Database Software Solutions Limited Terms and Conditions for the Supply of Goods and Services

1.   DEFINITIONS AND INTERPRETATION

1.1   Unless the context otherwise requires:

1.2   "ACCEPTANCE" means (i) the return of a signed Quotation by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER within the time limits detailed in the Quotation or (ii) any other confirmation of acceptance of the ORDER (whether electronic or verbal) by a duly authorised representative of DATABASE SOFTWARE SOLUTIONS LIMITED.

1.3   "ADDITIONAL WORK" means work requested by the PURCHASER which is outside the scope of the work described in a Quotation.

1.4   "AGREEMENT" means the legally binding contract between DATABASE SOFTWARE SOLUTIONS LIMITED and the PURCHASER for the sale and purchase of HARDWARE, SOFTWARE and/or the supply of SERVICES and/or the licensing of SOFTWARE in accordance with these terms and conditions and any applicable schedule and comprising (for clarity) of the documents referred to in Clause 2.7.

1.5   "BESPOKE SERVICES" means any services provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER which are provided in accordance with the individual specifications and requirements of the PURCHASER.

1.6   "BESPOKE SERVICES FEES" means the fees payable by the PURCHASER in respect of BESPOKE SERVICES.

1.7   "CHARGING RATES" means DATABASE SOFTWARE SOLUTIONS LIMITED' prevailing time and materials rates from time to time.

1.8   "COMPUTER" means the PC, workstation, server, terminal, handheld PC or other digital electronic device upon which the Software operates.

1.9   "CONFIDENTIAL INFORMATION" means all information in respect of the business of either party including, but not limited to, any ideas; business methods; prices; business, financial, marketing, development or manpower plans; customer lists or details; computer systems and software; products or services, including but not limited to know-how or other matters connected with the products or services manufactured, marketed, provided or obtained by either party; and information concerning the parties' relationships with actual or potential clients, customers or suppliers.

1.10   "CONSULTANCY FEES" means the fees payable by the PURCHASER in respect of CONSULTANCY SERVICES.

1.11   "CONSULTANCY SERVICES" means any consultancy services provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER following ACCEPTANCE, in accordance with these terms and conditions and in particular Schedule 5.

1.12   "CUSTOMER SPECIFIC PURCHASES" means non returnable purchases of goods and/or services made by DATABASE SOFTWARE SOLUTIONS LIMITED from third parties for and on behalf of the PURCHASER specifically for the PURCHASER and/or in the PURCHASER'S name.

1.13   "DATA PROTECTION ACT" means the Data Protection Act 1998 (as amended).

1.14   "DELIVERY DATE" means the actual date of delivery of the HARDWARE and SOFTWARE or SERVICES to the SITE, which in the case of SOFTWARE to be installed remotely, shall be the date upon which the SOFTWARE is installed under Clause 20.1.

1.15   "GO-LIVE DATE" the date specified in the Quotation upon which the ONLINE SERVICES shall commence.

1.16   "HARDWARE" means any hardware items to be provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER following ACCEPTANCE in accordance with these terms and conditions and in particular, Schedule one.

1.17   "INSTALLATION/TRAINING SERVICES" means any installation and/or training services provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER in relation to HARDWARE and SOFTWARE in accordance with Schedule 1.

1.18   "INTELLECTUAL PROPERTY RIGHTS" means all intellectual property rights of any kind whatsoever including without limitation patents, trade marks, service marks, trade names, rights in designs, copyrights, database right, trade secrets and Know-how, whether or not registered, whether or not in existence at the date hereof and including applications for any such right, matter or thing or registration thereof.

1.19   "MATERIALS" means the content provided to DATABASE SOFTWARE SOLUTIONS LIMITED by the PURCHASER from time to time for incorporation in the Website.

1.20   "NORMAL WORKING HOURS" means Monday to Friday 0900 to 1800 excluding public holidays.

1.21   "ONLINE FEES" means any fees payable in respect of ONLINE SERVICES.

1.22   "ONLINE SERVICES" means any online services including hosting services, data backup and email and domain registration services, which are detailed in a QUOTATION and which are to be provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER in accordance with Schedule 4.

1.23   "ORDER" means the PURCHASER'S contractual offer to buy HARDWARE and SOFTWARE or SERVICES from DATABASE SOFTWARE SOLUTIONS LIMITED in accordance with these terms and conditions by signing and returning the relevant QUOTATION for ACCEPTANCE by DATABASE SOFTWARE SOLUTIONS LIMITED, which is always subject to the availability of the HARDWARE, SOFTWARE or SERVICES.

1.24   "ORIGINAL LICENSOR" means a company or organisation that has the right to grant a licence of the THIRD PARTY SOFTWARE.

1.25   "PAYMENT DATE" means the date upon which the full PURCHASE PRICE together with any VAT is paid in cleared funds to DATABASE SOFTWARE SOLUTIONS LIMITED.

1.26   "PRODUCT RENEWAL FEE" the fees payable by the PURCHASER under Schedule 2 for THIRD PARTY SOFTWARE UPGRADE RENEWALS.

1.27   "PURCHASE PRICE" means the aggregate price of the HARDWARE, SOFTWARE and/or SERVICES including without limitation the SUPPORT AND LICENCE FEE, THIRD PARTY SOFTWARE FEES, PRODUCT RENEWAL FEES, THIRD PARTY MAINTENANCE FEES, DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE FEES, BESPOKE SERVICES FEES, ONLINE FEES and CONSULTANCY FEES as set out in the QUOTATION.

1.28   "PURCHASER" means the company or individual as named in the Quotation

1.29   "QUOTATION" DATABASE SOFTWARE SOLUTIONS LIMITED' estimate of the applicable cost of providing certain HARDWARE, SOFTWARE and SERVICES (or any combination thereof) to the PURCHASER.

1.30   "ROHS" has the meaning given to it in Clause 21.10.

1.31   "DATABASE SOFTWARE SOLUTIONS LIMITED" means Database Software Solutions Limited of West Steadings Newton Hall Stocksfield NE43 7TW "DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE FEES" means the fees payable by the PURCHASER for the DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES.

1.32   "DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES" means any maintenance services to be provided by DATABASE SOFTWARE SOLUTIONS LIMITED in respect of HARDWARE/SOFTWARE in accordance with Schedule 1.

1.33   "DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE" means DATABASE SOFTWARE SOLUTIONS LIMITED' proprietary program or programs listed in a Quotation as such, purchased by the PURCHASER under the terms of Schedule 1 and licensed and supported by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER in accordance with Schedule 3, including any modifications thereto and UPDATES thereof together with any manuals or other materials supplied by DATABASE SOFTWARE SOLUTIONS LIMITED ancillary thereto.

1.34   "SERVICES" means the SUPPORT SERVICES, INSTALLATION/TRAINING SERVICES, DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES, THIRD PARTY MAINTENANCE SERVICES, BESPOKE SERVICES, ONLINE SERVICES AND/OR CONSULTANCY SERVICES.

1.35   "SITE" means the address of delivery and or that part of the PURCHASER'S premises where the HARDWARE and SOFTWARE or SERVICES are to be installed or operated, as specified by the PURCHASER and set out in the ORDER.

1.36   "SOFTWARE" means any software items (including DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE and THIRD PARTY SOFTWARE) to be provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER following ACCEPTANCE in accordance with these terms and conditions.

1.37   "SUPPORT AND LICENCE FEE" means the annual fee payable by the PURCHASER to DATABASE SOFTWARE SOLUTIONS LIMITED in respect of a licence of and support of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE under Schedule 3.

1.38   "SUPPORT SERVICES" means the support services to be provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER in relation to the SOFTWARE and in accordance with Schedule 3

1.39   "TERMINATED HARDWARE" has the meaning given to it under Clause 21.6.

1.40   "THE LICENSE" means the licence to use the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE as detailed in Clause 27.

1.41   "THIRD PARTY MAINTENANCE FEES" the fees payable in respect of THIRD PARTY MAINTENANCE SERVICES.

1.42   "THIRD PARTY MAINTENANCE SERVICES" means any maintenance services supplied by third parties in respect of the HARDWARE.

1.43   "THIRD PARTY SOFTWARE" means any third party software items which are purchased by the PURCHASER under Schedule 1.

1.44   "THIRD PARTY SOFTWARE FEES" means the fees payable in respect of THIRD PARTY SOFTWARE.

1.45   "THIRD PARTY SOFTWARE UPGRADE RENEWALS" means an annual renewal of a licence of THIRD PARTY SOFTWARE and associated support and UPDATES which is purchased by the PURCHASER in accordance with Schedule 2.

1.46   "UPDATES" means the changes in the SOFTWARE to reflect changes in statutory requirements; or which increase the functionality of the SOFTWARE, or any corrections, bypasses or revisions to the SOFTWARE which add no functionality to the SOFTWARE which may be provided by DATABASE SOFTWARE SOLUTIONS LIMITED to the Purchaser from time to time in accordance with Schedule 3 and/or by a third party under Schedule 2.

1.47   "WEBSITE" the website to be hosted by DATABASE SOFTWARE SOLUTIONS LIMITED in accordance with Schedule 4.

1.48   "WEEE" has the meaning given to it in Clause 21.6.

1.49   "WEEE OPTION" has the meaning given to it in Clause 21.6.

1.50   References to Clauses shall mean the clauses detailed in these terms and conditions and references to Schedules shall mean the Schedules in these terms and conditions together with any corresponding schedules in a Quotation.

1.51   Headings to clauses in the AGREEMENT are for the purpose of information and identification only and shall not be construed as forming part of the AGREEMENT

1.52   A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.53   A reference to a party includes its personal representatives, successors or permitted assigns.

1.54   A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

2.   THE AGREEMENT

2.1   Any QUOTATION provided by DATABASE SOFTWARE SOLUTIONS LIMITED is variable information which is known as an 'invitation to treat' and not a contractual offer from DATABASE SOFTWARE SOLUTIONS LIMITED which the PURCHASER can accept. DATABASE SOFTWARE SOLUTIONS LIMITED reserves the right to correct any errors in that information without liability to the PURCHASER. In no circumstances will DATABASE SOFTWARE SOLUTIONS LIMITED be contractually bound to supply the PURCHASER with HARDWARE, SOFTWARE and/or SERVICES on the basis of any incorrect information, even if that information is repeated in an ORDER.

2.2   Unless otherwise stated, QUOTATIONS are valid for 14 days. Any QUOTATION which has lapsed must be reconfirmed with DATABASE SOFTWARE SOLUTIONS LIMITED prior to any ORDER being accepted.

2.3   The PURCHASER is responsible for ensuring the accuracy of the details in the QUOTATION as DATABASE SOFTWARE SOLUTIONS LIMITED will not be held liable for any errors (nor obligated to correct them) once the ORDER is accepted.

2.4 The PURCHASER may not assume DATABASE SOFTWARE SOLUTIONS LIMITED have accepted the ORDER until they have received DATABASE SOFTWARE SOLUTIONS LIMITED' ACCEPTANCE. Only if and when ACCEPTANCE occurs at DATABASE SOFTWARE SOLUTIONS LIMITED' sole discretion will there be an AGREEMENT between DATABASE SOFTWARE SOLUTIONS LIMITED and the PURCHASER.

2.5 Once DATABASE SOFTWARE SOLUTIONS LIMITED has entered into an AGREEMENT with the PURCHASER in accordance with this Clause 2, DATABASE SOFTWARE SOLUTIONS LIMITED shall supply the PURCHASER with the HARDWARE, SOFTWARE and/or SERVICES as specified in the ORDER in accordance with these terms and conditions.

2.6 Each ORDER so accepted constitutes a separate AGREEMENT between DATABASE SOFTWARE SOLUTIONS LIMITED and the PURCHASER.

2.7 The AGREEMENT between DATABASE SOFTWARE SOLUTIONS LIMITED and the PURCHASER will consist of (1) these terms and conditions (2) the ORDER and (3) DATABASE SOFTWARE SOLUTIONS LIMITED' ACCEPTANCE (the consideration for which shall be payment of the PURCHASE PRICE in accordance with Clause 3 and 4 below).

2.8 The PURCHASER may only terminate the AGREEMENT in the circumstances set out in Clause 7 below.

2.9 The PURCHASER may not vary these terms and conditions unless a duly authorised representative of DATABASE SOFTWARE SOLUTIONS LIMITED agrees in writing to such a variation in a Quotation.

2.10 These terms and conditions apply to the AGREEMENT to the exclusion of any other terms that the PURCHASER seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.11 DATABASE SOFTWARE SOLUTIONS LIMITED reserves the right to update or change these terms and conditions from time to time without notice and the most current version of these terms and conditions will be accessible through any DATABASE SOFTWARE SOLUTIONS LIMITED' website. The Quotation will set out which version of these terms and conditions is incorporated into the AGREEMENT pursuant to Clause 2.7.

3.   CHARGES

3.1 All prices are based on the cost to DATABASE SOFTWARE SOLUTIONS LIMITED of supplying the HARDWARE, SOFTWARE and/or SERVICES to the PURCHASER. DATABASE SOFTWARE SOLUTIONS LIMITED reserves the right to increase the PURCHASE PRICE in the QUOTATION without notice.

3.2 The PURCHASE PRICE shall include:

3.2.1   the cost of delivery of the HARDWARE, SOFTWARE and/or SERVICES to the SITE;
3.2.2   provision of SERVICES at the SITE;
3.2.3   travel and subsistence costs; and
3.2.4   all levies and taxes payable in respect of the import of the HARDWARE and SOFTWARE.

3.3 For the avoidance of doubt, the SUPPORT AND LICENCE FEE shall cover the provision of SUPPORT SERVICES in relation to the SOFTWARE which is stated in the QUOTATION as being supported under Schedule 3 and does not include SUPPORT SERVICES in relation to any other software.

3.4 DATABASE SOFTWARE SOLUTIONS LIMITED will be entitled to charge the PURCHASER additional charges at the CHARGING RATE for any time spent providing any ADDITIONAL WORK to the PURCHASER and all payments payable by the PURCHASER shall be in accordance with Clause 4 below.

3.5 DATABASE SOFTWARE SOLUTIONS LIMITED will be entitled to charge the PURCHASER at the CHARGING RATE for the time spent dealing with the PURCHASER at the PURCHASER'S request if it reasonably considers that such dealing has resulted from circumstances where any one or combination of the following factors have occurred:

3.5.1   the time spent related predominantly to data restoration which was not the result of inherent SOFTWARE error;
3.5.2   the time spent was necessitated by the PURCHASER failing to request sufficient training;
3.5.3   the time spent resulted from unauthorised use of the SOFTWARE; and/or
3.5.4   the time spent was necessitated by inadequate back up procedures.

3.6 In so far as otherwise expressly provided, the PURCHASE PRICE as stated in the QUOTATION is exclusive of value added tax and any value added tax arising in respect of any supply or provision made hereunder.

4. PAYMENT TERMS

4.1 The PURCHASER agrees to pay the full PURCHASE PRICE and any value added tax on ACCEPTANCE of an ORDER, save that where DATABASE SOFTWARE SOLUTIONS LIMITED is satisfied that a suitable trading history has been established between the PURCHASER and DATABASE SOFTWARE SOLUTIONS LIMITED, it may, by indicating the same on a Quotation (and subject to the PURCHASER maintaining a credit status with DATABASE SOFTWARE SOLUTIONS LIMITED) extend the payment terms to 14 days from the date of an invoice issued by DATABASE SOFTWARE SOLUTIONS LIMITED. For the avoidance of doubt, the PURCHASER shall pay the PURCHASE PRICE in relation to any CUSTOMER SPECIFIC PURCHASES, in full, on ACCEPTANCE of the ORDER.

4.2 DATABASE SOFTWARE SOLUTIONS LIMITED may, prior to ACCEPTANCE of an ORDER (and thereafter pursuant to Clause 4.5.3) require the PURCHASER to provide such financial security as in the opinion of DATABASE SOFTWARE SOLUTIONS LIMITED is appropriate, as security against the non-compliance with or non-observance of any of the provisions contained in the Agreement.

4.3 Time shall be of the essence in relation to any payments to be made by the PURCHASER under the AGREEMENT.

4.4 All payments to be made by the PURCHASER shall be made in full and without any set-off or any deduction or withholding including without limitation on account of any counter-claim.

4.5 If the PURCHASER fails to make any payment on the due date then, in addition to any other right or remedy available to DATABASE SOFTWARE SOLUTIONS LIMITED, it shall be entitled to:

4.5.1 terminate the AGREEMENT in whole or in part or suspend the provision of any HARDWARE, SOFTWARE and/or SERVICES; and

4.5.2 take any payment made by the PURCHASER (including but not limited to any security payment pursuant to Clause 4.2) against any outstanding balances as DATABASE SOFTWARE SOLUTIONS LIMITED thinks fit; and

4.5.3 may require, as a condition precedent of it continuing to provide the Hardware, Software and/or Services, such financial security as it deems appropriate; and

4.5.4 invoice the PURCHASER for any bank charges (including, but not exclusively, transfer charges, costs for dishonoured cheques etc); and

4.5.5 without notice, exercise their legal right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 and subsidiary legislation as amended from time to time together with compensation for debt recovery costs.

4.6 Where DATABASE SOFTWARE SOLUTIONS LIMITED suspends the provision of HARDWARE, SOFTWARE and/or SERVICES pursuant to clause 4.5.1, the PURCHASER shall be liable to pay any additional costs which DATABASE SOFTWARE SOLUTIONS LIMITED incurs in the event that the provision of HARDWARE, SOFTWARE and/or SERVICES is subsequently resumed.

4.7 These provisions are without prejudice to DATABASE SOFTWARE SOLUTIONS LIMITED' rights and remedies set out in Clause 7 hereof or any other rights and remedies available to it under applicable law.

5. LIMITATION OF LIABILITY

5.1 Nothing in these terms and conditions seeks to limit or exclude DATABASE SOFTWARE SOLUTIONS LIMITED' liability in respect of:-

5.1.1 death or personal injury; or

5.1.2 fraud or fraudulent misrepresentation; or

5.1.3 any other type of liability which applicable law prohibits any limitation or exclusion thereof.

5.2 Subject to Clause 5.1, DATABASE SOFTWARE SOLUTIONS LIMITED shall be under no liability to the PURCHASER whatsoever (whether such liability arises due to tort (including negligence), breach of contract, breach of statutory duty, restitution, implied warranty, condition or other term or duty at common law, or for any other reason) for any direct, indirect, or consequential loss (all three of which terms include but are not limited to loss of profit, business opportunity, contracts, depletion of goodwill and like loss), damages, costs, expenses or other claims, howsoever caused, arising out of or in connection with:

5.2.1 any of the HARDWARE, SOFTWARE or SERVICES;

5.2.2 any breach by DATABASE SOFTWARE SOLUTIONS LIMITED of any of the express or implied terms of this Agreement;

5.2.3 any use made by the PURCHASER of any of the HARDWARE, SOFTWARE or SERVICES; or

5.2.4 otherwise under this Agreement.

5.3   The limitations and exclusions referred to in Clause 5.2 shall apply irrespective of whether any losses:

5.3.1   arise naturally from any breach of the AGREEMENT; or

5.3.2   were reasonably anticipated or contemplated by DATABASE SOFTWARE SOLUTIONS LIMITED and the PURCHASER when the AGREEMENT was entered into; or

5.3.3   are those which the PURCHASER specifically informed DATABASE SOFTWARE SOLUTIONS LIMITED was a likely consequence of a breach by DATABASE SOFTWARE SOLUTIONS LIMITED prior to that breach.

5.4   Subject to clause 5.1, DATABASE SOFTWARE SOLUTIONS LIMITED shall have no liability to the PURCHASER in respect of any claim unless the PURCHASER shall have served notices of the same upon DATABASE SOFTWARE SOLUTIONS LIMITED within one year of the date it became aware of the circumstances giving rise to the claim or the date when it ought reasonably became so aware.

5.5   If a number of claims result from substantially the same circumstances any loss there shall be regarded as giving rise to only one claim under the AGREEMENT.

5.6   Subject to Clause 5.1, DATABASE SOFTWARE SOLUTIONS LIMITED' aggregate liability arising under or in connection with each AGREEMENT shall not under any circumstances exceed the PURCHASE PRICE.

5.7   Except as expressly set forth in these terms and conditions, DATABASE SOFTWARE SOLUTIONS LIMITED hereby disclaims all warranties implied, statutory or otherwise with respect to the HARDWARE, SOFTWARE and SERVICES provided and all components and elements thereof, including but not limited to implied warranties of merchantability and fitness for particular purpose. DATABASE SOFTWARE SOLUTIONS LIMITED does not represent or warrant that the HARDWARE, SOFTWARE and SERVICES, will be error or bug free or that the HARDWARE and/or SOFTWARE will function without interruption.

5.8   Notwithstanding any other provision of this AGREEMENT, the PURCHASER hereby agrees (prior to exercising any other remedies available to it under this AGREEMENT or pursuant to applicable law) to afford DATABASE SOFTWARE SOLUTIONS LIMITED not less than 60 days (from the date which DATABASE SOFTWARE SOLUTIONS LIMITED is notified in writing about the default by the PURCHASER) to remedy any default by DATABASE SOFTWARE SOLUTIONS LIMITED under the AGREEMENT.

6.   INDEMNITY

6.1   The PURCHASER agrees to indemnify keep indemnified and hold harmless DATABASE SOFTWARE SOLUTIONS LIMITED and its employees, affiliates, agents, business partners and suppliers from and against liabilities, costs, expenses, damages and losses howsoever arising (including any direct, indirect or consequential losses and all interest, penalties and legal and other reasonable professional costs and expenses) arising as a result of:

6.1.1   any breach by the PURCHASER of the AGREEMENT;

6.1.2   any use by the PURCHASER of the SOFTWARE, HARDWARE or SERVICES; and

6.1.3   any breach by the PURCHASER of any terms imposed by an ORIGINAL LICENSOR.

7.   TERMINATION

7.1   DATABASE SOFTWARE SOLUTIONS LIMITED shall be entitled to cancel any ORDER and the AGREEMENT if:

7.1.1   any HARDWARE, SOFTWARE and/or SERVICES become unavailable, in which case DATABASE SOFTWARE SOLUTIONS LIMITED are not obliged to provide substitute software, hardware or services but shall inform the PURCHASER of such unavailability; or

7.1.2   the PURCHASER does not pay DATABASE SOFTWARE SOLUTIONS LIMITED the PURCHASE PRICE for the HARDWARE, SOFTWARE and/or SERVICES by the PAYMENT DATE; or

7.1.3   the PURCHASER is either not able or not authorised to enter into the AGREEMENT with DATABASE SOFTWARE SOLUTIONS LIMITED; or

7.1.4   if the PURCHASER commits any material breach of any term of the AGREEMENT and such breach has not been remedied (where it is capable of being remedied) within 30 days of the breach; and

7.1.5   forthwith if the PURCHASER shall convene a meeting of its creditors or proposal is made for a voluntary arrangement within part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other is unable to pay debts within the meaning of Section 123 of the Insolvency Act 1986 or if the trustee receiver administrative receiver, or liquidator or other similar office is appointed in respect of all or any part of the business or assets or if a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up or the PURCHASER ceases, or threatens to cease to carry on business; or has any distraint, execution or other process levied or enforced on any of its property; or is the subject of anything analogous to the foregoing

under the laws of any applicable jurisdiction or DATABASE SOFTWARE SOLUTIONS LIMITED reasonably believes that circumstances may be about to give rise to any of the events mentioned above.

7.2   Any termination of the AGREEMENT pursuant to this Clause 7 shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liability to either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force in or after such termination.

SCHEDULE SPECIFIC TERMINATION AND CANCELLATION PROVISIONS

SCHEDULE ONE

7.3   Clauses 7.4 and 7.5 shall apply in relation to Schedule 1:

7.4   Any request by the PURCHASER for rescheduling of deliveries will only be considered by DATABASE SOFTWARE SOLUTIONS LIMITED if made at least 72 hours before despatch/delivery of the HARDWARE and/or SOFTWARE and shall be subject to acceptance by DATABASE SOFTWARE SOLUTIONS LIMITED at DATABASE SOFTWARE SOLUTIONS LIMITED' sole discretion and subject to a reasonable administration charge by DATABASE SOFTWARE SOLUTIONS LIMITED.

7.5   The PURCHASER hereby indemnifies DATABASE SOFTWARE SOLUTIONS LIMITED against all loss, costs (including the cost of labour and materials used and overheads,) damages, charges and expenses arising as a result of the ORDER and its cancellation or rescheduling.

SCHEDULE TWO

7.6   The PURCHASER may only terminate the THIRD PARTY SOFTWARE UPGRADE RENEWALS in accordance with Clause 26.3.

7.7   The PURCHASER may only terminate the THIRD PARTY MAINTENANCE SERVICES in accordance with any terms provided by the applicable third party service provider.

SCHEDULE THREE

7.8   Clauses 7.8 to 7.10 (inclusive) shall apply in relation to Schedule 3.

7.9   The LICENSE and/or SUPPORT SERVICES may be terminated by the PURCHASER or DATABASE SOFTWARE SOLUTIONS LIMITED by giving 90 days' notice in writing, such notice not to take effect prior to the expiry of a 12 month minimum term.

7.10   Where no notice is served pursuant to Clause 7.9, the LICENSE and/or SUPPORT SERVICES shall renew for a subsequent 12 month period (and further 12 month periods thereafter) and the PURCHASER shall pay the applicable SUPPORT AND LICENCE FEE when invoiced by DATABASE SOFTWARE SOLUTIONS LIMITED.

7.11   The PURCHASER agrees that upon termination of the LICENSE in accordance with Clause 7.8 the PURCHASER shall forthwith cease to use the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE and shall forthwith destroy all copies of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE including all printed material and documentation. The PURCHASER shall certify in writing to DATABASE SOFTWARE SOLUTIONS LIMITED that such destruction has been effected. If the PURCHASER is found subsequently to be using the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE or any part thereof the PURCHASER will become liable to pay to DATABASE SOFTWARE SOLUTIONS LIMITED continuing charges for the use of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE at the applicable rates for such DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE.

7.12   SCHEDULE FOUR

7.13   The ONLINE SERVICES may be terminated by the PURCHASER or DATABASE SOFTWARE SOLUTIONS LIMITED by giving 90 days' notice in writing, such notice not to take effect prior to the expiry of a 12 month minimum term.

7.14   Where no notice is served pursuant to Clause 7.13, the ONLINE SERVICES shall renew for a subsequent 12 month period (and further 12 month periods thereafter) and the PURCHASER shall pay the applicable ONLINE FEES when invoiced.

8.   FORCE MAJEURE

8.1   DATABASE SOFTWARE SOLUTIONS LIMITED shall not be liable for any breach of their obligation hereunder resulting from causes beyond its reasonable control including but not limited to an act of god, riots, insurrection, governmental or parliamentary prohibitions or enactment, import or export regulations, fires, flood, casualty, epidemic, strikes, lock outs, cessation of labour, power failures, internet outages, infrastructure issues, acts or omissions of its suppliers, trade disputes, embargoes, inability to obtain supplies and raw materials requirements (an event of "FORCE MAJEURE").

8.2   DATABASE SOFTWARE SOLUTIONS LIMITED agrees to give notice forthwith to the other upon becoming aware of an event of Force Majeure such notice to contain details of the circumstances giving rise to the event of Force Majeure.

8.3   If a default due to an event of Force Majeure shall continue for more than four weeks then DATABASE SOFTWARE SOLUTIONS LIMITED shall be entitled to terminate any affected part of the AGREEMENT and shall not have any liability to the PURCHASER in respect of the terminated part of the AGREEMENT as a result of an event of Force Majeure.

9.   NOTICES

9.1   Any notice, request, instruction or other documents to be given hereunder shall be delivered or sent first class post or by email or facsimile (such email or facsimile notice to be confirmed by letter posted (within 12 hours) to the address of the other party set out in THE QUOTATION (or such other address as may have been notified to DATABASE SOFTWARE SOLUTIONS LIMITED) and any such notice or other documents shall be deemed to have been served (if delivered) at the time of delivery or (if sent by post) upon the expiration of 48 hours after posting or (if sent by email or facsimile) upon expiration of 12 hours after dispatch).

9.2   Legal Proceedings must be served by first class or pre-paid recorded delivery only.

9.3   Where the words 'notify' or 'notifies' are used in this AGREEMENT, it shall mean 'to give notice' in accordance with this Clause 9.

10.   CONFIDENTIALITY AND DATA PROTECTION

10.1   CONFIDENTIAL INFORMATION disclosed by either party to the other or by (the "RECEIVING PARTY") shall be treated as confidential and safeguarded by the Receiving Party in accordance with this Clause 10 for a period of six years from the date of termination of this AGREEMENT. The provisions of this clause 10 shall survive any termination of the AGREEMENT.

10.2   The RECEIVING PARTY agrees and undertakes that it will, and will procure that it's directors, officers, employees, agents or consultants will:

    10.2.1   keep in strict confidence and in safe custody any CONFIDENTIAL INFORMATION disclosed to it, or which it otherwise acquires;

    10.2.2   not use or divulge to any third party any CONFIDENTIAL INFORMATION other than for the purpose of this AGREEMENT;

    10.2.3   not copy or reproduce or publish any or all of the CONFIDENTIAL INFORMATION except as is reasonably necessary for the purposes of this AGREEMENT; and

    10.2.4   except as may be required by applicable law or regulation or the rules or requirements of any of the relevant stock exchange or relevant regulatory authority, not distribute, disclose or disseminate CONFIDENTIAL INFORMATION to anyone, except its directors, officers, employees, agents or consultants who have a need to know such Confidential Information.

10.3   The provisions of this Clause 10 shall not apply to CONFIDENTIAL INFORMATION which the RECEIVING PARTY can show to the other party's reasonable satisfaction:

    10.3.1   was known to and lawfully in the possession of the RECEIVING PARTY (without obligation to keep the same confidential) at the date of disclosure or acquisition of the CONFIDENTIAL INFORMATION;

    10.3.2   in its entirety was at the time of disclosure or has become public knowledge otherwise than by reason of the RECEIVING PARTY breach of the restrictions in this Agreement;

    10.3.3   is independently developed by the RECEIVING PARTY without access to any CONFIDENTIAL INFORMATION; or

    10.3.4   is required by law, judicial action, recognised stock exchange, governmental department or agency or other regulatory authority to be disclosed in which event the RECEIVING PARTY shall take all reasonable steps to consult and take into account the reasonable requirements of the other party in relation to such disclosure.

10.4   The parties hereby agree to comply with the DATA PROTECTION ACT in the performance of their respective obligations under this AGREEMENT.

11.   SUCCESSORS

11.1   The AGREEMENT shall be binding upon and endure for the benefit of the successors in title of the parties hereto.

12. ASSIGNMENT AND SUBCONTRACTING

12.1 The PURCHASER shall not be entitled to assign, transfer, charge, hold on trust for any person or deal in any manner with any of its rights under the AGREEMENT. THE PURCHASER shall not be entitled to sub-contract any of its obligations under this AGREEMENT.

12.2 DATABASE SOFTWARE SOLUTIONS LIMITED shall be entitled to assign, transfer, charge, hold on trust for any person or deal in any manner with any of its rights under the AGREEMENT. DATABASE SOFTWARE SOLUTIONS LIMITED shall be entitled to sub-contract any of its obligations under this Agreement.

13. WAIVER

13.1 A delay in exercising or failure to exercise a right or remedy under or in connection with this AGREEMENT shall not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor shall the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default shall only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and shall not constitute a waiver of any other right, remedy, breach or default.

14. INVALIDITY AND SEVERABILITY

14.1 If any provision of the AGREEMENT shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this AGREEMENT shall not be affected by such invalidity or unenforceability and shall remain in full force and effect.

14.2 The parties hereby agree to attempt to substitute for any invalid or enforceable provision a valid enforceable provision, which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid and enforceable provision.

15. ENTIRE AGREEMENT

15.1 Except where expressly provided otherwise in these terms and conditions, these terms and conditions, together with the documents referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the parties in relation to such matters.

15.2 Each of the parties acknowledges and agrees that in entering into the AGREEMENT and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this AGREEMENT. The only remedy available to either party in respect of any such statements, representation, warranty or understanding shall be for breach of contract under the terms of this AGREEMENT.

15.3 Nothing in this Clause 15 shall operate to exclude any liability for fraud

16. THIRD PARTY RIGHTS

16.1 A person who is not a party to the AGREEMENT shall have no right under the Contracts (Rights of Third Parties) Act 1999 to the benefit of any of these terms and conditions, unless otherwise agreed in writing by DATABASE SOFTWARE SOLUTIONS LIMITED.

17. GOVERNING LAW AND JURISDICTION

17.1 This AGREEMENT and any non-contractual obligations arising out of it, shall be governed by and construed in accordance with the laws of England, Scotland and Wales, and the parties hereto agree to submit to the exclusive jurisdiction of the courts of England, Scotland and Wales (including in relation to any non-contractual disputes)

18. SCHEDULE ONE

HARDWARE, SOFTWARE, INSTALLATION/TRAINING SERVICES, BESPOKE SERVICES AND DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES

18.1 In consideration for the payment of the applicable parts of the PURCHASE PRICE, DATABASE SOFTWARE SOLUTIONS LIMITED agrees to:

18.1.1 sell and the PURCHASER to purchase (in each case where identified in the QUOTATION) the HARDWARE, SOFTWARE, INSTALLATION/TRAINING SERVICES, BESPOKE SERVICES AND DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES (as applicable); and

18.1.2 provide the HARDWARE, SOFTWARE, INSTALLATION/TRAINING SERVICES. BESPOKE SERVICES AND DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES to the PURCHASER in accordance with these terms and conditions and as set out in the QUOTATION.

18.2 The PURCHASER shall:

18.2.1 carry out routine day to day preventive maintenance of the HARDWARE AND SOFTWARE as may be recommended by DATABASE SOFTWARE SOLUTIONS LIMITED;

18.2.2 permit DATABASE SOFTWARE SOLUTIONS LIMITED' service engineers to have full access to the HARDWARE and SOFTWARE and proper facilities at the SITE for the purpose of carrying out the INSTALLATION/TRAINING SERVICES, DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES and (where applicable) any BESPOKE SERVICES;

18.2.3 permit no alteration to any SOFTWARE or HARDWARE except by written agreement with DATABASE SOFTWARE SOLUTIONS LIMITED;

18.2.4 provide DATABASE SOFTWARE SOLUTIONS LIMITED with at least 60 days notice in writing, in the event that the HARDWARE and SOFTWARE is to be relocated and/or in the event of any structural changes or re-wiring;

18.2.5 ensure that it has adequate back up of its data since its protection or recovery forms no part of the AGREEMENT unless the applicable ONLINE SERVICES are purchased by the PURCHASER; and

18.2.6 where any THIRD PARTY SOFTWARE is provided, observe and comply with the licence conditions of the ORIGINAL LICENSOR.

18.3 Unless otherwise agreed specifically in writing by DATABASE SOFTWARE SOLUTIONS LIMITED in relation to any particular item, DATABASE SOFTWARE SOLUTIONS LIMITED has no responsibility under this AGREEMENT in relation to any of the following items, namely;

18.3.1 software, storage media, data retrieval;

18.3.2 building, wiring or telephone instruments where relevant; or

18.3.3 any consumable items as specified by the HARDWARE AND SOFTWARE manufacturer/distributor.

19. DELIVERY/DESPATCH

19.1 DATABASE SOFTWARE SOLUTIONS LIMITED shall make available to the PURCHASER all relevant documentation for the preparation of the SITE in sufficient time to enable the PURCHASER to comply with its obligations under Clause 19.2 below.

19.2 The PURCHASER shall (at its own cost and expense) complete the preparation of the SITE on or before the DELIVERY DATE. Preparation of the SITE shall include making all structural, electrical and telecommunication alterations necessary to permit delivery of the HARDWARE and SOFTWARE to the SITE.

19.3 Except in the case of SOFTWARE which is installed remotely, DATABASE SOFTWARE SOLUTIONS LIMITED shall use reasonable endeavours to deliver the HARDWARE and SOFTWARE to the SITE as soon as possible following delivery to DATABASE SOFTWARE SOLUTIONS LIMITED.

19.4 Except in the case of SOFTWARE which is installed remotely (where risk shall pass to the PURCHASER upon installation under Clause 20.1) risk in the HARDWARE and SOFTWARE shall pass to the PURCHASER at the time the HARDWARE and SOFTWARE are despatched by DATABASE SOFTWARE SOLUTIONS LIMITED. DATABASE SOFTWARE SOLUTIONS LIMITED accepts no liability for loss or damage caused during any transit of HARDWARE AND/OR SOFTWARE, or for any failures on the part of third parties.

19.5 On the DELIVERY DATE the PURCHASER shall make available to DATABASE SOFTWARE SOLUTIONS LIMITED free of charge such labour and equipment as DATABASE SOFTWARE SOLUTIONS LIMITED shall have previously specified in writing and which it shall reasonably require in order to perform its duties under the AGREEMENT.

19.6 If the PURCHASER refuses to accept delivery on the DELIVERY DATE (either part or whole) DATABASE SOFTWARE SOLUTIONS LIMITED will be entitled to treat the AGREEMENT as repudiated by the PURCHASER and decline to make any further deliveries, without prejudice to DATABASE SOFTWARE SOLUTIONS LIMITED' right to recover damages for breach of contract.

19.7 DATABASE SOFTWARE SOLUTIONS LIMITED shall have no liability to the PURCHASER in respect of late or partial delivery where the same results from the PURCHASER'S failure to prepare the SITE in accordance with Clause 19.2 above in a timely manner prior to the DELIVERY DATE.

19.8   Following delivery, any HARDWARE and SOFTWARE which have not been received or have been damaged must be notified to DATABASE SOFTWARE SOLUTIONS LIMITED in writing within 48 hours of the DELIVERY DATE.

19.9   For the avoidance of doubt, where SOFTWARE is to be installed remotely under Clause 20.1, the term "delivery" in the context of this Clause 19 shall refer to the date upon which the SOFTWARE is installed pursuant to Clause 20.1.

20.   INSTALLATION/TRAINING SERVICES AND ACCEPTANCE

20.1   DATABASE SOFTWARE SOLUTIONS LIMITED shall commence installation of the HARDWARE and SOFTWARE on the DELIVERY DATE and shall inform the PURCHASER when such installation is completed. Installation may take place at the SITE or be undertaken remotely by DATABASE SOFTWARE SOLUTIONS LIMITED, as specified in the QUOTATION.

20.2   The PURCHASER shall be deemed to have accepted the HARDWARE and SOFTWARE upon the date DATABASE SOFTWARE SOLUTIONS LIMITED informs the PURCHASER that the HARDWARE and SOFTWARE have been installed.

20.3   DATABASE SOFTWARE SOLUTIONS LIMITED shall provide to the PURCHASER from the DELIVERY DATE any training services which are specified in the QUOTATION and included in the PURCHASE PRICE.

20.4   The PURCHASER may from time to time request additional training services. DATABASE SOFTWARE SOLUTIONS LIMITED shall be under no obligation to provide such additional training services, however where they are provided they will be considered ADDITIONAL SERVICES and be subject to the payment by the PURCHASER of additional charges calculated on a time and material basis at the prevailing CHARGING RATE.

21.   TITLE TO THE HARDWARE AND SOFTWARE AND WEEE COMPLIANCE

21.1   Title to the HARDWARE and SOFTWARE shall not pass to the PURCHASER until the PAYMENT DATE.

21.2   Until the PAYMENT DATE the PURCHASER shall:

21.2.1   hold the HARDWARE and SOFTWARE as fiduciary agent and bailee, and shall keep such properly stored and identifiable as DATABASE SOFTWARE SOLUTIONS LIMITED' property and protected and insured to its full reinstatement value; and

21.2.2   not be entitled to sell transfer lease charge assign by way of security or otherwise deal in or encumber the HARDWARE and SOFTWARE.

21.3   If in breach of Clause 21 above, the PURCHASER shall account to DATABASE SOFTWARE SOLUTIONS LIMITED for the proceeds of sale or otherwise of such items, whether tangible or intangible, including insurance proceeds and shall keep all such proceeds separate and distinct from any moneys or property of the PURCHASER and third parties.

21.4   If either:

21.4.1   the PURCHASER fails to pay the full PURCHASE PRICE by the PAYMENT DATE; or

21.4.2   prior to the PAYMENT DATE the PURCHASER convenes a meeting of its creditors or a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986; or such subsidiary legislation as amended from time to time or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) the PURCHASERS creditors or if the PURCHASER is unable to pay debts within the meaning of Section 123 of the Insolvency Act 1986; or if a trustee receiver, administrative receiver, liquidator or other similar office is appointed in respect of all or any part of the business or assets of the PURCHASER; or if a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the PURCHASER or for the making of an administrative order (otherwise known for the purpose of an amalgamation or reconstruction); or has any distraint, execution or other process levied or enforced on any of its property; or is the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction then DATABASE SOFTWARE SOLUTIONS LIMITED (without prejudice to any other legal remedies it may have) shall at any time thereafter be entitled to require the PURCHASER to deliver up the HARDWARE and SOFTWARE, and if the PURCHASER fails to do so forthwith, to enter upon the SITE (without notice to the PURCHASER) and remove the HARDWARE and SOFTWARE.

21.5   The PURCHASER is prohibited from removing or altering any of the INTELLECTUAL PROPERTY RIGHTS notice(s) embedded in or that DATABASE SOFTWARE SOLUTIONS LIMITED, the Original Licensor, manufacturer or distributor supplies with the Software and/or Hardware.

21.6   Where HARDWARE is provided to the PURCHASER pursuant to the AGREEMENT, then at any time within the:

21.6.1   six (6) months prior to, or within three (3) months after the date of termination of the AGREEMENT; or

21.6.2   three (3) months following the date of cancellation of the provision of part of the HARDWARE, the PURCHASER will have the option ("WEEE OPTION") by written notice given to DATABASE SOFTWARE SOLUTIONS LIMITED, to require DATABASE SOFTWARE SOLUTIONS LIMITED on termination of the AGREEMENT or on cancellation of the provision of HARDWARE to de-install and collect any HARDWARE which is the subject of such termination and/or cancellation ("TERMINATED HARDWARE") to thereafter dispose of the same in accordance with the Directive on Waste Electrical and Electronic Equipment (2002/96/EC) ("WEEE").

21.7   If the PURCHASER exercises the WEEE OPTION, it will:

21.7.1   be responsible for payment to us of DATABASE SOFTWARE SOLUTIONS LIMITED's reasonable costs of de-installation, collection and WEEE compliant disposal of the TERMINATED HARDWARE; and

21.7.2   fully cooperate with DATABASE SOFTWARE SOLUTIONS LIMITED in relation to the de-installation and collection of the TERMINATED HARDWARE from the relevant SITE or such other location notified to DATABASE SOFTWARE SOLUTIONS LIMITED.

21.8   If by the date which falls three (3) months after either:

21.8.1   the termination of the AGREEMENT; or

21.8.2   cancellation of the provision of the TERMINATED HARDWARE, DATABASE SOFTWARE SOLUTIONS LIMITED have not exercised the WEEE OPTION, then the PURCHASER shall be:

21.8.2.1 liable (to the extent that it has not already paid for such HARDWARE) to purchase the TERMINATED HARDWARE from DATABASE SOFTWARE SOLUTIONS LIMITED at the then current charges for that TERMINATED HARDWARE; and

21.8.2.2 responsible for any future disposal of all TERMINATED HARDWARE in compliance with WEEE, and the PURCHASER will indemnify DATABASE SOFTWARE SOLUTIONS LIMITED in respect of any liabilities which arise out of the same.

21.9   The PURCHASER shall be responsible for DATABASE SOFTWARE SOLUTIONS LIMITED's reasonable costs incurred in relation to the collection of any waste electronic or electrical equipment as required by WEEE or any legislation implementing this in any country (or any similar legislation in any other country).

21.10   You acknowledge that we may, in relation to the supply of HARDWARE be a 'Producer' for the purpose of the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations (2006) ("ROHS"), and you shall:

21.10.1 co-operate fully with us in relation to the collection, de-installation removal and disposal of any HARDWARE which, in our judgement, is not in compliance with ROHS; and

21.11   Indemnify us in relation to such compliance.

22.   WARRANTY IN RESPECT OF THE HARDWARE AND SOFTWARE

22.1   To the extent that it is permitted to do so, DATABASE SOFTWARE SOLUTIONS LIMITED will pass on to the PURCHASER the benefit of any warranty, guarantees or indemnities given to them by any ORIGINAL LICENSOR, manufacturer or distributor .

22.2   Unless otherwise agreed, the HARDWARE and SOFTWARE are supplied in accordance with the Original Licensor's and manufacturer's standard specifications.

22.3   DATABASE SOFTWARE SOLUTIONS LIMITED warrants that the SOFTWARE will perform substantially in accordance with any accompanying documentation for a period of 30 days from the DELIVERY DATE. The PURCHASER's sole remedy for any breach of the warranty in this Clause 22.3 shall be at DATABASE SOFTWARE SOLUTIONS LIMITED' option:

22.3.1   repair or replacement of the Software (or parts thereof) so that they perform substantially in accordance with any accompanying documentation and user manuals; or

22.3.2   refund of the PURCHASE PRICE or applicable part thereof.

22.4   DATABASE SOFTWARE SOLUTIONS LIMITED warrants that the HARDWARE will perform substantially in accordance with any accompanying documentation for a period of 12 months from the DELIVERY DATE. The PURCHASER's sole remedy for any breach of the warranty in this Clause 22.4 shall be at DATABASE SOFTWARE SOLUTIONS LIMITED' option:

22.4.1   repair or replacement of the HARDWARE (or parts thereof) so that they perform substantially in accordance with any accompanying documentation and user manuals; or

22.4.2   refund of the PURCHASE PRICE or applicable part thereof.

22.5   The PURCHASER will give notice to DATABASE SOFTWARE SOLUTIONS LIMITED as soon as it is reasonably able upon becoming aware of a breach of warranty.

22.6   Any Hardware or part thereof which is replaced by DATABASE SOFTWARE SOLUTIONS LIMITED under Clause 22.4.1 shall upon replacement become the property of DATABASE SOFTWARE SOLUTIONS LIMITED.

23.   COPIES

23.1   The PURCHASER shall not be permitted to make any copies of the SOFTWARE and related documentation supplied to it under an Agreement, save insofar as it is entitled to make one copy for the limited purposes of its internal archival and back-up processes.

24.   DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES

24.1   In consideration for the payment of the DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE FEES, DATABASE SOFTWARE SOLUTIONS LIMITED shall provide the DATABASE SOFTWARE SOLUTIONS LIMITED MAINTENANCE SERVICES in relation to certain HARDWARE specified in the QUOTATION.

25.   BESPOKE SERVICES

25.1   In consideration for the payment of the BESPOKE SERVICE FEES, DATABASE SOFTWARE SOLUTIONS LIMITED shall provide the BESPOKE SERVICES to the PURCHASER the scope of which shall be defined more particularly and agreed between the parties in a QUOTATION.

25.2   DATABASE SOFTWARE SOLUTIONS LIMITED shall deploy a sufficient number of suitably qualified personnel and use reasonable skill and care in providing the BESPOKE SERVICES.

26.   SCHEDULE TWO

THIRD PARTY SOFTWARE UPGRADE RENEWALS / THIRD PARTY
MAINTENANCE SERVICES

26.1   In consideration for the payment of the PRODUCT RENEWAL FEES, DATABASE SOFTWARE SOLUTIONS LIMITED shall provide the THIRD PARTY SOFTWARE UPGRADE RENEWAL to the PURCHASER in respect of any relevant THIRD PARTY SOFTWARE purchased under Schedule 1. Each THIRD PARTY SOFTWARE UPGRADE RENEWAL shall have a term of 12 months.

26.2   The scope (including the level of support and UPDATES to be provided) is as defined in the relevant product agreement applicable to the THIRD PARTY SOFTWARE UPGRADE RENEWAL.

26.3   The PRODUCT RENEWAL FEES are payable on a periodic basis (as notified by DATABASE SOFTWARE SOLUTIONS LIMITED to the PURCHASER) and DATABASE SOFTWARE SOLUTIONS LIMITED shall be entitled to vary the PRODUCT RENEWAL FEES at its absolute discretion. The PURCHASER must provide DATABASE SOFTWARE SOLUTIONS LIMITED with at least 90 days' written notice prior to the commencement of each THIRD PARTY SOFTWARE UPGRADE RENEWAL term if it wishes to cancel the THIRD PARTY SOFTWARE UPGRADE RENEWAL before the commencement of a new term. Failure to provide such notice shall mean the PURCHASER has elected to buy the THIRD PARTY SOFTWARE UPGRADE RENEWAL for the subsequent period and the PRODUCT RENEWAL FEES shall become payable on the expiry of the previous term.

26.4   Where the ORIGINAL LICENSOR makes the purchase of THIRD PARTY SOFTWARE UPGRADE RENEWALS a condition of using the THIRD PARTY SOFTWARE and/or receiving support services in relation to the THIRD PARTY SOFTWARE, the PURCHASER's right to use the THIRD PARTY SOFTWARE and/or receive support services shall cease in the event that the PURCHASER fails to purchase the THIRD PARTY SOFTWARE UPGRADE RENEWAL.

26.5   Where the PURCHASER elects to buy THIRD PARTY MAINTENANCE SERVICES, DATABASE SOFTWARE SOLUTIONS LIMITED shall use its reasonable endeavours to procure such THIRD PARTY MAINTENANCE SERVICES on behalf of the PURCHASER, on the terms and conditions of this AGREEMENT and any terms imposed a relevant third party service provider.

26.6   In consideration for the THIRD PARY MAINTENANCE SERVICES, the PURCHASER agrees to pay the THIRD PARTY MAINTENANCE FEES on a periodic basis (as specified by DATABASE SOFTWARE SOLUTIONS LIMITED) in advance.

27. SCHEDULE THREE

DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE LICENSE AND SUPPORT SERVICES

27.1 DATABASE SOFTWARE SOLUTIONS LIMITED agrees:

27.1.1 to provide the PURCHASER with technical advice by telephone, in order to assist with the resolution of issues which the PURCHASER and its users encounter in using the SOFTWARE;

27.1.2 to provide the PURCHASER (by telephone) with reasonable assistance in implementing UPDATES;

27.1.3 to provide details (by telephone) of the procedures to be followed to alter software program parameters as and when required;

27.1.4 to diagnose faults and provide assistance (by telephone) with the fix for any SOFTWARE and provide to the PURCHASER such evidence of failure for any hardware or software item not being SOFTWARE as DATABASE SOFTWARE SOLUTIONS LIMITED is able;

27.1.5 (where the PURCHASER has paid for the on-site software support) to travel (at DATABASE SOFTWARE SOLUTIONS LIMITED' discretion) to the SITE in order to resolve the issue, subject to the payment by the PURCHASER of applicable charges as specified by DATABASE SOFTWARE SOLUTIONS LIMITED; and

27.2 The PURCHASER shall:

27.2.1 ensure the SOFTWARE is used in accordance with the terms of THE LICENCE;

27.2.2 ensure that the SOFTWARE is kept updated by the installation of UPDATES;

27.2.3 maintain and operate the SOFTWARE in a proper and prudent manner in accordance with such advice and instructions as DATABASE SOFTWARE SOLUTIONS LIMITED may issue from time to time and allow its use only by competent and authorised personnel;

27.2.4 operate a backup regime in accordance with the DATABASE SOFTWARE SOLUTIONS LIMITED backup procedures in Appendix 1 or at a minimum keep three separate disks or tape backups (for use in rotation) of a standard and frequency to allow the PURCHASER to recover current data without undue loss of staff time;

27.2.5 ensure at all times to take responsibility for the security of its systems and data including industry standard virus protection;

27.2.6 not permit any alterations or modification of the SOFTWARE;

27.2.7 make available to DATABASE SOFTWARE SOLUTIONS LIMITED without charge any information or facilities to enable DATABASE SOFTWARE SOLUTIONS LIMITED to discharge its obligation under this AGREEMENT including but not limited to, computer printouts, photocopies of documents and system passwords;

27.2.8 notify DATABASE SOFTWARE SOLUTIONS LIMITED of any alleged defect in the SOFTWARE within a period not exceeding five days from the date when the said defect in the SOFTWARE first became apparent;

27.2.9 be responsible for ensuring that the SOFTWARE is suitable for the PURCHASERS' purposes;

27.2.10 to pay separately for work done for system re-configuration or changes needed due to a change in the PURCHASERS' requirements of the system; and

27.2.11 to pay separately for any ADDITIONAL WORK requested which will be quoted for and charged at the prevailing CHARGING RATE.

28. SUPPORT RESPONSE TIMES

28.1 DATABASE SOFTWARE SOLUTIONS LIMITED will use its reasonable endeavours to respond to any request by the PURCHASER within 4 NORMAL WORKING HOURS of receiving notification by the PURCHASER.

28.2 If the PURCHASER wishes to extend the cover outside NORMAL WORKING HOURS for a particular event including but not limited to moving of premises, stocktaking or end of year preparation then the PURCHASER should notify DATABASE SOFTWARE SOLUTIONS LIMITED who will advise and provide a QUOTATION for its services in accordance with the CHARGING RATES.

28.3 Error correction is provided on a reasonable effort basis and DATABASE SOFTWARE SOLUTIONS LIMITED cannot guarantee to correct any error within any given timescales.

28.4 DATABASE SOFTWARE SOLUTIONS LIMITED at its discretion will attach a level of priority to all support matters raised. In the event of a system failure that is causing major disruption to the PURCHASERS business, this will receive priority over lesser issues.

29. GRANT OF LICENCE

29.1 Scope of the LICENCE:

29.1.1 the licence is granted only for the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE;

29.1.2   DATABASE SOFTWARE SOLUTIONS LIMITED warrants that it has the right to grant a licence of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE; and

29.1.3   the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE is licensed for use and not sold.

29.2   DATABASE SOFTWARE SOLUTIONS LIMITED grants to the PURCHASER a non-exclusive licence to use, access, display, run or otherwise interact with one copy of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE or any prior version for the same operating system on a single COMPUTER subject to these terms and conditions.

29.3   The primary user of the COMPUTER on which the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE is installed may make a second copy for his or her exclusive use on a portable COMPUTER.

29.4   The PURCHASER may also store or install a copy of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE on a storage device such as a network server, used only to run the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE on another COMPUTER over an internal or external network; however the PURCHASER must acquire and dedicate a separate license for each separate COMPUTER on which the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE is run. A licence for the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE may not be shared or used concurrently on different COMPUTERS.

29.5   The DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE is licensed as a single product. Its component parts may not be separated for use on more than one COMPUTER

29.6   The PURCHASER agrees to follow the registration process as requested by DATABASE SOFTWARE SOLUTIONS LIMITED from time to time

29.7   If the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE contains documentation that is provided only in electronic form, the PURCHASER may print one copy of such electronic documentation and the PURCHASER may not copy the printed materials accompanying the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE

29.8   The PURCHASER may not reverse engineer, de-compile or disassemble the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE.

29.9   The PURCHASER shall not be entitled to assign, sell, rent or otherwise transfer the rights granted in this license to any other third party.

29.10   This licence is granted for use in the country specified in the address of the PURCHASER in the QUOTATION. The DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE should not be exported or used remotely from any other country without the express permission of DATABASE SOFTWARE SOLUTIONS LIMITED.

29.11   The PURCHASER shall recognise all trademarks of DATABASE SOFTWARE SOLUTIONS LIMITED. This License does not grant any rights in connection with any trademarks or service marks of DATABASE SOFTWARE SOLUTIONS LIMITED.

29.12   Copyright. All titles and copyrights in and to the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE (including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE), the accompanying printed materials, and any copies of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE are owned by DATABASE SOFTWARE SOLUTIONS LIMITED. All title and INTELLECTUAL PROPERTY RIGHTS in and to the content that may be accessed through the use of the DATABASE SOFTWARE SOLUTIONS LIMITED SOFTWARE is the property of the respective content owner and is protected by applicable copyright and other intellectual property law.

30.   SCHEDULE FOUR
ONLINE SERVICES
General

30.1   In consideration for the payment of ONLINE FEES in accordance with the terms of a QUOTATION by the PURCHASER, DATABASE SOFTWARE SOLUTIONS LIMITED shall provide the ONLINE SERVICES from the GO-LIVE DATE in accordance with this Schedule 4 and the PURCHASER hereby agrees to comply with its obligations in this Schedule 4 and any third party licence and/or service terms applicable to the provision of the relevant ONLINE SERVICES.

30.2   DATABASE SOFTWARE SOLUTIONS LIMITED shall perform the ONLINE SERVICES with reasonable care and skill and in accordance with generally recognised commercial practices and standards but does not, for the avoidance of doubt, in any way warrant that the provision of ONLINE SERVICES will be uninterrupted and free of errors and material defects.

30.3   The PURCHASER hereby acknowledges and agrees that DATABASE SOFTWARE SOLUTIONS LIMITED's provision of ONLINE SERVICES is dependent upon DATABASE SOFTWARE SOLUTIONS LIMITED's third party suppliers including

without limitation its communications providers, power providers and DNS providers and facilities providers. DATABASE SOFTWARE SOLUTIONS LIMITED excludes any liability to the PURCHASER in respect of the ONLINE SERVICES which may arise as a result of any acts or omissions of such third party suppliers and/or failures by such third party suppliers to comply with any contractual provisions in force between DATABASE SOFTWARE SOLUTIONS LIMITED and such third party suppliers and DATABASE SOFTWARE SOLUTIONS LIMITED from time to time.

Hosting Services

30.4   Where the PURCHASER procures hosting services, DATABASE SOFTWARE SOLUTIONS LIMITED shall use reasonable endeavours to ensure that the hosting services are available for at least 98% of the time in any calendar month ("Uptime"). For the avoidance of doubt, interruptions to any hosting services' availability which are due to:

30.4.1   scheduled maintenance;

30.4.2   are caused or requested by the PURCHASER;

30.4.3   or are wholly or partly attributable to an event or events of Force Majeure, shall count as Uptime in any calculation of availability.

30.5   Database Software Solutions Limited shall use reasonable endeavours to update the PURCHASER upon request with full records of Uptime.

30.6   Where the PURCHASER has procured hosting services in respect of a WEBSITE, DATABASE SOFTWARE SOLUTIONS LIMITED shall update the WEBSITE with MATERIALS provided from time to time by the PURCHASER within a reasonable period of time of receiving such Materials.

30.7   THE PURCHASER acknowledges that DATABASE SOFTWARE SOLUTIONS LIMITED has no control over any content placed on the WEBSITE by any users and does not purport to monitor the content of the WEBSITE.

30.8   The PURCHASER agrees to indemnify keep indemnified and hold harmless DATABASE SOFTWARE SOLUTIONS LIMITED and its employees, affiliates, agents, business partners and suppliers from and against all losses to indemnify, keep indemnified and hold harmless the relevant person in full and on demand from and against all liabilities, direct, indirect or consequential losses, damages, claims, proceedings or legal costs, judgments and costs (including costs of enforcement) and expenses which are incurred or suffered directly or indirectly in any way whatsoever as a result of:

30.8.1   any content which is uploaded to the WEBSITE; and

30.8.2   any claim by a third party that the WEBSITE and/or any part thereof infringes a third party's INTELLECTUAL PROPERTY RIGHTS.

Data Backup Services

30.9   Where the PURCHASER procures a data backup product, DATABASE SOFTWARE SOLUTIONS LIMITED will use reasonable endeavours to make backups of the data stored on the relevant server and make them available to the PURCHASER in accordance with the specification of the data backup product. DATABASE SOFTWARE SOLUTIONS LIMITED does not warrant that any data will be backed up correctly, nor that any successful restoration of data will be possible.

30.10   Irrespective of whether the PURCHASER buys a data backup product, DATABASE SOFTWARE SOLUTIONS LIMITED shall have no liability for any loss or damage to any data stored on the server or backup mediums.

30.11   Notwithstanding any agreement by DATABASE SOFTWARE SOLUTIONS LIMITED to provide backup services, the PURCHASER shall keep a current copy of all content hosted by DATABASE SOFTWARE SOLUTIONS LIMITED including website files and database information,

Domain Name Registration and Management

30.12   The PURCHASER acknowledges and agrees that

30.12.1   DATABASE SOFTWARE SOLUTIONS LIMITED does not guarantee that the PURCHASER will be able to register or renew a desired domain name.

30.12.2   DATABASE SOFTWARE SOLUTIONS LIMITED cannot know with certainty whether or not the domain name is simultaneously being sought by a third party, or whether there are any inaccuracies or errors in the domain name registration or renewal process or related databases, including the various WHOIS or other registry databases.

30.12.3   DATABASE SOFTWARE SOLUTIONS LIMITED is not responsible for any inaccuracies or errors in the domain name registration or renewal process.

30.12.4 it is solely responsible for making sure that the registration or renewal has been properly processed;

30.12.5 DATABASE SOFTWARE SOLUTIONS LIMITED may elect to accept or reject the PURCHASER's application for registration or renewal for any reason at its sole discretion, such rejection including, but not limited to, rejection due to a request for registration or renewal of a prohibited domain name; and

30.12.6 DATABASE SOFTWARE SOLUTIONS LIMITED is not liable or responsible in any way for any errors, omissions or any other actions by any third party including any registry administrator arising out of or related to the Purchaser's application for and registration of, renewal of, or failure to register or renew a particular domain name.

30.13 By applying to register a domain name, or by asking us to maintain or renew a domain name registration, the PURCHASER hereby represents and warrants to DATABASE SOFTWARE SOLUTIONS LIMITED that

30.13.1 the statements it makes in connection with such registration, maintenance, or renewal are complete and accurate, and all contact information will be kept current;

30.13.2 the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;

30.13.3 it is not registering the domain name for an unlawful purpose; and

30.13.4 it will not use the domain name in violation of any applicable laws or regulations or the company's rules or policies.

31. SCHEDULE 5
CONSULTANCY SERVICES

31.1 In consideration for the payment of CONSULTANCY FEES by the PURCHASER, DATABASE SOFTWARE SOLUTIONS LIMITED shall provide the CONSULTANCY SERVICES. Unless otherwise stated in a QUOTATION, the CONSULTANCY FEES will be calculated on a time and materials basis by reference to DATABASE SOFTWARE SOLUTIONS LIMITED' CHARGING RATES.

31.2 The scope of the CONSULTANCY SERVICES and indicative timescales for carrying out the CONSULTANCY SERVICES shall be as agreed from time to time by the parties in a QUOTATION.

31.3 DATABASE SOFTWARE SOLUTIONS LIMITED shall:

31.3.1 perform the CONSULTANCY SERVICES with reasonable care and skill using personnel who are capable of providing the CONSULTANCY SERVICES in accordance with the QUOTATION;

31.3.2 (subject to the payment by the PURCHASER of additional CONSULTANCY FEES) be prepared to attend such locations as shall be necessary from time to time in the performance of the CONSULTANCY SERVICES;

31.4 THE PURCHASER shall:

31.4.1 provide sufficient details about the SITES at which DATABASE SOFTWARE SOLUTIONS LIMITED will be required to provide the CONSULTANCY SERVICES in order to enable DATABASE SOFTWARE SOLUTIONS LIMITED to properly scope the PURCHASER's requirements; and

31.4.2 undertake such preparation (at its own cost) at the SITES as is required by DATABASE SOFTWARE SOLUTIONS LIMITED in order to ensure that there is a suitable environment for the CONSULTANCY SERVICES to be provided.

31.5 Unless otherwise agreed in writing by a duly authorised representative of DATABASE SOFTWARE SOLUTIONS LIMITED, all INTELLECTUAL PROPERTY RIGHTS arising in the performance of and/or or as a product of the CONSULTANCY SERVICES, shall vest and continue to vest in DATABASE SOFTWARE SOLUTIONS LIMITED.