

## Terms and Conditions

### 1.0 Interpretation

#### 1.1 - In these Conditions:

· "ADR Procedure" means a procedure such as mediation, conciliation or executive tribunal or other dispute resolution technique recommended from time to time by the Centre for Dispute Resolution.

· "Affiliate" in relation to the Buyer means any person who controls alone or with others the Buyer, or is controlled by the Buyer alone or with others, or is under common control with the Buyer (for which purpose "control" shall be construed in accordance with section 416(2) or section 840 of the Income and Corporation Taxes Act 1988).

"Mission IT" means any company in the Mission IT Solutions group of companies, these include Mission IT Solutions (Programming) Ltd. (registered in England under number 4246225), Mission IT Solutions (Technical) Ltd. (registered in England under number 4227358 ), Mission Holdings Limited (registered in England under number 4048424 ) and Secure-IP Limited (registered in England under number 4257407 ).

"Authorised Representative" means an employee of Mission IT ("Mission IT"), who has been authorised to be a representative of Mission IT by the board of Directors and who is acting expressly in that capacity.

· "Mission IT Solutions Ltd" means Mission IT Solutions Ltd. (registered in England under number 3858041)

· "GSS" means any or all of Goods, Software and/or Services as herein defined.

· "Buyer" means the person who accepts a Quotation provided by Mission IT for the sale of the Goods and or supply of Software or Services or whose order for the GSS is accepted by Mission IT.

· "Catalogue" means any catalogue and other sales, price, marketing and similar information made available by Mission IT and relating to the GSS supplied by Mission IT to the Buyer in whatever form or medium, including without limitation in the form of a book or other paper or hard copy, in the form of a machine-readable medium, by sound reproduction or by visual, electronic or other display.

· "Conditions" means the standard terms and conditions of sale, licence and supply set out in this document and (unless the context otherwise requires) include any special terms and conditions agreed in Writing between the Buyer and a Director of Mission IT.

· "Contract" means the contract for the purchase and sale of the Goods and licence of Software and/or supply of Services, such contract to include the acceptance of Orders by telephone or in Writing.

- "Director" means a director of Mission IT as registered at Companies House.
- "Goods" means the computer equipment or other goods (including any instalment of the Goods or any parts for them), which Mission IT is to supply in accordance with these Conditions whether under a Contract to supply Goods or incidental to a Contract to provide Services.
- "Order" means any Written or oral request for Goods and/or licence of Software and/or supply of Services made by the Buyer to Mission IT and as evidenced by Mission IT 's written or oral acceptance.
- "Quotation" means any Written or oral offer to supply GSS to the Buyer.
- "Services" means any of installation, training, maintenance and consultancy.
- "Software" means operating systems and application software whether bespoke or off the shelf shrink-wrap packages, which, Mission IT is to supply in accordance with these Conditions whether under a Contract to supply Goods or license Software or incidental to a Contract to provide Services.
- "Writing" or "Written" includes cable, facsimile or electronic transmission (including e-mail) and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 "Working days" means Monday to Friday, excluding Bank or other Public holidays.

1.5 "Year 2000 compliant" means that neither the performance nor the functionality of the goods or services is affected by dates before, during or after the year 2000 and in particular that: no value for current dates will cause any interruption in operation; date based functionality will behave consistently for dates before during and after the year 2000: in all interfaces and data storage, the century in any date will be specified either explicitly or by unambiguous algorithms or inferencing rules; the year 2000 will be recognised as a leap year. Mission IT will in no circumstances be liable to the Customer for any losses claims or damages of whatever nature that the Customer may suffer as a result of the Products not being Year 2000 Compliant.

## 2.0 Basis of the Contract

2.1 Mission IT shall sell and the Buyer shall purchase the Goods and or license of Software or supply of Services in accordance with any Quotation of Mission IT that is

accepted by the Buyer, or any Order of the Buyer which is accepted by Mission IT, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such Quotation is accepted or purported to be accepted, or any such Order is made or purported to be made by the buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing by two Directors of Mission IT.

2.3 Mission IT's employees or agents are not authorised to make any representations concerning GSS unless confirmed by two Authorised Representatives of Mission IT in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations, which are not so confirmed. Mission IT's liability for such representations is governed by this Contract.

2.4 Any advice or recommendation given by Mission IT or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the GSS which is not confirmed in Writing by two Authorised Representatives is followed or acted upon entirely at the Buyer's own risk, and accordingly Mission IT shall not be liable for any such advice or recommendation which is not so confirmed (and shall be liable for such advice or recommendation to such extent as is set out in this Contract).

2.5 Any typographical, clerical or other error or omission in any sales literature, Quotation, price list, acceptance of offer, Despatch Note, invoice or other document or information (whether written or oral) issued by Mission IT shall be subject to correction without any liability on the part of Mission IT.

2.6 The sale, resale, delivery, licensing, supply and servicing of the GSS may be subject to US, UK and other laws and regulations and shall be subject to the obtaining of any necessary export control and other licences and consents the granting of which may be necessary in any relevant jurisdictions. Mission IT and the Buyer shall co-operate in using their respective reasonable endeavours to obtain any such consents, at the cost of the Buyer.

2.7 To the extent that the Goods include any media containing material the intellectual property rights to which are owned by or licensed to any third party, any licence supplied by the sale of those Goods, supply of Software or Services shall be restricted to the licence given by the third party and subject to the Buyer entering into such licences and other agreements as the third party may require and the Buyer shall comply with the terms thereof.

2.8 The Buyer shall comply, and shall procure that any person to whom it may supply the GSS shall comply and shall similarly require compliance, with all the requirements of any such licence or other agreement or consent as is referred to in Conditions 2.6 and 2.7 above and the Buyer shall indemnify Mission IT against the consequences of any breach of the terms of any such licence, agreement or consent.

3.0 Orders and Specifications

3.1 No Order submitted by the Buyer shall be deemed to be accepted by Mission IT unless or until confirmed by two Authorised Representatives or until Mission IT has commenced fulfilment of such Order, whichever is the earlier.

3.2 Mission IT reserves the right to make any changes in the specification of the GSS which are required to conform with any applicable safety or other statutory requirements or, where the GSS are to be supplied to Mission IT 's specification, which do not materially adversely affect their quality or performance.

3.3 If any process is to be applied to the Goods by Mission IT in accordance with a specification submitted by the Buyer, the Buyer shall indemnify Mission IT against all loss, damages, costs and expenses awarded against or incurred by Mission IT in connection with or paid or agreed to be paid by Mission IT in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from Mission IT's use of the Buyer's specification.

3.4 No Order which has been accepted by Mission IT may be cancelled by the Buyer except with the agreement in Writing of Mission IT and on terms that the Buyer shall indemnify Mission IT in full against all loss (including loss of profit), costs (including costs of all labour and materials used), damages, charges and expenses incurred by Mission IT as a result of cancellation.

3.5 Mission IT may record or monitor all telephone and other conversations with the Buyer with or without the use of warning tones or other warnings.

3.6 Product specifications - Mission IT makes every effort to supply the goods as advertised but reserves the right to vary actual dimensions, specifications and quantities without prior notice. In the event that Mission IT cannot supply the goods ordered by the Customer, Mission IT reserves the right to supply goods of equal or superior quality at no extra cost.

#### 4.0 Price

##### 4.1 Subject to clause 4.2

4.1.1 the price of the GSS shall be Mission IT's quoted price (whether the Quotation is provided orally or in Writing).

4.1.2 all prices quoted are valid for 15 days only, after which time (unless the Contract has been entered into before then) they may be altered by Mission IT without giving notice to the Buyer.

4.1.3 Prices Goods and services, together with VAT, are invoiced at the price prevailing at time of order. Mission IT reserves the right to modify the prices from time to time.

4.2 Mission IT reserves the right, by giving notice to the Buyer at any time to increase the price of the GSS to reflect:

4.2.1 any increase in the cost to Mission IT which is due to any factor beyond the control of Mission IT (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties or taxes, significant increase in the costs of labour, materials or other costs of manufacture, on site down time, on site equipment failure, on site equipment being faulty or not available.); or

4.2.2 any change in delivery dates; or

4.2.3 any change to the quantities or specifications for the GSS which is requested by the Buyer; or

4.2.4 any delay caused by any instruction of the Buyer or any failure of the Buyer to give Mission IT adequate information, instructions or equipment.

4.3 Except as otherwise stated under the terms of any Quotation or in any price list of Mission IT and unless otherwise agreed in Writing between the Buyer and Mission IT, all prices for GSS are given by Mission IT on an ex works basis.

4.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to Mission IT.

4.5 Depending on the nature of the work carried out, sales invoices will be generated by and settlement payable to the relevant company. For example, any IT work of a systems or technical nature would be invoiced by Mission IT Solutions (Technical) Limited or any Internet Security work would be invoiced by Secure IP Limited. Quotations and job analysis will be carried out by Mission IT Solutions Limited but any work ordered will then be deemed to be ordered from the company that the work is allocated to. It is a condition of ordering work from Mission IT that the Buyer accepts that the work may be allocated to and carried out by any company within the Mission IT group and that all fees will be payable to the company that carries out the work.

## 5.0 Terms of payment

5.1 Subject to any special terms agreed in Writing between the Buyer and Mission IT, Mission IT shall be entitled to invoice the Buyer for the price of the GSS on or at any time after delivery of the GSS.

5.2 The Buyer shall pay the price of the GSS within thirty days of the date of Mission IT's invoice, notwithstanding that delivery or supply may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request. Mission IT may at any time at its discretion by notice in Writing demand and the Buyer shall forthwith make early payment of the price if Mission IT certifies that it has reasonable grounds to doubt the continued creditworthiness of the Buyer.

5.3 Payment by cheque or other negotiable instrument is ineffective until such instrument is honoured and Mission IT 's bank account is irrevocably credited with the amount due.

5.4 If the Buyer or any Affiliate of the Buyer fails to make any payment on the due date or breaches any other provision of the Contract or any provision of any other contract with Mission IT or if Condition 10.1 applies, then the Buyer shall be deemed to have repudiated each Contract and Mission IT shall be entitled to:

5.4.1 exercise its rights under Condition 7.6 and/or Condition 10.2 below;

5.4.2 appropriate any payment made by the Buyer to such of the GSS (or the GSS supplied under any other Contract between the Buyer and Mission IT) as Mission IT may think fit (notwithstanding any purported appropriation by the Buyer);

5.4.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3 per cent per annum above Lloyds TSB base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); and

5.4.4 charge the Buyer with any costs incurred by Mission IT in the course of collecting outstanding monies due to Mission IT from the Buyer.

5.5 The Buyer shall make all payments in the currency in which the price is denominated and without any set-off, deduction or withholding. Without limitation, the Buyer shall not be entitled to withhold payment by reason of any breach of warranty or other obligation of Mission IT. In such circumstances the Buyer's sole remedy shall be the provisions set out in condition 8.

## 6.0 Delivery

6.1 Delivery and/or supply whether by means of installation or not of the Goods and/or Software shall be made by Mission IT delivering and/or supplying the Goods and/or Software to the Buyer's premises or, if some other place for delivery and/or supply is agreed by Mission IT, by Mission IT delivering and/or supplying the Goods and/or Software to that. If it is agreed that the Goods and/or Software are to be sent by a third party carrier to the Buyer, they may be sent by such method of carriage as Mission IT may choose and, if Mission IT arranges for the carriage and/or insurance of the Goods and/or Software in transit, it will do so as agent for the Buyer so that the carrier is the Buyer's and not Mission IT's agent and the Buyer will reimburse the cost accordingly, but section 32(2) and (3) of the Sale of Goods Act 1979 shall not apply.

6.2 Supply of Services shall be made by Mission IT carrying out the Services as specified in the Order at a location to be agreed between the Buyer and Seller as the most practical venue taking into account the nature of the Services to be provided.

6.3 Any dates quoted for delivery or supply of the GSS are approximate only and Mission IT shall not be liable for any delay in the delivery and/or supply of the GSS howsoever caused. Subject to Condition 6.4, time for delivery shall not be of the essence unless previously agreed by two Authorised Representatives in Writing. The Goods and/or Software may be delivered by Mission IT in advance of the quoted delivery date if authorised by two Authorised Representatives in Writing and upon giving reasonable notice to the Buyer.

6.4 If the GSS have not been delivered or supplied within 21 days after the anticipated date for delivery quoted by Mission IT then:

6.4.1 The Buyer can require Mission IT to deliver the Goods and/or Software or supply the Services within 14 days after service of the notice; and

6.4.2 if Mission IT fails to do so, then the Buyer as its only remedy may, by further notice in Writing to Mission IT, cancel the Contract for the GSS.

6.5 Where the GSS are to be delivered in instalments, each delivery shall constitute a separate Contract and failure by Mission IT to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.6 The GSS may be delivered by instalments. The Buyer may not reject any GSS by reason that they are, or any instalments is, less than the full quantity contracted for save where, in relation to Goods, the shortfall is greater than 10%.

6.7 If the Buyer fails to take delivery of the Goods and/or Software or fails to give Mission IT adequate instructions at the time stated for delivery or supply (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of Mission IT's fault) then, without prejudice to any other right or remedy available to Mission IT, Mission IT may:

6.7.1 store the Goods and/or Software until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.7.2 after seven days, sell the Goods and/or Software at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

6.8 The Buyer may not reject the Goods and/or Software by reason of any matter, which occurred after the passing of risk to the Buyer.

6.9 The Buyer shall accept and pay for all Goods and/or Software, which it may no longer reject but this is without prejudice to its warranty rights under Condition 8. Nothing in these Conditions shall affect the statutory rights of a consumer.

6.10 Any delivery receipt in respect of the GSS shall be conclusive if it is signed by a person who is or appears to be an employee, representative or agent of the Buyer, whether or not the Buyer alleges that such person has no authority to sign delivery receipts provided that Mission IT has acted reasonably.

## 7.0 Risk and Property

7.1 Risk of damage to or loss of the Goods and/or Software shall pass to the Buyer:

7.1.1 in the case of Goods and/or Software to be delivered by Mission IT otherwise than at Mission IT's premises at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods and/or Software, the time when Mission IT has tendered delivery of the Goods and/or Software; or

7.1.2 in the case of Goods and/or Software to be sent to the Buyer by a carrier as agent for the Buyer, at the time of delivery to the carrier.

7.2 Notwithstanding delivery of and the passing of risk in the Goods or any document representing them and notwithstanding any other provision of these Conditions, Mission IT reserves the right of disposal of each item of the Goods, and the property therein shall not pass to the Buyer, until Mission IT has received in cash or cleared funds payment in full for such item and all other GSS supplied by Mission IT to the Buyer and Affiliates of the Buyer and default interest and all other monies on any account whatsoever owed by the Buyer and Affiliates of the Buyer to Mission IT.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as fiduciary agent and bailee for Mission IT, shall retain possession of them in good order and condition, shall keep them separate from goods of the Buyer and third parties and properly stored and protected and identified as Mission IT's property and shall (in the absence of proof to the contrary) be deemed to deal with the Goods and other goods of the same type supplied by Mission IT in the order in which they are delivered.

7.4 The Buyer shall not be entitled to pledge, charge, encumber or otherwise dispose of the GSS or any interest therein or purport to do so until title passes.

7.5 If, before paying for them, the Buyer on-sells any of the Goods and/or Software, the Buyer shall account to Mission IT for the proceeds of on-sale to the extent that Mission IT has not received payment of the price for such Goods and/or Software and pending payment shall hold such proceeds on trust for Mission IT and maintain them in a separate bank account.

7.6 If Condition 10.1 applies, then Mission IT shall be entitled by notice in Writing to revoke its consent to the Buyer retaining possession of, and any express or implied authority to sell, use or consume, any Goods the property in which has not passed to the Buyer and require the Buyer to deliver them up to Mission IT (and the Buyer shall forthwith do so, failing which Mission IT may repossess, and in order to do so may enter

the premises of the Buyer or any third party where the Goods are or are thought to be without liability for any resulting damage, and against the consequences of which the Buyer shall indemnify Mission IT Solutions Ltd.) and re-sell the Goods or transfer the property in them to the Buyer.

7.7 The Buyer shall keep the Goods fully insured in their full replacement value against all risks prudently insured against between risk passing and property passing and shall on demand produce evidence thereof to Mission IT. Until the full price has been paid the Buyer shall hold on trust for Mission IT the policy and proceeds of insurance to the extent of the unpaid price.

7.8 No title shall pass in any Software provided to the Buyer.

7.9 All information, which the Buyer shall supply to Mission IT to enable Mission IT to supply the Services under the Contract, shall be supplied at the expense of the Buyer.

#### 8.0 Warranties and Liability

8.1.1 Mission IT provides that the warranty on all Software and Hardware supplied under these Conditions shall be limited to the warranty provided by the supplier or manufacturer.

8.1.2 Mission IT warrants that all Services will be provided using reasonable skill and care and, as far as possible, in accordance with the Order.

8.2 The above warranties are given by Mission IT subject to the following conditions:

8.2.1 Mission IT shall be under no liability in respect of any defect in the GSS supplied arising from any drawing, design or specification supplied by the Buyer:

8.2.2 Mission IT shall be under no liability in respect of any of the following after the passing of risk in the Goods and/or Software to the Buyer: fair wear and tear, wilful or accidental damage, negligence, alteration or repair of the Goods and/or Software without Mission IT's approval in Writing, failure to follow the manufacturer's or Mission IT's instructions (whether oral or in Writing) or, without limiting the foregoing, the use or handling of the Goods and/or Software without a high standard of care (for which purpose the Buyer acknowledges that the Goods must not be moved while in operation or subjected to any physical or electromagnetic or electrostatic shock and that they should be used, handled and maintained in accordance with any applicable instructions of Mission IT or the manufacturer supplied to the Buyer and the Buyer shall treat the Goods accordingly and require its customers to do so);

8.2.3 Mission IT shall be under no liability under the above warranties (or any other warranty, Condition or guarantee) if the total price for the GSS has not been paid by the due date for payment;

8.2.4 if and to the extent that Mission IT has the benefit of any warranty or guarantee recourse against the manufacturer or supplier which extends beyond the scope of the

warranty set out in Condition 8.1 above, Mission IT may, at its discretion and subject to the Buyer bearing any associated costs and expenses, pursue recourse and make the benefit available (but not by way of assignment) to the Buyer;

8.2.5 the Buyer shall indemnify Mission IT against all liabilities, losses, damages, costs and expenses incurred by Mission IT and arising directly or indirectly out of or in connection with any invalid warranty claim made by the Buyer under Condition 8.1;

8.2.6 Mission IT shall not be liable for any loss of, damage to or disclosure of data either contained in Goods and/or Software returned to Mission IT for any reason whatsoever or arising from the supply of Services by Mission IT (and it is the Buyer's responsibility to take all adequate back-up precautions to include, but not limited to, the taking of back-up copies of any such data and the removal of confidential data);

8.2.7 any replacement item need not be new but shall be of a condition which is comparable to that of the original and may be the same as, or similar to, or better than, the original;

8.2.8 the warranty shall apply to the repaired item or replacement item for a period of two months or the balance of the warranty period applicable to the original item whichever is the longer;

8.2.9 as between Mission IT and the Buyer the results of independent testing by the manufacturer or the manufacturer's agent shall be conclusive as to the cause of any failure and Condition 8.2.5 shall apply accordingly.

8.3 The Buyer recognises that the Goods and/or Software require careful handling and storage and warrants that only competent employees or agents shall be used to handle the Goods and/or Software and that they shall do so in accordance with the instructions referred to in Condition 8.2.2 above. Should the Buyer be in breach of this Condition then Mission IT shall be under no liability under the above warranties set out in Condition 8.1. (or any other warranty conditions or guarantee).

8.4 The Buyer shall indemnify Mission IT against any liability which the latter may incur, whether by court proceedings or by a bona fide out of court settlement as a result of a claim against Mission IT under Part 1 of the Consumer Protection Act 1987 in respect of an alleged defect in the Goods and/or Software. The Buyer shall ensure that all warning labels and instructions applicable to Goods and/or Software are not tampered with and/or removed before such Goods and/or Software are sold on or otherwise transferred to any third party and shall record all serial numbers of the Goods and/or Software and ensure that proper records are kept to enable the Goods and/or Software to be traced to any such third party. The Buyer shall allow Mission IT reasonable access to these records and shall indemnify Mission IT against all costs, liabilities and expenses incurred by Mission IT because of any Buyer's breach of this Condition 8.4.

8.5 Subject as expressly provided in these Conditions and except where the Goods and/or Software are sold to the Buyer as a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other

terms implied by statute or common law as to condition, fitness for purpose, correspondence with the description or sample or otherwise are excluded to the fullest extent permitted by law. It is acknowledged by the Buyer that the limited liability accepted by Mission IT is appropriate in view of the Buyer's own expertise in dealing with the GSS and that such limitations and exclusions of liability are reasonable.

8.6 Nothing in these Conditions will affect any statutory rights of a consumer. Nothing in these Conditions shall exclude or restrict (a) except in the case of an international supply Contract within section 26(3) and (4) of the Unfair Contract Terms Act 1977, liability of Mission IT for death or personal injury, or for the cost of repair or replacement up to £100,000 in respect of physical damage to the Buyer's property, resulting from negligence or (b) liability of Mission IT for breach of the obligations arising from section 12 of the Sale of Goods Act 1979 or (c) liability which by law cannot be excluded or restricted.

8.7 Mission IT shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential or economic loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (and whether by the negligence of Mission IT, its employees or agents or otherwise) which arise out of or in connection with the supply of the GSS or the use or resale by the Buyer of the Goods and/or Software, except as expressly provided in these Conditions.

8.8 Mission IT shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Mission IT's obligations in relation to the GSS, if the delay or failure was due to any cause beyond Mission IT's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond Mission IT's reasonable control:

8.8.1 act of God, explosion, flood, tempest, fire or accident;

8.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

8.8.3 acts, restrictions, regulations, byelaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority (including without limitation any matters of the nature referred to in Condition 2.6 above);

8.8.4 import or export regulations or embargoes;

8.8.5 strikes lockouts or other industrial actions or trade disputes (whether involving employees of Mission IT or of a third party);

8.8.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

8.8.7 power failure or breakdown in machinery.

8.9 Should for any reason any court or judicial authority deem the exclusions and limitations contained in these Conditions to be unreasonable or unenforceable then the maximum liability of Mission IT (in tort or contract) shall be the amount paid to and retained by Mission IT under the Contract.

8.10 Without limiting the generality of the foregoing, in submitting each Order the Buyer shall be deemed to represent and warrant that it is in the business of dealing in, or manufacturing, assembling or configuring computer hardware, software or related products and that it has sufficient expertise and qualifications to form its own assessment of the qualities and characteristics of the GSS (including without limitation their merchantability, fitness for required purpose, compatibility with other products, compliance with standards and networkability, as appropriate); and

8.11 Before using or disposing of them or returning them to Mission IT, the Buyer shall scan and otherwise check the Goods and/or Software and any back-up or replacement goods supplied by Mission IT and any associated software, media and data for computer viruses and other inherent defects and shall require its customers to do so. Mission IT shall not be liable for, and the Buyer shall indemnify Mission IT against, any liability, losses, damages, costs and expenses arising directly or indirectly out of or in connection with the Buyer's failure to scan or otherwise check the Goods and/or Software (or to do so adequately) for the presence of any such virus or defect.

8.12 Should Mission IT provide any information relating to the compliance of any GSS with any applicable millennium standard or otherwise Mission IT does so only on the basis that it is passing on such information in good faith from the supplier or manufacturer of the GSS to the Buyer and Mission IT makes no guarantee or warranty relating to the accuracy of any such statement, and excludes liability relating thereto. The Buyer further expressly acknowledges that the compliance of any GSS with any applicable standard may be dependent on the interoperation of such GSS with other equipment, firmware or software and confirms that it has established such interoperability or compliance of an entire system with such standards prior to making such Order.

## 9.0 Indemnity

9.1 If any claim is made against the Buyer that the GSS infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design, information or specification supplied by the Buyer, Mission IT shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

9.1.1 Mission IT is given full control of any proceedings or negotiations in connection with any such claim,

9.1.2 the Buyer shall give Mission IT all reasonable assistance for the purposes of any such proceedings or negotiations;

9.1.3 except pursuant to a non-consensual, non appealable final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of Mission IT in Writing given by a Director of Mission IT (which shall not be unreasonably withheld);

9.1.4 the Buyer shall do nothing which would or might vitiate any insurance cover which the Buyer may have (or which the Buyer knows or ought reasonably to know would or might vitiate any insurance cover which Mission IT may have) in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such cover (which the Buyer shall use its best endeavours to do);

9.1.5 Mission IT shall be entitled to the benefit of, and the Buyer shall accordingly account to Mission IT for, all damages and costs (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and

9.1.6 without prejudice to any duty of the Buyer at common law, Mission IT shall be entitled to require the Buyer to take such steps as Mission IT may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which Mission IT is liable to indemnify the Buyer under this Condition.

## 10.0 Events of Default

10.1 This Condition applies if:

10.1.1 The Buyer makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company or partnership) goes into any form of liquidation, winding up, dissolution or insolvency procedure (otherwise than for the purposes of amalgamation or reconstruction) or anything analogous to the foregoing occurs in relation to the Buyer in any jurisdiction; or

10.1.2 an encumbrancer takes possession, or a receiver or similar officer is appointed of any of the property or assets of the Buyer, or

10.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

10.1.4 Mission IT reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly; or

10.1.5 Mission IT becomes entitled to exercise any of its rights under the Condition 5.4 above.

10.2 If this Condition applies, then, without prejudice to any other right or remedy available to Mission IT, Mission IT shall be entitled by notice in Writing to the Buyer to do all or any of the following: (a) terminate or cancel the Contract; (b) suspend any

further deliveries or provision of Services under the Contract; (c) suspend any warranty or other support for the GSS or any other goods supplied by Mission IT to the Buyer, whether or not they have been paid for; (d) declare (whereupon there shall forthwith become) immediately due and payable the price for the GSS so far as not already paid (whether or not the GSS have been delivered or supplied and notwithstanding any previous agreement or arrangement to the contrary); (e) set off any amount owed by Mission IT to the Buyer against any amount owed by the Buyer to Mission IT on any account whatsoever; and (f) exercise its rights under Condition 5.4 and/or Condition 7.6.

## 11.0 Export Terms

11.1 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meanings in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

11.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into and/or licensing of Software and/or provision of Services in the country of destination and for the payment of any duties thereon.

11.3 Unless otherwise agreed in Writing between the Buyer and Mission IT, the Goods are to be delivered F.O.B. the air or seaport of shipment and Mission IT shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

11.4 The Buyer shall be responsible for arranging for testing and inspection of the Goods and/or Software at Mission IT's premises before shipment. Mission IT shall have no liability for any claim in respect of any defect in the Goods and/or Software which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

11.5 Payment of the price of the GSS and all other amounts payable by the Buyer to Mission IT under the Contract shall be made in cash on or before delivery.

11.6 Mission IT will charge and the Buyer will pay on demand value added tax in relation to the GSS unless evidence satisfactory to HM Customs & Excise to establish that the supply of the GSS is zero rated for the purpose of United Kingdom value added tax is provided to Mission IT.

## 12.0 Confidential Information

12.1 All information which comes to the knowledge of the parties concerning the other party's respective operations including, but not limited to, price specific information supplied by Mission IT to the Buyer, shall be treated as confidential and not disclosed to

any third party without the prior written consent of two Authorised Representatives of the party to whom the information relates save where the information:

12.1.1 is in the public domain prior to the receipt of such information by the disclosing party;

12.1.2 is or becomes publicly available on a non-confidential basis through no fault of the disclosing party

12.1.3 is received in good faith from a third party who, on reasonable enquiry by the disclosing party, claims to have no obligations of confidence in respect of such information and who imposes no obligations of confidence upon the disclosing party.

### 13.0 Personnel

13.1 The Buyer acknowledges that Mission IT has incurred significant costs in recruitment and training employees to enable them to provide the Services. Accordingly the Buyer agrees that it will not, and it will ensure that no other Company within its Group will not, solicit or approach in any way and of Mission IT's employees who are involved in the provision of the Services with a view to offering them employment or to solicit services from them on their own account (whether for the Buyer or another party) during the period of the Contract and for a period of six (6) months after termination or expiration of the Contract.

13.2 If any employee of Mission IT leaves the employment of Mission IT as a result of a breach by the Buyer of clause 13.1 and commences employment with, or provision of services to, the Buyer or any other member of the Buyer's Group shall pay Mission IT 50% of the higher of:-

- (a) the annual salary (including any benefits-in-kind, bonus payments, commissions and other emoluments) of the employee at the date that they ceased to be an employee of Mission IT; and
- (b) the annual salary of the employee at the time they commence employment by the Buyer or other member of the Buyer's Group and the Buyer acknowledges that any such payment is by way of liquidated damages and is reasonable and genuine pre-estimate of Mission IT's losses.

13.3 For all Mission IT employees who carry out work or the provision of services at a client site, the client will:

- (a) provide safe and healthy working conditions and encourage safe working methods.
- (b) bring to the notice of Mission IT employees the safety policies of the Client Company and the arrangements made for health and safety at work.
- (c) provide the necessary information, training and supervision in safe working practices and the need to work safely.
- (d) accept responsibility for ensuring that all fire precautionary measures are taken and for the maintenance of free access to emergency escape routes.

(e) accept responsibility for the safety of Mission IT employees whilst on Company property and ensure that all prevailing legal health and safety requirements in respect of employees and sub-contractors are complied with.

#### 14.0 General

14.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any signature given by way of electronic signature shall be deemed by the receiving party to have been given by the signatory at the time represented and to be binding upon that party.

14.2 Mission IT's strict rights shall not be prejudiced or restricted by any concession, indulgence or forbearance extended to the Buyer. No waiver by Mission IT of any breach of any provision of any Contract by the Buyer shall be considered as a waiver of any other or subsequent breach of the same or any other provision of that or any other Contract. Mission IT's rights under these Conditions are in addition to any other rights which Mission IT may have under the general law or otherwise. If the Buyer comprises two or more persons, their obligations are joint and several.

14.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

14.4 The parties will attempt in good faith to resolve any dispute or claim (other than one based on non-payment) arising out of or relating to these Conditions or any Contract promptly within 14 days by negotiations between senior executives of the parties who have authority to settle the dispute. If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute through an ADR Procedure. If the parties need advice in appointing a suitable neutral to assist in the settlement and/or in formulating the appropriate procedure they will seek assistance from the Centre for Dispute Resolution (CEDR), Princes House, 95 Gresham Street, London EC2V 7NA. Unless extended by the agreement of the parties if an ADR Procedure has not resolved the matter within 28 days of the initiation of such procedure, or if either party will not participate in an ADR Procedure, the parties shall litigate or arbitrate the dispute.

14.5 These Conditions and all Contracts shall be governed by and construed in accordance with English law. Neither the Uniform Law on International Sales nor the Convention on Contracts for the International Sale of Goods shall apply to any Contract.

14.6 If the Buyer is domiciled in one of the member states of the European Community, then any dispute which has not been the subject of a conclusive ADR procedure for whatever reason shall be litigated and for Mission IT's exclusive benefit the Buyer irrevocably submits to the jurisdiction of the English courts and agrees (without limiting

Mission IT's rights to bring proceedings in any other courts of competent jurisdiction, whether concurrently or not) that the English courts shall have jurisdiction to settle the dispute or claim and that their decisions will be binding, conclusive and enforceable by the courts of other jurisdiction.

Authorised Representatives of Mission IT

For the purposes of Mission IT standard Terms and Conditions of Sale the following people are currently Authorised Representatives: -

Mr Stephen Bennett

Mr Stephen Hill

Any changes to the list of Authorised Representatives will be notified via our web page.

<http://www.Missionit.net>

Revised December 2001