

Artisan Brandt Plc

Software License Agreement

Standard Terms and Conditions

1. DEFINITIONS

- 1.1 "Artisan Brandt" means Artisan Brandt Plc.
- 1.2 "The Licensee" means the Company, partnership, association or individual named on the purchase order.
- 1.3 "The Software" means the computer software specified on the purchase order and any replacements, modifications or additions supplied under this License.
- 1.4 "Documentation" means the manual or manuals and other documents associated with the Software supplied by Artisan Brandt to the Licensee.
- 1.5 "The Equipment" means the computer or computers on which the Software was originally installed.
- 1.6 "The License" means the license hereby granted by Artisan Brandt to the Licensee to use the Software.

2. LICENSE

- 2.1 The License shall be for twelve months unless otherwise stated on the purchase order or quotation to which it refers.
- 2.2 The License is personal to the Licensee, which shall not assign, dispose of or sub-license its rights hereunder.

3. CHARGES

- 3.1 The Licensee shall pay to Artisan Brandt the initial license charges, the annual license charge, and per diem charges where applicable as agreed on the purchase order or quotation to which it refers. Artisan Brandt reserves the right to vary all such charges by giving to the Licensee written notice of such variation which shall take effect at the end of the then current contract period. Any such variation shall not result in the charges exceeding Artisan Brandt's then current standard scale of charges or, in the absence of a standard scale, such charges as are reasonable in the circumstances.
- 3.2 Payment in full of the initial license charge transfers to the Licensee the right to commence usage of the software.
- 3.3 Payment in full of the annual license charge permits ongoing usage of the software and encompasses support services as detailed below.
- 3.4 All charges are exclusive of any applicable Value Added Tax, for which the Licensee shall be additionally liable.

4. TERMS AND PAYMENT

- 4.1 50% of the initial license charge shall be immediately payable upon the Licensee placing an official order.
- 4.2 The remaining 50% of the initial license charge, the whole of the annual license charge and per diem charges where applicable specified on the purchase order or quotation to which it refers shall be paid upon installation of the Software. All other charges shall be paid within thirty days of receipt of an invoice from Artisan Brandt or on the due date specifically agreed for those charges.
- 4.3 Payment shall be due for the Software supplied and shall not depend on the supply of any other Software.
- 4.4 If the payment of any sum due under the License is delayed by the Licensee for any reason, Artisan Brandt shall be entitled to charge interest at 1.5% per month on the amount of the delayed payment for the period of the delay.

5. DELIVERY

- 5.1 Artisan Brandt shall install the Software on the Equipment and at the location specified in the purchase order or the quotation to which the order refers.
- 5.2 Whilst Artisan Brandt will endeavour to meet agreed delivery dates, no date for delivery can be guaranteed and Artisan Brandt shall in no event be liable for any delay in delivery or installation howsoever caused.
- 5.3 Where there is a delay in delivery or installation howsoever caused attributable to the Licensee, Artisan Brandt reserve the right to levy charges in that respect.

6. ACCEPTANCE

- 6.1 Where it is agreed that Artisan Brandt shall install the Software, acceptance of the Software shall be deemed to take place on installation.
- 6.2 Acceptance of the Software shall be deemed to take place on delivery of the Software.

7. USE

- 7.1 In using the Software, the Licensee shall assume acceptance of Artisan Brandt's standard Terms and Conditions.
- 7.2 The Software shall be used only for the Licensee's own data processing and shall not be used to provide a data processing service to any third party whether by way of trade or otherwise.
- 7.3 The Licensee may use the Software only on the Equipment. If the Software cannot be used because the Equipment or any part thereof is temporarily inoperable, then the License will be deemed to apply.
- 7.4 The Licensee may not transfer the Software to replacement, new or different equipment without the prior consent of Artisan Brandt, which shall not be unreasonably withheld. Artisan Brandt reserve the right to charge the full software license fee where software is ported to different equipment or to another location without the prior consent of Artisan Brandt.
- 7.5 Where the Licensee wishes to transfer the Software and the agreement to do so has been given in accordance with Clause 7.4, Artisan Brandt may levy a reasonable fee to cover time taken in transferring the Software.
- 7.6 The Licensee shall follow all reasonable instructions given by Artisan Brandt from time to time with regard to the use of the Software. The Licensee shall permit Artisan Brandt, at all reasonable times, and at Artisan Brandt's expense, to verify that the use of the Software is within the terms of the License.
- 7.7 The Licensee shall ensure that regular backup copies of the data files are made. At least four copies should be made on a cycle basis to ensure that data files can be restored without causing undue loss of staff time.
- 7.8 That responsibility for backup and restoration of the software rests entirely with the user. Artisan Brandt will provide your system administrator or I.T supplier with such assistance as we can but cannot be held responsible for any data loss as a result of the user's failure to take valid backups.

8. DOCUMENTATION AND TRAINING

- 8.1 Artisan Brandt shall supply to the Licensee the items of Documentation specified on the purchase order or quotation to which the order refers.
- 8.2 The Licensee may not make copies of the Documentation without Artisan Brandt's prior written agreement, which shall not be unreasonably withheld. At the request of the Licensee, Artisan Brandt shall provide such additional copies of the Documentation as the Licensee may reasonably require for the normal operation of his business, at Artisan Brandt's then current standard scale of charges.
- 8.3 Where requested by the Licensee and agreed with Artisan Brandt, Artisan Brandt shall provide instruction in the use of the Software for the Licensee's personnel at Artisan Brandt's standard charges current at the time plus any travel and subsistence expenses of Artisan Brandt personnel.
- 8.4 The Licensee shall use the Software in accordance with the Documentation.
- 8.5 The Licensee shall ensure that all its staff that use the Software or the support services are properly trained in the usage of the Software.

9. SOFTWARE COPYING

- 9.1 The Licensee may make only such copies of the Software as are necessary for his operational use and security. This License applies to such copies as it applies to the Software.

10. PERFORMANCE

- 10.1 Artisan Brandt undertakes that, provided it is operated in accordance with Artisan Brandt's instructions, the Software will perform in accordance with Artisan Brandt's published specification and the Documentation existing at the date of delivery. Artisan Brandt does not guarantee that the Software is free of minor errors not materially affecting such performance or is fit for any particular purpose. The undertaking given in this clause is in lieu of any condition, warranty or other term whether express or implied by law as to the quality or fitness for any particular purpose of the Software and all such terms are hereby excluded.

11. MAINTENANCE AND SUPPORT

- 11.1 A maintenance service shall be provided for telephone 'Hot-Line' support, Software error correction, and Software updates where applicable from the date of acceptance. The telephone support will be available to the Licensee during normal hours being Monday to Friday 0900 hours to 1730 hours excluding U.K. Bank Holidays, or any change as may from time to time become necessary. Artisan Brandt will endeavour to respond within 8 business hours of any call being logged.
- 11.2 On-site support is available in special circumstances as agreed with Artisan Brandt, but is chargeable at Artisan Brandt's then current standard scale of charges. Direct costs, travelling and subsistence requirements will be charged to the Licensee.

11.3 The provision of the Software support and error correction service is conditional upon the Licensee having:

- i Provided adequate information in respect of any malfunction in the Software;
- ii Incorporated all amendments issued by Artisan Brandt;
- iii Not otherwise having modified or changed the Software;
- iv Ensured that suitable and adequate remote access is made available for downloads, diagnostics and support. Failure to comply will eliminate any responsibility on the part of Artisan Brandt for telephone and remote software support until such time that remote access can be enabled by the Licensee;
- v Ensured that adequate virus protection is in place on the Equipment upon which the Software is installed.
- vi Having an up-to-date statement of account with Artisan Brandt.
- Vii Unless agreed prior to installation, the software is supported for use using English language UK versions of the operating system in place at the time of installation and the associated English peripheral equipment.

11.4 Any new release of the Software which is issued will be delivered by Artisan Brandt under the maintenance service and accepted and used by the Licensee except where the Licensee elects to retain and use the superseded issue of the Software in which case Artisan Brandt's obligation hereunder shall be limited to using its best endeavours to provide a maintenance service on terms to the agreed.

11.5 With the exception of the first hour's telephone support per week which is provided without additional charge, the Company shall reserve the right to charge for all Support Services performed at its then standard rates of charge for performing such services.

12. MODIFICATION

12.1 The Licensee may not, without the prior written consent of Artisan Brandt, modify or change the Software or incorporate the Software into programs not provided by Artisan Brandt. Artisan Brandt may, at the Licensee's request, modify the Software at rates to be agreed between the parties.

12.2 The Licensee may not, without the prior written consent of Artisan Brandt, utilise the services of any third party organisation to have the Software or Documentation modified or changed in any way. Any time incurred by Artisan Brandt resolving an error on the Software resulting from the unauthorised alteration of the Equipment on which the Software was originally installed shall be charged at Artisan Brandt's then current standard scale of charges.

13. OWNERSHIP

13.1 The ownership and title of, and the copyright and all other proprietary rights in the Software (including any derivative works produced therefrom) and the Documentation and all parts and copies thereof, shall remain vested in Artisan Brandt and the Licensee may not sell or otherwise dispose of or part with possession of the same.

13.2 The Licensee shall follow all reasonable instructions given by Artisan Brandt from time to time with regard to the use of trademarks owned by Artisan Brandt and other indications of the property and rights of Artisan Brandt. The Licensee shall not permit any copyright notices on the Software or any Documentation to be removed or tampered with.

13.3 The Licensee shall not, unless specifically agreed with Artisan Brandt, be entitled to receive a copy of the source coding of the Software.

14. COPYRIGHT INDEMNITY

14.1 Artisan Brandt shall indemnify the Licensee against all damage (other than damages in respect of consequential loss), costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement in the United Kingdom of copyright in consequence of the authorised use or possession of the software or documentation supplied by Artisan Brandt under the License, subject to the following:

- i The Licensee shall promptly notify Artisan Brandt in writing of any alleged infringement of which he has notice;
- ii The Licensee must make no admissions without Artisan Brandt's prior written consent;
- iii The Licensee, at Artisan Brandt's request and expense, shall allow Artisan Brandt to conduct any negotiations or litigation and/or settle any claim, and shall give Artisan Brandt all reasonable assistance in connection therewith. All charges and costs incurred or recovered in such negotiations or settled claim shall be for Artisan Brandt's account.

14.2 If at any time an allegation of infringement of copyright is made in respect of the Software or if, in Artisan Brandt's reasonable opinion, such an allegation is likely to be made, Artisan Brandt may at its own expense modify or replace the Software so as to avoid the infringement, without detracting from overall performance.

15. LIABILITY

15.1 Artisan Brandt shall under no circumstances be liable to the Licensee by reason of any representation or warranty, express or implied term or any duty at common law, in respect of any claim by the Licensee for consequential loss or damage (or loss of profits or contract) whether or not caused through the negligence of Artisan Brandt, its servants or agents or otherwise, relating to the Software or the Documentation or their use by the Licensee.

15.2 Neither party shall be liable to the other insofar as it is prevented from performing its obligation hereunder by any circumstances beyond its reasonable control.

16. FORCE MAJEURE

16.1 Artisan Brandt shall not be liable to the Licensee for any loss or damage arising due to failure to perform its obligation under this agreement due to any cause beyond the Artisan Brandt's reasonable control including without limitation any act of God, inclement weather, failure or shortage of power suppliers, flood, drought, lightening or fire, strike, lock-out, trade dispute or labour disturbance, the act or omission of Government, highway authorities, public telecommunications operators or administrative or other competent authority, war, military operations, riot, or difficulty, delay or failure due to any such cause in manufacture, production or supply by third parties of any goods or services required by Artisan Brandt.

17. TERMINATION

17.1 The licensee may terminate the license by giving three months prior written notice to Artisan Brandt to take effect at the end of the initial period stated on the purchase order or quotation to which it refers. Sums paid in advance for the contract period within which notice is given, are non-refundable.

17.2 The License may be terminated forthwith by either party on written notice if the other party is in breach of the License and, in the event of a breach capable of being remedied, fails to remedy the breach within 14 days of receipt of notice thereof in writing.

17.3 Either party may terminate the License forthwith on written notice if the other ceases to carry on business, has a receiver appointed over any of its property or assets or:

i) being a company, becomes insolvent or enters into liquidation (other than for the purposes of amalgamation or reconstruction) or makes any composition with its creditors; or

ii) being an individual or individuals, commits an act of bankruptcy.

17.4 Termination of the License shall not prejudice any rights of either party, which have arisen on or before the date of termination.

17.5 Within seven days following the date of termination the Licensee shall at the option of Artisan Brandt return or destroy all copies, forms and parts of the Software and Documentation which are covered by this License and shall certify to Artisan Brandt in writing that this has been done.

17.6 The maintenance service specified in Clause 11 may be terminated by the Licensee if Artisan Brandt is in serious breach of its obligations under clause 11 and fails to remedy the breach within 14 days of receipt of notice in writing thereof of such longer period as may be reasonable in the circumstances.

18. CONFIDENTIALITY

18.1 The Licensee shall keep confidential the Software and the Documentation or any part thereof and shall not disclose the same to any third party without the prior written consent of Artisan Brandt.

18.2 Artisan Brandt and the Licensee shall keep confidential the License and all other information of the other party designated as 'confidential' obtained under or in connection with the License and shall not disclose the same to any third party without the prior written consent of the other party.

18.3 The provisions of this clause shall not apply to:

i any information in the public domain otherwise than by breach of this License,

ii information in the possession of the receiving party thereof before divulgence as aforesaid,

iii information obtained from a third party who is free to divulge the same.

18.4 Each of Artisan Brandt and the Licensee shall disclose confidential information received from the other only to those employees who are directly involved in the installation and use of the Software and shall ensure that such employees are aware of and comply with these obligations as to confidentiality.

18.5 The provisions of this clause shall continue in force notwithstanding the termination of the license.

19. WAIVER

19.1 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the License shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the License.

20. ARBITRATION

20.1 Any dispute or difference between the Licensee and Artisan Brandt in connection with or arising out of the License shall, at the instance of either party, be referred to a single arbitrator agreed between the Licensee and Artisan Brandt or, failing such agreement within fourteen days, nominated by the President for the time being of the British Computer Society.

21. LAW

21.1 Unless otherwise agreed in writing between the parties, the License shall be subject to and construed and interpreted in accordance with English Law and the Licensee hereby agrees to submit to the non-exclusive jurisdiction of the Courts of England.