

DATED _____

(1) << >>

(2) << >>

JOINT SOFTWARE DEVELOPMENT AGREEMENT

THIS AGREEMENT is made the day of

BETWEEN:

- (1) <<Name of Software Owner>> a company registered in <<Country of Registration>> under number <<Company Registration number>> whose registered office is at <<Registered office>> ("the Software Owner") and
- (2) <<Name of Developer>> a company registered in <<Country of Registration>> under number <<Company Registration number>> whose registered office is at <<Registered office>> ("the Developer")

WHEREAS:

- (1) The Developer wishes to develop and market certain computer software intended to <<insert description or function>>, the outline specification for which is contained in Schedule 1 (the 'Software').
- (2) The Developer requires to use existing software owned by the Software Owner known as <<insert name of software product>> specified in Schedule 1 (the 'Source Software') and requires the Software Owner's support and co-operation for the purpose of developing the Software, the parties have agreed to enter into this joint development upon the terms and subject to the conditions of this Agreement.

IT IS AGREED as follows:

1. Definitions

In this Agreement, the following words and expressions shall have the following meanings:

"Acceptance" or "Accepted"	acceptance by both parties of the Software which has successfully passed the agreed acceptance tests specified and approved in the SAD;
"Development Timetable"	the timetable forming Schedule 2 to this Agreement, upon which development of the Software is proposed to take place (including the regular meetings to be held and the time to be spent by each party) as the same may be amended from time to time by mutual agreement between the parties;
"Development Work"	the development required to produce the Software based upon the Specification;
"Distribution Agreement"	the distribution agreement entered into between the parties dated <<...>>;
"Equipment"	the computer hardware equipment specified in Schedule 1 upon which the Software is to operate when developed;
"SAD"	the Software Acceptance Document agreed between the Software Owner and the Developer as the acceptance tests to be passed by the Software;

“Software”

“Source Software”

“Specification”

2. Delivery of Source Software

Upon execution of this Agreement, the Software Owner shall pay to the Developer the sum of £ [] from the Developer. Upon delivery of the Source Software, the Software Owner shall deliver to the Developer the Source Software in a form suitable for the parties. The Source Software shall be received, held and used in accordance with the provisions of this Agreement.

3. Preparation and Approval

3.1 The Developer and the Software Owner shall prepare the Specification, the SAD and the Development Timetable.

3.2 The parties shall ratify the Specification, the SAD and the Development Timetable by their recommendations to any of the parties. All amendments to be held between the parties. All amendments to the Specification, the SAD and the Development Timetable shall be made by the parties. The parties shall deliver the amended document to the other party for approval.

3.3 Upon approval of the Specification, the SAD and the Development Timetable, the Developer shall commence the Development of the Source Software in accordance with the provisions of this Agreement.

4. Testing and Acceptance

4.1 Upon completion of the Development of the Source Software, the Developer shall deliver the Source Software to the Software Owner as the case may be specified in the SAD.

4.2 Upon passing the acceptance tests, the Source Software shall be deemed to be Accepted for market. The Developer shall deliver the Source Software to the Software Owner, prepare the necessary manuals and use the Source Software in accordance with the provisions of this Agreement.

4.3 In the event that the Source Software fails to pass the tests prescribed in the SAD, the parties shall agree on the necessary adjustments to be necessary to ensure the Source Software is Accepted for market.

to it in Recital (1) above including the Source Software relating thereto, to be developed by the Developer with the assistance and co-operation of the Software Owner in accordance with this Agreement. The Source Software shall include any enhancements and modifications thereto;

to it in Recital (2) being the Source Software upon which the Source Software is developed in accordance with this Agreement;

ion document for development of the Source Software by the Developer with the co-operation of the Software Owner and based upon the provisions contained in Schedule 1.

the Software Owner of the sum of £ [] and the right to modify the Source Software. The Developer shall deliver the Source Software in accordance with the provisions of this Agreement.

shall prepare the Specification, the SAD and the Development Timetable.

r recommendations to any of the parties. All amendments to be held between the parties. All amendments to the Specification, the SAD and the Development Timetable shall be made by the parties. The parties shall deliver the amended document to the other party for approval.

both parties the Developer shall commence the Development of the Source Software in accordance with the provisions of the Development Timetable.

or at any appropriate stage thereof the Source Software shall be deemed to be Accepted for market upon the agreed acceptance tests.

to the satisfaction of both parties, the Source Software shall be deemed to be Accepted for market. If not the whole, shall be deemed to be Accepted for market. The Developer shall deliver the Source Software to the Software Owner, prepare the necessary manuals and use the Source Software in accordance with the provisions of this Agreement.

e' fails to pass the tests prescribed in the SAD, the parties shall agree on the necessary adjustments or modifications as may be necessary to ensure the Source Software is Accepted for market.

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4.4 In the event that the Developer fails to complete the development in timely fashion or in the event that the Software Owner fails to pass Acceptance testing, either party shall be liable for the costs and expenses incurred by the other party in which event the Software Owner in co-operating with the Developer in this development shall mutually agree to extend the completion date of the development as the case may be, allow further modifications and re

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5. Meetings and Change Control

5.1 The Developer and the Software Owner shall undertake to hold regular meetings at such times and venues as shall be agreed between the parties. Such meetings shall be attended by a nominated person representing each of the parties who shall, as agreed, comprise the Change Control Committee.

5.1 The Developer and the Software Owner shall undertake to hold regular meetings at such times and venues as shall be agreed between the parties. Such meetings shall be attended by a nominated person representing each of the parties who shall, as agreed, comprise the Change Control Committee.

5.2 Any proposed change to the Specification, SAD or Development Timetable shall be submitted to the Change Control Committee for approval or to the development shall be submitted to the Software Owner for approval. Any such change, amendment or alteration submitted for approval shall have on price, marketing and timescales.

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5.3 Any such change, amendment or alteration requires the written approval of both parties prior to implementation.

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5.4 Any enhancement or modification to the Software proposed by either party at any time shall require the written approval of both parties.

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6. Cost of Development

Subject to the provisions of this Agreement, the cost relating to development of the Software shall be shared between the parties in the same proportion as the royalties specified in the Distribution Agreement. Any additional contribution required to be given by the Software Owner shall be charged on a time and materials basis as otherwise agreed between the parties.

Subject to the provisions of this Agreement, the cost relating to development of the Software shall be shared between the parties in the same proportion as the royalties specified in the Distribution Agreement. Any additional contribution required to be given by the Software Owner shall be charged on a time and materials basis as otherwise agreed between the parties.

7. Payment upon Acceptance

7.1 Upon Acceptance of the Software by the Software Owner the sum of <<amount>> shall be paid to the Software Owner the sum of <<amount>> copies of the Source Code shall be provided to the Software Owner under the terms of the Agreement.

7.1 Upon Acceptance of the Software by the Software Owner the sum of <<amount>> shall be paid to the Software Owner the sum of <<amount>> copies of the Source Code shall be provided to the Software Owner under the terms of the Agreement.

7.2 Where the payment of the sum of <<amount>> or any part thereof is not made, the Software Owner shall retain all rights under this Agreement (as well before as after judgment) and shall be entitled to charge interest on the outstanding sum at the rate of <<rate>> per year above the <<name of bank>> base rate until the outstanding sum is paid in full on the invoice until the outstanding sum is paid in full.

7.2 Where the payment of the sum of <<amount>> or any part thereof is not made, the Software Owner shall retain all rights under this Agreement (as well before as after judgment) and shall be entitled to charge interest on the outstanding sum at the rate of <<rate>> per year above the <<name of bank>> base rate until the outstanding sum is paid in full on the invoice until the outstanding sum is paid in full.

7.3 In addition to the above, the Software Owner shall at the Software Owner's absolute discretion reserve the right to terminate this Agreement and the Distribution Agreement without compensation or remedy available to the Software Owner in accordance with these terms and conditions, this Agreement shall be void and of no effect.

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12. Liability

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13. Indemnities

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14. Agency, Partnership

This Agreement shall not
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contractual relationship exp

partnership, joint venture, agency,
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15. **Amendments**

This Agreement may not be amended, varied or modified by a duly authorised officer

agreed, supplemented, interpreted, or modified by an instrument in writing signed by both of the parties.

16. **Announcements**

No party shall issue or make any announcement regarding this Agreement to the public or any other party.

shall not make any announcement or disclose any information regarding this Agreement unless prior consent has been obtained from the other party.

17. **Assignment**

17.1 This Agreement is not assignable, neither this Agreement nor any of its rights or obligations under it, may be assigned by either party without the prior written approval of the other party.

and, subject to clause 17.2 below, neither this Agreement nor any of its rights or obligations under it, may be assigned by either party without the prior written approval of the other party.

17.2 Notwithstanding the foregoing, a party may assign this Agreement to any acquirer of all or of a substantial part of its business relating to the subject matter of this Agreement controlled by, that party or its subsidiaries. Any assignment in violation of this clause will be void and without effect.

may assign this Agreement to any acquirer of all or of a substantial part of its business relating to the subject matter of this Agreement or to any entity under common control with a party to this Agreement. Any assignment in violation of this clause will be void and without effect.

18. **Entire Agreement**

This Agreement supersedes all previous agreements between the parties and constitutes the entire agreement between the parties and covers the subject matter of this Agreement. Any pre-existing non-disclosure obligations of the parties shall remain in full force and effect in so far as there is no conflict with the terms entered into this Agreement. All terms and conditions incorporated into this Agreement by reference shall be deemed to be part of this Agreement.

arrangements and undertakings entered into between the parties relating to the subject matter of this Agreement shall remain in full force and effect in so far as there is no conflict with the terms entered into this Agreement. All terms and conditions incorporated into this Agreement by reference shall be deemed to be part of this Agreement.

19. **Force Majeure**

[Neither party shall have any liability for any delays in the performance of this Agreement for any delays caused by circumstances beyond the reasonable control of that party. If such circumstances continue for a period of more than <<e.g. 6 months>>, either party may terminate this Agreement by giving written notice to the other party.]

deemed to be in breach of this Agreement if such delay is caused by circumstances beyond the reasonable control of that party. If such circumstances continue for a period of more than <<e.g. 6 months>>, either party may terminate this Agreement by giving written notice to the other party.]

OR

[Notwithstanding anything to the contrary in this Agreement, neither party shall be liable for any delay in the performance of this Agreement caused by circumstances beyond the reasonable control of that party (including without limitation any delay caused by any act of God, war, terrorism, strike, lock-out or other party) provided however that the party so delaying shall not relieve the other party from liability for delay if the delay is beyond the reasonable control of the party so delaying promptly notifying the other party in writing (specifying the likely duration of the delay), the performance of the obligations shall be suspended during the period that the said circumstances continue and such party shall be granted an extension of time for performance of the obligations for the period of the delay. Save where such delay is caused by the act of God, the rights, remedies and liabilities of the parties shall be conferred and imposed by the other terms of this Agreement.]

Agreement, neither party shall be liable for any delay in the performance of this Agreement caused by circumstances beyond the reasonable control of that party (including without limitation any delay caused by any act of God, war, terrorism, strike, lock-out or other party) provided however that the party so delaying shall not relieve the other party from liability for delay if the delay is beyond the reasonable control of the party so delaying promptly notifying the other party in writing (specifying the likely duration of the delay), the performance of the obligations shall be suspended during the period that the said circumstances continue and such party shall be granted an extension of time for performance of the obligations for the period of the delay. Save where such delay is caused by the act of God, the rights, remedies and liabilities of the parties shall be conferred and imposed by the other terms of this Agreement.]

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- 19.1 any costs arising from the termination shall be borne by the party incurring the same;
- 19.2 either party may, if the other party has failed to perform its obligations under this Agreement for more than 10 weeks, terminate this Agreement forthwith by giving notice to the other by reason of such termination.]
20. **Notices**
- 20.1 All notices under this Agreement shall be in writing.
- 20.2 Notices shall be deemed to have been given:
- 20.2.1 when delivered to the addressee by a courier or other messenger (including outside business hours of the recipient; or
- 20.2.2 when sent, if by registered mail and a successful transmission report or return receipt is received; or
- 20.2.3 on the fifth business day after mailing, if mailed by national ordinary mail; or
- 20.2.4 on the tenth business day after mailing, if mailed by airmail, provided that postage prepaid.
- 20.3 In each case addressee shall be the last address, e-mail address, or facsimile number notified by the party.
21. **Schedules**
- The provisions of Schedule 1 shall form part of this Agreement as if set out here.
22. **Severance**
- If any provision of this Agreement is held by law or judged by a court to be unlawful, void or unenforceable, that provision shall, to the extent required, be severed from this Agreement and the remaining provisions of the Agreement shall remain in full force and effect, as possible without modifying the substance of the Agreement, and shall not in any way affect any other provisions of this Agreement.
23. **Successors and Assignees**
- 23.1 This agreement shall bind the parties and their respective successors and permitted assignees, and references to a party in this Agreement shall include references to a person:
- 23.2 In this Agreement references to a person shall include references to a person:
- 23.2.1 who for the purposes of this Agreement (or any interest in those rights) has been assigned (by assignment, novation or otherwise) to the party; or
- 23.2.2 who, as assignee, is entitled to exercise those rights, or
- 23.3 and in particular the person to whom those rights (or any interest in those rights) are assigned or pass as a result of a merger, division, reconstruction or other corporate transaction involving that party. For this purpose, references to the parties under this Agreement include any successors and permitted assignees who become entitled as a result of a merger, division, reconstruction or other corporate transaction involving that party.

24. **Waiver**

No delay, neglect or forbearance by either party in enforcing against the other party any term or condition of this Agreement shall either be or be deemed to be a waiver or in any way preclude either party under this Agreement. No right, power or remedy in this Agreement shall be taken upon or reserved for either party which is not available to that party.

25. **Counterparts**

This Agreement may be executed in counterparts or duplicates, each of which shall be an original, and all of which together shall constitute one and the same agreement.

26. **Time of the Essence**

Time shall be of the essence of this Agreement only insofar as it is mentioned in this agreement in writing between the parties.

27. **Language**

This Agreement is made in English. If there is any conflict in the meaning between the English version of this Agreement and any version or translation of it in any other language, the English version shall prevail.

28. **Costs and Expenses**

Each party shall bear its own costs and expenses arising in connection with the drafting, negotiation and registration (if applicable) of this Agreement.

29. **Set-off**

Where either party has incurred a claim against the other party, whether under this Agreement or otherwise, a party may set off the amount of any sum that would otherwise be due to the other party under this Agreement.

30. **Third Parties**

[The parties confirm their intent not to confer any rights on any third parties by virtue of this Agreement and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.]

OR

[The parties recognise that the purpose of this Agreement is to confer benefits on <<insert name of third party>> and accordingly the Contracts (Rights of Third Parties) Act 1999 and, subject to the provisions of this Agreement, shall not confer any rights on any other third party.]

31. **Proper Law and Jurisdiction**

31.1 [This Agreement and any dispute arising from it and any dispute resolutions shall be governed by and referred to below shall be construed in accordance with English law notwithstanding any provisions and other mandatory legal provisions save as may be otherwise provided in this Agreement.]

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IN WITNESS WHEREOF this Agreement is
before written

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Software Owner>>

In the presence of
<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Developer Representative>>

In the presence of
<<Name & Address of Witness>>

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executed the day and year first

Outline Specifics of the Software

<<Insert Details>>

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