

# SOFTWARE LICENCE AGREEMENT FOR RM ACCOUNTS

## IMPORTANT - PLEASE READ THIS CAREFULLY

This Software Licence Agreement (“the Licence Agreement”) is a legal agreement between you as a sole trader, company or organisation (“the Licensee”) and HansaWorld UK Limited (hereinafter “HW”) in respect of the HansaWorld software identified above (“the Software”).

If you do not understand or agree to the terms of this Licence Agreement, then you have no right to download, install, copy or use the Software.

By downloading, installing, copying, opening or otherwise using the Software, the Licensee agrees to be bound by the terms of this Agreement, with the following specifics:

- If the Licensee wishes to use the Software for its economical and professional activity, this Licence Agreement must be signed and sent to HW.
- If the Licensee wishes to use the Software for demo purposes, the versions available on HW’s website ([www.hansaworld.com](http://www.hansaworld.com)) can be used on conditions that the demo database does not contain real data of the Licensee, or that the demo is not part of an installation process. Demo licences are normally restricted in functionality.
- If the Licensee wishes to use the Software for bookkeeping bureaux purposes, a separate agreement must be entered into with HW.
- If the Licensee wishes to use the Software for ASP-services, a separate agreement must be entered into with HW.
- Except when clearly expressed by HW in respect of certain HansaWorld software HW does not grant any right of use of the Software to private persons for private use or for any other purpose than for the Licensee’s economical and professional activity.

Particular attention should be paid to the limitation and exclusion of liability clauses in this Licence Agreement. The Software is licensed not sold.

## 1. Commencement

- 1.1 This Licence Agreement comes into force from the moment the Software is installed, runned, copied or used for the first time whatever is earlier.
- 1.2 Except if the Software is used for demo purposes as described above, the Software cannot be used unless this Licence Agreement has been signed and returned to HW.

## 2. Definitions

### 2.1 Application Code

Shall mean the code to the application, i.e. the specific functions, forms, tables and reports which form a part of the Software.

### 2.2 Database

Shall mean the electronic entity upon which the data of the Software are stored.

### 2.3 Documentation

Shall mean all and any electronic and written aids and specifications developed by HW in relation to the Software, for which the Licensee has acquired the right of use from time to time, and any descriptions developed by HW in relation to the Software.

2.4 **Enabler Keys**

Shall mean the files, codes or computer messages which, like a key, open and enable the full licensed functionality of the Software giving the Licensee access to use the Software.

2.5 **Hardware**

The equipment used by the Licensee to use the Software.

2.6 **HW Group**

Shall mean the legal entities belonging to the HW group of companies.

2.7 **Internal Users**

Shall mean employees or contractual workers for the Licensee or for Sub-Licensees which have been authorized by the Licensee to use the Software in their work for the Licensee or for Sub-Licensees, and for which the Licensee has acquired and paid for the right of use to the Software.

2.8 **Licence Agreement**

Shall mean this Software Licence Agreement.

2.9 **Licence Fee**

Shall mean the initial licence fee that the Licensee is required to pay for the right to use the Software.

2.10 **Patches**

Shall mean any fixes or additions to the Software developed and distributed by HW (e.g. HAL-patches). Patches are not pieces of software written by the Licensee or by third parties.

This Licence Agreement covers standard versions of the Software. This Licence Agreement does not cover any software, including patches, developed specifically for the Licensee, regardless of if such software adds needed functionality or corrects problems in the standard Software.

2.11 **Periodical Maintenance Fee**

Shall mean periodical licence fees that the Licensee is required to pay for the right to continued use of the Software and for the Software Maintenance.

2.12 **Software**

Shall mean those parts of the electronic unmodified standard version of HW computer software program, including Updates and Patches and external components and certified solutions which have been integrated and delivered by HW as a part of HW computer software program, for which the Licensee has acquired and actually paid for the right of use from time to time, and any related Documentation.

2.13 **Software Maintenance**

Rights that form an inseparable part of the right to use the Software and which are listed in Clause 3.10.1 of

this Licence Agreement.

#### 2.14 **Sub-Licensees**

Shall mean all third parties for which the Licensee has acquired and paid for the right of use to limited functionality in the Software. Such third parties are persons who or entities which are not Internal Users (such as, but not limited to, the Licensee's affiliates, partners, customers and suppliers).

#### 2.15 **System**

Shall mean the Software together with hardware, third party software and most importantly the Licensee's data and the Licensee's unique settings.

#### 2.16 **Territory**

Shall mean United Kingdom.

#### 2.17 **Updates**

Shall mean new versions of the Software which HW may release.

#### 2.18 **Applicability of Defined Terms**

2.18.1 Where the context so admits, any reference to the singular includes the plural, any references to the plural includes the singular, and any reference to one gender includes all genders.

2.18.2 In this Licence Agreement, a reference to a Clause is a reference to a Clause in this Licence Agreement.

2.18.3 The Headings of this Licence Agreement are for convenience only and shall not constrain or affect its construction or interpretation in any way whatsoever.

### **3. Scope of the Licence**

#### 3.1 **Licence Grant**

3.1.1 HW hereby grants to the Licensee a non-assignable, non-transferable and non-exclusive right to use the Software and Software Maintenance in accordance with the terms of this Licence Agreement.

3.1.2 The licence is granted for the current distribution version of the Software at commencement of this Licence Agreement. Earlier versions of the Software can only be used on express agreement with HW.

3.1.3 The Licence Fee that the Licensee has to pay for the use of the Software shall be determined by the agreement between the Licensee and HW or the reseller from which the Licensee has acquired the Software.

3.1.4 The Periodical Maintenance Fees that the Licensee has to pay for the use of the Software shall be determined by HW's prevailing price list.

3.1.5 The Licensee's right to use the Software is suspended if the Licensee has not duly fulfilled the payment terms for the Licence Fee or the Periodical Maintenance Fee.

3.1.6 HW reserves all rights not expressly granted to the Licensee in this Licence Agreement.

#### 3.2 **Licence State**

- 3.2.1 This Licence Agreement defines the rights and obligations for use of the Software. This can be in either of the three following states agreed between HW and the Licensee:
- (i) Live State (normal state): All terms of this Licence Agreement apply.
  - (ii) Old Version State: The Licensee's right to use the Software is limited to the right to use only the version of the Software that the Licensee was using when entering into this state. Periodical Maintenance Fee will be half of the fee last applicable to the Licensee at Live State. Maximum length of Old Version State is five (5) years after leaving the Live State. There is no right to receive services from HW, including Software Maintenance.
  - (iii) Archiving State: The Licensee's right to use the Software is limited to the same extent as at Old Version State and also the following additional limitations apply: Maximum one user, no data entry or data correction. There is no Periodical Maintenance Fee.
- 3.2.2 Normally Old Version State is used by licensees planning to change supplier and Archiving State by licensees that have changed supplier, for example because of group decision of software use, refusal to accept HW new versions or refusal to accept HW new pricing.
- 3.3 **Users**
- 3.3.1 The Licensee is granted the right to use the Software for the following users: (i) All Internal Users of the Licensee; and (ii) Sub-Licensees and their Internal Users, but only for the purpose of accessing and modifying the Licensee's or Sub-Licensees' data. Thus, the Licensee shall have no right whatsoever to allow such Sub-Licensees or Internal Users of Sub-Licensees to use the Software for bookkeeping of any other parties' data. Apart from the situations stated in this Clause 3.3.1, the Licensee shall have no right to grant access to the Licensee's or any third party's data by means of the Software.
- 3.3.2 To the extent that the Licensee permits the Internal Users of the Licensee, as stated in Clause 3.3.1, to access and use the Software as stated in Clause 3.3.1, it shall be the sole responsibility of the Licensee to ensure that the stated users do not violate the terms and conditions of this Licence Agreement.
- 3.3.3 To the extent that the Licensee permits Sub-Licensees and their Internal Users, as stated in Clause 3.3.1, to access and use the Software as stated in Clause 3.3.1, it shall be the joint responsibility of the Licensee and the respective Sub-Licensee to ensure that the Sub-Licensee signs, prior to granting the Sub-Licensee access to the Software, a separate annex to this Licence Agreement where they agree:
- (i) To be legally bound by the terms and conditions stated in this Licence Agreement; and
  - (ii) To be jointly and severally liable with the Licensee for the fulfilment of the terms and conditions of this Licence Agreement (which inter alia means that HW has a right of claim under this Licence Agreement directly against the Sub-Licensee); and
  - (iii) To have no right of claim directly against HW under this Licence Agreement. All claims under this Licence Agreement must be made by the Licensee.
- 3.3.4 Where the Licensee and/or the Sub-Licensee fails to fulfill the obligation stated in Clause 3.3.3, it shall be deemed breach of this Licence Agreement, and such breach shall entitle HW to terminate this Licence Agreement under Clause 11.3 and pursue all remedies available to it.
- 3.3.5 The Licensee and the Sub-Licensee shall be jointly and severally liable for the fulfilment of the terms and conditions of this Licence Agreement by the Sub-Licensee, including the Internal Users of the Sub-Licensee.
- 3.4 Functions**
- 3.4.1 The Software is a standard software licensed "as is", and it shall be the responsibility of the Licensee alone to ensure that the functions in the Software fulfil the Licensee's requirements.

- 3.4.2 The Licensee shall have the right to adjust or otherwise modify the Application Code of the Software to the extent that such adjustment or modification is required for the use of the Software stipulated in this Licence Agreement, and to the extent that the Licensee has acquired and paid for the tools to perform such adjustments or modification where this is required by HW.
- 3.4.3 In case the Licensee buys the tools to make additions to the Software, the Licensee will refrain from making code with similar functionality or functions or modules that HW is licensing. In case this happens the Licensee will pay HW the relevant Licence Fee.
- 3.4.4 HW is entitled to revoke the right to use certain version(s) of the Software, if HW at its sole discretion finds security problems in this (these) version(s) of the Software. In such cases HW shall not be obliged to give any detailed explanations nor any notice period to the Licensee. HW is obliged to give advice at no cost how to select a newer or older version of the Software if possible to allow the Licensee as full use of the Software as possible. If HW exercises this right, the Licensee has the right to switch this licence to Old Version State without prior notice.
- 3.4.5 HW is entitled to revoke the right to use certain version(s) of the Software if HW finds the cost of maintaining this (these) version(s) unreasonably high. In such case HW shall give 12 (twelve) months notice.
- 3.4.6 During the time of validity of this Agreement HW can, in its sole discretion, update or modify the Software by adding functions or taking away functions from the Software, correcting errors in the Software, etc.
- 3.4.7 HW makes the best effort to document the basic functions of the Software in the online Documentation and/or in printed material for parts of the Software. HW shall make no representation that this Documentation is complete or correct.

### **3.5 Communication Functionality**

- 3.5.1 In case the Software has communication (e.g. telephony) function HW does not guarantee that the Licensee can communicate without disruptions, delays or communication-related flaws. HW shall not be liable for any such disruptions, delays or other omissions in any communication experienced when using the Software.
- 3.5.2 The Licensee acknowledges and understands that the content of the communication spread by the use of the Software is entirely the responsibility of the person from whom such content originated. HW is not liable for any type of communication spread by means of the Software.

### **3.6 On-Line Mode / Off-Line Mode of the Software**

- 3.6.1 The Software is normally installed in online mode where part of the functions reside in HW servers centrally and are accessed over the Internet. These functions include both the Software and partial storage of the Licensee's data. The Software will not work fully and/or correctly unless it has constant access to the Internet.
- 3.6.2 If the Licensee wishes to run the Software without such connection as referred to in Clause 3.6.1, a special off-line mode functionality need to be licensed and paid for. This functionality will provide the possibility to install on the Licensee's server copies of some of the functions normally installed at HW premises. Functionality in off-line mode is partly limited.

### **3.7 External Components: Hardware and Third Party Software**

- 3.7.1 In order for the Software to function, the Licensee needs appropriate and working computer equipment, compatible and functioning operating system and correctly installed required language support. Certain functions require special third party software and hardware. It is the Licensee's responsibility to ensure that it has the legal right to use such third party software and hardware and to install and test that these external components work together with the Software. During installation of updates and upgrades of HW software or during replacement or upgrades of the external components extra care has to be taken to test that all functions of HW software work as expected.

3.7.2 Portions of the Software (may) utilise or include third party software and other copyrighted material. Acknowledgements, licensing terms and/or disclaimers for such material are contained in the "online" electronic documentation for the Software, and the Licensee's use of such material is governed by their respective terms.

### **3.8 Routines and Methods**

3.8.1 The Licensee is responsible for setting up, testing and documenting routines and methods for use of the Software and hardware, as well as for methods of supervision, changes, as well as methods of work and workflow.

### **3.9 Data Protection**

3.9.1 Some jurisdictions place procedural demands on the processing and storing of data relating to persons and/or companies. It is the sole responsibility of the Licensee to ensure that all necessary legal and/or formal procedures in respect of data protection are fulfilled, including any required registration procedures, in order to comply with data protection laws.

### **3.10 Software Maintenance**

3.10.1 Software Maintenance gives to the Licensee the following rights:

- (i) The right to download and install Updates of standard Software;
- (ii) The right to buy extra modules or users (this may require an Update of the Software);
- (iii) The right to buy Upgrades using the value of the Software at the time of Upgrade as trade-in. 'Upgrades' are referring to other software titles in the prevailing HW pricelist of the Territory, normally meaning more functionality and higher price.
- (iv) The right to get news-letters and other relevant information.

3.10.2 Software Maintenance is mandatory. The Licensee does not have a right to use the Software without paying for Software Maintenance.

3.10.3 HW charges for Software Maintenance periodically in advance according to HW price list. Each maintenance period lasts for one (1) year unless specifically agreed otherwise between the parties, and prolongs automatically for the same period at a time until the termination of the Licence Agreement. HW is entitled to recalculate the Periodical Maintenance Fee using the latest price list provided that HW sends the invoice with the new Software Maintenance fee to the Licensee not less than two (2) months before the start of the next Periodical Maintenance period. The Licensee has the right to demand to be invoiced based on the latest price list on condition that they are updated to the latest version of the Software.

3.10.4 The Software Maintenance does not include inter alia the following:

- (i) Original installation or installation of Updates of the Software;
- (ii) Remote support, including telephone support;
- (iii) Consultations about the Software;
- (iv) Assistance with problems caused by hardware or other software;
- (v) Restoring of lost data;
- (vi) Education and seminars.

3.10.5 Services not included in the Software Maintenance might be offered separately by HW and will be covered by separate contracts and/or by HW's general terms and conditions and charged separately.

### **3.11 Problem Reporting**

3.11.1 HW maintains an international problem reporting system. A website and an e-mail address is maintained and viewed by HW product managers on a regular basis. If a problem in the Software is repeatable using the latest English version and the test data supplied, and the problem is in the opinion of HW significant, HW will attempt to solve the problem in the next standard version of the Software.

3.11.2 HW shall at its own discretion make HAL-patches and workarounds for some important problems in older versions available on the website. The Licensee acknowledges that the installation of such a HAL-patch in an older version of the Software requires a professional assistance and might be more expensive than doing an update.

### **3.12 Updates and Upgrades**

3.12.1 The nature of Updates and Upgrades is that they are improvements and/or enlargements to the Software, and that functions thus can be changed or removed compared to the version being replaced. It is the Licensee's sole responsibility to ensure that an Update or Upgrade is fit for purpose and works together with the Licensee's hardware and with the Licensee's data. The Licensee understands that newer versions of third party software and newer hardware might be required in order to use an Update or Upgrade.

3.12.2 In connection with the implementation of Updates, HW shall not represent or warrant that the Licensee will be able to make full use of any adjustments or other modifications created as components in the Application Code of the Software.

3.12.3 The terms of this Licence Agreement will govern any Updates and Upgrades provided by HW that replace and/or supplement the original Software, unless such Update or Upgrade is accompanied by a separate licence in which case the terms of that licence will prevail.

### **3.13 Permitted Copying**

3.13.1 The Licensee shall have the right to make copies of the Software for the following purposes only, unless otherwise specifically stated in this Licence Agreement:

- (i) copies for archival or backup purposes;
- (ii) copies of the Software where, and only to the extent that the right to make such copies is stipulated by mandatory, statutory legislation, and the Licensee shall comply with such legislation in all respects.

3.13.2 The use of the stated copies of the Software is subject to the terms of this Licence Agreement.

3.13.3 The client portion of the Software may be copied onto unlimited number of computers. The number of users accessing the designated server computer is limited to the number of named or concurrent users licensed.

3.13.4 Clients for PDAs (Portable Digital Assistant) and other handsets require Client-Access-Licence for every individual device. The number of users accessing the designated server computer is limited to the number of named or concurrent users licensed.

3.13.5 The web portion of the Software may be used from any computer or handset. The number of users accessing the designated server computer is limited to the number of named or concurrent users licensed.

3.13.6 Copying of the server portion of the Software together with a copy of the Licensee's data is allowed only for backup purposes. Using such a copy for other purposes is chargeable. Such usage includes but is not limited

to:

- (i) Remote site reserve system;
- (ii) Testing using real data while installing or upgrading;
- (iii) Reporting and online backups.

### **3.14 Data and Backups**

- 3.14.1 The Licensee is responsible for ensuring the appropriate data integrity and security in the System.
- 3.14.2 The Licensee is solely responsible for making and keeping backup copies of the Software and any other files and any data needed to restore the System.

### **3.15 Restricted Areas of Use**

- 3.15.1 The Software is not intended for use in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control systems, life support machines or other equipment in which the failure of the Software could lead to death, personal injury, or severe physical or environmental damage.
- 3.15.2 The Software is not intended to be used to support or carry any type of emergency communication to any type of hospital, law enforcement authority, medical care unit, rescue service or any other kind of emergency service. It is the sole responsibility of the Licensee to make all necessary additional arrangements to access emergency services (e.g. inter alia wireless or wireline telephone service or any other arrangements that offers access to such services).
- 3.15.3 The Software is not intended to offer emergency services pursuant to any applicable local and or national rules, regulation or law and it is not a replacement for the Licensee's primary telephone or other communication tools.

## **4. Intellectual Property Rights**

- 4.1 HW or its licensors hold full copyright, title and all and any other rights to the Software. The Software is protected by copyright laws and international treaties. Any disregard of HW or its licensors rights, including inappropriate access to the Software which might render copying of the Software or Enabler Key possible for third parties, shall be deemed to be as material breach of this Licence Agreement and shall entitle HW to terminate this Licence Agreement under Clause 11.3 of this Licence Agreement, and pursue all remedies available to it.
- 4.2 The Licensee is obliged to do the best effort and proactively prevent employees and third parties from infringing HW's Intellectual Property Rights or this Software Licence Agreement.
- 4.3 The Licensee shall not break or change any Enabler Keys. Nor shall the Licensee change or remove any marks and/or notices concerning copyright, trademarks or other rights, or references hereto stated in the Software or on the medium upon which the Software may have been delivered.
- 4.4 The Licensee shall not reverse engineer, disassemble or decompile the Software, except where and only to the extent that such operations are permitted according to mandatory, statutory legislation, and the Licensee shall comply with that legislation in all respects.
- 4.5 The Licensee might be given access to parts or all of the Application Code. This does not in any way represent a transfer of IP rights. The Licensee may use this Code only for making changes and additions to the Licensee's own System and it may be used only according to this Licence Agreement. Any economical copyright for such changes and additions belongs to HW.

## **5. Infringement of Third Party Rights**

- 5.1 If a third party objects to the Licensee's use of the Software based on the claim that the use of the Software infringes such third party's intellectual property right (hereinafter referred to as "Infringement Claim"), HW will defend the Licensee against that Infringement Claim and pay all costs, damages and legal fees that a court finally awards, provided that the Licensee promptly 1) notifies HW in writing of the Infringement Claim as soon as it becomes aware of such Infringement Claim, 2) allows HW to fully control the defence and any related settlement negotiations, and 3) cooperates with HW in the defence and any related settlement negotiations by providing HW with appropriate information and assistance needed for such defence or settlement.
- 5.2 In the event of an Infringement Claim, HW shall be entitled to either: 1) obtain the continued right for the Licensee to use the Software, 2) bring the infringement to an end by modifying the Software or replacing the Software with other software which, essentially, possesses the same functions as the affected Software, or 3) terminate this Licence Agreement with written notice and pay to the Licensee an amount equal to the Licence Fee actually paid for the licence to the Software by the Licensee. HW shall only be obliged to pay the stated amount to the Licensee if the infringement Claim is actually raised against the Licensee within a period of (5) five years following the commencement date of the Licence Agreement. If an Infringement Claim is raised against the Licensee after the stated period has expired, HW shall be entitled to terminate this Licence Agreement without payment of any amount to the Licensee. The performance of HW obligations under this Clause 5.2 shall be HW total aggregate liability and HW entire obligation to the Licensee as a consequence of all and any Infringement Claims, and the Licensee shall have no other claims against HW as a result of such Infringement Claim. Upon termination of this Licence Agreement, the Licensee shall promptly cease using the Software and fulfil the terms and conditions connected to termination as stated in Clause 11.7 of this Licence Agreement.
- 5.3 The limited warranty stated in Clause 5.1 and 5.2 is void if the Infringement Claim has resulted from accident, abuse or misapplication. Any modification of the Software by anyone other than HW voids the foregoing warranty on any portion of the Software modified or affected by such modification.

## **6. Use for Illegal Purposes**

- 6.1 The Licensee is obliged to ensure that the Software is not used in such a way that would breach the laws of the Territory. The Licensee will indemnify HW against all claims and losses arising from any such use and from any use that is not in accordance with the terms of this Licence Agreement.
- 6.2 The Software may be used to reproduce materials. The Software is licensed to the Licensee only for reproduction of non-copyrighted materials, materials in which the Licensee owns the copyright, or materials the Licensee is authorised or legally permitted to reproduce.

## **7. Limitation of Liability**

- 7.1 In no event and no matter the circumstances shall HW be liable for any loss of anticipated profit, loss of data, damage to records or data or any indirect, special, incidental or consequential damages or loss (collectively "losses") (which for purposes of this Licence Agreement shall be deemed to include, but not be limited to the loss of goodwill, or loss as a consequence of any kind of business interruption or cost of replacement system) arising out of or in connection with this Licence Agreement or the use or performance of the Software or services connected thereto even if HW was advised of the possibility of such losses and regardless of whether the cause of action is in contract or tort. Accordingly, the Licensee cannot claim, demand or seek recovery from HW for any of the foregoing losses, and HW will not indemnify the Licensee for such claims.
- 7.2 HW shall have no responsibility or liability in respect of any confirmations or promises given or representations made by third parties, including HW resellers, HW partners and external consultants, regarding the Software or related services.
- 7.3 To the maximum extent permitted by applicable law, HW disclaims any product liability as a consequence of loss or damage to property which, in view of its nature, is normally intended for commercial use.

7.4 HW shall have no responsibility or liability for any adjustments or other modifications in the Software or any service and support of the Software performed by the Licensee itself or provided by third parties or partners of HW. Further, HW shall have no responsibility for any defects which are a consequence of external factors, including other software programs, or a consequence of the integration of or interaction between the Software and the Licensee's own hardware and software environments.

7.5 In all and any event, no matter the circumstances, HW's total aggregate liability for loss or damage arising out of or in connection with this Licence Agreement or the use or performance of the Software or services connected thereto shall not exceed the amount of the initial Licence Fee actually paid by the Licensee.

## **8. Exclusion of Liability**

8.1 The Software is licensed "as is" and, to the fullest extent permitted by applicable law, HW makes no warranties or representations and accepts no conditions in relation to the Software. Accordingly, the Licensee shall have no right to raise claims against HW if the Software contains errors and inconveniences, and HW does not correct such errors or inconveniences, or where the operation and performance of the Software are not free of interruptions or errors.

8.2. Where any liability has been limited in this Licence Agreement, such limitation shall have effect to the maximum extent permitted by applicable law. In some jurisdictions, mandatory, statutory legislation does not allow such exclusion or limitation of liability which may entail that the limitations stated herein do not apply to the Licensee, either in whole or in part.

8.3 The express terms of this Licence Agreement are in place of all terms and obligations implied law, custom or otherwise, all of which are excluded to the fullest extent permitted by applicable law.

## **9. Force Majeure**

9.1 Neither party shall be held liable for any damage sustained by the other party as a direct or indirect consequence of the non-performing party being delayed, prevented or hindered in the performance of its obligations under this Licence Agreement as a result of a force majeure situation. Force majeure situations include war and mobilization, catastrophes of nature, strikes, lock-out, fire, damage to production plant, import and export regulations and other unforeseeable circumstances beyond the control of the party concerned.

## **10. Transfer**

10.1 The Licensee shall have no right to sell/rent/lend or in any other way transfer or assign the right to use the Software or any right or obligation under this Licence Agreement to any third party without the prior written consent of HW. Where such consent is obtained, the transfer shall be executed according to general and Licensee specific guidelines for such transfer set by HW.

10.2 HW has the right to transfer its rights and obligations under this Licence Agreement in whole or in part to another company within the HW Group or a third party, and the Licensee hereby irrevocably agrees with such transfer.

## **11. Termination**

11.1 The Licensee shall have the right to terminate this Licence Agreement, either entirely or in respect of certain functions of the Software, by giving HW a prior written notice of at least one (1) month before the end of any Periodical Maintenance period. The Licensee shall not be entitled to a refund of the paid Licence, Periodical Maintenance and Periodical Support Fees upon such termination. If the Licensee terminates the Licence Agreement with less than the required one month's notice, the Licensee is required to pay the applicable Software Maintenance fee for the next Periodical Maintenance period.

11.2 HW shall have the right to change the Licensee's licence state from Live State to Old Version State with prior

- written notice of twelve (12) months. The Licensee shall not be entitled to a refund of the paid Licence and Periodical Maintenance Fees upon such licence state change.
- 11.3 In the event of the Licensee's material breach of this Licence Agreement, HW shall have the right to terminate this Licence Agreement with immediate effect by written notice to the Licensee and be entitled to claim damages in this connection according to applicable law and pursue all remedies available to it.
- 11.4 HW can terminate this Licence Agreement with immediate effect by giving written notice to the Licensee if the Licence Fee or the Periodical Maintenance Fee for the Software has not been paid within 30 days of the due date.
- 11.5 HW or the Licensee can terminate this Licence Agreement with immediate effect by giving written notice to the other party if that party ceases to conduct its operation in the normal course of business or files or becomes subject to any kind of insolvency proceedings.
- 11.6 This Licence Agreement does not limit HW rights to terminate the Licence Agreement under the provisions of the law applicable to this Licence Agreement.
- 11.7 Upon the termination of this Licence Agreement, the Licensee shall immediately cease using the Software and promptly delete and erase and destroy the Software, including all and any copies thereof.
- 11.8 The Licensee is aware that in case it is stipulated by mandatory, statutory legislation that the Licensee is obliged to maintain accessibility to its accounting data after the Licensee's rights to use the Software have terminated, it is the sole responsibility of the Licensee to comply with such legislation. For this purpose the Licensee may, while this Licence Agreement is still valid, print out all required Licensee's data and keep it archived in printed format or transfer the data to any other software or use any other means that it considers suitable to fulfil such Licensee's obligations. It may be possible to purchase from HW an Archiving licence (i.e. a single user licence with limited functionality and without possibility of entering new data), if such licence is provided by HW and if so agreed between the Licensee and HW.
- 12. Validity and Severability**
- 12.1 If any provision of this Licence Agreement is held to be illegal, invalid or unenforceable, such provision shall nonetheless be enforced to the fullest extent permitted by applicable law, so as to reflect the original intent of the parties, and such provision shall not affect the legality and validity of the other provisions.
- 13. Survival Clause**
- 13.1 Any terms of this Licence Agreement which, by their nature, extent beyond the day this Licence Agreement comes to an end shall remain in effect and thus bind the parties.
- 14. Waiver**
- 14.1 If either party does not exercise, or delays exercising, a right or remedy provided by this Licence Agreement or by law, that failure or delay will not amount to a waiver of that right or remedy by that party. The fact that a party does exercise a right or remedy provided by this Licence Agreement or by law does not prevent that party from exercising that right or remedy again, or exercising another right or remedy.
- 15. Applicable Law and Jurisdiction**
- 15.1 All and any disputes arising out of the application of this Licence Agreement or otherwise related to this Licence Agreement shall be governed by the laws of the Territory without regard to any choice of law principles, and shall, subject to Clause 15.2, be settled exclusively by the Courts of England and Wales. The parties expressly consent to the jurisdiction and venue of the said court and hereby waive all objections to the same.
- 15.2 Clause 15.1 does not prevent HW from seeking or obtaining injunctive relief or other extraordinary relief in

any courts with jurisdiction. To the extent permitted by applicable law, HW may take concurrent proceedings for injunctive relief in any number of jurisdictions.

- 15.3 The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Licence Agreement.

## **16. Consent to Use of Data**

- 16.1 By signing this Licence Agreement, the Licensee hereby expressly accepts that any Licensee specific information received from HW on the basis of the contractual relationship regulated by this Licence Agreement, e.g. concerning the Software, including Company Registration No., Nace codes, Name of Licensee, Address, Tel. No., Fax No., E-mail Address, URL, Contact Name and the name of the Licensee's supplier, may be used internally within the HW Group only for the purpose of internal administration of the licence to the Software.
- 16.2 The Licensee accepts that this Licence Agreement establishes an ongoing relationship, where HW has the right and obligation to inform the Licensee of possibilities regarding the Software or related services that might be of interest or importance to the Licensee. The Licensor might use pop-up messages in the Software and ads in its website, along with fax, mail, email and phone text messages to communicate such information to the Licensee. If the Licensee wishes not to receive such information in some or all of these media, the Licensee has to specifically notify HW of it.
- 16.3 The Licensee agrees that HW may collect and use technical and related information, including but not limited to technical information about the Licensee's computer, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services to the Licensee (if any) related to the HW software, and to verify compliance with the terms of this Licence Agreement. HW may use this information, as long as it is in a form that does not personally identify the Licensee, to improve HW software products or to provide services or technologies to the Licensee.

## **17. Confidentiality**

- 17.1 Each of the parties shall treat as confidential information which comes into its possession as a result of or in connection with the performance of this Licence Agreement, whether such information relates to the business, sales, marketing or technical operations of either party or the clientele of either party or otherwise, save that which is generally known or that is already in its possession other than as a result of a breach of this Clause or in the public domain.
- 17.2 Neither party shall, without the written permission of the other party, knowingly disclose such confidential information to a third party, unless otherwise required by law or in connection with the performance of the rights and obligations of the parties under this Licence Agreement.
- 17.3 The Licensee acknowledges that HW is a development company and that free flow of development ideas is a fundamental basis of HW business. Therefore the parties agree that any ideas obtained or received during the performance of the rights and obligations of the parties under this Agreement that generate software development ideas is not considered confidential information.
- 17.4 The operation of this Clause shall survive the termination of this Licence Agreement.

## **18. Notices**

- 18.1 Any notice of legal nature under this Licence Agreement, such as inter alia Notice of Termination of this Licence Agreement, shall be given by sending it by registered post to other party's registered office.
- 18.2 Any notice of informative nature which has no legal consequences can be given also by sending it by facsimile transmission or by e-mail.
- 18.3 Any such communication will be deemed to have been made to the other party:

- (i) if by letter, three (3) days from the date of posting; or
- (ii) if by facsimile transmission, on the day of transmission; or
- (iii) if by e-mail, on the day on which the communication is first stored in the other party's electronic mailbox.

## **19. Priority**

- 19.1 This Licence Agreement, which the Licensee has received in hardcopy and signed in connection with the Licensee's purchase of the Software licence, shall be the legally binding version. In the event of any conflict between contents of this Licence Agreement and the contents of the Licence Agreement implemented electronically in the Software, the Licence Agreement signed in hardcopy shall prevail.
- 19.2 This Licence Agreement replaces any previous Licence Agreements and any previous representations regarding the Software and the terms of its use.
- 19.3 Any additions or changes to this Licence Agreement have to be made in writing, signed by both parties and dated same day or after the date of this Licence Agreement.
- 19.4 This Licence Agreement covers the current version and older versions of the Software. Newer versions of the Software might be covered by a new Software Licence Agreement. The Licensee hereby agrees and confirms that if it uses its right according to this Licence Agreement to update the Software, this Licence Agreement will be replaced by the Software Licence Agreement valid at a time of the Update. The Licensee has no right to use such Update(s) of the Software without agreeing to the new Software Licence Agreement, unless specifically agreed with HW in writing. The new Software Licence Agreement will replace this Licence Agreement and any special terms that the Licensee may have earlier agreed with HW in respect of the Licensee's right to use the Software, unless otherwise agreed between the parties in writing.

## **20. SUPPORT / FAIR USE**

- 20.1 Where the Licensee purchases support (“**Support**”) from HW's permitted licensors (“**RM**”) the following clauses will apply:
  - 20.1.1 RM agrees to provide support services in the form of notification of changes within the Software, to explain the following (which is a non-exhaustive list): functionality enhancement; user guides; training manuals; Software update explanations; and general support information.
  - 20.1.2 Incidents where the Software fails should be reported directly to RM customer support, details of which can be found at [www.rm.com](http://www.rm.com). You should expect to carry out reasonable levels of diagnostics and assistance to RM customer support in rectifying any reported failures.
  - 20.1.3 RM agrees to provide 1st line support, namely remote helpdesk support via internet or telephone, to You via the RM customer support helpdesk. In receiving this Support, the Licensee agrees that a RM employee or agent may access the Licensee's data in order to log on and resolve any issues.
- 20.2 The Licensee acknowledges that, for the benefit of all RM's customers, including the Licensee, RM has structured and priced the provision of the Support on the basis of average levels of use. By taking this approach, RM is able to deliver a quality service to all RM customers but RM assumes that no individual customer, including the Licensee, places excessive demands upon RM's resources. The Customer therefore accepts the provisions of this clause 20.
- 20.3 If the Licensee makes excessive use of the Support and/or the resources used to deliver the Support (in RM's opinion acting in good faith):

20.3.1 RM shall be entitled to restrict the Support provided and/or, the Licensee's use of the Support and/or the resources used to deliver the Support, each in such manner as RM (acting in good faith) considers appropriate; and/or

20.3.2 RM may contact the Licensee to request that the Licensee modifies the manner in which it uses the Support and/or the resources used to deliver the Support - this may include (by way of example only) asking the Licensee to reduce the number of calls logged, the number of change requests made and/or the service management time requested. The Licensee agrees to honour any such request and ensure that its use of the Support and/or the resources used to deliver the Support is modified accordingly.

**21. Signatures of the Parties**

**For and on behalf of HW:**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Reg. No: \_\_\_\_\_

Date: \_\_\_\_\_

Signature:

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**For and on behalf of the Licensee:**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Reg. No: \_\_\_\_\_

Date: \_\_\_\_\_

Signature:

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_