act, and responsibility to serve, as a project manager hereunder and deal with the other party with respect to the Software. Developer's project manager shall also be responsible for providing or coordinating the provision of such information about Developer and its operations, external and internal procedures and such other information as Programmer may reasonably require in order to perform its obligations hereunder including supervising the conduct of the various acceptance tests and managing and scheduling the Software following installation thereof.
   2. Developer's project manager shall have the authority on behalf of Developer to notify Programmer that any acceptance tests provided for herein have been successfully passed or, where applicable, that Developer waives compliance with any such acceptance tests. Programmer's project manager shall be responsible for coordinating with Developer's project manager, the delivery and installation of the Software. The project managers shall on such basis meet as may be reasonably requested by either of them in writing.
   3. Programmer and Developer shall use their best efforts to carry out their respective obligations under this agreement in accordance with the Implementation Schedule set out in Schedule [SPECIFY].
2. **MAINTENANCE AND SUPPORT**
   1. The "Maintenance Commencement Date" is the date that acceptance testing is successfully completed at any of the Authorised Locations. For a [NUMBER] year term commencing upon the Maintenance Commencement Date, upon paying the fees payable hereunder including the Initial Annual Maintenance Fee, and for each year thereafter, provided that Developer continues to pay the Annual Maintenance Fee, Programmer shall provide the following maintenance and support services (the "Maintenance Services") *in re*spect of the Work:
      1. Software Update Service;
      2. Telephone Support Service;
      3. Software Repair Service; and Ancillary Services
      4. Programmer warrants that all Maintenance Services will be provided in a workmanlike manner by duly qualified personnel in accordance with all applicable Provincial/Federal regulations governing such services.
      5. Software Update Service
   2. As part of the Software Update Service, Programmer shall provide to Developer:
      1. any known problem resolutions relating to the Software to Programmer on a periodic basis; corrections for problems that Programmer diagnoses as defects in a currently supported version of the Software;
      2. all modifications, refinements, and enhancements ("Improvements") which Programmer elects to incorporate into and make a part of the Software and does not separately price or market;
      3. new releases of the Software which Programmer elects to make available to its general client base;
      4. Improvements required to allow the Software to operate in conformance with new versions or releases of [MSDOS] so long as such Improvements are technically feasible;
      5. updated user manuals on an annual basis; and a user newsletter provided on a periodic basis.
   3. Telephone Support Service

Telephone Support Service includes Developer having direct telephone access to employees of Programmer who have the necessary technical expertise and experience to understand and consider Developer's inquiries concerning the Software failing to work pursuant to Developer's Specifications and to clarify Documentation that is either insufficient or unclear. Such direct telephone access shall be available Monday through Friday, exclusive of statutory holidays, [SPECIFY TIME] to [SPECIFY TIME]. [SPECIFY TIME ZONE]. Programmer shall be obligated to respond to such inquiry as soon as is practically possible but in no event shall an initial phone back take more than [NUMBER] business hours to provide. In the event that the ultimate response is not satisfactory to Developer, acting reasonably, or is nor otherwise provided within [NUMBER] Business Days, then Programmer shall provide Software Repair Services, if applicable.

* 1. Software Repair Service

Should the Software not operate substantially in conformance with the Developer's Specifications in all material respects, Programmer will use its best efforts to repair the Software by modem at no additional charge to Developer. In order to receive the Software Repair Service, Developer acknowledges that it must have a licenced copy of [SPECIFY] or of any other communications software programme approved in advance by Programmer, in writing, as well as, at a minimum, a [SPECIFY]. Notwithstanding the foregoing, Programmer may, at its discretion and by providing written notice prior to such service, charge a fee at its then standard rates to provide Software Repair Services, which are required due to:

* + 1. Failure due to operator errors;
    2. Failure to maintain Software at such version or release of the Software provided by Programmer or such updated version or release thereof as is provided by Programmer to Developer, from time to time, at no additional charge as part of the Maintenance Services or otherwise;
    3. Modification of the Software by Developer; or the Software being transferred to a different networking environment or hardware configuration without the prior written consent of Programmer.

10.4.5 Ancillary Services

During the initial one year term of Maintenance Services and every one year renewal term thereafter, Programmer shall provide Developer, at the written request of Developer, at no additional charge, up to [NUMBER] man-hours of services by Programmer's employees to develop modifications to the Software to meet Developer's specific needs but such services shall not include the provision of modifications which either increase the performance or functionality of the Software. Unused man-hours cannot be accrued from term to term. The determination of whether a request by Developer for services to develop a specific modification to the Software is to be included as part of the Ancillary Services shall be made by Programmer, in its sole discretion.

Developer understands and agrees that all solutions, corrections, Improvements, and new releases supplied by Programmer should be promptly implemented in the Software. Developer further recognises that its failure to so implement such solutions, corrections, Improvements, and new releases may render the Software unusable or nonconforming to the Documentation, and Developer agrees to assume all risks therefrom, and release Programmer from all liability *in re*spect thereof.

Programmer covenants that it shall continue to offer to provide Maintenance Services to Developer on the same terms as provided hereunder for a period of time no less than the later of: (i) the date when Programmer is no longer offering Maintenance Services for the Work to any other user; and (ii) [NUMBER] months from the Maintenance Commencement Date. - Developer shall have the option to contract for Maintenance Services for successive [NUMBER] month periods and shall be deemed to have elected to have accepted such option unless Developer notifies Programmer in writing no less than [NUMBER] days prior to the commencement of the next twelve month period for such Maintenance Services that Developer wishes to discontinue the Maintenance Services. If Developer elects to terminate the ongoing provision of Maintenance Services, then Programmer shall no longer have any obligation to provide such services hereunder. In any event, Programmer shall provide [NUMBER] months written notice of its decision to no longer provide Maintenance Services and such termination shall not interfere with any [NUMBER] month period of Maintenance Services contracted for by Developer.

1. **FEES**
   1. Developer shall pay those licence fees as set out in Schedule "A" for the use of the Work at each Authorised Location, (including for the use of Modifications to the Software) (the "License Fees") and certa*in re*lated fees as follows:
      1. all delivery and installation costs plus [PERCENTAGE %] of the licence Fees upon the execution of this agreement by both parties;
      2. [PERCENTAGE %] of the licence Fees upon the provision of written notice under Section 4 that the Software is ready for acceptance testing at that Authorised Location; and
      3. [PERCENTAGE %] of the licence Fees upon the successful completion of acceptance testing of the Software at the authorised Location.
   2. The maintenance fees for the [NUMBER] month period commencing upon the Maintenance Commencement Date (the "Initial Annual Maintenance Fees") are set out in Schedule "A" hereto and shall be within [NUMBER] days of the successful completion of acceptance testing at any Authorised Location. Thereafter, on an annual basis, Programmer may increase its Maintenance Fees for subsequent [NUMBER] month periods provided that:
      1. such increase does not on a percentage basis exceed the percentage increase in the Consumer Price Index (all categories) for [COUNTRY] over the previous [NUMBER] months from the date of such increase as determined by Statistics [COUNTRY];
      2. Programmer gives [NUMBER] days prior notice of such increase before it is to become effective;
      3. such increase constitutes the only increase in such calendar year; and
      4. such increase is as a result of Programmer instituting a general price increase for Maintenance Services of at least the same magnitude in its national price list, which is applicable to all of its customers.
   3. The licence Fee, the Annual Maintenance Fees, including the Initial Annual Maintenance Fee, and all other fees payable hereunder to Programmer, are exclusive of all sales, use or other taxes, customs, duties and similar levies if any, payable in or to any jurisdiction or authority whatsoever, which taxes, duties and levies shall be the responsibility of Developer (other than taxes on the net income of Programmer). Overdue amounts shall accrue interest from the relevant due date until the date that payment is received at the rate of [PERCENTAGE %] per month ([PERCENTAGE %] per annum).
   4. With the prior written consent of the Developer, those additional services rendered by Programmer which are reasonably contemplated hereunder as being provided at an additional charge and the charge for which is not otherwise set out herein may be charged to the Developer at Programmer's standard rates then in effect plus, where travel outside of Metropolitan [COUNTRY] is required, all reasonable out-of-pocket expenses approved in advance by the Developer, including, without limitation, transportation, lodging, and meals. Such payment is payable within [NUMBER] days of a provision of an invoice by Programmer for such services.
2. **SPECIFICATIONS**

For the acceptance period and, following the acceptance period, for so long as the Software is under Maintenance Services, Programmer warrants that the Software shall perform substantially in conformance with the Programmer's Specifications in all material respects.

1. **INTELLECTUAL PROPERTY INDEMNITY**

Programmer is the owner of all intellectual property rights in the Work (including any Improvements or Modifications thereto) including all related written materials, logos, names and other support materials provided pursuant to the terms of this agreement. No title to the intellectual property in the Work is transferred to Developer by this agreement. Programmer represents and warrants that it has the right to grant the licence hereby granted to use the Work and that there are not, nor will there be, any lien, encumbrance, security interest or other rights against the Work.

Programmer agrees to indemnify Developer and hold it harmless from any and all damages (including punitive damages), losses or expenses (including without limitation, court costs, arbitration fees, penalties, fines, amounts paid in settlement of claims and reasonable legal fees and expenses of investigation) (hereinafter referred to as the "Losses") which Developer or any of its respective officers or directors, may incur, suffer or become liable for as a result of or in connection with any claim asserted against Developer to the extent such claim is based upon a contention that the Work, or any portion thereof, in the form accepted by Developer and used within the scope of this agreement infringes any [COUNTRY] patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party, provided that Developer has notified Programmer in writing of such claim within [NUMBER] days of a responsible officer of Developer becoming aware of such claim.

If the Work or any portion thereof is held to constitute an infringement of another Person's rights, and use thereof is enjoined, Developer shall, at its election and expense, either:

* 1. procure the right to use the infringing element of the Work;
  2. procure the right to an element which performs the same function without any material loss of functionality; or
  3. replace or modify the elements of the Work so that the infringing portion is no longer infringing and still performs the same function without any material loss of functionality;
  4. and shall make every reasonable effort to correct the situation with minimal effect upon the operations of Developer.

Notwithstanding the foregoing, Programmer shall have no liability for any claim of infringement based on use of other than a current, unaltered release of the Software available from Programmer if such infringement would have been avoided by the use of a current, unaltered release of the Software (provided that such current, unaltered release performed substantially in conformance with the Developer's Specifications and was provided, at no additional cost by Programmer, to those subscribing for maintenance services for the Software). The foregoing states the entire obligations of Programmer with respect to infringement of proprietary or intellectual property rights of third parties.

1. **CONFIDENTIALITY**

Each of Programmer and Developer shall use reasonable efforts (and, in any event, that are no less than the efforts used to protect its own Confidential Information) to protect from disclosure such information that is the Confidential Information of the other. Each of Programmer and Developer shall divulge such Confidential Information only to its employees or agents who require access to it for the purposes of this Agreement or as otherwise provided in this Agreement. Each of Programmer and Developer (the "Indemnifying Party") agrees to indemnify the other (the "Indemnified Party") for all Losses incurred by the Indemnified Party as a result of a failure of the Indemnifying Party to comply with its obligations under this Section 14 provided that the Indemnified Party has given prompt notice of any such claim and, to the extent that a claim may lie against a third party for the unauthorised disclosure of such Confidential Information, the right to control and direct the investigation, preparation, action and settlement of each such claim, and further provided that the Indemnified Party reasonably cooperates with the Indemnifying Party in connection with the foregoing and provides the Indemnifying Party with all information in Indemnified Party's possession related to such claim and such further assistance as reasonably requested by Indemnifying Party.

"Confidential Information" means all data and information relating to the business and management of either party, including proprietary and trade secrets, technology and accounting records to which access is obtained hereunder by the other party, provided, however, that Confidential Information shall not include any data or information which:

1. is or becomes publicly available through no fault of the other party;
2. is already in the rightful possession of the other party prior to its receipt from the other party;
3. is independently developed by the other party;
4. is rightfully obtained by the other party from a third party;
5. is disclosed with the written consent of the party whose information it is; or
6. is disclosed pursuant to court order or other legal compulsion.

This Section 14 shall survive the termination of this Agreement. Developer acknowledges and agrees with Programmer that the breach by it of any of the provisions of this agreement would cause serious and irreparable harm to Programmer which could not adequately be compensated for in damages and in the event of a breach by Developer of any of such provisions, Developer hereby consents to an injunction being issued against it restraining it from any further breach of such provision, but such action shall not be construed so as to be in derogation of any other remedy which Programmer may have in the event of such a breach.

1. **LIMITATION OF LIABILITY**

The limitation of liability provisions of this agreement reflect an informed voluntary allocation of the risks (known and unknown) that may exist in connection with the provision of the goods and services hereunder by Programmer including the performance of the Work provided hereunder, and that such voluntary risk allocation represents a material part of the agreement reached between Programmer and Developer. Should Programmer be in breach of any obligation, Developer agrees that Developer's remedies will be limited to those set forth in this agreement. No action, regardless of form, arising out of this agreement may be brought by Developer more than [NUMBER] months after the facts giving rise to the cause of action have occurred, regardless of whether those facts by that time are known to, or reasonably ought to have been discovered by, Developer.

* 1. Direct Damages Only

Subject to the restrictions in this Section 15 and the indemnities provisions of Section 13 (Intellectual Property Indemnity) and Section 14 (Confidential Information Indemnity), and subject to Developer's election, if so entitled in [YOUR COUNTRY LAW], to rescind or be discharged from this agreement, in the event of any breach by Programmer of its obligations under this agreement, including any breach of a fundamental term or a fundamental breach, Developer's exclusive remedy shall be to receive from Programmer payment for actual and direct damages to a maximum amount equal to the greater of:

* + 1. [COUNTRY] [AMOUNT]; and (b) the amounts paid hereunder by Developer to Programmer in the last [NUMBER] months; less the amount of any damages already paid or to which Developer is or may be entitled by reason of any claim arising out of a breach (including fundamental breach) by Programmer of this agreement, or otherwise, whether based in contract, tort (including negligence), or otherwise.
    2. No Indirect Damages, etc.

IN NO EVENT SHALL PROGRAMMER BE LIABLE FOR ANY CLAIM FOR: (A) PUNITIVE, EXEMPLARY, OR AGGRAVATED DAMAGES; (B) DAMAGES FOR LOSS OF PROFITS OR REVENUE, FAILURE TO realise EXPECTED SAVINGS, LOSS OF USE OR LACK OF AVAILABILITY OF DEVELOPER FACILITIES, INCLUDING ITS COMPUTER RESOURCES AND ANY STORED DATA; (C) INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES; OR (D) CONTRIBUTION OR INDEMNITY *IN RE*SPECT OF ANY CLAIMS AGAINST DEVELOPER.

* + 1. Warranties

Other than as expressly provided herein, each of the Work and the services provided hereunder, is provided "as is" without warranty, representation or condition of any kind, expressed or implied, in fact or in [YOUR COUNTRY LAW], including but not limited to the implied warranties or conditions of merchantable quality and fitness for a particular purpose and those arising by statute or otherwise in [YOUR COUNTRY LAW] or from a course of dealing or usage of trade.

1. **TERMINATION**
   1. Either party shall have the right on notice to the other party to terminate this agreement if:
      1. the other party should fail to pay an amount to the other when due hereunder (other than an amount such party, in good faith, disputes is owing) and such breach is not cured within [NUMBER] days after written notice of such is given to it by the other party;
      2. the other party shall file a voluntary petition in bankruptcy or insolvency or shall petition for reorganisation under any bankruptcy [YOUR COUNTRY LAW] (and such is not dismissed within [NUMBER] days);
      3. the other party shall consent to involuntary petition in bankruptcy or if a receiving order is given against it under the Bankruptcy [YOUR COUNTRY ACT/LAW/RULE] or the comparable [YOUR COUNTRY LAW] of any other jurisdiction (and such is not dismissed within [NUMBER] days);
      4. there shall be entered an order, judgement  or decree by a court of competent jurisdiction, upon the application of a creditor, approving a petition seeking reorganisation or appointing a receiver, trustee or liquidator of all or a substantial part of the other party's assets and such order, judgement  or decree continues in effect for a period of [NUMBER] consecutive days; provided, however, that such order, judgement  or decree may remain in effect for longer than such [NUMBER] days, if the other party is diligently appealing such order, judgement  or decree; or
      5. the other party shall fail to perform any of the other material obligations set forth in this agreement and such default in the case of a default which is remediable continues for a period of [NUMBER] days after written notice of such failure has been given by the no defaulting party.
   2. Notwithstanding Section [SPECIFY], Programmer may forthwith terminate this Agreement if Developer is in breach of any of Sections 2, 3, 14 and 17 of this agreement. Programmer shall provide written notice of such termination as soon as practicable but written notice shall not be a necessary prerequisite to such termination.
   3. Upon the termination of this agreement, without prejudice to any other rights which the [COMPANY NAME] may have:
      1. Developer shall immediately deliver to Programmer any of Programmer's Confidential Information provided hereunder (including the Software and any Modifications or Improvements thereto) then in its possession or control, if any, and shall deliver a certificate of an officer of
      2. Developer shall refrain from further use of such Confidential Information and shall promptly sign such documentation deemed necessary by Programmer or Programmers' solicitors for the purpose of confirming the ownership of the Work and the intellectual property rights therein (including any Modifications or Improvements thereto); and
      3. Each party shall forthwith pay all sums owing to the other hereunder.
2. **SURVIVAL**

The provisions of Sections 13, 14, 15, 16(c), 17, 18, 19, 20, 21 and 22 herein shall survive the termination of this agreement.

1. **NONSOLICITATION OF EMPLOYEES**

During the term of this agreement and for a period of [NUMBER] year thereafter, each of Programmer and Developer agrees not to hire or allow its respective affiliates to hire:

* 1. any employee of the other party; or
  2. any person who was an employee of the other party during the previous [NUMBER] months, who was directly involved in the provision of Work or any of the related services provided hereunder unless otherwise mutually agreed to by the [COMPANY NAME].

1. **FORCE MAJEURE**

Dates and times by which Programmer is required to render performance under this agreement shall be automatically postponed to the extent and for the period that Programmer is prevented from meeting them by reason of any cause beyond its reasonable control, provided Programmer notifies Developer of the commencement and nature of such cause and uses its reasonable efforts to render performance in a timely manner.

1. **ASSIGNMENT, ETC.**

Programmer may assign this agreement, or any of its rights or obligations hereunder, in whole or in part, subject to providing prior written notice to Developer. Developer may assign this agreement, or any of its rights or obligations hereunder, in whole or in part, with the prior written consent of Programmer. This agreement shall ensure to the benefit of and be binding upon each of Developer and Programmer and their respective successors and permitted assigns.

1. **GOVERNING LAW, ETC.**

This agreement shall be governed by and construed in accordance with the [COUNTRY] law applicable therein and shall be treated, in all respects, as a [PROVINCE/STATE] contract. Developer and Programmer submit to the non-exclusive jurisdiction of the courts of [PROVINCE/STATE]. The parties hereby expressly exclude the application of the [COUNTRY] Convention on Contracts for the International Sale of Goods.

1. **MISCELLANEOUS**

This agreement, and any documents referred to herein, is the entire agreement between Developer and Programmer pertaining to Developer's right to use the Work and the provision of the services and supersedes all prior or collateral oral or written representations or agreements related thereto. In the event that one or more of the provisions is found to be illegal or unenforceable, this agreement shall not be rendered inoperative but the remaining provisions shall continue in full force and effect. Except as otherwise provided herein, 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 party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach. Unless otherwise expressly provided, any notice or other communication required or permitted to be given hereunder or for the purposes hereof to Developer or Programmer shall be in writing and shall be sufficiently given if delivered personally to such party, or if sent by prepaid registered mail or if transmitted by fax to such party at the address and facsimile number noted in Schedule "A" for Developer and for Programmer to:

[Address, title of contact, telephone no. and telecopy no.]

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

# PROGRAMMER DEVELOPER

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

**SCHEDULE "A"**

DEVELOPER'S PARTICULARS

Developer Information

Name and Address:

Tel/Fax Nos:

Prim./Sec. Contacts:

Specific Use Permitted:

Ordering and Costing Information:

Delivery and Installation Costs: [AMOUNT]

License Fees (Basic) [AMOUNT]

Additional licence Fees (Modifications) [AMOUNT]

Annual Maintenance Fees

[Initial Term (one year)]: [AMOUNT]

Total (plus taxes): [AMOUNT]

**SCHEDULE "B"**

DEVELOPER'S SPECIFICATIONS

Modifications:

Data Conversion:

**SCHEDULE "C"**

IMPLEMENTATION SCHEDULE

Programmer's Project Manager:

Developer's Project Manager:

If applicable, The Implementation Schedule shall also set out below, *in re*spect of each authorised Location, (i) the date of delivery of the Work; (ii) the dates for the commencement and completion of installation; (iii) the date for on-site Training; and (iv) the date for the commencement of acceptance testing.