

AMBERSOFT SYSTEMS LIMITED

License Terms and Conditions

This License Agreement is an agreement between the customer referred to in the Order Confirmation and Ambersoft Systems Ltd (“Ambersoft”). The Agreement covers the license to you for your use of the Licensed Software referred to in the Order Confirmation.

1. License

By installing and using the Licensed Software, you acquire a non-exclusive license to use the Licensed Software on the terms of this Agreement.

2. Term

Subject to the terms of this Agreement, this Agreement:-

- a) commences on the Effective Date and continues for the Initial License Period; and
- b) (Rental Option Only) shall be automatically extended after the Initial License Period for an Additional Term (and thereafter, subsequent Additional Terms) unless terminated in accordance with this Agreement.

3. Payment

3.1 In return for the license to use the Licensed Software for the Initial License Period and the services we provide to you under this Agreement during the same period, you agree to pay to us the Initial License Fee in accordance with this Agreement.

3.2 (Indefinite License Option Only) Payment of the Indefinite License fee is due in advance on installation

3.3 (Rental Option Only) In return for the license to use the Licensed Software for an Additional Term and the services we provide to you under this Agreement during the same period, you agree to pay to us the Monthly Rental fee in accordance with this Agreement.

3.4 (Rental Option Only) We may increase the Monthly License Fee in respect of an Additional Term by giving you notice in writing at least thirty (30) days prior to the commencement of that Additional Term, by an amount considered by us to be reasonable, in terms of inflation and/or comparable returns from other customers.

3.5 You must pay all relevant fees to us within fourteen (14) days of the date of our invoice to you for the relevant fee.

4. Ownership

This Agreement does not pass to you any source code, intellectual property or other ownership rights in the Licensed Software. Access to the source code is not included in the License.

5. System Installation

You are responsible for installing the Licensed Software on your Equipment. We will assist you in accordance with clause 11 – Technical Support

6. Restrictions on Use

6.1 You agree to:-

- a) Use the Licensed Software in accordance with the terms and conditions of this Agreement.
- b) Use the License System solely in conjunction with the operating system and application and solely on the equipment and at the location (if any) specified in the Order Confirmation
- c) Comply with all relevant laws and regulations, including privacy and data protection laws and regulations, in your use of the Licensed Software. We are not liable or responsible for your breach of these laws or regulations even if it occurs as a result of your use of the Licensed Software

6.2 You agree to:-

- a) without our prior written consent or save as permitted by law, copy reproduce, translate or do any act which infringes the copyright in the Licensed Software
- b) create a derivative work from the Licensed Software by any means
- c) decompile, disassemble or reverse engineer the Licensed Software save as permitted by law
- d) give, lease, license, rent, assign, transfer, disclose or otherwise make available the Licensed Products (in any form) to any other person without our prior written consent.
- e) Permit any other person or company (including your related or associated companies) to use the Licensed Software without our written consent.

8. Additional Users

If you would like to have further users in addition to the Authorised Number of Users use the Licensed Software, you must first notify us, identifying the additional number of Users. We will respond by advising you of the applicable license fee. Upon receiving confirmation that these fees are acceptable to you, we will send you an Order Confirmation and invoice you for the additional Users. Upon receipt by us of payment, this Agreement will be deemed to be amended to reflect the additional Users and revised fees.

9. Transfer

If you wish to use the Licensed Software on equipment, at a location or in conjunction with applications or an operating system different from those specified in the Order Confirmation, you must first notify us, identifying the alternate equipment, location, application or operating system. We will respond by advising you of whether such different use is possible and, if so,

the fees and other conditions associated with such different use. Upon receiving confirmation that these fees and conditions are acceptable to you, we will send you an Order Confirmation and invoice you for the applicable fees. Upon receipt by us of payment, this Agreement will be deemed to be amended to reflect such different use and other conditions (if any).

10. New Versions - Updates and Upgrades

10.1 Updates

10.1.1 We may issue by email Updates of the Licensed Software from time to time. Any Update shall form part of the Licensed Software for the purposes of this Agreement, and is subject to the terms and conditions of this Agreement as if it formed part of the original Licensed Software.

10.1.2 You are obliged to download and install Updates of the Licensed Software within one month of notification, for support to remain activated.

10.1.3 We reserve the right to make changes to the Licensed Software. Unless agreed in advance with you in writing, these changes will not seriously alter key functionality of the system, but may alter for example some fields that are displayed on screens or reports, or that are exported to or imported from third party software (such as Sage).

10.1.4 Enhancements. We may, at our sole discretion, agree to implement changes to the Licensed Software to meet your particular requirements. We will probably charge you for these changes, subject to written authorisation from you to us, and make these changes available to all other users of the Licensed Software.

10.1.5 A change in version on a client's PC of the installed platform (E.g. Windows) or of the installed application software (E.g. Microsoft Office or Sage 50) may require a change to the Licensed Software, for which there would be a reasonable charge. This often but not always equates to between 2 to 6 hours at our standard hourly rate. Such changes will probably not be offered for older versions of the Licensed Software, which existed before the latest Upgrade.

10.2 Upgrades

10.2.1 Upgrades are not included in the Initial License Fee or Annual License Fee, and will usually be subject to an Upgrade Fee

10.2.2 You are not obliged to acquire new Upgrades, but support for older versions may be withdrawn at some stage, at Ambersoft's discretion.

10.2.3 Unless otherwise agreed in writing, this Agreement applies to Upgrades which shall be subject to the terms and conditions of this Agreement as if they were the original Licensed Software.

10.3 Testing and Bugs

In a period after release of a new Upgrade or Update, there is potential for new bugs to emerge. These bugs may have arisen from enhanced features, or from a bug fix which has a knock-on effect into other areas. If you come across any bugs, we will aim to resolve them within 40 working hours on most occasions. It would be prudent to test any new Update or Upgrade before release before general release to all other users, and we provide you with the capability to do this. In part, we are able to keep our software prices low by asking Customers to take a share in the testing process, from the user's perspective ('user acceptance testing'), although the system does undergo functional testing by us as well before release.

10.4 Upgrade Policy

In order to improve long-term stability, after about 6 months from first release, it is the policy now to 'seal' a new Upgrade version against any new enhancements. Only bug-fixes will normally be implemented after that time.

10.5 Customised Version

Upon mutual written agreement, the Licensed Software can be changed from a shared version to a Customised Version, exclusive to the Customer. The Customised Version is kept independently of the Licensed Software, and all future changes must be authorised in writing by the Customer. Ambersoft retains full copyright of the Customised Version. Ambersoft is likely to charge the Customer for any required future changes, upon written agreement. The annual support arrangement will change to Ambersoft's standard Annual Support Agreement for bespoke database systems, with an annual retainer, and a time and material charging basis for support time (further details are on the Ambersoft web site).

11. Technical Support

11.1 Subject to mutual agreement each year, we will as required provide you with Support Services relating to the Licensed Software

11.2 The Support Services covered will be details in the Support Agreement, which will be offered nearer the Effective Start Date. A copy can be provided in advance of this date if required.

12. Liability

12.1 You acknowledge that in entering into this Agreement you have not relied in any way on our representations, descriptions, illustrations, specifications, skill or judgement except as expressly specified in this Agreement and that you have satisfied yourself as to the condition and suitability of the Licensed Software for your purposes. You acknowledge that the Licensed Software has not been developed to meet your particular needs

12.2

- a) Except as expressly set out in this Agreement we have no liabilities to you whatsoever.
- b) We accept unlimited liability for our negligent acts or omissions resulting in personal injury or death
- c) We accept liability for any breach of contractual obligations under this Agreement
- d) We exclude liability for all of the following:-
 - i) Third party claims against you for damages
 - ii) Loss of or damage to, your records or data
 - iii) Indirect or consequential loss
 - iv) Loss of profits, business, revenue, goodwill, or anticipated savings
- e) Prior to making any claim against us for breach of this Agreement, negligence or any other action, you must give us a reasonable opportunity to remedy the defect or breach the subject of the claim. We shall not be liable for any such defect or breach which we have remedied within a reasonable time.

12.3 You will indemnify us and keep us indemnified against:-

- a) All and any demands, claims, actions and proceedings whatsoever and howsoever arising made by any third party in connection with or arising out of your use of the Licensed Software in combination with other programs

13. Termination

13.1 We may immediately terminate this Agreement by notice in writing to you if:-

- a) you breach any material term or condition of this Agreement which is capable of remedy and fail to remedy that breach within thirty (30) days of being notified of the breach in writing.
- b) You fail to pay any fee payable under this Agreement within thirty (30) days of the due date.

13.2 (Rental Option Only) Either you or we can terminate this Agreement by giving the other party 30 days written notice of termination.

13.3 Termination of this Agreement (or part thereof) is without prejudice to any rights which may have accrued prior to termination.

14. Performance

We may perform our obligations under this Agreement through third parties who will perform those obligations on our behalf

15. Audit

You agree, upon reasonable notice from us, to permit us to enter any of your premises and to allow and assist us to access any of your equipment at any time during your normal business hours, in order to verify that your use and/or possession of the Licensed Software is in accordance with this Agreement.

16. Application Software Platform

The Customer undertakes to provide and install the application software platform as indicated in the Order Confirmation, unless otherwise clearly indicated in writing. The responsibility for the full functioning of the platform software, and all hardware and network infrastructure, remains with the Client.

17. Force Majeure

Neither party shall be liable for any failure in the performance of any of its obligations under this Agreement caused by factors outside its control.

18. Contracts (Rights of Third Parties) Act 1999

For the purpose of Section 1(2) of the Contracts (Rights of Third Parties) Act 1999, the parties state that they do not intend any term of this Agreement to be enforced by any third parties but any third party right which exists or is available independently of that Act is preserved.

19. Assignment

The Customer not assign, transfer or otherwise dispose of all or any part of its rights or subcontract, transfer or otherwise dispose of any of its obligations under this Agreement without the prior written consent of Ambersoft.

20. Jurisdiction and Governing Law

This Agreement shall be governed by English Law and the parties consent to the exclusive jurisdiction of the English courts in all matters regarding it.

21. Interpretation

- a) This Agreement contains the entire understanding between the parties as to the license of the Licensed Software.
- b) Every provision of this Agreement is severable from the others and the severance of a provision will not affect any other provision.

22. License Conversion

You may convert the license from Monthly Rental to Indefinite License at any stage. The normal Indefinite License Fee will be due at this point, but it will be discounted by 5% after 6 months on, or 15% after 12 months.

20. Other

We shall be entitled to make reference to our relationship with you in our publicity material

21. Back Ups

21.1 Where the data is stored in a location under the Customer's control (usually the Customer's office), the responsibility for taking regular backups rests with the Customer.

21.2 Where the data is stored in a location under Ambersoft's control (E.g. a hosted server), Ambersoft undertakes to take regular back-ups.

21.3 Amber-Backup. The client can elect to license Amber-Backup, which to automatically downloads daily backups to the client's own server or PC. This provides a high level of assurance that backups are up-to-date

22. Speed Performance and Archiving

22.1 At some stage there is likely to be the need to archive data in the Professional or Lite Versions, in order to maintain good operational speeds. This is unlikely to be required in the On-Line version. Archiving may involve a simple Delete utility within the Amber software, with guidance on taking a back-up file beforehand and renaming this file to indicate that it is an archive file which should be kept. It is possible for a user to view the archive file if required by changing a setting.

23. Data Security

23.1 We offer 3 levels of security – Low, Medium and High. Medium Security is part of the On-Line version. Low Security is the default for the Professional version, as ease of access is sometimes more desirable than high security in smaller firms, but this can be upgraded to Medium Security if required, for which there is a set-up charge.

23.2 Even with High Security, regular checks on data and totals should be made to help ensure the integrity of the data.

24. Database Hosting (On-Line Version)

24.1 With the On-Line version only, we can provide a database hosting service, for which we shall probably use a specialist 3rd Party provider. A monthly charge will be made for the hosting service. This monthly charge may increase at any time at Ambersoft's full discretion. Reasons for an increase would include inflation, or an increase in the costs of providing the hosting service, such as an increase in the Microsoft SQL Server Licensing costs. The Client would have the option of either moving to another database hosting provider of their choice, or to hosting the database themselves and paying directly for any Microsoft SQL Server licenses.

25. GDPR

Please see our GDPR Policy at www.ambersoft.co.uk/asl/info/GPDRPolicy.pdf

26. Definitions

"Additional Term" means a twelve (12) month period

"Agreement" means the terms and conditions of this document and the Order Confirmation.

"Annual License Fee" means the fee specified in the Order Confirmation

"Effective Date" means the date of commencement of your right to use the Licensed Software, as specified in the Order Confirmation.

"Initial License Fee" means the License Fee specified in the Order Confirmation

"Initial License Period" means the period specified as such in the Order Confirmation and commencing on the Effective Date

"Licensed Software" means the executable code or objects of the System.

"Order Confirmation" means the completed form entitled "Order Confirmation and Software License Agreement"

"Renewal Date" means the date of expiry of the Initial License Period or of any subsequent Additional Term.

'Authorised Number of Users' is 'Licensed Users' in the Order Confirmation. It is the number of (active) users set up in the User table. It is not the number of concurrent users.

User means a personal computer, workstation, terminal or peripheral device within your organisation which can access either directly or indirectly the Licensed Software.

"we" or "us" or "our" means Ambersoft Systems Ltd

"you" or "your" means the name of the customer specified in the Order Confirmation.