TRADEMARK licence AGREEMENT

This Trademark licence Agreement (the “Agreement”) is made and effective [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Licensor"), a company organised and existing under the laws of the [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [LICENSEE NAME]** (the "Licensee"), a company organised and existing under the laws of the [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

**RECITALS**

WHEREAS, simultaneously with this Agreement, the parties hereto have entered into a licence agreement (the "License Agreement ") whereby Licensor has granted Licensee an exclusive licence to all existing versions of a software programme known as "The Software" (the "Product") and all related documentation, if any, solely for and to the [IDENTIFY] Market (as defined herein);

WHEREAS, Licensor is the owner of certain trademarks, including without limitation, any logos, designs, variations or translations thereof, identified on Schedule A (collectively, the "Mark") and the exclusive right to use and licence the use thereof;

WHEREAS, Licensee desires to use the Mark on the terms and conditions set forth in this Agreement in connection with its distribution of the Work; and

WHEREAS, Licensee recognises that the valuable reputation and goodwill attaching to the Mark is dependent for its preservation on the high-quality standards prescribed and established by Licensor and, accordingly, Licensee is willing to comply with licensor's standards in order to obtain such quality and to cooperate with Licensor in preserving the reputation and goodwill attaching to the Mark;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. **LICENSE**

Licensor hereby grants to Licensee the non-exclusive, worldwide right and licence to use the Mark on or in connection with the Product for the [IDENTIFY] Market. "[IDENTIFY] Market" shall mean distribution to or through licensee's [IDENTIFY AND DESCRIBE]. Specifically excluded from the [IDENTIFY] Market are sales made through retail outlets, whether through computer speciality stores, bookstores, stationery stores, chain stores, or other retail markets.

1. **TERM**

This Agreement and the licence granted hereunder shall commence on the date hereof and shall continue until terminated in accordance with the provisions of this Agreement.

1. **ROYALTIES**

As compensation for the rights and licences granted hereunder, Licensee shall pay directly to Licensor and any party identified on Schedule B hereto, at times and in the manner hereinafter set forth in such Schedule B, royalties equal in amount to the percentages set forth therein ("Royalties"). The acceptance by Licensor or any party identified on Schedule B hereto of any tender of payment of any Royalties in an amount which is less than the total amount due (inclusive of interest, if any), shall not be deemed a waiver of such party's right to receive the balance (including interest).

1. **TRADEMARKS**
	1. Licensee hereby acknowledges Licensor's right, title and interest in and to the Mark and Licensor’s exclusive right to use and licence the use of the Mark and agrees not to claim any title to the Mark or any right to use the Mark except as permitted by this Agreement. The licensee shall prominently display the Mark on all versions of the Product and shall include all notices and legends with respect to Licensor’s trademarks and trade names as are or may be required by applicable national, state and local trademark laws or which may be reasonably requested by Licensor.
	2. The licensee shall at no time adopt or use, without Licensor’s prior written consent, any variation of the Mark, including translations, or any mark likely to be similar to or confusing with the Mark. In the event that Licensor consents to any variation of the Mark, Licensee hereby agrees that Licensor shall own such new mark and shall, at its cost and expense, file and obtain in Licensor’s name all United States and international trademark registrations. Licensor agrees to give Licensee reasonable assistance, including execution and delivery of all documents required by Licensee, in filing such applications for trademark registration.
		1. The licensee shall not contest or deny the validity or enforceability of the Mark or oppose or seek to cancel any registration thereof by Licensor, or aid or abet others in doing so, either during the term of this Agreement or at any time thereafter.
		2. Licensee agrees that it shall conduct the merchandising and sale of any version of the Product in a dignified manner, consistent with and enhancing the general reputation of the Mark and Licensor, and in accordance with good trademark practice.
		3. Any and all goodwill arising from licensee's use of the Mark shall insure solely to the benefit of Licensor, and neither during nor after the termination of this Agreement and the licence granted hereunder shall Licensee assert any claim to the Mark or such goodwill. The licensee shall not take any action that could be detrimental to the goodwill associated with the Mark or with Licensor.
	3. The licensee shall, during the term of this Agreement and after termination hereof, execute such documents as Licensor may request from time to time to ensure that all right, title and interest in and to the Mark reside with Licensor.
	4. The provisions of this Section 4 shall survive any termination of this Agreement.
2. **QUALITY STANDARDS**
	1. The licensee shall furnish to Licensor prior to any use, for the approval of Licensor, copies of any version of the Product to be sold by Licensee using the Mark (the "Samples") and copies of formats of all advertising and promotional material on which the Mark appears (the "Materials"). Licensor shall have the right to approve or disapprove any or all Samples or Materials. Any Samples and/or Materials submitted to Licensor shall be deemed approved unless Licensor notifies Licensee to the contrary within [NUMBER] days after receipt of such Samples and/or Materials. The licensee shall not distribute, sell or advertise any version of the Product unless and until the Sample for such versions of the Product has been approved or deemed approved by Licensor pursuant to this Section 5. All versions of the Product developed, manufactured, distributed, sold, and advertised by Licensee shall conform to the Sample approved or deemed approved by Licensor.
	2. The licensee shall comply at all times at its sole expense with all applicable laws/regulations pertaining to the development, creation, promotion, sale, licence or sublicense, and distribution of the Product.
3. **CREDITS**
	1. The Product and all elements thereof shall be known as "The [IDENTIFY] Software", and the credits set forth in Schedule C hereto shall be placed on the title on the screen, the label on the diskettes, and in any manuals or other documentation relating to the Product.
	2. The display of the names of those being accorded credit as a developer as set forth in Schedule C hereto shall be equal in all respects in size and prominence.
	3. Any party being accorded credit as an original developer of the Product as set forth above shall have the right to remove its name at any time for any reason upon reasonable written notice to Licensee and such change in credit shall in no way affect any royalties to be paid to such party.
4. **INFRINGEMENT**
	1. The licensee shall notify Licensor promptly of any infringement or unauthorised use of the Mark by others of which Licensee becomes aware. Licensor shall have the sole right, at its expense, to bring any action on account of any such infringement or unauthorised use, and Licensee shall cooperate with Licensor, as Licensor may request, in connection with any such action brought by Licensor. Licensor shall retain any and all damages, settlement and/or compensation paid in connection with any such action brought by Licensor. If Licensor does not undertake such action within [NUMBER] days after notice from Licensee of such alleged infringement, Licensee may prosecute the same, at its expense, provided that no settlement shall be made without the prior written approval of Licensor. In the event that any damages, settlement and/or compensation are paid in connection with any such action, Licensee shall first retain an amount *in re*imbursement of its expenses; any remaining amount shall be divided equally between Licensor and Licensee.
	2. Licensor shall have the sole right, at its expense, to defend and settle for other than money damages any action that may be commenced against Licensor or Licensee alleging that the Mark infringes any rights of third parties. The licensee shall promptly discontinue its use of the Mark alleged to infringe rights of such third parties. If Licensor does not give notice to Licensee of its intent to defend or settle such action within [NUMBER] days after notice of such alleged infringement, Licensee may defend the same, at its expense, provided that no settlement shall be made without the prior written approval of Licensor and Licensee shall advise Licensor periodically of the status of the action and promptly of any material developments. Licensor reserves the right to participate at any time in such proceedings.
	3. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, LICENSOR SHALL HAVE NO LIABILITY TO LICENSEE FOR OR *IN RE*SPECT OF ANY CLAIM BY ANY THIRD PARTY THAT LICENSEE'S USE OF THE TRADEMARK PURSUANT TO THIS AGREEMENT INFRINGES UPON OR OTHERWISE VIOLATES ANY PROPRIETARY OR OTHER RIGHTS OF SUCH THIRD PARTY OTHER THAN A CLAIM THAT LICENSEE'S USE OF THE MARK PURSUANT TO THIS AGREEMENT VIOLATES THE CONTRACTUAL RIGHTS OF ANY OTHER LICENSEE OF LICENSOR.
5. **INDEMNIFICATION**

Licensee, at its expense, shall defend and indemnify and hold Licensor harmless from and against any and all liabilities, claims, causes of actions, suits, damages and expenses, including reasonable attorneys' fees and expenses, which Licensor becomes liable for, or may incur or be compelled to pay by reason of claims (i) of infringement of any patent, copyright or trademark or (ii) any actions, whether of omission or commission, that may be committed or suffered by Licensee or any of its directors, officers, agents, or affiliates in connection with licensee's performance of this Agreement or in connection with any new versions, Licensee versions, or derivative products developed, created, published, distributed, sold, licensed, or advertised by Licensee, irrespective of whether any prior approvals shall have been given by Licensor with respect thereto. The provisions of this Section shall survive the termination of this Agreement.

1. **BEST EFFORTS**

Licensee shall use its best efforts to promote the Product sold under the Mark and to coordinate the development, creation, distribution, sale, licencing or sublicensing, and advertising of the Product sold under the Mark so as to maintain and enhance the value of the goodwill residing in the Mark and to produce the maximum amount of Royalties under this Agreement consistent with the quality standards established by Licensor.

1. **COMPETING PRODUCTS**

Licensee agrees that during the term of this Agreement it will not publish, market, distribute, sell, license, or otherwise exploit another computer software package that is substantially and functionally similar to the Product or that is targeted for the same general market or is likely to interfere with or diminish to a material extent sale of the Product.

1. **TERMINATION**
	1. Licensor shall have the right to terminate this Agreement upon prior written notice to Licensee, effective immediately upon licensee's receipt of said notice, (i) if within [NUMBER] months of the date of this Agreement, Licensee has not marketed, published, distributed, sold or licensed, or otherwise exploited the Product; (ii) if Licensee sells or otherwise disposes of substantially all of its business or assets to a third party or parties; (iii) if management of Licensee undergoes a substantial change; or (iv) if control or ownership of Licensee is in any manner transferred; provided, however, that Licensee may assign any of its rights and obligations hereunder to any parent, subsidiary, related company, affiliate, or any division of Licensee.
	2. Except as otherwise provided herein, Licensee shall have the right to terminate this Agreement at any time upon [NUMBER] days prior written notice for any reason.
	3. Except as otherwise provided herein, if after [NUMBER] years from the date hereof Licensor has not received at least [AMOUNT] in Royalties from Licensee, Licensor shall have the right to terminate this Agreement at any time thereafter upon [NUMBER] prior written notice.
	4. Either party shall have the right to terminate this Agreement upon the following:
		1. If either Licensor or Licensee defaults in the performance or observance of any of the terms or conditions of this Agreement and such default is not remedied within [NUMBER] days (or [NUMBER] days in the event that Licensee defaults in the payment of any of the Royalties) after written notice specifying the nature of the default is received by the defaulting party, then the non-defaulting party shall have the right to terminate this Agreement by written notice to the defaulting party;
		2. If any of the following events occur: (1) insolvency or the making by a party to this Agreement of an assignment for the benefit of creditors; (2) the filing by or against a party hereto of, or the entry of an order for relief against a party hereto in, any voluntary or good faith involuntary proceeding under any bankruptcy, insolvency, reorganisation or receivership law, including, but not limited to, the Bankruptcy Code, or an admission seeking relief as therein allowed, which filing or order shall not have been vacated within [NUMBER] days from the entry thereof; (3) the appointment of a receiver for all or a substantial portion of such party's property and such appointment shall not be discharged or vacated within [NUMBER] days of the date thereof; or (4) the assumption of custody, attachment or sequestration by a court of competent jurisdiction of all or a significant portion of such party's property, then the other party to the Agreement shall have the right to terminate this Agreement by written notice to the party affected by such occurrence. No assignee for the benefit of creditors, receiver, liquidator, trustee in bankruptcy, sheriff or any other officer of the court or official charged with taking over custody of the assets or business of a party to this Agreement shall have any right to continue performance of this Agreement, and this Agreement may not be assigned by operation of law.
	5. The exercise of any right of termination under this Section shall not affect any rights which have accrued prior to termination, including licensee's obligation to make payments pursuant to the terms herein, and shall be without prejudice to any other legal or equitable remedies to which the terminating party may be entitled by reason of such rights.
2. **EFFECTS OF AND PROCEDURE ON TERMINATION**
	1. Upon the termination of this Agreement all rights of Licensee under the licences granted hereunder shall terminate and automatically revert to Licensor and Licensee shall immediately discontinue the use of the Mark and thereafter shall no longer use or have the right to use the Mark or any variation or simulation thereof, or any word or mark similar thereto, or to (directly or indirectly) develop, create, market, distribute, sell, licence or sublicense, or advertise the Product or any other products in connection with the Mark. Licensee acknowledges that licensee's failure to cease the use of the Mark upon termination of this Agreement shall result in immediate and irreparable damage to Licensor and to the rights of any subsequent licensee. Licensee acknowledges and admits that there is not an adequate remedy at law for such failure, and agrees that in the event of such failure, Licensor shall be entitled to equitable relief by way of temporary and permanent injunction and further relief as any court with jurisdiction may deem just.
	2. In the event that Licensee terminates this Agreement for any reason, Licensee hereby agrees not to develop, create, market, publish, distribute, sell, license, or otherwise exploit any word processing computer software packages or any other derivative word processing products for a period of [NUMBER] months after such termination.
3. **RELATIONSHIP OF THE PARTIES**

The relationship of Licensee to Licensor is that of an independent contractor and neither Licensee, nor its agents or employees shall be considered employees of Licensor. This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture or grant of a franchise between Licensor and Licensee. This Agreement shall not be construed as authority for either party to act for the other party in any agency or other capacity or to make commitments of any kind for the account of or on behalf of the other, except to the extent and for the purposes provided herein.

1. **ASSIGNMENT**

Neither this Agreement nor all or any portion of the rights licenced to Licensee herein shall be assigned by either party without the prior written consent of the other party which consent shall not be unreasonably withheld. The rights and obligations of the parties hereto shall inure to the benefit of, and be binding and enforceable upon, the respective successors and assigns of the parties.

1. **MERGER**

This Agreement constitutes the entire understanding of the parties hereto concerning the subject matter hereof, all prior understandings having been merged herein. This Agreement cannot be modified or amended except by a writing signed by the parties hereto.

1. **NOTICES**

Any notice, request or other communication to any party by any other party as provided for herein shall be given in writing and shall be deemed given on the earlier of the date (i) actually received and acknowledged, (ii) [NUMBER] days after mailing by certified or registered mail, return receipt requested, postage prepaid, or (iii) immediately following its delivery, evidenced by receipt, to any reputable overnight carrier or transmission via facsimile, in each case addressed to the intended recipient at its address (or facsimile transmission number) set forth herein. The places to which notices are to be given hereunder may be changed from time to time by written notice to all other parties as aforesaid.

1. **GOVERNING LAW; JURISDICTION; VENUE**

This Agreement shall be governed by and interpreted under, the laws of [COUNTRY] applicable to contracts made and to be performed therein, without giving effect to the principles of conflicts of law. Except *in re*spect to an action commenced by a third party in another jurisdiction, the parties hereto hereby agree that any legal suit action, or proceeding arising out of or relating to this Agreement must be instituted in a national court located in the [COUNTRY], and the parties hereto hereby irrevocably submit to the jurisdiction of any such court and waive any objection to the laying of venue in, or the inconvenience of, such a forum.

1. **WAIVER**

No waiver by any party of any breach of any provision hereof shall constitute a waiver of any other breach of that or any other provision hereof.

1. **ATTORNEYS' FEES**

In any action between the parties to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover expenses, including reasonable attorneys' fees.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth first above, with full knowledge of its content and significance and intending to be legally bound by the terms hereof.

LICENSOR LICENSEE

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

**SCHEDULE A**

**“THE MARK”**

**SCHEDULE B**

**“ROYALTIES”**

**SCHEDULE C**

**“THE CREDITS”**