

This is a legal agreement between you ("the User") and Innovise Software Ltd ("the Company") concerning your rights to use the Innovise Software product(s) ("the Product") you are about to install. Installing the Product indicates your acceptance of these terms and conditions. Therefore, please read carefully all of the terms and conditions of this Agreement before continuing. If you do not agree to be bound by these terms and conditions DO NOT INSTALL the software.

#### 1. DEFINITIONS:

In the Licence the following expressions shall have the following meanings:

"the Product" means the computer software that you are about to install and relevant Documentation which are the subject of this License Agreement.

"the Company" means Innovise Software Ltd; a division of Innovise plc, Innovise plc, registered in England (05640283) at No. Hellier House, Wychbury Court, Two Woods Lane, Brierley Hill, West Midlands, DY5 1TA .

"the Computer" means any computer on which the Product, or any component thereof, is installed.

"the User" means the individual or entity obtaining license to use the Product under this Agreement.

"Licensed Users" means the number of computers within the User's organisation for which licences have been purchased and on which the Product may be used at anyone time.

"License Fee" means the one time license cost included in the Company's formal proposal, quotation or order confirmation.

"Documentation" means information supplied in paper or machine readable form relating to installation and use of the Product.

"User Manual" means Documentation supplied with the Product and amended from time to time which describes its function and operation.

#### 2. PROGRAMS AND GRANT OF LICENCE:

The Company hereby grant and the User hereby accepts a non-exclusive non-transferable license to use the Product upon the terms and subject to the conditions contained herein.

#### 3. SUPPLY OF GOODS AND SERVICES:

3.1 The Company shall supply the Product at an address nominated by the User together with the necessary Documentation to install and use the Product.

3.2 The User shall be responsible for:

3.2.1 Installation of the Product in accordance with the instructions contained in the accompanying documentation;

3.2.2 purchase, installation and maintenance of all computer and peripheral equipment, operating system and network and communications software.

3.3 The Company will use all reasonable endeavours to achieve delivery by any specified or requested date but each such date is to be treated as an estimate only and no promise is made or inferred.

3.4 The right to use the Product shall not pass to the User until and unless the full License Fee has been paid to the Company and all monies have been cleared by the Company's Bank.

3.5 The Company may withhold delivery of the Product if License Fee payments are outstanding, until such payments have been made.

#### 4. TERM:

This Agreement shall come into effect from the date the User receives the Product and shall remain in force unless or until the User terminates the associated Service and Support Agreement for the Product or unless or until terminated pursuant to Clause 13 hereof. For the avoidance of doubt, use of the Product requires a valid Service and Support Agreement between the User and the Company. Upon termination of the Service and Support Agreement, all rights to the Product under this Agreement cease to the extent permitted by law.

#### 5. USE OF PRODUCT:

Under the terms of this Agreement, the User is permitted to:

5.1 use the Product in connection with a single database. Where the User wishes to use the Product on more than one database, permission must be sought and additional License Fees paid to the Company.

5.2 use the Product in connection with a single set of data only at any one time, unless the Licensed Product allows you to work with multiple sets of data.

5.3 install or transfer software from one computer to another owned by the User within a single location, provided that the number of Users at any one time does not exceed the number of Licensed Users assigned to the Product.

5.4 make a single copy of the Product for purposes of disaster recovery and back-up: the User is strictly forbidden from using or copying the Product in any circumstances other than the making of security copies of Product files. If the Product is modified or merged into another program any portion so merged continues to be subject to these terms and conditions.

5.5 Use of the Product (in full or in part) is conditional upon the Company continuing to provide a support service as outlined in the Innovise Software Service and Support Agreement.

5.6 The Product provides facilities for the User to enter, edit, store and retrieve data relating to its business in machine readable form. Such data remains the property of the User at all times and the User shall have responsibility for maintaining copies in machine readable form for backup purposes.

#### 6. WARRANTY:

6.1 The Company warrants that the Product when used properly will perform substantially in accordance with the User Manual and any other documentation supplied with the Product.

6.2..... The Company warrants that it has full power and authority to grant the license and use of the Product and other rights granted by the Agreement to User with respect to the Product and that the use by the User of the Product as described herein will not in any way constitute an infringement or other violation of any copyright, trade secret, trademark, patent, invention, proprietary information, non-disclosure, or other rights of any third party.

6.3 The Company warrants that the medium on which the Product is recorded will be free from defects in material and workmanship under normal conditions of use. Upon receipt of the Product, it must be immediately backed up in accordance with clause 5.4 of this agreement, and in accordance with instructions contained in relevant documentation accompanying the Product. This guarantee excludes defects caused by accidents, abuse, poor storage or handling, or any unauthorised use of the Product.

6.4 THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS STATED IN SECTION 6 ABOVE, THE PRODUCT IS PROVIDED TO THE USER ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND IS FOR COMMERCIAL USE ONLY. THE USER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE PRODUCT OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR THE USER'S PURPOSES.

#### 7. DISCLAIMERS AND LIMITATION OF LIABILITY:

THE USER ACKNOWLEDGES AND AGREES THAT THE CONSIDERATION WHICH THE COMPANY IS CHARGING HEREUNDER DOES NOT INCLUDE CONSIDERATION FOR ASSUMPTION BY THE COMPANY OF THE RISK OF USER'S INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO ANYONE FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES, OR INDIRECT DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF CUSTOMER DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE), ARISING FROM BREACH OF WARRANTY OR BREACH OF CONTRACT, OR NEGLIGENCE, OR ANY OTHER LEGAL CAUSE OF ACTION ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT.

The maximum liability of either party to any person, firm or corporation whatsoever arising out of or in the connection with any license, use or other employment of the Product, whether such liability arises from any claim based on breach or repudiation of contract, breach of warranty, tort, or otherwise, shall in no case exceed the equivalent of 12 months in license fees applicable at the time of the event. The essential purpose of this provision is to limit the potential liability of the parties arising from this Agreement. The parties acknowledge that the limitations set forth in this Section are integral to the amount of consideration levied in connection with the license of the Product and that, were The Company to assume any further liability other than as set forth herein, such consideration would of necessity be set substantially higher. Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitations of liability for incidental or consequential damages, so the exclusions set forth above may not apply to the User.

THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION SHALL NOT APPLY TO EITHER PARTY'S INDEMNITY OBLIGATIONS SET FORTH IN SECTION 9 BELOW OR TO ANY CLAIM FOR DEATH OR PERSONAL INJURY CAUSED BY THE NEGLIGENCE OF the Company, ITS EMPLOYEES OR ITS CONTRACTORS.

#### 8. TRADE MARKS, PATENTS AND IPR:

8.1 The User acknowledges that any and all of the trade marks, trade names, copyrights, patents and other intellectual property rights used or embodied in or in connection with the Product shall be and remain the sole property of the Company. The User shall not during or at any time after the expiry or termination of this License in any way question or dispute the ownership of the Company of any such rights.

8.2 In the event that new inventions or designs evolve in performance of or as a result of this License, the User acknowledges that the same shall be the property of the Company unless otherwise agreed in writing by the Company.

8.3 The User shall indemnify the Company fully against all liabilities costs and expenses which the Company may incur as a result of work done in accordance with the User's specifications involving any infringement of any patent or other proprietary right.

#### 9. INDEMNIFICATION

9.1. Infringement. the Company will indemnify, defend and hold User harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable legal fees) (collectively, "Losses") arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against User which arise out of or result from the infringement of any copyright, patent, trademark, or misappropriation of a trade secret relating to the Product; provided that User (a) promptly gives the Company notice of the claim, suit, action, or proceeding; (b) gives the Company sole control of the defence and related settlement negotiations; and (c) provides the Company with all reasonably available information and assistance necessary to perform the Company's obligations under this paragraph.

If the Product is held to infringe any intellectual property right, the Company may, in its sole discretion and at its own expense, either procure a license that will protect User against such claim without cost to User or replace the Product with a non-infringing Product. Provided that the Company complies with this Section 9.1, User shall have no remedy against the Company, except it may at its option terminate the Agreement and receive a pro-rata refund of the license fees paid for under the Agreement for its use of the Product but which use has not yet been furnished by the Company as of the date of such termination.

9.2. User's Indemnity. User shall defend and hold the Company harmless from and against any and all Losses arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against the Company which arise out of or result from a claim by a third-party (i) alleging that the User Data or any Trademarks, or any use thereof, infringes the intellectual property rights or other rights, or has caused harm to a third party, provided that the Company (a) promptly provides User notice of the claim, suit, action, or proceeding; (b) gives User sole control of the defense and related settlement negotiations; and (c) provides User with all reasonably available information and assistance necessary to perform User's obligations under this paragraph.

9.3. Survival. The indemnification obligations contained in this Section 9 shall survive termination of this Agreement for one year.

#### 10. USER RESPONSIBILITIES:

10.1 The User shall maintain accurate and up-to-date records of the number and location of all copies of the Product.

10.2 The User shall ensure that the Product is installed, maintained and used in an appropriate manner by suitably trained staff.

10.3 The User shall not transfer or part with possession of the Product or seek to sub-license or assign the license or the User's rights under it.

10.4 The User shall not distribute, rent, loan, lease, sub-license or otherwise deal in the Product and or any other component elements of the Product.

10.5 The User shall not reverse engineer, disassemble or de-compile the Product otherwise than with the prior written consent of the Company

10.6 The User shall not copy other than for normal system operation and as specified in Clause 5 above reproduce, translate, adapt, copy or modify the Product nor to communicate the same to any third party without the Company's prior written consent.

10.7 The User shall not remove, change or obscure any identification marks or notices of proprietary rights and restrictions on or in the Product and other component elements of the Product.

10.5 The User shall not provide or otherwise make available the Product in whole or in part (including but not limited to drawings, specifications, program listings, source, object and executable code) in any form to any person other than the User's employees without the prior written consent of the Company.

#### 11. CONFIDENTIALITY:

11.1 All information, data, drawings, specifications, documentation, software, listings, source or object or executable code which the Company may have imparted or may from time to time impart to the User relating to the Product or Support thereof is proprietary and confidential. The User hereby agrees that it shall use the same solely in accordance with the provisions of this Agreement and it shall not at any time during or after expiry or termination of this Agreement disclose the same whether directly or indirectly to any third party without the Company's prior written consent.

11.2 The User agrees that it shall not itself or through any subsidiary agent or third party modify, vary, enhance, copy, sell, lease, license, sub-license or otherwise deal with the Product or any part or parts or variations or modifications, copies, releases, versions or enhancements thereof or any supporting software or have any software or other program written or developed for itself based on any confidential information supplied to it by the Company.

11.3 The User shall not without the Company's prior written consent communicate or disclose any part of the Confidential Information to any person, other than employees directly involved in the use of the product; or the User's auditors professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential information in connection with the business of the User.

11.4 The User undertakes to ensure, prior to the disclosure of any Confidential Information, that all persons and bodies mentioned in Clause 11.3 are aware that the Confidential information is confidential and that they owe a duty of confidence to the Company. The User will indemnify the Company against any loss or damage which the Company sustains or incurs as a result of the User failing to comply with such undertakings.

#### 12. PAYMENT FOR PRODUCT AND SERVICES:

12.1 Invoices in connection with the License Fee, training costs or otherwise pursuant to this Agreement where no specific date for payment is stipulated herein shall be submitted by the Company as and when these costs are incurred.

12.2 The User shall pay any invoice correctly submitted by the Company strictly in accordance with the payment terms stated thereon.

12.3 If the Company is not paid according to agreed credit terms, it will exercise its statutory right under late payment legislation to claim interest of 8% above base rate and compensation for debt recovery costs

12.4 The Company reserves the right to include mechanisms to inhibit, limit or prevent normal operation of the Product until the User has made all payments arising in respect of the Product, its support or this Agreement.

#### 13. TERMINATION:

13.1 This agreement shall continue in force for a period of not less than 12 months and will automatically continue for further periods of 12 calendar months unless either party has given the other not less than 90 days written notice of termination. In the event that payment is not received by the first day of the Support period Innovise Software reserves the right to suspend service at its discretion until all due monies are paid, without liability for any loss of business, date or any other claims due to the suspension of support services. This agreement may be terminated forthwith by either party if the other party is in material breach of the terms of agreement and fails to remedy such breach within 30 days of receipt of notice thereof in writing. Termination of the Agreement shall not prejudice any rights of either party which may have arisen on or before the date of termination.

13.2 The Company may upon expiration of 7 days notice in writing to the User terminate this Agreement with immediate effect in the event that the User:

13.2.1 fails to make payment after seven days notice of any sums due to the Company under this or any other contract with the Company; or

13.2.2 assigns or attempts to assign its rights or obligations hereunder without the prior written consent of the Company; or  
13.2.3 expressly or impliedly repudiates this Agreement by refusing or threatening to refuse to comply with any of the provisions of this Agreement; or

13.2.4 fails to comply with any of the provisions of this Agreement and (in the case of a failure capable of being remedied) does not rectify such non-compliance within 30 working days of the Company's written notice of it; or

13.2.5 convenes any meeting of creditors or passes a resolution for winding up; or

13.2.6 has an administrative receiver appointed over the whole or part of its assets or suffers the appointment of an administrator; or

13.2.7 being an individual commits any act of bankruptcy or compounds with its creditors or comes to an arrangement with any creditors; or

13.2.8 fails to obtain or maintain any license or permit required by any authority having jurisdiction or breaches or fails to comply with any applicable laws or regulations of any government agency or authority relevant to this Agreement.

#### 14. EFFECT OF TERMINATION:

14.1 On termination of this Agreement for whatever reason:

14.1.1 the User shall lose all rights to use the Product and shall forthwith deliver up the Product to the Company and destroy all copies made in whole or in part for any purpose and shall certify in writing that all such copies have been destroyed; and  
14.1.2 the User shall pay to the Company all the costs and expenses, including legal and other fees incurred and all arrears of charges or other payments arising in respect of the Product, its support or this Agreement.

14.2 Termination howsoever or whenever occasioned shall be subject to any rights and remedies the Company may have under this License or in Law.

14.3 Without prejudice to the generality of Clause 13 above or to any rights or remedies accruing to the Company or the User up to the date of termination, Clauses 11, 12 and 14 shall survive termination of this Agreement.

### 15. FORCE MAJEURE:

If the performance of this Agreement or any obligations hereunder is prevented, restricted or interfered with by reason of fire, flood, earthquake or other catastrophe, labour dispute, inability to procure supplies of power, war or other violence, law, order, regulation, ordinance or requirement of any governmental agency or any other act or condition ("force majeure circumstances") beyond the reasonable control of the Company or the User ("the affected party") then the affected party upon notice to the other party shall (save as is otherwise contemplated by this Agreement) be excused from such performance to the extent of such prevention, restriction or interference.

### 16. GENERAL CLAUSES

16.1 This Agreement constitutes the entire agreement between the parties to the exclusion of all other items, conditions and warranties unless subsequently thereto agreed in writing between the Company and the User.

16.2 If any part term or provision of this Agreement is held illegal, unenforceable or in conflict with the law the validity or enforceability of the remainder hereof shall not be affected thereby.

16.3 No waiver by either party or any breach by the other party of any obligation contained herein shall constitute a waiver of any other obligation contained herein. Any waiver, to be effective, must be in writing.

16.4 Nothing herein shall be construed as giving the User any rights to use the Product directly or indirectly on behalf of others in any computer service bureau operation or hosted service.

16.5 This Agreement shall be construed in accordance with the laws of England and Wales.

16.6 All notices to be given or made hereunder shall be in writing and addressed to the party to receive the same at the address such party may notify to the other from time to time.