

SYSTEMS DESIGN ASSOCIATES LIMITED

TERMS & CONDITIONS and TERMS of USE

YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS AND TERMS OF USE BEFORE USING THIS SOFTWARE PACKAGE. INSTALLING THE SOFTWARE ONTO YOUR COMPUTER INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS and TERMS OF USE. IF YOU DO NOT WISH TO ACCEPT ALL OF THESE TERMS, YOU SHOULD STOP INSTALLING THIS SOFTWARE NOW AND DESTROY ALL COPIES OF THE SOFTWARE AND ALL MANUALS AND OTHER DOCUMENTS SUPPLIED WITH IT.

1. DEFINITIONS

"Company" means the licensee of the Software.

"SDA" means Systems Design Associates Limited.

"Agreement" means this document.

"Documentation" means any documentation or manuals provided with the Software.

"Key" means the activation key, if applicable.

"Software" means the software computer application contained in this package.

"Database" means any database used to retain data used by the Software.

2. GRANT OF LICENCE

2.1 SDA grants to the Company a non-exclusive, non-transferable, perpetual licence to use the Software for its own internal purposes under the terms of this Agreement.

2.2 This Agreement becomes effective upon installing the Software.

2.3 The Company may use the Software on one computer network or if the Company does not have a computer network one stand-alone computer. A separate licence is required for any other computer networks or stand-alone computers.

2.4 The Company may make one copy of the Software, strictly for backup or archive purposes only.

2.5 In the case of multi-company versions of the Software, the Company may add additional companies to configuration of the Software, to the maximum number of companies allowed under the licence, only if the shareholders of the additional companies are common to the Company itself.

3. OWNERSHIP OF THE SOFTWARE

3.1 SDA owns all title and proprietary rights to the Software and all copies thereof and all rights therein, including without limitation all copyright, patents, know-how, trade secrets, trade-marks or names. All such rights shall remain vested in SDA.

3.2 The Company undertakes and agrees as follows:

3.2.1 It may not make or permit others to make any copies of the Software except for one backup copy.

3.2.2 It may not reverse engineer, disassemble, decompile the Software or attempt to reconstruct, identify or discover any source code.

3.2.3 It may not modify, adapt or translate the Software or incorporate the Software, in whole or in part in any other product or software or permit others to do so.

3.2.4 It may not disclose, provide or otherwise make available in any form the Software, or any portion thereof, to any third party other than its employees without the prior written consent of SDA.

3.2.5 It may not remove any copyright, trademark, proprietary rights, disclaimer or warning notice included on or embedded in any part of the Software and the Company agrees to diligently reproduce all copyright notice(s) and other proprietary notices of SDA on any authorised copy of the Software.

3.2.6 It may not assign, sell, licence, sub-licence, rent, lease or otherwise redistribute the Software to any third party.

- 3.2.7 It may not use any associated Documentation for any purpose other than to support its use of the Software.
- 3.2.8 It accepts that from time to time, the Software will send a message containing details of the key or keys installed to SDA and it agrees not to interfere with the delivery of such messages.
- 3.2.9 It accepts, that SDA may receive error messages from the Software installed on the Company's system in the event that the Software fails for some reason.
- 3.2.10 It agrees to stop using all previous versions of the Software immediately following an upgrade.

4. OWNERSHIP OF THE DATA

- 4.1 The ownership of the data used by the Software resides with the Company and not with SDA.
- 4.2 Such data is controlled by the Company who may add, delete and make changes to any data used within the Software using the interface provided by the Software. SDA is not responsible for any errors made by the Company's users entering the data during any data entry process.
- 4.3 SDA provides methods for the export of certain data items held in the Databases used by the Software as appropriate and such exported information will be in CSV format.
- 4.4 The Databases used by the Software are held on the Company's servers and are not held by SDA.
- 4.5 It is the responsibility of the Company to arrange for suitable backup processes to retain security copies of the Databases used by the Software.
- 4.6 SDA holds no responsibility for any Database loss on the Company's servers.

5. CONFIDENTIALITY

The Company undertakes to treat as confidential and keep secret from all third parties, all information contained or embodied in the Software and any associated Documentation supplied by SDA.

6. WARRANTY AND DISCLAIMER

- 6.1 The Company acknowledges that software in general is not error free and agrees that the existence of such errors shall not constitute a breach of this Agreement.
- 6.2 The Company further acknowledges that the Software has not been developed to meet its specific individual requirements and that it is the Company's responsibility to ensure that any use of the Software or the information contained on it is suitable for its specific individual requirements.
- 6.3 THE SOFTWARE IS PROVIDED 'AS IS'. SDA WARRANTS THAT THE SOFTWARE WILL SUBSTANTIALLY COMPLY WITH THE SPECIFICATIONS SET OUT IN ANY ASSOCIATED DOCUMENTATION, WHERE SUCH DOCUMENTATION EXISTS. EXCEPT AS STATED HEREIN AND TO THE EXTENT PERMITTED BY LAW THE SOFTWARE IS PROVIDED WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SDA DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET THE COMPANY'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE.
- 6.4 SDA does not represent or warrant that the Software is free of infringement of any third party patents, copyrights or trade secrets. The Company waives any right to indemnification or other relief from SDA should the Software be found to be defective or to infringe any right of any third party.

7. LIMITATION OF LIABILITY

SDA's sole liability to the Company for any claim demand or cause of action whatsoever and regardless of form of action whether in contract or tort shall be limited to replacement of the product or refund of the licence fee originally paid for the software but diminished by twenty percent of the original fee paid for every year or part thereof following the date of initial installation. In no event shall SDA be liable to the Company for any indirect special incidental

consequential damages or loss of profit whatsoever including but not limited to loss of anticipated savings loss of revenues or economic loss of any kind.

8. TERMINATION OF LICENCE

- 8.1 Save in the event of any unlicensed use of the Software when the terms of this Agreement shall remain in full force and effect, the Company may terminate this Agreement, at any time, by destroying or returning all copies of the Software. If a support contract is in place, the terms of termination of that contract as set out in section 9 below shall not be affected by the Company's wish to terminate this Agreement.
- 8.2 SDA may terminate this Agreement by written notice to the Company if it is in default of any terms or conditions of this Agreement or if the Company should enter into any form of insolvency including without limitation liquidation, receivership, voluntary arrangement, administration or are unable to pay its debts as they fall due.
- 8.3 On termination of this Agreement the Company agrees to destroy all copies of the Software in any form in its possession or control and if requested by SDA certify in writing that such action has been taken. The Company shall not be entitled to any refund of any monies or other consideration paid by it.

9. SUPPORT AND MAINTENANCE

- 9.1 SDA shall provide support and maintenance free of charge for the first 28 days from the initial installation of the Software. Any re-installation of the Software on a replacement computer network shall not result in a further free period of support and maintenance.
- 9.2 On expiry of this first 28 days the Company shall have the option of purchasing annual support and maintenance services from SDA.
- 9.3 The maintenance services shall comprise of application bug fixes and the provision of new minor versions of the Software only. Any new major versions of the Software, which might comprise a change in the language in which the Software is written or a change in the underlying database type used by the Software, shall be chargeable as an upgrade.
- 9.4 Any bespoke alterations to the Software requested by the Company shall be chargeable by SDA.
- 9.5 If the Company has a live and valid support contract with SDA for the application, support will be available during office hours generally 09:30 to 17:30 on weekdays only and excluding public holidays. Support will be given by email, telephone or remote link to a server or PCs. SDA will fix any software bugs as quickly as possible following a bug report.
- 9.6 Any remote access support software used by SDA to access any of the Company's servers or PCs shall be charged by SDA to the Company at an annual rate for each device accessed. If the Company does not wish to pay for such remote control software or has failed to settle any invoice for such remote control software then no remote access support will be given by SDA.
- 9.7 The support and maintenance services will be charged annually and payable in advance.
- 9.8 To obtain continued support, there must be a contract in place and paid for without a break from the date of the initial contract having been granted. Should a contract not be renewed by the expiry date and support is required after the expiry date, no support will be granted unless payment is made for the full period from the expiry of the expired contract until the start date of the new contract in addition to payment for the new contract. If payment is received on a date beyond two weeks from the expiry date of the expired contract the new contract will commence from the first day of the month following payment and a pro-rata amount will be charged to cover the period from the expiry date of the expired contract until the commencement date of the new contract. No support will be given until payment has been received for the new contract and any intervening period as described.
- 9.9 Should the Company wish not to renew the contract, notice must be given in writing to SDA by the Company at least thirty days prior to the current contract expiry date. If notice is given less than thirty days prior to the current contract expiry date then the full amount invoiced for the new contract period must be paid.

- 9.10 SDA reserves the right to refuse renewal of a support and maintenance contract.
- 9.11 Support shall not include accounting or book-keeping advice or services. Such professional advice or services may be available at the discretion of SDA and is a separate service and chargeable at SDA's professional charge rates.
- 9.12 Should a support contract not be in place and paid for, any routines within the Software which involve communication with HMRC via internet access may cease to operate.

10. CLOUD BACKUP OPTION

- 10.1 If the optional cloud SQL Server database backup service has been requested and paid for, this will run each night at the specified time as specified by the scheduled task running on the Company's server. SDA is not responsible for the Company's scheduled task management on their server. If the support and maintenance contract referred to in section 9 above has expired and not been renewed and paid for in full this cloud backup service will be disabled until such time as the said contract has been renewed and paid for in full.
- 10.2 If the Company runs more than one application published by SDA, support contracts must be in place and paid for in full relating to all such applications in order for SDA to continue the provision of the cloud backup service.
- 10.3 SDA reserves the right to terminate the cloud backup service at any time after the service has been in place for at least one year from its original activation.

11. GENERAL

- 11.1 If any provision of this Agreement is determined to be invalid or unenforceable, by any court of competent jurisdiction it shall be deemed to be omitted and the remaining provisions shall continue in full force and effect.
- 11.2 SDA's waiver of any right shall not constitute a waiver of that right in the future.
- 11.3 This Agreement shall be governed and construed in accordance with the laws of England and both parties submit to the exclusive jurisdiction of the English courts, save in respect of enforcement where the jurisdiction shall be non-exclusive.
- 11.4 This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and all prior agreements, representations, statements and undertakings, oral or written, are hereby expressly superseded and cancelled.
- 11.5 All notices under this Agreement shall be in writing and shall be given by registered or certified mail to the registered office of Systems Design Associates Limited.