



APPENDIX D

STANDARD TERMS AND CONDITIONS

1. DEFINITIONS

In these terms and conditions:

"Computer Strategies" means Computer Strategies Limited a company registered in England with company number 4552667 whose registered office is situated at 4 Saxton, Parklands, Guildford, Surrey, GU2 9JX

"Customer" means the person named in this agreement for whom Computer Strategies will provide the Services in accordance with these Terms

"Goods" means any tangible products including but not limited to, the computer hardware computer peripherals computer accessories networking software and other items set out in this agreement to be sold, leased, rented, licensed or otherwise and delivered to the Customer during the performance of the Services

"Price" means the price of the Goods and the charges for the Services as set out in this agreement or as calculated in accordance with Computer Strategies' hourly rates as notified to the Customer and from time to time in force

"Proposal" means the proposal submitted to the Customer to which these terms are attached or to the extent that matters referred to in the Proposal have been incorporated into a Service Level Agreement, the Service Level Agreement which shall supersede the Proposal

"Services" means IT support services to be provided by Computer Strategies for the Customer pursuant to a service level agreement or a Proposal and shall include ongoing maintenance of the networks hardware and standard operating software that makes up the Customer's desktop computing environment and specific IT services agreed to be supplied to the Customer.

"Third Party Equipment" means such of the Goods as are supplied by third parties

2. DELIVERY OF GOODS AND SERVICES

- 2.1 Provision of Goods and Services. Computer Strategies will provide the Customer with the Goods and/or Services as described in this agreement and these Terms. Computer Strategies reserve the right to vary the description of the Services at any time, however Computer Strategies shall inform the Customer of such variations where Computer Strategies deems necessary to do so and where reasonably practicable in the circumstances.
- 2.2 Variation to Terms. Subject to clause 2.1, any changes or additions to the Services or these Terms must be agreed in writing by Computer Strategies and the Customer. Changes to the Services will be evidenced by the signature on behalf of both Computer Strategies and the Customer of the revised Schedules
- 2.3 The provision of the Goods or Services may not be cancelled or terminated except in accordance with clause 8 of these Terms.
- 2.4 Title. Title to the Goods sold shall pass to the Customer upon payment in full to Computer Strategies of the Price therefor. Title to all other Goods, equipment and/or facilities furnished by Computer Strategies, shall remain with Computer Strategies, but the Customer shall be granted a perpetual royalty free right to use the same for the duration of the Services.
- 2.5 Transportation of media. Computer Strategies shall accept no responsibility for the damage or loss of Customer property or Goods including any form of media while in transportation to or from Computer Strategies' working premises. The Customer shall notify Computer Strategies and the delivery/shipping company (if any), in writing by recorded delivery, within two business days after delivery, of any defective or damaged Goods, including, but not limited to, any discrepancy between the delivery/shipping document(s) and the Goods received. Failure to do so shall constitute an acceptance of any such Goods and a waiver of any claim which the Customer may have against Computer Strategies for non-delivery, delivery of damaged Goods and/or failure to conform to Goods ordered.

- 2.6 Bandwidths. Both parties acknowledge that, given the nature of the Internet, it is impossible to guarantee the bandwidth available between the Customer and any third party site elsewhere on the global Internet, as the bandwidth and the speed of their access will depend upon the bandwidth available over the various third party circuits over which the traffic must pass. The Customer acknowledges that while variances in bandwidth may occur over which Computer Strategies have no control, Computer Strategies will use all reasonable endeavours to ensure that the bandwidth stated in the Proposal (if any) is the exact bandwidth available.

3. CUSTOMER'S OBLIGATIONS

The Customer will at its own expense provide Computer Strategies with all necessary access to facilities and premises, licences, permissions, documents and other information or material within sufficient time to enable the Services to be performed in accordance with these Terms.

4. PRICE AND PAYMENT

- 4.1 The Price for the Goods shall be due and payable on the date set out in the Proposal and in any event no later than the expected delivery date of the Goods. An invoice will be raised on acceptance by the Customer of the Proposal (or as otherwise specified in the Proposal). Where payment is due prior to the delivery of the Goods, Computer Strategies shall be entitled to withhold delivery of the Goods until payment in full of the Price has been paid.
- 4.2 Computer Strategies shall invoice the Customer for the Price of the Services on completion of the Services or as otherwise specified in the Proposal. Computer Strategies shall be entitled to invoice on a monthly basis in advance for Services performed on a regular monthly basis
- 4.3 Invoices shall be paid by the Customer without set off or deduction within 15 days of the date of the invoice or the date of delivery of the Goods (whichever is the earlier) ("the Payment Date") save that invoices for Services performed on a regular monthly basis shall be payable by direct debit which the Customer shall authorise. Computer Strategies shall be entitled to charge interest on any outstanding amount (both before and after any judgment) at the rate of 3% above the base rate from time to time of HSBC Bank plc from the Payment Date until the outstanding amount is paid in full
- 4.4 Third party expenses incurred by Computer Strategies on behalf of and with the Customer's consent with third parties ('Third Party Costs') will be paid by the Customer immediately on receipt of an invoice from Computer Strategies in respect of Third Party Costs. Interest will be payable at the rate set out in clause 4.3 if any Third Party Costs are not paid when demanded from the date which is 7 calendar days after the date of demand (both before and after any judgment) until the outstanding amount is paid in full. In addition, the Customer will be liable to pay to Computer Strategies any additional payments due to such third party due to lateness of payment by the Customer.

5. SUSPENSION OF SERVICES

- 5.1 Computer Strategies may, in its sole discretion, elect to suspend any or all of the Services forthwith in the event that:
- 5.1.1 the Customer fails to make any payment due under clause 4 of these Terms;
- 5.1.2 Computer Strategies is entitled to terminate the provision of Goods or Services in accordance with these Terms (including without limitation by reason of a breach, fault or omission by the Customer under these Terms); or
- 5.1.3 such suspension is for the purpose of carrying out scheduled or emergency maintenance pursuant to a Service Level Agreement, provided that prior reasonable notice is given to the Customer
- 5.2 in the event that the Services have been suspended pursuant to clause 5.1. Computer Strategies shall only be obliged to re-establish the Services once payment in full has been made and if the Services have been suspended pursuant to clause 5.1.3, Computer Strategies shall re-establish the Services as soon as reasonably possible.

6. LIABILITY

- 6.1 Computer Strategies shall have no obligation duty or liability to the Customer in contract, tort, for breach of statutory duty or otherwise beyond that of a duty to exercise reasonable skill and care.
- 6.2 Computer Strategies' liability in any event by reason of or in connection with the supply of the Goods shall be limited to the Price.
- 6.3 Computer Strategies' liability in any event by reason of or in connection with the provision of the Services shall be limited to the sum of £250,000.
- 6.4 Computer Strategies shall not be liable in any event whatever the cause thereof for any indirect, incidental, special, consequential, exemplary or punitive damages (including but not limited to damages for lost profits or lost revenues) whether or not caused by the acts or omissions or negligence of its employees or representatives and regardless of whether the Customer has been informed of the possibility or likelihood of such damages
- 6.5 Nothing in this clause 6 shall operate to exclude Computer Strategies' liability in respect of death or personal injury caused by the negligence of Computer Strategies
- 6.6 No employee or representative of Computer Strategies, other than a Director of Computer Strategies, has any authority to bind Computer Strategies to any warranty whatsoever other than that, if any, provided in these Terms, or to vary the Terms and any contrary representation shall be void.
- 6.7 In the event that the Customer installs any applications, utilities or other software programs or re-configures the Goods or any communications (or related) service provided by Computer Strategies (including, but not limited to, hardware, firmware, software, programming, configuration and service as specified in any applicable Proposal) or otherwise modifies or alters any of the foregoing, the sole responsibility of Computer Strategies will be to make such repairs as are covered by the manufacturer's warranty (if any).
- 6.8 Where Computer Strategies supplies any Goods to the Customer which are supplied by a third party ('Third Party Goods') Computer Strategies does not give any warranty, guarantee or other terms as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Customer the benefit of any warranty, guarantee or indemnity given by the person supplying the Third Party Goods to Computer Strategies
- 6.9 Computer Strategies shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any documents, data, information, material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Customer
- 6.10 The provisions of these Terms set out the maximum liability of Computer Strategies under or in connection with the provision of the Goods and/or the Services and all other liability is excluded, provided that nothing in these Terms shall exclude or limit any liability of Computer Strategies to the extent such liability may not be excluded or limited by law.

7. CONFIDENTIALITY

In performance of the Services, Computer Strategies and the Customer may have access to each other's private or confidential information and such information may contain proprietary details and disclosures. All information and data so acquired by Computer Strategies or the Customer their respective employees or agents shall remain the exclusive property of the Customer or Computer Strategies (as the case may be). Computer Strategies and the Customer shall both use a reasonable degree of care to keep and have their employees and agents keep any and all such information and data confidential. Neither Computer Strategies nor the Customer shall copy publish or disclose such information and data to others or authorise their employees or agents or anyone else to copy publish or disclose it to others without the other's prior written approval and shall return such information and data to the other at its request.

8. TERMINATION.

- 8.1 Computer Strategies may terminate or suspend the Services at any time without prior notice upon any failure of the Customer to pay any amounts due.

- 8.2 Either party may at any time terminate the Services by giving notice in writing to the other:
- 8.2.1 if the other commits any breach of a material provision of these Terms and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so; or
- 8.2.2 where the other goes into liquidation, becomes bankrupt, makes a voluntary arrangement with its creditors or has a receiver or administrator appointed; or
- 8.2.3 where the Services are provided on an annual basis as specified in the Proposal, either party may terminate the Services by giving at least three months' notice to the other in writing to expire on an anniversary of the commencement of the provision of the Services.
- 8.3 Any termination shall not relieve the Customer of its obligation to pay any charges already incurred prior to termination.
- 8.4 In the event that Computer Strategies has supplied any Goods or equipment to the Customer which is licensed, rented or hired to the Customer and where title to such Goods belongs to Computer Strategies in accordance with clause 2.4 of these Terms, the licence to use such equipment will terminate immediately on termination of the Services and the Customer hereby grants an irrevocable licence to Computer Strategies its employees and agents to enter and remove such Goods from the Customer premises at which the Goods are kept or stored.
- 8.5 For the avoidance of doubt on termination or at any time while any monies due to Computer Strategies remain due and outstanding Computer Strategies shall not be obliged to supply to the Customer any passwords necessary to enable the Customer to amend or vary any software and/or programming which Computer Strategies has created and/or developed for the Customer during the provision of the Services unless otherwise specified in the Proposal.

9 OWNERSHIP OF INTELLECTUAL PROPERTY

- 9.1 The copyright and other intellectual property rights or whatever nature whether in eye or machine readable format ('Intellectual Property') in any programming software enhancements releases and/or error corrections created by Computer Strategies during the provision of the Services are and shall remain the property of Computer Strategies.
- 9.2 The Customer shall notify Computer Strategies immediately if the Customer becomes aware of any unauthorised use of the whole or any part of the Intellectual Property by any person
- 9.3 The Customer will permit Computer Strategies to check the use of the Intellectual Property by the Customer at all reasonable times and for that purpose Computer Strategies shall be entitled to enter any of the Customer's premises upon reasonable prior notice (and so that the Customer hereby irrevocably licences Computer Strategies, its employees and agents to enter any such premises for such purpose) and the licence granted in this clause 9.3 shall survive the termination of this contract for whatever reason.
- 9.4 Computer Strategies hereby grants to the Customer a non-exclusive licence to use the Intellectual Property subject to these Terms for the duration of the provision of the Services. On termination of the Services in accordance with these terms, the licence granted in this clause 9.4 shall cease. Computer Strategies shall continue to be entitled to enter the customer's premises in accordance with clause 9.3 to check the use of the Intellectual Property by the Customer following the termination of the Services.
- 9.5 The Customer shall use the Intellectual Property for processing its own data for its own internal business purposes only. The Customer shall not permit any third party to use the Intellectual Property on behalf of or for the benefit of any third party in any way whatever.

10. RESTRICTIONS

- 10.1 The Customer shall not (whether directly or indirectly or whether on its own account or for the account of any other person, firm or company, or as agent, director, partner, manager, employee, consultant or shareholder of or in any other person, firm or company) at any time during the period from the date of acceptance of the Proposal by the Customer to the expiry of one year after the date of completion or termination of the Services for any reason and in any manner whatsoever solicit any person employed or sub-contracted by Computer Strategies and who has been involved in the provision of the Services to the Customer without the prior written consent of Computer Strategies.



11. DOMAIN NAMES

The Customer has full responsibility for renewal of all domain names. The contract for registration of any domain names shall be between the Customer and the appropriate naming authority. Computer Strategies shall only act as an agent for the Customer. The Customer shall be bound by the contractual terms of the naming authority. Computer Strategies cannot guarantee that it will be able to register any requested name and the Customer cannot assume that the registration has been effected until the Customer has received written confirmation from Computer Strategies that it has been registered. Computer Strategies gives no warranty that the Internet domain name requested will not infringe the rights of any third party and the Customer shall indemnify Computer Strategies on a full indemnity basis in respect of any loss, damage, claims or expenses (including any reasonable legal fees and Court costs or liability) arising from any such infringement of a third party's intellectual property rights

12. THIRD PARTY SERVICE PROVIDERS

Where the provision of the Services includes the procurement by Computer Strategies of any Third Party Services (such as an Internet Service Provider) which are specified on the Proposal ('Third Party Provider') the contractual terms of the Third Party Provider to include any Acceptable Use Policy of that Third Party Provider ('Third Party Conditions') shall be deemed to be incorporated into these Terms and the Customer must adhere absolutely to the Third Party Conditions and shall indemnify Computer Strategies on a full indemnity basis in respect of any loss, damage, claims or expenses (including any reasonable legal fees and Court costs or liability) incurred by Computer Strategies as a result of the Customer's breach or non-compliance with the Third Party Conditions

Any applicable Third Party Conditions will be identified on the Proposal and will be available on request by the Customer

13. ASSIGNMENT AND OTHER DEALINGS

This agreement is personal to the Customer and the Customer shall not without the prior written consent of Computer Strategies at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement

Computer Strategies may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement. If so required at any time by Computer Strategies the Customer agrees that it will consent to a novation of the agreement to a purchaser of Computer Strategies' business