

## Terms and Conditions

---

Terms and Conditions of WebTraf Pty. Ltd Trading as Net-Path  
(including software EULA)  
ABN - 18 109 913 180

### Terms of agreement

The following terms and conditions must be accepted by all that are accessing, trying or in receipt of any product or services from the Net-Path:

Please read all terms and make sure you understand them before commencing with the use of any product or service. These Terms and Conditions also include the Net-Path Privacy statement and the Net-Path Refund Policy

If you do not accept these terms and conditions you must not use or continue to receive any product or service from the Net-Path. If you have commenced a trial or are in receipt of services from the Net-Path and at any time you do not accept these terms and conditions then you must immediately cease to use and or receive any new or continuing product or services and immediately inform the Net-Path of this event. The required procedure for cancellation set out under the heading "Notice of Cancellation or Termination".

### Definitions

"we", "us" and "our" are a reference to Net-Path or any other relevant company within the Net-Path group that may offer the referenced products or services on this website or by agreement with the Net-Path.

"terms" means "terms and conditions".

"Information Service" and all references to "services" include the information service referred to under 'Information Service' below as well as other applications in the nature of a service from time to time provided or made available by us.

"including" means "including but not limited to".

"EULA" means "End User Licence Agreement".

### Interpretation

In this Agreement:

- (a) clause headings are inserted for convenience only and do not affect interpretation; and unless the context otherwise requires:
- (b) references to a clause will be construed as references to a clause of this Agreement;
- (c) references to "this Agreement" or to any specified provision of this Agreement or that other agreement or document as amended or substituted with the agreement of the relevant parties and in force at any relevant time;
- (d) references to any statute, ordinance or other law include all regulations and other enactments thereunder and all consolidations, amendments, re-enactments or replacements thereof;
- (e) words importing the singular include the plural and vice versa, words importing a gender include other genders and references to a person will be construed as including an individual, an estate of an

individual, firm, body corporate, association (whether incorporated or not), government and governmental, semi-governmental and local authority or agency.

#### General Terms

These terms apply to all users including but not limited to: licensees, partners, locations licensee, Site owners, location licensees; them self's, there employees and agents or representatives and all end users. These terms and the related documents may be subject to change from time to time at the sole discretion of the Net-Path.

These terms also apply to the use of this web site including the take-up of any product or service offered via it. In using this web site for these or any other purposes, you agree to be bound by these terms. If you do not accept them, you may not take up product or service offered over it. These terms must be read in conjunction with any other applicable terms and conditions governing the use of this web site including al relevant product or service offered on it.

#### Licence Terms

All our products and services are subject to their own application-specific licence terms that apply to all end users of those products and services. These licence terms apply to and are to be accepted in unison with all relevant agreements as or when provided with our products and services. When disclosed (such as in the case of this agreement) on our web site). Those terms will also incorporate (in particular) the relevant price and payment terms unless provided separately by Net-Path.

#### Direct Debit Terms

Unless by another special arrangement typically customers and where relevant end users are invoiced electronically and payment is collect under a direct debit authority from but their bank account or on their credit card. Other payment facilities may be in place so please note that when referencing a transaction that all transactions including but not limited to direct debit arrangements are subject to these terms.

---

#### Refund Policy:

##### What you are Buying:

On this site we offer to sale to you Internet Credits for your purchase. The Internet Credits can be used to purchase internet assess at the appropriate location rates. You can view where you can use these Internet credits and the fee range that is available (Depending on the level of your plan and if any special rates are available) via the" Locations button". The locations button is found at the same location you were at when you followed the link to this information.

##### Your entitlement to refund:

You will have a 100% entitlement refund on your purchase up until:

- you first actually transfer any data from an allowed location or;
- seven days have passed since you purchased your credits.
- There is no other entitlement of refund.

The limitations on refunds are because non recoverable commissions may have been paid out by us after your purchase.

Important note Please read :

If your account is not used for six months then your Internet Credits will lapse and the balance will be zeroed and the account closed. Please also note that this will not affect other accounts you may have with Internet Credits available (unless they too have not been used for six months). Losing old unused credits will not stop you from opening new accounts. We hope you do not find this unreasonable as it is done to minimize us being burdened with maintenance costs and fees that may relate to inactive accounts.

---

---

#### Privacy Statement

Net-Path will not sell, lease, or rent any personally identifiable information obtained from you to a third party unless you give your permission to do so.

What personal information is collected?

Net-Path only collects personal information on a voluntary basis. If an online submission is made, it will take the form of either (1) the purchase of goods or services through one of our on-line stores or associated re-seller/distributor, (2) product registration, (3) warranty registration, (4) consumer complaint/query, (5) technical support and/or (6) online surveys. The requested information may include your name, age, home address, phone number, e-mail address, business name, business address and/or date of birth.

Visitors purchasing products or services through one of our online stores may be required to provide additional information such as a valid credit card number & expiration date.

How do we use personal information?

The personal information that you provide Net-Path will allow us to fulfill your product or service order; alert you to new products, services or enhancements, and/or notify you of any upgrades or special events. We may also provide your personal information to other joint venture and partner companies or organizations that offer products or services that may be of interest to you. In such an event that the information will be shared you will be provided with an opportunity to opt out.

With whom may my personal information be shared?

Net-Path may disclose your personal information to others including third-party vendors for the purpose of fulfilling orders, processing mailings, or to analyze and/or store data. In special circumstances, we may also disclose such information if there is a violation of our End User License Agreements or if we have good faith that the law requires us to do so.

How secure is my personal information?

Net-Path Pty Ltd has taken steps to assure that all information collected will remain secure and unaltered. As such, access to all personal information is strictly controlled. When credit card and personal information is gathered we use industry standard SSL (secured socket layer) encryption. Or we will use a trusted third-party vendor such as Ematters - <http://www.ematters.com.au/>.or via our contact information at <https://www.net-path.com.au/contact.php> .

What if I have a question or complaint?

If you have a question or complaint, please feel free to e-mail us at [info@net-path.com.au](mailto:info@net-path.com.au) or send us a letter to Net-Path, PO Box 353, Crystal Brook SA 5523 Australia.

By using this website, you signify your assent to the Net-Path Privacy Statement. If you do not agree with this statement (please raise any concerns with Net-Path but, do not use this website).

---

#### Notice of Cancellation or Termination

If you decide to enforce your right not to proceed and terminate any account or license. You must send and email to [admin@net-path.com.au](mailto:admin@net-path.com.au) with the words" termination of account" entered in the subject line. This is the only official way for you to give us notice of your cancellation.

The Net-Path is not responsible for the receipt of any email sent to it and it is the responsibility of the sender to ensure readability and that any such communication is received and understood by the appropriate representative of Net-Path.

The notice provisions in the general terms from time to time published on our web site apply in all other respects to any notice you may give us to terminate.

#### Amendment

We reserve the right to amend these terms from time to time. Amendments will be effective immediately upon notification on this web site. Your continued use of the web site, and of any of our products and services, following any such notification will represent an agreement by you to be bound by the terms as amended.

#### Grant of Licence

These terms have general application to all our products and services.

Use of any of our products and services does not confer any right, title or interest to or in any of them and is not to be taken as evidencing any such right, title or interest. All such right, title and interest are (as between you and us) are at all times vested exclusively in us.

You must not disclose any end user ID, password or other log-in information to any person or entity unless they are the owners of such and there is adequate grounds to be reasonably sure they are the owners of this.

You must ensure that your registration details are true and accurate at all times and must notify us promptly of any change to your registration details current from time to time.

#### Membership

You must become a member in order to access the information offered in the member services area of this web site.

The member services area of this web site is a resource that is available to our channel partners, end users of our products and services, and others wishing to become members - for instance to receive information from us in relation to current and anticipated product and service offerings.

Please register by completing your details as described on this web site if you wish to become a member - you can do this by following the prompts on the website or contacting Net-Path if you wish to become a channel partner or reseller.

We may at our discretion accept or reject any application for membership but will, upon registering you as a member, notify you of your end user ID and password and any other relevant log-in information.

We reserve the right to terminate your membership at any time if you breach any of these terms.

You must "not"

whether knowingly or otherwise use any of our products and services:

- for any unlawful purpose or in any manner which may infringe or violate any third parties rights; or
- to transmit or upload any harmful files or unsolicited e-mail messages.
- use our products and services in a manner that (according to standards of commercial behaviour and fair dealing generally accepted by reputable persons carrying on business in Australia) may reasonably be considered unacceptable and or not in accordance with their expected use.
- upload files for distribution via other electronic means or for any other use that (according to such standards) may reasonably be considered unfair, deceptive or illegal.

You "must"

- You, and you alone, are responsible for complying with any law or regulatory requirement from time to time in force relating in any way to the use, or otherwise, of any of our products and services.
- You must make due and timely payment for our products and services in the manner specified in or pursuant to the relevant applications-specified terms.

We may from time to time at our discretion adjust prices for any of our products and services but will notify end users in advance and allow them, if they wish to do so, to terminate their use of any of our products and services concerned.

**Modification, Cancellation or Termination for Error**

We make all reasonable efforts to avoid errors but may on occasion show incorrect price or other information in relation to products and services due to typographical error or clerical oversight or. In any such circumstances (notwithstanding acceptance of any order or payment to us) we may at our discretion provide modification or cancel any transaction affected or terminate any agreement concerned. We may do this at any time before delivery or supply of the relevant product or service and will on doing so immediately refund or make adjustment to any relevant payment made to us.

**Information Service**

All information provided or made available by us pursuant to these terms is provided in good faith and as information of a general nature only. No such information is in any circumstances provided as advice, and you should not in any circumstances place any reliance upon it.

We derive our information from sources which we believe to be accurate and up to date as at the date of publication but nevertheless the right is reserved by us to update this information at any time, be it before or after publication.

We do not make or give any representation or warranty that any information we provide is reliable, accurate or complete or that your access to that information will be uninterrupted, timely or secure.

You should make your own enquiries and consider seeking independent advice from relevant industry professionals before acting or relying on any information or material which is provided or made available to you pursuant to our information service.

You must use all information provided or made available by us for lawful purposes only.

#### Notices

Notices by either of us to the other should preferably be given by e-mail as follows:

by us to you:

- at your e-mail address notified by you on first entering into this agreement or other e-mail address from time to time current and duly notified to us; and
- Alternatively by the Net- Path website be it within you personal account of in the public area (where relevant and as deemed to be so by Net-Path)

By you to us:

- at [info@net-path.com.au](mailto:info@net-path.com.au) or via the current contact details at <https://www.net-path.com.au/contact.php> .

Communiqué may also be given by post or fax as follows:

By post:

By us to you:

- at your details as provided and as assessable from our database or,
- at your registered office on public record from time to time; and

By you to us

- at Attention Net-Path, Net-Path, PO Box 353, Crystal Brook ,SA, Australia, 5523

By fax:

By us to you:

- at your details as provided and as assessable from our database or,
- at any fax number from time to time published as your fax number or any other contact details as on any web site or database (whether in hard copy or electronic form) or on any business or personal stationery of yours

By Phone:

By us to you:

- at your details as provided and as assessable from our database or,
- at any phone number from time to time published as your contact on your web site or (whether in hard copy or electronic form) on any business stationery of yours or other listings available

By you to us

- on +61 (0) 7 3301 1979

Notices given in accordance with these requirements will be deemed to have been duly delivered:

- in the case of e-mail: upon transmission (as evidenced by an appropriate contemporary electronic record), if sent before 16:00 in the time zone of the recipient, and otherwise at 09:00 on the next day in the time zone of the recipient;
- in the case of post: five days after posting (as evidenced by a receipt from the postal service); and
- in the case of fax: upon transmission (as evidenced by a transmission report showing transmission in full of the relevant number of pages), if sent before 16:00 in the time zone of the recipient, and otherwise at 09:00 on the next day in the time zone of the recipient.

Notice periods are to be calculated from and including the day of delivery (established in accordance with the above provisions) to and including the last day of the notice period concerned.

#### Indemnity

You will indemnify us (and our related bodies corporate and our respective officers, employees, licensees and agents) against all actions, claims and demands (including the cost of defending or settling any action, claim or demand), on a full indemnity basis, which may be instituted against any of us arising out of any failure by you (or by any person, whether or not with your authority, using your end user ID or password or other relevant log-in information) to comply with these terms.

#### Disclaimer

This disclaimer does not attempt or purport to exclude liability arising under statute if, and to the extent, such liability cannot be lawfully excluded.

We do not make or give any representation or warranty that any of our products or services will meet your particular requirements.

You should make your own enquiries and consider seeking independent advice from relevant industry professionals before deciding as to whether or not any of our products and services will meet your particular requirements.

We do not accept responsibility for any loss or damage (however caused and whether or not involving negligence on our part or the part of some other person or entity) which you may suffer, directly or indirectly, in connection with your use of this or any linked web site, or any of our products and services, as well as any such loss or damage arising out of your use of or reliance on information contained in or accessed through this web site.

Any condition or warranty which would otherwise be implied into these terms is hereby excluded to the full extent allowed by law. Any condition or warranty that, by law, cannot be excluded or, by law, cannot be limited in its application and will apply on the basis that our liability under it will be limited to one or more of the following:

- in any case where the breach relates to products:
- replacement of the products or the supply of equivalent products;
- repair of the products;
- payment of the reasonable cost of replacing the products or of acquiring equivalent products; or
- payment of the reasonable cost of having the goods repaired;

- in any case where the breach relates to services:
- the supplying of the services again; or
- the payment of the cost of having the services supplied again; and
- in any case where neither of these is allowed under applicable legislation, to the maximum extent permitted by applicable legislation.

#### Specific Warnings

It is your responsibility, and yours alone, to ensure that neither access to nor use of this web site (including our products and services) or any linked web site:

- exposes you to the risk of malicious computer code (including viruses, worms, trojans and spyware) or other forms of interference which may damage or compromise the integrity of any computer system owned or used by you; or
- is not prohibited or restricted by any law or regulatory requirement to which you may be subject.

You should make sure you are aware of and understand the effect of, the exclusions and limitations of liability contained in these terms - including those under 'Information Service' and 'Disclaimer' above.

Responsibility for the content of advertisements appearing on this web site (including omissions from them and links to advertisers' own web sites and any other web sites) rests solely with the advertisers. The placement of any such advertisements does not constitute a recommendation or endorsement by us of any products and services be it the advertisers' or not.

This web site and information contained on it (including in relation to our products and services) have been prepared in accordance with Australian law and may not satisfy the laws and regulatory requirements of any other country. We do not warrant that this web site or any such information will satisfy the laws of any other country. It is your responsibility to determine whether they satisfy the laws and regulatory requirements of the jurisdiction in which you reside (if that jurisdiction is not Australia) and, accordingly, whether you may not order any products or services from this web site in compliance with them.

You should be aware that, despite all reasonable precautions on our part to avoid any such risk, there is a risk of unauthorised access to or alteration of your transmissions or data or of information contained on your computer system or on this web site. We do not accept responsibility or liability of any nature for any loss or damage which you may suffer, directly or indirectly, in this regard.

#### Copyright

Copyright in this web site (including text, graphics, logos, business names, icons, sound recordings and software) is owned or licensed by us. Except as prescribed under applicable legislation, and in accordance therewith, you may not in any form or by any means:

- adapt, reproduce, store, distribute, print, display, perform, publish or create derivative works from any part of this web site; or
- commercialise any information derived from or any product or service referred to in this web site;
- without our written permission in each case.

#### Trade Marks

This web site includes trade marks which may be registered or subject to pending registration

applications in certain jurisdictions. You must not use any such trade mark or any of our intellectual property:

- in or as the whole or any part of any of your own trade marks or business name or company name;
- in connection with activities, products or services which are not ours;
- in a manner which may be confusing, misleading or deceptive; or
- in a manner that may reasonably be considered as disparaging us or any of our information, products and services (including this web site);
- and must not authorise or assist any person to do any of those things.

#### Restricted Use

Unless otherwise specifically authorised by us in writing:

- you are provided with access to this web site only for your own specific use; and
- you may not sell information derived from this web site;
- You are authorised to print a copy of any information contained on this web site for your own specific use unless such printing is expressly prohibited.

#### Linked Web Sites

This web site may from time to time contain links to other web sites. We provide those links for convenience only and may or may not (at our discretion) maintain them or keep them current.

We are not responsible for the content of or any privacy practices associated with any linked web sites.

Any link to any other web site contained from time to time on this web site does not constitute a recommendation or endorsement by us of the owner or operator of any such other web site or of any of its material or information contained or referred to on it (including any third web site linked to it) except as otherwise expressly stated.

#### End User Licence Agreement

##### This agreement is between:

- WebTraf Pty. Ltd trading as Net-Path ABN - 18 109 913 180; and
- The end user - 'you' (i.e. the person or entity intending to download, install or use any product or service from us, such as for example the Status Indicator <sup>™</sup>).

##### Important Notice

Status Indicator <sup>™</sup> ('the Software') is made available by us for use by you under, and subject to, the terms and conditions of this agreement. You may not use the Software unless you enter into this agreement.

You should satisfy yourself that you understand and are willing to accept the terms and conditions of this agreement and the software EULA before entering into it. You enter into the agreement, and will be bound by its terms and conditions, if you click on the 'agreed' icon at the end of the software EULA or by utilising software from this or other Net-Path or associated entities product or locations you shall also be agreeing inclusively to these terms and that of the EULA.

By the act of downloading, Installing and or Clicking on the Accept Icon (were required) in the software EULA you will indicate:

- that you have read and understood; and
  - that you approve and accept;
  - this agreement and its terms and conditions. Please read it in full before you use or click on the 'agreed' icon.
- 

Terms and Conditions as required in the software EULA follows:

#### END USER LICENCE AGREEMENT

#### AGREEMENT:

#### IMPORTANT READ CAREFULLY:

This End User Licence Agreement (EULA) is a legal agreement between you (the "Client") and WebTraf Pty. Ltd. Trading as Net-Path herein called the licensors for this Net-Path and service and Internet assess management, billing and ecommerce services , This software, hardware and any or all accessories or independent software and other associated or bundled products, software, services, media, printed materials and online or electronic documentation , Plug-ins, and or any other associated licensee and or associates") as supplied by the licensor.

#### PLEASE READ THE FOLLOWING TERMS OF AGREEMENT BEFORE ACCEPTING.

By installing, copying or otherwise using the licensor technology you agree to be bound by the terms of this licence agreement on the terms as set out below. If you do not accept the terms of this agreement, you must not use any of the licensor technology.

#### TERMS OF AGREEMENT:

##### 1: DEFINITIONS:

**Associates:** shall include but are not limited to the licensor suppliers, sub licensors, licensees, representatives, distributors, system integrators, resellers, contractors, employees and agents.

**Capacity Requirements:** means the information regarding the required capacity of the Clients computer system and internet connection capacity and loadings as set out in the in the documentation.

**Backup Server:** means the system operated by the licensor to support the operation of the Software, which may or may not includes a licensing server.

**Communications Connection:** means a continuous 24-hour per day connection between the Backup / Licence Server and the Client's System supporting the exchange of data in such format as is advised by the licensor from time to time.

**Clients System:** means the computer system owned or operated by the Client to provide Users and or them self with access to and use of the public Internet including without limitation access to the World Wide Web or alternate networks via but not limited to the LAN, WAN, CAN, Internet, VPN, via

Tunnelling software / Technology and encryption be it in combination or not or by other undescribed means.

Documentation: means the documentation of multimedia provided with the Software, if any.

Fee: means the sums payable by the Client in respect of the purchase and or acceptance of this EULA of a license to use the Software and or Hardware and Services.

Filtered data: means all data passing through the licensor equipment.

Force Majeure Event: means any event beyond the control of, and not caused by any act or omission of the relevant party, including but not limited to: acts of God; acts or omissions of any government or any governmental agency; the unavailability of utility services such as electricity, gas and water; and fire storm, lightening, flood, earthquake, acts of the public enemy, terrorist activity, war, rebellion, insurrection, riot, invasion, strikes and lockouts.

Hardware: means computer equipment, if any, supplied in connection with this agreement.

Intellectual Property Rights: means all industrial and intellectual property rights both in Australia and throughout the world and includes any patents, designs, copyrights, registered or unregistered trade marks or service marks, trade names, eligible layout rights, designs, inventions, discoveries, trade secrets, Know-how, software, scientific or technical product information, and all other intellectual property as defined in Article 2 of the Convention Establishing the world Intellectual Property Organisation of 1967, and any medium in which anything referred to in this definition is stored or embodied.

Media: means a Compact Disk or other storage media containing the Software.

Product: means the Media and the Software.

Services: means services provided by the licensor and/or its Associates in accordance with this agreement including access to the Licence Server(s) and any information provided by the Licence Server(s).

Software: means the object code form of the software provided by the licensor and or its Associates in accordance with this agreement, whether downloaded from the World Wide Web, or embedded in a Compact Disc or other media.

The licensor: means WebTraf Pty. Ltd. Trading as Net-Path or the respective owners as licensed through either or in combination of WebTraf Pty. Ltd. Trading and the trading name of the Net-Path.

URL: means Universal Resource Locator, which may include any means of identifying a site or address on the Internet.

Use: means to operate, execute, display or install, but does not include transfer, transmit, copy, reproduce, amend, alter, modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works.

User: means a person, computer or workstation that is capable of Internet or Gateway access via the Clients or the Management System.

Updates: means improvements to, updated versions of, or new releases of the Software or Documentation.

## 2: INTELLECTUAL PROPERTY AND USE:

- (a) The licensor grants to the Client a non-exclusive, non-transferable licence to Use the Software for the purposes contemplated by the Documentation. The grant of this licence does not survive the termination of this Agreement.
- (b) The Client must not transfer, transmit, copy or reproduce the Software or the Documentation, or modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works based on the Software or Documentation.
- (c) Subject to clause 2(a), the Client acknowledges that the licensor is not assigning or licensing to the Client any Intellectual Property Rights or other rights in any software or Documentation or guarantee for service or any related expectations of the client.

## 3: CLIENTS OBLIGATIONS:

### 3.1 The Client must:

- (a) Provide the licensor personnel with access to its authorised representatives, information to be managed by the software and any facilities or assistance that the licensor may require in order to comply with its obligations under this Agreement.
- (b) Provide access via the Internet and or other systems as deemed acceptable by the Licensor and of sufficient capacity for the exchange of information between the Clients System and the Licence Server to enable the licensor to operate efficiently and to facilitate the provision of Updates, upgrades, service and maintenance.
- (c) Ensure that the Software is registered with the licensor and is only installed on the one Client System (unless as authorised and limited to, by the Licensor) at sites or installations that have been registered with the licensor.
- (d) In connection with its use of the Services and the Software, the Client must comply strictly with all applicable laws and take reasonable steps to ensure that all persons having access to the Clients System do so.
- (e) Ensure that the number of Client Systems as in the number of terminals and or computers be them light clients or any other type of terminal that may access the Software or Hardware and Services does not exceed the number of Client Systems on which any Client Fee is payable for that which has been calculated.

### 3.2 The Client must not:

- (a) Use the Software or Services for the provision of any service for the benefit of third parties without the express written agreement of the licensor.

- (b) Modify or translate the Software or Services except as necessary to configure the Software or Services using the menus, options and tools provided for such purposes and contained in the software and, in relation to the Documentation, except as necessary to produce and adapt manuals and/or other documentation for the Clients Internal Business Purpose
- (c) Reverse engineer, disassemble or decompile the Software or Services or any portion thereof except to the extent and for the express purposes authorized by applicable law.
- (d) Transmit or provide access to the Software or Services save as provided in an agreement to trial or purchase a licence to Use the Software or Services.
- (e) Sub-licence, rent, sell, lease, distribute or otherwise transfer the Software or services save as provided under this End-User License Agreement unless the Client has obtained a separate license from the licensor (or its appointed representative) for such purposes.

#### 4: COMMUNICATIONS CONNECTION:

The Client acknowledges and agrees that:

- (a) The Client shall provide a Communications Connection compatible with the requirements of the Software as outlined in the User Guide or the licensor on-line service information and guides. The function of the system depends on the continuous availability of the Communications Connection and the Communications Connection meeting the specifications provided by the licensor from time to time. The Software and Services may not properly function without a continuous and ongoing Communications Connection.
- (b) Information gathered or received by the Clients System is or may be collected or monitored on the system after installation of the Software and this may be for, management, filtering and storage will be subject to Clause 6 below.
- (c) The Software relies upon settings that are selected by the owner or a representative of, be it authorised or not and which are detailed in the Documentation. The Software and the Services may not filter all selected, potentially offensive, obscene, X-rated, illegal, or otherwise undesirable or classifiable material or viruses that may be transmitted or accessed via the Net-Path's installation or the Clients System.
- (d) Its right to connect to the Licence Server is non-exclusive.

#### 5: SOFTWARE UPDATES:

The licensor may from time to time provide the Client with Updates. The licensor is under no obligation to create or provide Updates. The Client must, if required by the licensor, install or allow to be installed either locally or via the Internet, and then use any Updates provided by the licensor. If required by the licensor, any reasonable handling, delivery and installation costs incurred by the licensor in providing any Updates will be borne by the Client. If the licensor requires the Client to use an Update, the Client must comply with any direction from the licensor regarding return or destruction of Software or Documentation replaced by the Update.

It is acknowledged that if the Client elects not to install or Use an Update, then the licensor may not be able to continue to support the superseded versions of the Software or Documentation.

#### 6: USE OF EXCHANGED DATA:

The Licence Server uses the Software to examine and authenticate licenses in real time. This results in the compilation of a database of licensee and Version Data (the "Database"). The Client agrees that as a result of the Use of the Services, the ownership of copyright of the Database shall be the sole property of the licensor. The Client grants the licensor the right to gather information regarding Licensing, and any related Transport Control Protocol/Internet Protocol information. The licensee acknowledges that it has no rights, in respect of copyright, in the content of the data itself.

#### 7: MAINTENANCE:

The Client acknowledges that maintenance of the Clients System and any installed software and hardware is not provided under this agreement (Unless separately agreed in writing).

#### 8: LIABILITY OF CLIENT:

The Client hereby indemnifies, and must keep indemnified the licensor and its officers, Associates and related bodies corporate (the "Indemnified Parties") from and against any loss, damage, claim, liability, demand (whether in contract, tort or under statute) and all expenses, legal or otherwise (including all legal fees on a solicitor/client basis and disbursements incurred) of whatever kind and nature which any Indemnified Parties may incur or suffer as a direct or indirect result of:

- (a) any breach of the Clients obligations under this Agreement, or
- (b) any wilful, unlawful or negligent act, or
- (c) any omission by the Client, or
- (d) any proceedings by any third party where such proceedings are related to the goods or services provided to the Client under this Agreement or any material accessed or viewed via the Clients System, or
- (e) any claim or proceeding that the flow of data to, from or through the Licence Server, the storage by the Indemnified Party of such data, or the compilation or use by the Indemnified Party of the Database, infringes any intellectual or industrial property right, any right of privacy, or any other right whatsoever of any third party.

#### 9: LIMITED LIABILITY OF THE LICENSOR:

(1) The Client acknowledges that

- (a) The Hardware, Software, Services and Documentation is continually being updated, improved and enhanced and that it may contain defects and errors that may become evident from time to time, and

- (b) The Hardware, Software and the Services may require interruption for maintenance, update and improvement of hardware and software, including maintenance and update of the Licence Server and the Communications Connection, and
  - (c) The Services may require interruption for cueing of access, maintenance to enhance response times, correct corrupted data, rectify the effect of viruses or worms that may have been introduced by either the Clients connection or the licensor connection to the Licence Server, and
  - (d) The licensor has no control over the nature of material that the Client may access over the Internet and that some material may be unclassifiable, may contain viruses or worms, or may be incompatible with or detrimental to the ability of the licensor to provide services, and
  - (e) that the licensor and its Associates have not represented that the Hardware, Software or Documentation or access to the Licence Server will be free from defects or errors, or that access to the Services will be uninterrupted or error free or that Information provided by the Licence Server will be up-to-date or error free.
- (2) The Client agrees to trial or purchase the Services and Use the Software (and or Hardware where applicable) entirely at its own risk. The licensor obligation is limited to using reasonable endeavours to provide the services in accordance with the Documentation. Subject to clause 9(5), the licensor and its Associates are not liable for, and exclude to the maximum extent permitted by law, any loss, liability or damage suffered or incurred by the Client, including direct and indirect, special, incidental, or consequential loss or damage of any kind (including without limitation loss of profits, loss of contracts, business interruptions, or loss of or corruption of data) however caused, arising out of or in connection with:
- (a) any goods or services supplied pursuant to this Agreement;
  - (b) any failure of any hardware or Software or related party product or service; and
  - (c) any information or data held with the Licensor or accessed or transmitted via the Clients or other System, even if the licensor has been advised of, or ought reasonably to have been aware of, the possibility of such losses or damages being incurred by the Client and whether the claim arises in contract, tort (including negligence) or otherwise.
- (3) Subject to clause 9(5), any term that would apart from this clause be implied into this Agreement by common law principles or statute, including without limitation any term that requires the Services to be of merchantable quality or fit for a particular purpose, is hereby excluded.
- (4) Subject to clause 9(5), the licensor or its Associates liability in any claim by the Client for damages arising from any negligence of the licensor or any breach by the licensor of its obligations under this Agreement, is limited to the lesser of the Fee paid by you and the licensor list price for the Product supplied.

(5) If this agreement is a contract for the provision of "goods" or "services" to the Client as a "consumer", as those terms are defined for the purposes of Division 2 of part V of the Trade Practices Act 1974 (Commonwealth), (the "Legislation"), then nothing in these terms and Conditions is to be construed as affecting, excluding, restricting or modifying the application of the Legislation to this Agreement, the exercise by the Client of any rights under the Legislation or any liability of the licensor or its Associates for the breach of a condition or warranty implied by the Legislation. If any condition or warranty implied by the Legislation which would otherwise be excluded by clause 9(3) cannot be so excluded, the liability of the licensor for breach of such condition or warranty is limited to the extent permitted by 68A of the Legislation. If the breach relates to services, the liability of the licensor or its Associates for any breach shall be limited, at the sole option of the licensor to the supplying of the services again; or the payment of the cost of having the services supplied again.

#### 10: ADVERTISING:

The Client must not use the licensor name, trade marks or service marks or refer to the licensor or its related bodies corporate directly or indirectly in any media release, public announcement or public disclosure, including any promotional or marketing materials, client lists or business promotions, without obtaining prior written consent from the licensor. The content of this Agreement and its subject matter shall remain confidential and may not be used for any of the above purposes.

#### 11: CONFIDENTIALITY:

The Software may include confidential information, which is secret and valuable to the licensor. The Client is not entitled to use or disclose that confidential information other than strictly in accordance with the terms of this End-User License Agreement. The licensor reserves the right to disclose details of the End-User License Agreement to third parties for publicity and promotional purposes. Notwithstanding the foregoing, the licensor will only process personal information in accordance with the provisions of the Privacy Act 1988 of Australia as it applies and any other applicable privacy laws.

Neither party may, without prior written approval of the other party, disclose the other parties confidential information, intellectual property, trade secrets, or software know-how unless disclosure is required by law and that party consults with the other party as to the information to be disclosed prior to disclosure.

#### 12: LIMITED WARRANTY BY THE LICENSOR:

The licensor warrants to the Client only that for a period of ninety (7) days from the date of purchase (the "Warranty Period"): (i) the Software and Services will perform substantially in accordance with the Documentation provided that it is operated in accordance with the Documentation and (ii) the Documentation adequately describes the operation of the Software and Services in all material respects. If the licensor is notified in writing of a breach of this warranty during the Warranty Period, the licensor's entire liability and the Clients sole remedy shall be (at the licensor's option) to correct or replace the Software and/or its Documentation. Any items provided as replacement under the terms of this warranty will be warranted for the remainder of the original Warranty Period.

EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED ABOVE, THE LICENSOR MAKES NO WARRANTIES, CONDITIONS, UNDERTAKINGS OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE IN RELATION TO THE PRODUCT INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ARISING FROM COURSE OF DEALING, USAGE OR TRADE. SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE OR BY JURISDICTIONS.

WITHOUT LIMITATION TO THE FOREGOING, THE LICENSOR DOES NOT WARRANT THAT THE PRODUCT WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE PRODUCT WILL BE ERROR FREE OR UNINTERRUPTED OR THAT DEFECTS IN THE PRODUCT WILL BE CORRECTED.

THE LICENSOR DOES NOT WARRANT THAT THE PRODUCT WILL DETECT AND/OR CORRECTLY IDENTIFY AND/OR DISINFECT ALL MALICIOUS PROGRAMS OR OTHER HARMFUL COMPONENTS, INCLUDING WITHOUT LIMITATION VIRUSES PRESENT ON YOUR COMPUTER OR SERVER.

THE SOFTWARE MAY CONTAIN SUPPORT FOR PROGRAMS WRITTEN IN JAVA. JAVA TECHNOLOGY IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF JAVA TECHNOLOGY COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

THE SOFTWARE IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, OR ANY OTHER APPLICATION IN WHICH THE FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, OR PROPERTY DAMAGE (COLLECTIVELY, "HIGH RISK ACTIVITIES"). THE LICENSOR EXPRESSLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES.

THE PRODUCT IS PROVIDED ON AN "AS IS" BASIS. WITHOUT LIMITATION TO THE FOREGOING, THE LICENSOR DOES NOT WARRANT THAT THE PROGRAMS WILL MEET CUSTOMERS OR END USERS REQUIREMENTS, THAT THE PROGRAMS WILL OPERATE IN THE COMBINATIONS WHICH END USER MAY SELECT FOR USE, THAT THE OPERATION OF THE PROGRAMS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL MINOR PROGRAM ERRORS WILL BE CORRECTED. THE WARRANTIES SET OUT IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, EXCEPT AS TO THE INFRINGEMENT INDEMNIFICATION AS EXPRESSLY SET FORTH ABOVE.

Subject to Clause 9(5), all other warranties, representations, conditions, guarantees that may relate to the Software or the Services provided by the licensor or any Associate are overridden, disclaimed or excluded by this Agreement.

### 13: TERM and TERMINATION:

This End-User License Agreement is effective from the moment of acceptance as described in this End-User License Agreement, and shall remain in force either until the licence expiry date if specified or until terminated as provided below, whichever is the sooner. The Clients obligations under this End-User License Agreement in respect of the intellectual property and confidential information of the licensor shall survive any expiry or termination of this End-User License Agreement.

The Client may terminate this End-User License Agreement at any time by destroying the Software and all copies of it. This End-User License Agreement and the Clients rights under it will also terminate immediately if:

- (a) the Client fails to pay any Fee in accordance with the agreed payment terms; or
- (b) the Client fails to comply with any of the terms and conditions of this End-User License Agreement; or
- (c) if the Client takes or suffers any action on account of debt or is insolvent.

The licensor may terminate this agreement prior to the expiration of the initial or any renewal term as follows:

- (a) In the event that the Client fails to perform any of its material obligations and shall fail to remedy such non-performance within Thirty (30) calendar days after receiving written demand therefore;
- (b) If the Client shall become the subject of any voluntary or involuntary bankruptcy, receivership, or
- (c) Effective immediately, if the Client shall attempt to sell, assign, delegate, or transfer any of its rights and obligations under this agreement without having obtained the prior written consent from the licensor.
- (d) Effective immediately, if any law or regulation shall be adopted or in effect that would materially restrict the termination rights of the licensor or otherwise invalidate any material provision hereof;
- (e) Effective immediately, if the Client knowingly makes false or untrue statements or representations to the licensor herein or in the performance of its obligation hereunder.
- (f) Effective immediately if any licence or agreement between the licensor and any of its Associates terminates so as to prevent the licensor from supplying the Product to any distributor or any end user.
- (g) In the event that the Client, or an Associate, fails to pay any Fee or any other amount due to the licensor or its Associates, in respect of the Software and/or Services to which this agreement applies, within 30 days of the due date.

On termination of this End-User License Agreement, the Client must immediately cease to use the Software and the Documentation and destroy the Software and all copies of it. If requested by the licensor, the Client must within one month after the date of termination of this End-User License Agreement, ensure the destruction by the Client of the Software and all copies of all or any part of it.

If the Client fails to destroy the Software or Documentation in accordance with this clause, then the licensor may enter the Clients premises for the purpose of repossessing the Software or the Documentation as relevant. Clauses 9,10, and 11 shall survive the termination or expiry of this Agreement. Upon termination the licensor may remotely disable the software and or disconnect the Communications Connection to the Licence Server.

#### 14: NOTICES:

Any notice or other communication including but not limited to any request, demand, consent or approval to or by a party to this Agreement:

- (a) Must be written in legible English and addressed; if to the licensor to its registered office, or if to the Client, to the street or email address provided by the Client or to its registered office;
- (b) Is regarded as being given by the sender and received by the receiver if delivered in person to the addressee, or by email or facsimile when transmitted, whether or not legibly received, or if by post in 3 business days from the date of postage.

#### 15: GENERAL:

- (a) Any Associate, reseller, distributor or dealer from whom the Client may have purchased the Product is not appointed or authorised by the licensor as its servant or agent. No such person has any authority, either express or implied, to enter into any contract or provide the Client with any representation, warranty or guarantee with or to the Client or to translate or modify this End-User License Agreement in any way on behalf of the licensor or otherwise to bind the licensor in any way whatsoever.
- (b) Failure by the licensor to enforce any particular term of this End-User License Agreement shall not be construed as a waiver of any of its rights under it.
- (c) The illegality, invalidity or unenforceability of any part of this End-User License Agreement will not affect the legality, validity or enforceability of the remainder.
- (d) If the Client has signed a separate written software license agreement with the licensor covering the use of the Product, the terms of such signed software license agreement shall take precedence over any conflicting terms of this End-User License Agreement. Otherwise this End-User License Agreement constitutes the entire agreement between the parties in relation to the Product and its licensing and supersedes any other oral or written communications, agreements or representations with respect to the Product
- (e) Assignment: The Client may not assign, charge, offer for security or in any way deal with its rights and obligations under this Agreement without the prior written consent of the licensor.
- (f) Entire Agreement: This Agreement is the sole and entire agreement of the parties and supersedes any prior written or oral agreement, representation, understanding or arrangement.
- (g) Governing Law: This Agreement is governed by the laws of Queensland Australia. Each party irrevocably submits to the courts of Queensland or the relevant jurisdiction and any courts that

may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

16: AUDIT RIGHTS:

If requested, the Client shall permit the licensor to verify that the number of Client Systems as in the number of terminals and or computers be them light clients or not that may access or be accessed by the Software or Hardware, and the Client shall give all necessary assistance to carry out such verification.

17: PRIVACY:

The Client acknowledges that the Software is able to examine, classify and provide statistical reports on Internet access by users. It is the responsibility of the Client to inform the Clients users of the Clients access policy in relation to use of its computer and information network and any privacy issues which may arise from such an access policy. The Client shall ensure that it avoids the violation of any users privacy rights that may result from the Use of the Software or the Services. The Client indemnifies the licensor and its Associates against all claims and liability whatsoever arising from, or in connection with, the use of the services and the Software being in violation of the privacy rights of any person, (including employees of the Client).

18: REGISTRATION:

The Software supplied to the Client may or may not be individually encoded and where relevant must be registered by the Client upon delivery. If the licensor becomes entitled to terminate this Agreement, then the licensor may cancel the Registration, which will lead to the withdrawal or disabling of the Services.

19: U.S. GOVERNMENT RESTRICTED RIGHTS:

If the Client is an agency or other part of the U.S. Government, the Software and the Documentation are commercial computer software and commercial computer software documentation and their use, duplication and disclosure are subject to the terms of this End-User License Agreement per FAR 12.212 or DFARS 227.7202-3.

20: EXPORT CONTROL REQUIREMENTS:

The Client hereby agrees to use, disclose and/or transport the Product in accordance with any applicable export control laws and regulations and that the Client is solely responsible for fulfilling any applicable governmental requirements in connection with the Clients use, disclosure and/or transport of the Product. The Client agrees to indemnify and hold the licensor harmless from and against any claim, loss, liability or damage suffered or incurred by the licensor resulting from or related to the Clients violation of this paragraph.

End of document.

---