

Client Agreement

For the provision of Computer Products and Software Support Services

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This Agreement is made on the date specified in the First Schedule between **EUROLINK TECHNOLOGY LTD** of 6 Blenheim Court, Brook Way, Leatherhead, Surrey KT22 7NA (ETL) of the first part and **THE CLIENT**.

WHEREAS:-

The Client has agreed to purchase and operate Eurolink Software which may require periodic maintenance, management and updating, known as Software Support Service, and

The Client's staff may require periodic assistance and training on the Software, including updates and modifications thereto.

NOW IT IS HEREBY AGREED as follows:-

1. **DEFINITIONS**

- 1.1 "Agreement" means this Agreement for the provision of Products and Software Support Services;
- 1.2 "Agreement" means the Agreement between the Client and ETL for the supply and support of the Products formed under this Agreement and the other schedules, including all documents to which reference may properly be made in order to ascertain the rights and obligations of the parties;
- 1.3 "Approved Version Upgrades" means those amendments and additions in object code form to the Eurolink Software as shall be made available to The Client under this Agreement for the purpose of improving or extending the Eurolink Software;
- 1.4 "Client" means the person, firm or company placing an order with ETL for the Products
- 1.5 "Data" means the information stored by the Software.
- 1.6 "Data Protection Legislation" up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.
- 1.7 "Deployment Plan" the bespoke document detailing the timings and actions required to install the Eurolink Software as agreed between ETL and the Client as soon as reasonably practicable following entry into this Agreement.
- 1.8 "ETL" means Eurolink Technology Limited and its successors and permitted assigns;
- 1.9 "Eurolink Software" means the computer programs developed by ETL and licensed in accordance with the ETL Software License to The Client as set out in Appendix 1 and shall include (where the context requires or permits) Approved Version Upgrades and Service Packs issued to The Client;
- 1.10 "Hardware" means the computer and ancillary equipment including peripherals and terminals supplied by ETL as part of the basic installation, but excluding goods and services provided by any third party suppliers such as BT communications lines;
- 1.11 "Hub" means a browser based portal to log Support Requests;
- 1.12 "Intellectual Property Rights" patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
- 1.13 "Normal Working Hours" means the hours of 8.30am to 6.00pm Monday to Friday, excluding Bank and statutory holidays, or any extended hours as may be agreed by ETL in writing from time to time.
- 1.14 "Personal Data" as defined in the Data Protection Legislation.
- 1.15 "Premises" means the building or buildings where the Software is located;
- 1.16 "Products" means computer systems, processors, peripherals, Eurolink Software, installation, service, training and support or any other item or thing developed or sold by ETL
- 1.17 "Service Packs" means code released by ETL to deal with bugs or any other problems in relation to the Software;
- 1.18 "Software Documentation" means instruction manuals, media, user guides and other supplementary documentation (including the Specification) which together enable full and effective use of the Eurolink Software by The Client;

- 1.19 “Software License” means the license to use the Eurolink Software in accordance with Section 3 of this agreement.
- 1.20 “Software Support Service” means the periodic maintenance, management and updating of Eurolink Software provided by ETL under the terms of Section 2 of this Agreement;
- 1.21 “Specification” means the written description of the facilities and functions of the Eurolink Software prepared by ETL and set out in the Software Documentation that the Client accepts as setting out its requirements
- 1.22 “System Software” means the operating system licensed for use on a computer processor as set out in Appendix 1.
- 1.23 “System Supervisor(s)” means a person designated by The Client as being responsible for overseeing the operation of the Eurolink Software;
- 1.24 “Terms” means the General Terms and Conditions of Trading as detailed in Section 1 of this Agreement which shall apply in the case of any Agreement between The Client and ETL;
- 1.25 “Third Party Software” means any computer programs not developed by ETL and not comprised within the Eurolink Software or system software as set out in Appendix 1.

2.0 COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence upon the date specified in the First Schedule and shall endure for a period of one year and thereafter unless terminated:
- (a) in accordance with the terms of this agreement, including rights to terminate immediately or on shorter notice, and otherwise;
 - (b) by either party giving the other twelve months written notice, provided that such notices may not be served until the expiry of the initial one-year period.

SECTION 1 - GENERAL TERMS AND CONDITIONS OF TRADING

1.0 ORDERS

- 1.1 The Client agrees to submit all orders in writing and accepts that no order shall be binding on ETL until it shall have despatched its written acceptance of the order. All agreements for the supply of the Products contained in any order shall be subject to the terms contained within Section 1 of this Agreement and all agreements for the provision of Software Support Services shall be subject to the terms contained within Section 2 of this Agreement.
- 1.2 ETL agrees to install the Eurolink Software and carry out all training, and professional services and associated activities in accordance with the Deployment Plan. The Client accepts that there is some flexibility in relation to the ordering and timing of the Deployment Plan. Where ETL is unable to meet their obligations under the Deployment Plan due to the acts or omissions of The Client the timing for such obligations shall be extended for at least the duration of the relevant delay and The Client may incur additional expenses (as advised by ETL in writing at the relevant time) arising from or in relation to the delays or omissions, including for the repetition of training, consultancy, project management and associated activities.
- 1.3 The Client has carried out some limited acceptance tests on the Eurolink Software and confirms that the Eurolink Software is in apparent compliance with their requirements.
- 1.4 ETL shall provide for The Client further training and professional services, outside of the Deployment Plan, in relation to the Eurolink Software as requested by The Client and agreed by ETL. ETL shall charge for such further training at their standard rates from time to time as advised to the Client in writing at the relevant time.

2.0 LICENSE

- 2.1 ETL agrees to supply the Eurolink Software to The Client in accordance with the Software License (Section 3 of this Agreement) that shall commence on the date of the Agreement. The Software License operates for up to 999 users.

3.0 SOFTWARE SUPPORT SERVICE

- 3.1 ETL shall provide Software Support Service in respect of the Eurolink Software pursuant to Section 2 of this Agreement.
- 3.2 For the avoidance of doubt either party may terminate the Software Support Service in accordance with the terms and conditions of this Agreement but such termination shall not affect the operation of the Software License and The Clients shall be free to continue to use the Eurolink Software following such termination but without any right or entitlement to Software Support Services and/or Approved Version Upgrades or Service Packs.

4.0 WARRANTY

4.1 Hardware

ETL hereby warrants that if any of the Hardware or parts thereof supplied by ETL shall prove defective in materials, workmanship or design within ninety days from the date of delivery it will at its expense and at its sole option either repair or replace such defective products as promptly as is reasonably practicable.

4.2 Software

Warranty of the Eurolink Software is explained within the Software License forming part of this Agreement. The Client accepts that ETL acts only as an agent in the provision of Third Party Software and whilst it will use its reasonable endeavours to achieve a solution reasonably acceptable to The Client in the event of any complaint as to quality, performance or condition, ETL accepts no liability for the performance or fitness of such software. The Client agrees to sign any end user License agreement as advised by ETL as being required by the manufacturers or suppliers of any Third Party Software or associated Hardware and entry into any such end user Licence(s) shall be a condition of this agreement. ETL shall grant The Client the full benefit of any warranty or indemnity or any other protection provided by the suppliers or developers of the Third Party Software and shall, on request provide details of such warranties to The Client where the suppliers or developers of the Third Party Software permit this. ETL may treat any breach of Third Party Software as a breach of the Software License.

The Client undertakes and confirms that prior to entry into the Agreement it has satisfied itself that the Eurolink Software as defined in the Specification or demonstrated by ETL conforms to the requirements established by The Client for the purposes for which he proposes to use the Eurolink Software and in so doing shall not rely upon any representations made by any employee or agent of ETL unless such representations have been made in writing by ETL, their employees or agents with the clear intention such statements are given as representations to be relied upon.

Other than as specifically provided above and in the Software License and save for any liability which may not be

excluded by law, ETL shall have no liability for the performance and condition of the Hardware or the Eurolink Software and all other terms, conditions, warranties, representations or guarantees, whether expressed or implied (by statute or otherwise) relating to the quality or fitness for the purpose of the same or imposing liability on ETL are hereby expressly excluded

5.0 COMMUNICATIONS LINES AND APPROVALS

5.1 The Client shall be responsible for the ordering and provision of all necessary data communications lines from BT or other service provider and for obtaining any necessary approvals.

6.0 MISTAKES IN INFORMATION

6.1 ETL and The Client shall each be responsible for the accuracy of drawings, documentation and information supplied by them to the other party and which are relied upon by either party for the purposes of this agreement and shall, within 14 days of written demand, indemnify the other party against any claims, liabilities, costs, expenses damages or losses directly incurred or occasioned by any discrepancies, errors or omissions therein.

SECTION 2 – SOFTWARE SUPPORT SERVICE

1.0 SERVICE

1.1 During the term of this Agreement, ETL shall provide The Client with online access to The Hub, telephone help-line during Normal Working Hours, remote access support during Normal Working Hours and Approved Version Upgrades and Service Packs.

1.2 The Software Support Service shall be available during Normal Working Hours when the Eurolink Software fails to perform in accordance with the Software Documentation. Subject to the terms of this Agreement, including clause 4.2 of Section 1 and clause 3 of Section 4, where the failure to perform is due to a defect or error in any part of the software (the Eurolink Software and /or the Third Party Software) ETL shall remedy such error or provide replacement software that does not contain such error or defect.

2.0 REPORTING OF PROBLEMS

2.1 Support requests shall be made on-line at The Hub (hub.eurolink.co) or by telephoning the number designated for the purpose or by sending an email to support@eurolink.co or by sending a Support Request by facsimile transmission or first class post. Such a support request can take any form but it must describe the nature of the problem.

2.2 The ETL representative receiving the support request will issue a unique reference code to the Client and determine the appropriate action to be taken and at his or her discretion will deal with the request personally or, during Normal Working Hours, escalate the request. In any case the ETL representative will, subject to the other terms of this Agreement, be responsible for ensuring that the request has been satisfactorily resolved as soon as reasonably practicable. The urgency of the support request shall be advised by the Client when logging the request. ETL will use reasonable endeavours to deal with all requests in a priority order based upon urgency and, in any event, in the shortest possible time.

2.3 The Client agrees to maintain on its staff at least ONE person trained as System Supervisor(s), to act as primary liaison on behalf of the Client with ETL, and to ensure that the System Supervisor(s) has a good working knowledge of the Eurolink Software. ETL shall inform The Client of the level of knowledge required and shall, on request by the Client and/or their System Supervisor, ensure that The Client is given adequate training on a continuous basis in order to achieve and maintain sufficient knowledge. ETL may charge for such further on-going training at their standard rates from time to time as advised to the Client in writing at the relevant time.

2.4 The Client shall ensure that all problems that occur with the Eurolink Software are promptly notified to ETL and ETL shall not be liable to the extent that the existing problem is exacerbated or additional problems arise as a direct consequence of any delay in reporting.

2.5 The Client shall at all times provide ETL with relevant and safe access to any relevant Premises and place of use at such Premises for the purposes of ETL fulfilling its obligations under this Agreement.

3.0 SOFTWARE

3.1 The software covered by this Agreement is the Eurolink Software as modified and/or updated from time to time.

3.2 The level of assistance available on the Eurolink Software is specified in Clause 1.0 and 2.0 and The Client accepts that ETL cannot undertake any support other than specified in Clause 1.0 and 2.0.

3.3 The Client agrees to install or subscribe to such suitable software programs as are required by ETL for the purposes of taking security back-up copies of the Eurolink Software and Data. The Client agrees that it is the responsibility of the System Supervisor(s) to ensure that reliable back-ups of the Eurolink Software and Data are taken at such intervals as are agreed between the parties in writing and, otherwise, regularly. The Client agrees to accept full liability for delays, loss of data or interruption to business arising out of any failure to implement any such back-up procedure unless it is in any way a result of the Eurolink Software not complying with the Software Documentation or ETL failing to provide the Eurolink Software Support Service in accordance with this Agreement.

3.4 In order to facilitate the timely diagnosis and correction of problems, The Client agrees to run a remote access application of the type prescribed by ETL. The Client further agrees to promptly facilitate any request of the ETL staff for such a remote access facility to be brought into operation.

3.5 On occasions it may be necessary, with the consent of The Client (which shall not be unreasonably withheld or delayed), for ETL staff to require that the Eurolink Software be reserved for their exclusive use. The Client agrees to facilitate such use at times and for the duration acceptable to them or, as an alternative agrees to forego service under this Agreement until such exclusive use can be made available. ETL reserves the right to raise additional charges for excess work incurred in correcting errors or omissions directly resulting from the failure of The Client to make exclusive use of the Eurolink Software available to ETL staff, or for work carried on outside Normal Working

Hours as a direct result of such failure.

3.6 Work which is not specified as being covered by this Agreement will be charged for at the rates for the time being in force as advised to the Client in writing at the relevant time. This work includes: -

3.6.1 Installation of new software packages unless they are Service Packs or Approved Version Upgrades pursuant to clause 4 of this Section 2 for which Installation by ETL (where required) shall be at no cost to The Client;

3.6.2 Maintenance of software not supplied by ETL, where ETL can deliver such maintenance assistance.

3.6.3 Repair of faults caused by operation of the Eurolink Software other than in accordance with the Software Documentation supplied with the Eurolink Software or otherwise caused by the neglect or fault of The Client.

3.6.4 Repair of faults arising from the failure of the System Supervisor(s) to act on express warning messages produced by the programs specified in Clause 3.3 including, but not limited to, the restoration or correction of Data;

3.6.5 Any service relating to the Eurolink Software in respect of which The Client shall have not performed its obligations in connection with any Approved Version Upgrades and Service Packs pursuant to Clause 4.2 below.

4.0 SOFTWARE UPGRADES

4.1 From time to time, ETL may at its sole discretion issue Approved Version Upgrades and Service Packs. The copyright and all other intellectual property rights of whatever nature in any Approved Version Upgrades shall be and shall remain vested in ETL. The Client shall be deemed to be licensed to use the Eurolink Software after the incorporation of the Approved Version Upgrades and Service Packs to the same extent as it was licensed to use the Eurolink Software prior to the incorporation of the Approved Version Upgrades and Service Packs.

4.2 ETL will make available Approved Version Upgrades and Service Packs via download, together with instructions on their installation and the amended Software Documentation. In order to continue to benefit from the Software Support Service The Client shall install such Approved Version Upgrades and Service Packs within 6 months of their release by ETL in order that the Eurolink Software may be maintained efficiently. The Client shall however be free to continue to use the Eurolink Software after the expiry of the 6-month period without any upgrades but on the basis that the Software Support may be affected. For the avoidance of doubt ETL shall continue to provide the Software Support Service during the six-month period but not thereafter.

4.3 Whilst Approved Version Upgrades and Service Packs will normally be capable of being installed by a System Supervisor(s), The Client may request some releases be installed by ETL staff or further training required. In such cases ETL reserves the right to charge at its current rates in force at the time (as advised to the Client in writing at the relevant time) for such installation and training.

4.4 Suppliers of System Software and Third Party Software may also make upgrades available from time to time. The Client accepts that these may be made necessary by Approved Version Upgrades and Service Packs and where they agree to install the Approved Versions Upgrades and Service Packs The Client agrees to install such upgrades as may be necessary at the prevailing cost.

4.5 The Client accepts that some Approved Version Upgrades and Service Packs may require the purchase of additional Computer Hardware and/or Third Party Software at the prevailing cost to The Client. If The Client is unable or chooses not to incorporate such additions The Client accepts that ETL may be unable to perform its obligations under this Agreement and may therefore terminate this Agreement immediately by giving written notice to The Client.

4.6 If The Client shall require any specific modifications or additional programs not generally offered to users of Eurolink Software then these may be provided at the sole discretion of ETL. ETL will issue to The Client a quotation for the work required, upon completion of a satisfactory specification of requirements, on the understanding that unless or until the said requirements become incorporated into a subsequent Approved Version Upgrade, an additional charge will be raised for the work required in amending the new programs at the time of each and every subsequent Approved Version Upgrade, such charge to be advised in advance of the new release.

5.0 TRAINING AND CONSULTANCY

5.1 ETL will provide training and consultancy at the request of The Client subject to an agreed scope and the availability of appropriate staff. ETL will charge for such training and consultancy (to the extent that it does not come within the Deployment Plan) at its current rates in force from time to time as advised to the Client in writing at the relevant time. All training and consultancy that falls within the Deployment Plan is included within the charges that have already been agreed between the parties as are set out in Appendix 2.

5.2 The Client accepts that a certain level of competence is essential for the satisfactory operation of the Eurolink Software and agrees to undertake that the System Supervisor(s) (appointed and maintained in accordance with Clause 2.4 of Section 2) have a good working knowledge of the Eurolink Software and System Software through suitable training and/or consultancy. ETL shall, on request by the Client and/or a System Supervisor, give advice on such suitable training and/or consultancy and provide the training and/or consultancy themselves if requested. ETL may charge for such further training at their standard rates from time to time as advised to the Client in writing at the relevant time.

6.0 **REMOTE ACCESS CONNECTION**

6.1 Where a suitable remote access connection is to be installed in respect of the services offered in Clause 3.4 (Section 2) above The Client shall be responsible for prompt installation, all actions and charges relating to the installation and maintenance of the remote access connection.

7.0 **NON-SOLICITATION OF ETL STAFF**

The Client shall not, for the duration of this Agreement and for a period of 12 months following termination, directly or indirectly induce or attempt to induce any employee of ETL who has been engaged in the provision, receipt, review or management of the Software Support Services or otherwise in connection with this Agreement to leave the employment of ETL.

SECTION 3 – SOFTWARE LICENSE

1.0 LICENSE

- 1.1 ETL agrees to grant, to the Client and the Client agrees to accept on the terms laid out here in a non-exclusive license to use 999 serialised copies of the Eurolink Software and/or any related software and printed materials supplied therewith on or in connection with a single computer or multiple computers.
- 1.2 The Client may not assign, novate, sub-License, create any charge, lien or encumbrance or otherwise transfer either the Software License granted under this Agreement or the Eurolink Software to which it applies (including all rights and obligations arising thereunder) without the prior written consent of ETL.
- 1.3 ETL reserves the right to sell its rights in or give licenses (including by way of sub-licence), assign, novate, charge or deal in any other manner with any and all of its rights to the Eurolink Software to other persons or firms provided it gives written notice to the Client.
- 1.4 Risk in any tangible media on which the Eurolink Software is delivered shall pass on delivery.

2.0 SCOPE OF LICENSE

- 2.1 The Eurolink Software shall be restricted to use in object code form for the purpose of processing the Client's data for the normal business purposes of the Client (which shall not include allowing use of the Eurolink Software by, or for the benefit of, any person other than an employee of the Client).
- 2.2 The Client may:
- (a) not use the Eurolink Software other than as specified in clause 2.1 above and the Client acknowledges that additional fees may be payable on any approved change of use;
 - (b) make up to three copies of the Eurolink Software programs solely for the purposes of software security and for use solely by the Client and except for the purpose of software security no part of the Eurolink Software may be copied or reproduced in any form or by any means whatsoever unless the Client is legally entitled to do so pursuant to a valid and subsisting escrow arrangement;
 - (c) not (and shall not permit any third party to) adapt, reverse engineer, decompile, disassemble, modify or make error corrections to the Eurolink Software.
- 2.3 The Client will use its best endeavors and take all reasonable steps to protect the Eurolink Software from unauthorised reproduction, publication, disclosure or transfer and shall notify ETL as soon as it becomes aware of any breach of this clause 2.3.
- 2.4 Other than as anticipated by this Software License and associated documentation no part or parts of the Eurolink Software may be modified or incorporated in any third party software system without the prior written consent of ETL and ETL cannot provide support for any of the Eurolink Software that has been modified in any way whatsoever by any person other than ETL.
- 2.5 The Client shall permit ETL to inspect and have access to any premises (and to the computer equipment located there) at or on which the Eurolink Software is being kept or used, and have access to any records kept in connection with the Software License for the purpose of ensuring that the Client is complying with the terms of the Software License, provided that ETL provides reasonable advance notice to the Client of such inspections, which shall take place at reasonable times.
- 2.6 The provisions of clause 2 of Section 4 shall apply to the Software License.

3.0 PROPRIETARY RIGHTS

- 3.1 By accepting this Software License the Client does not become the owner of the Eurolink Software but does acquire the right to use the Eurolink Software in accordance with the terms of this Agreement.
- 3.2 The Client acknowledges that the Eurolink Software may include products and copyrights and other intellectual property rights which are the sole and exclusive property of persons other than ETL and which remains the property of those persons at all times.
- 3.3 Subject to 3.2 above all copies of the Eurolink Software and copyright and other intellectual property rights in the Eurolink Software or any part or parts thereof (whether modified or incorporated in any third party software system under 2.2 above or not) shall remain the sole and exclusive property of ETL.
- 3.4 If a third party makes or threatens a claim against the Client alleging any breach of intellectual property rights arising in connection with the License (Claim) the Client shall:
- (a) as soon as reasonably practicable, give written notice of the Claim to ETL, specifying the nature of the Claim in reasonable detail;

- (b) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of ETL (acting reasonably);
- (c) subject to being suitably indemnified by ETL, hand over conduct of the Claim to ETL and afford to ETL and its professional advisors access at reasonable times on reasonable prior notice to its premises, officers, employees, agents, advisors and records in connection with such Claim.

3.5 The Client may not remove any copyright notices or proprietary legends from any of the Eurolink Software or related products.

3.6 Subject to the terms of the Agreement, including clause 3 of this Section 3, ETL shall indemnify the Client and keep the Client indemnified against all losses, claims, damages, costs and expenses resulting from any claim made against the Client that its use or possession of the software or any related documentation infringes the copyright of any third party provided that this clause 3.6 shall not apply where the Claim in question is attributable to possession or use of the Eurolink Software (or any part of it) by the Client otherwise than in accordance with the terms of the Software License, including use of the Eurolink Software in combination with any hardware or software not supplied or specified by ETL, if infringement could have been avoided by use of the Eurolink Software not so combined, or use of a non-current release of the Eurolink Software.

4.0 **WARRANTIES**

4.1 ETL warrants that it has full and unrestricted right to grant this Software License and other than this and the warranty set out in 4.2 and 4.3 below any express or implied condition or warranty statutory or otherwise including but not limited to any implied warranty of merchantability or fitness for a particular purpose is, to the fullest extent permitted by law, hereby expressly excluded.

4.2 ETL warrants that the Eurolink Software shall function and perform in all material respects in accordance with the Software Documentation (as defined in Section 1 - General Terms and Conditions of Trading). If the Client notifies ETL of any defect or fault in the Eurolink Software which is not attributable to the Client (or anyone authorized by it) having used or amended the Eurolink Software outside of the terms of the License, ETL shall, at its option and subject to clause 3 of Section 4, do one of the following:

- (a) repair the Eurolink Software;
- (b) replace the Eurolink Software;
- (c) terminate the Software License with immediate effect by notice in writing to the Client and refund any outstanding fees to the Client as at the date of termination (taking into account the Client's use of the Eurolink Software prior to the date of termination)

and the Client shall provide all information necessary to assist ETL in identifying and/or resolving the defect or fault.

4.3 ETL warrants that the Eurolink Software:

4.3.1 is capable of performing its functions for more than one currency and for any common currency adopted by one or more members of the European Union ("the Euro");

4.3.2 will comply with all legal requirements applicable to the Euro in any jurisdiction;

4.3.3 is capable of displaying and printing, and will incorporate in all relevant screen layouts, all symbols and codes adopted by any government or any other European Union body in relation to the Euro and any other currency.

4.4 ETL does not provide any warranty whatsoever in relation to any of the Eurolink Software that has been modified in any way whatsoever by any person other than ETL or their agents or with the prior written consent of ETL.

4.5 ETL does not warrant that the use of the Eurolink Software will be uninterrupted or error free.

SECTION 4 – GENERAL CONDITIONS

1.0 TERMS OF PAYMENT

- 1.1 Payment terms, including ETL expenses policy, are specified in the relevant quotations and invoices produced by ETL in respect of each Agreement. If the payment due for any period shall have not been received within 7 days of the due date then ETL shall forthwith withdraw the Software Support Services specified within this Agreement until such payment has been received. ETL reserves the right to charge interest on any sums outstanding after their due date for payment in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. Title in the Products shall remain with ETL until all sums due therefore have been paid.
- 1.2 Payment for the Software License and the Software Support Service shall be made in the proportions and on the dates set out in Appendix 2. All further payments are due in the month they are invoiced and payment shall be made upon receipt of Invoice
- 1.3 ETL reserves the right to alter Software Support Service charges by giving not less than one month notice in writing. Notwithstanding any other rights that may be available to it under this Agreement, ETL reserves the right to increase Software Support charges annually on 1 July by notice to the Client by no less than 5% or the rate of inflation, whichever is the higher.
- 1.4 Any additional charges that may accrue under this Agreement shall be subject to separate arrangement and invoiced at the time and shall be due for payment as set out in Appendix 2.
- 1.5 Any charges under this Agreement are exclusive of Value Added Tax that shall be paid by The Client at the rate and in the manner for the time being prescribed by law

2.0 CONFIDENTIALITY

- 2.1 Each party shall keep confidential any information obtained from the other in connection with this Agreement, the provision of Products, the License and Software Support Services and any services ancillary to them, and shall not divulge the same to any third party without the consent of the other in writing. Each party agrees to inform and procure observance by its staff, agents and advisors of the existence and relevance of this Clause and each party shall be liable for any breach of this clause by such party's staff, agents and advisors. The provisions of this Clause shall not apply to any information in the public domain (otherwise than by breach of this Clause) or to information obtained from a third party who is free to divulge the same.

3.0 LIABILITY

- 3.1 Subject to the terms of clause 4.2 of Section 3, the following provisions set out the entire liability of ETL (including any liability for the acts and omissions of its employees, agents or sub-agreements) to The Client in respect of any breach of its agreed obligations arising under this Agreement or any tortious act or omission including negligence arising under or in connection with the Agreement AND THE CLIENTS ATTENTION IS IN PARTICULAR DRAWN TO THESE PROVISIONS.
- 3.2 The exclusions in this Agreement shall apply to the fullest extent permissible at law but neither party shall exclude liability for:
- (a) death or personal injury caused by the negligence of either party, its officers, employees, contractors or agents;
 - (b) fraud or fraudulent representation; or
 - (c) any other liability which cannot be excluded by law.
- 3.2 The Client shall at all times have insurance cover in respect of public liability and agrees that to the extent that ETL has a valid claim any money they receive from such insurance protection in respect of the said claim shall be for the benefit of ETL.
- 3.3 Subject to the provisions of Clause 3.2 above, the entire liability of ETL under this Agreement shall be limited to an amount not exceeding the original cost of the Eurolink Software. The Client is strongly advised to effect insurance for the increased costs of working that may result in failure of the Eurolink Software.
- 3.4 Notwithstanding anything else contained in this Agreement, no liability shall attach to ETL for indirect or consequential loss, including loss of use, profits, agreements or business revenue, special damage (even if ETL was aware of the circumstances in which special damages could arise), loss of anticipated saving, business opportunity, goodwill or loss or corruption of data.
- 3.5 The Client agrees that ETL shall have no liability under this Agreement where problems arise with the Software as a direct result of the Client running software other than the Eurolink Software, the System Software or any other software that is used in accordance with the Software Documentation or instructions from ETL.
- 3.6 All dates supplied by ETL under the Agreement shall be treated as approximate only and ETL shall not in any

circumstances be liable for any loss or damages arising from any delay in delivery beyond such approximate dates.

3.7 The Client agrees that in entering into this Agreement, it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in the Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in the Agreement) that it shall have no remedy in respect of such representations and (in either case) ETL shall have no liability in any circumstances otherwise than in accordance with the express terms of this Agreement.

3.8 The Client shall observe the rights and conditions attached to the Third Party Software and shall indemnify ETL against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties, legal and other reasonable professional costs and expenses) suffered or incurred by ETL arising out of or in connection with the Client's breach of the terms of any such Third Party Software rights and conditions.

4.0 **TERMINATION**

4.1 Either party may terminate this Agreement either in accordance with clause 2.0 'Commencement and Duration' or at any time on written notice to the other if the other party:

4.1.1 commits:

- (a) any material breach of this Agreement and if such breach is capable of being remedied and the same shall not have been so remedied within 30 days after receipt of written notice requiring the same to be remedied; or
- (b) any repeated breach of any terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with its having the intention or ability to give effect to the terms of this Agreement;

4.1.2 suspends or threatens to suspend payment of its debts or is unable to pay its debts as they fall due, or makes a voluntary arrangement under Part I of the Insolvency Act 1986, or makes or proposes any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors; or

4.1.3 is the subject of an administration order under the Insolvency Act 1986; or

4.1.4 shall enter into administrative receivership;

4.1.5 is the subject of a resolution for voluntary winding up otherwise than for the purpose of amalgamation or reconstruction when solvent; or

4.1.6 has a winding-up order made against it; or

4.1.7 is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986;

4.1.8 has an encumbrance taking possession of any of its assets;

4.1.9 ceases to exist and/or ceases to carry on all or a substantial part of its business; or, in relation to the other party there occurs in any jurisdiction any event or process (by whatever name called) equivalent or similar to any event or process mentioned in Clause 4.1 above.

4.2 ETL may, without prejudice to its other rights or remedies, terminate this agreement immediately by notice to the Client if the Client:

- (a) undergoes a change of Control (as defined in section 1124 of the Corporation Tax Act 2010); or
- (b) fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.

4.3 Termination of this Agreement shall not affect The Clients use of the Eurolink Software in any way and the Software License shall continue to operate save where the termination has been caused by The Clients default in accordance with Clause 4.1.1 hereof or if any of the facts set out in Clause 4.2 and Clause 4.3 hereof apply to The Client.

5.0 **EFFECTS OF TERMINATION**

5.1 Termination of this Agreement shall not affect any accrued rights or liabilities of either party or affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to

come into or continue in force on or after such termination.

5.2 On termination of this Agreement for any reason:

- (a) the Client's right to receive the Software Support Services and all rights granted under the License shall cease automatically;
- (b) the Client shall cease all activities authorized by the License;
- (c) the Client shall immediately pay to ETL all sums due under the Agreement;
- (d) the Client shall, if so requested by ETL, as soon as reasonably practicable return to ETL or destroy (at ETL's direction) all copies of the Eurolink Software then in its possession, custody or control, all documents, handbooks, media or other information or data provided to it by ETL containing or reflecting confidential information.

6.0 FORCE MAJEURE

6.1 Neither party shall be liable for any delay in performing its obligations under this Agreement if such delay results from circumstances beyond that party's reasonable control.

6.2 In the event of either party being so delayed or prevented from performing its obligations such party shall:

- 6.2.1 give notice in writing of such delay or prevention to the other party as soon as reasonably possible stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
- 6.2.2 use all reasonable endeavours to mitigate the effects of such delay or prevention upon the performance of its obligations; and
- 6.2.3 resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.

6.3 If either party is prevented from performing its obligations by an event of force majeure for more than 3 months, the other may terminate this Agreement by notice to the prevented party.

7.0 ARBITRATION

7.1 Any Eurolink Software dispute or difference of a technical or functional nature arising between The Client and ETL in connection with or arising out of this Agreement shall if it cannot be resolved by those involved be referred to senior officers of the two parties who shall co-operate in good faith to resolve the dispute as amicably as possible within 14 days of service of such referral. If the senior officers fail to resolve the dispute in the allotted time the dispute shall be referred to a single arbitrator to be agreed between the parties or, failing such agreement, to be nominated by the President for the time being of the British Computer Society on the application of either party and any such reference shall be deemed to be a submission for arbitration within the meaning of the Arbitration Act 1996 or any statutory re-enactment or amendment thereof for the time being in force.

8.0 SEVERABILITY

8.1 In the event that any of the Terms and Conditions of this Agreement shall be deemed invalid, unlawful or unenforceable to any extent, such Term or Condition shall be severed from the body of this Agreement and the remainder thereof shall continue to be valid and enforceable to the fullest extent permitted by law.

9.0 ASSIGNMENT

9.1 ETL shall be entitled to delegate, assign, transfer and dispose of its rights under this Agreement (in whole or in part to any third party) and to perform any of the obligations undertaken by it and to exercise any of the rights granted to it under this Agreement through any associated company of it or through any agents, sub-contractors or sub-agreements appointed by it in its absolute discretion for the purpose and any act or omission of any such associated company or agent or sub-agreement shall, for the purpose of this Agreement, be deemed to be the act or omission of ETL.

9.2 Except as provided in Clause 9.1 above, this Agreement is personal to the parties and neither of them may, without the written consent of the other, assign or otherwise dispose of any of its rights or assign or otherwise delegate any of its obligations under this Agreement.

10.0 NOTICE

10.1 All notices required to be given under this Agreement shall be in writing and sent to the address of the recipient set out in this Agreement or such other address in England as the recipient may designate by notice in accordance with the provisions of this Clause. Any such notice may be delivered personally or by first class pre-paid letter, or facsimile transmission or by email (addressed, if ETL is the recipient, To The Managing Director) and shall be deemed to have

been received if by hand when delivered, if by first class post 48 hours after posting and if by facsimile transmission or email, 12 hours after dispatch.

11.0 RIGHTS OF THIRD PARTIES

11.1 Save as expressly provided in this Agreement, no term of this Agreement shall be enforceable under the Agreements (Rights of Third Parties) Act 1999 by a third party.

12.0 WAIVER

12.1 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement. A waiver of a breach of any of the terms of this Agreement will not prevent a party from subsequently requiring compliance with the waived obligation. The rights and remedies provided by this Agreement are cumulative and (subject as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law.

13.0 LAW AND JURISDICTION

13.1 Unless otherwise agreed in writing, this Agreement shall be construed and interpreted in accordance with the laws of England and Wales.

13.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the Courts of England and Wales over any claim or matter arising under or in connection with this Agreement.

14.0 VARIATION AND WAIVER

14.1 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14.2 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

15.0 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

16.0 NO PARTNERSHIP OR AGENCY

16.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of the other party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

16.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

17.0 DATA PROTECTION, SECURITY AND INTEGRITY

17.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 17 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

17.2 The parties acknowledge that:

(a) where ETL processes any personal data on the Client's behalf when performing its obligations under this agreement, the Client is the data controller and ETL is the data processor for the purposes of the Data Protection Legislation (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

(b) the personal data may be transferred or stored outside the EEA or the country where the Client is located in order to carry out the Software Support Service and ETL's other obligations under this agreement.

17.3 Without prejudice to the generality of clause 17.2, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to ETL for the duration and purposes of this agreement so that ETL may lawfully use, process and transfer the Personal Data in accordance with and to the extent required under this Agreement on the Client's behalf.

17.4 Without prejudice to the generality of clause 17.2, ETL shall, in relation to any Personal Data processed in connection with the performance by ETL of its obligations under this agreement:

- (a) process that Personal Data only in accordance with this Agreement or on the written instructions of the Client, unless ETL is required by the laws of any member of the European Union or by the laws of the European Union applicable to ETL to process Personal Data (Applicable Laws). Where ETL is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, ETL shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit ETL from so notifying the Client;
 - (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
 - (c) not transfer any Personal Data outside of the EEA unless the following conditions are fulfilled:
 - (i) the Client or ETL has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) ETL complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (d) ETL complies as soon as reasonably practicable with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
 - (e) assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Client without undue delay on becoming aware of a Personal Data breach;
 - (g) at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the Personal Data;
 - (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 17 and, on reasonable notice, allow for audits by the Client or the Client's designated auditor.
- 17.5 Save as agreed between the parties in writing at the relevant time, ETL shall not appoint any third-party processor of Personal Data under this agreement and the Client shall instead contract directly with any such third party processor for the purposes of processing Personal Data.
- 17.6 Either party may, at any time on not less than 30 days' notice, revise this clause 17 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).
- 17.7 Without limiting the effect of the foregoing provisions, ETL shall:
- (a) take reasonable precautions to preserve the integrity of any data which it processes and to prevent any corruption or loss of such data;
 - (b) make a regular backup copy of such data and record the copy on media from which the data can be reloaded if there is any corruption or loss of the data; and
 - (c) in such event and if attributable to any default by ETL, promptly restore the data at its own expense or, at the Client's option, promptly reimburse the Client for any reasonable expenses it incurs in having the data restored by a third party.
- 17.8 Except as expressly provided otherwise, this agreement does not transfer ownership of, or create any licences (implied or otherwise), in any Intellectual Property Rights in any (non-personal) data.

Contract Issue Date : 24th April 2018

Signed :

Name :

Date :

Title :

Company:

Signed :.....

Name :

Date :

Director

Eurolink Technology Ltd