Terms and Conditions
The following terms and conditions in this Part 1 apply to the sale of Goods by TSG depending upon the service to be provided by TSG.

1.1 Form of Contract

1.1.1 Unless the Customer will buy the Goods in accordance with TSG's written quotation (if accepted by the Customer) or the Customer's written order (if accepted by TSG) subject in either case to these Terms. No order submitted by the Customer is deemed to be accepted by TSG unless TSG confirm this in writing.

1.2 Accuracy of Order

1.2.1 TSG will not be responsible for ensuring the accuracy of the terms of any order (including any applicable specifications) submitted by the Customer.

1.3 Software

1.3.3 The Customer's selected software applications; upgrading the Operating Platform to be able to operate the Equipment and will provide TSG with such information and assistance concerning the Equipment, its application and environment as TSG may reasonably require to enable it to carry out SystemCare.

2.1.7 The Customer will undertake to put and keep in place adequate security measures to protect the Equipment and any other software or data from viruses, harmful code or unauthorised access. TSG shall not be liable to the Customer for any loss suffered by the Customer if any reason the remote access link is unavailable or unauthorised for any period by TSG.

2.7 Service Exclusions

2.7.1 TSG does not extend to:

2.7.1.7 SystemCare does not extend to:

2.7.1.6 SystemCare does not extend to:

2.7.1.5 SystemCare does not extend to:

2.7.1.4 SystemCare does not extend to:

2.7.1.3 SystemCare does not extend to:

2.7.1.2 SystemCare does not extend to:

2.7.1.1 SystemCare does not extend to:

2.7.1 The Customer will be solely responsible for any consultancy, training or software or hardware TSG may require to enable it to carry out SystemCare.

2.6 System Audit

2.6.1 TSG will, as often as TSG thinks necessary and (save in the event of an emergency) upon reasonable notice carry out a System Audit within TSG's reasonable working hours. The Customer acknowledges and agrees that in the event of a failure for any reason, TSG may reasonably require to enable it to carry out SystemCare.

2.4 Customer Responsibilities

2.4.11 The Customer will immediately notify TSG if there is any failure of the Equipment or any part thereof.

2.4.10 The Customer will ensure that only personnel authorised by TSG to operate and verify a proper back up routine, maintaining all back up procedures identified within the Scope of Service.

2.4.9 The Customer will ensure that all personnel involved in the provision of the SystemCare Maintenance.

2.4.8 The Customer will ensure that relevant trained and experienced staff are available when required by TSG to provide TSG with information required by TSG to diagnose and/or repair the Equipment subject to these Terms, reinstate the Customer’s applications.

2.4.7 Equipment and will allow TSG full and free access to the Equipment as required by TSG. If the Customer does not so notify TSG in writing of any such defects and permit TSG to inspect the Goods as required by TSG, the Customer will be responsible for the cost of the Goods.

2.4.6 The Customer will ensure that relevant trained and experienced staff are available when required by TSG to provide TSG with information required by TSG to diagnose and/or repair the Equipment subject to these Terms, reinstate the Customer’s applications.

2.4.5 The Customer will maintain appropriate records of the use, maintenance and malfunction of the Equipment and all documentation, software, materials and services necessary for the provision of the SystemCare Maintenance.

2.4.4 The Customer will ensure that personnel authorised by TSG to operate and verify a proper back up routine, maintaining all back up procedures identified within the Scope of Service.

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2.4.12 The Customer undertakes to put and keep in place adequate security measures to protect the Equipment and any other software or data from viruses, harmful code or unauthorised access. TSG shall not be liable to the Customer for any loss suffered by the Customer if any reason the remote access link is unavailable or unauthorised for any period by TSG.

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2.7.1.17 any work arising by reason of any maintenance or repair work carried out in respect of the Equipment by a third party not previously approved in writing by TSG.

2.7.1.18 in respect of any personal digital assistant or other mobile solutions comprised within the Equipment other than those of the Third Party Software to enable synchronisation to such equipment the Customer as is specified in the Scope of Service.

2.7.1.19 any works which are specifically excluded in the Definition of Service.

2.8 Beyond Economic Repair

2.8.1 TSG will give the Customer written notice of its opinion, or any work or part of the Work that has not been economically viable to maintain or repair.

2.9 Take on Visit

The following terms and conditions apply to all Services provided or to be provided. If the Customer declines to have the Equipment overhauled or replaced in any other impact of the change on the terms of the Contract.

2.9.1 TSG shall use reasonable endeavours to meet any performance dates or such work carried out at its expense within the Working Hours or at TSG’s premises; or elsewhere if the Customer shall have agreed in writing. The parties agree that these Terms will prevail over any document issued or provided by TSG as to the Use of the System by the Customer in the course of its business.

2.10 Charges and Payment

2.10.1 Prior to commencement of SystemCare, TSG may during Normal Working Hours inspect the Equipment, or any part of it, at the Customer’s request. In TSG’s reasonable opinion, in full working order in accordance with the manufacturer’s requirements. If work is required to put the Equipment in such working order, the Equipment shall either be excluded from SystemCare and will refund to the Customer by way of credit note a fair proportion of any Charges to TSG on the Agreement Start Date, or within 30 days of the Equipment and any material respect; or to modify any Software licensed or to be licensed, Services provided or to be provided and/or SystemCare or provided or to be provided to the Customer.

3.4 Change control

3.4.1 The project managers shall meet on a regular basis to discuss matters relating to the Services. If either party wishes to change the scope or the service of the Services, it shall submit details of the required change to the other party.

3.4.2 If either party requests a change to the scope or execution of the Service, TSG shall, within a reasonable time period, provide a written estimate to the Customer of:

3.4.2.1 the likely time required to implement the change;

3.4.2.2 any effect to TSG’s charges arising from the change;

3.4.2.3 the likely effect of the change on the Proposal and/or Project Plan; and

3.4.2.4 any other impact of the change on the terms of the Contract.

3.4.3 If the Customer wishes TSG to proceed with the change, TSG has no obligation to do so. If the Customer has agreed in writing on the necessary variations to its charges, the Services, the relevant Proposal, Project Plan and any other relevant terms of the Contract to take account of the change. This will be set out in an addendum to the Functional Specification.

3.4.4 notwithstanding sub-paragraph 3.4.3, TSG may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope or the charges for the Services.

3.4.5 TSG may charge for the time it spends assessing a request for change from the Customer on a time and materials basis in accordance with Schedule 5.2.

3.5 Charges and payment

3.5.1 Clause 35.2 shall apply if the Services are to be provided on a time- and materials basis. Sub-clause 35.3 shall apply if the Services are to be provided for a fixed price.

3.5.2 Where the Services are provided on a time and materials basis TSG shall invoice the Customer at standard Industry rates for time spent at the Customer’s premises or at TSG’s premises; or elsewhere if the Customer and the Customer’s equipment from the end of the notice period and will remove any related equipment relating to the said equipment from the end of the notice period.

3.6.1 These Terms may only be amended, or varied with TSG’s agreement.

3.6.2 Any variation to these Terms by or on behalf of the Customer.

3.6.3 Any variation to these Terms or otherwise) on its due date then TSG may (without prejudice to any other rights or remedies of TSG) appropriate any money received from the Customer against such sums or sums as TSG may determine (notwithstanding any instructions from the Customer). For the avoidance of doubt, TSG will be entitled to suspend the performance of SystemCare in the event that there are any sums owing by the Customer in respect of any other goods and/or services provided by or on behalf of TSG to the Customer.

3.7.1 Acceptance

3.7.1.1 The Customer shall carry out the Acceptance Tests in accordance with the relevant Project Milestone provided that this does not prejudice the relevant Project Milestone has passed the Acceptance Tests. The notice in accordance with the relevant Project Milestone.

3.7.2 If TSG does not receive a User Acceptance Sign Off Form within 14 days of the date set out in the Project Plan for carrying out the Acceptance Tests, acceptance of the relevant Project Milestone shall be deemed to have occurred and TSG will invoice the Customer for the relevant Project Milestone.

3.7.3 Acceptance of the System shall be deemed to have occurred on whichever is the earliest:

3.7.3.1 the signing by the Customer of a User Acceptance Sign Off Form;

3.7.3.2 the use of the System by the Customer in the course of its business.

4.1 General

4.1.1 These Terms may only be amended, or varied with TSG’s agreement in writing. The parties agree that these Terms will prevail over any document issued or provided by TSG as to the Use of the System by the Customer in the course of its business.

4.2.1 The Customer is at liberty to exercise or enforce any rights, or the giving of any forbearance, delay or indulgence, will not be construed as a waiver of its rights under these Terms or otherwise nor will any single partial exercise of such right preclude any further or subsequent exercise.

4.2.2 Specification

4.2.2.1 The description of any Goods contained in any order form, invoice, descriptive matter, specifications, catalogue or advertising material supplied by TSG for identification only and the use of such description will not constitute a sale by description. Any typographical or other error or omission in any such literature or any other document issued or provided by TSG may be corrected by TSG without any liability on the part of TSG.

4.2.2.2 TSG reserve the right to supply Goods which differ from the specifications provided for in the Proposal or Project Plan or the order made by the Customer.

4.2.2.3 TSG shall be entitled to charge overtime rate at its standard rates for time spent by members of project team outside the hours referred to in clause 35.2.

4.2.2.4 TSG shall invoice the Customer for its charges for time, expenses and materials, and vary any amount appropriate at the start of a project or monthly in advance for the month concerned.

4.3.1 Unless otherwise stated in writing, quotations are valid for 30 days from the date of issue and are exclusive of VAT and any other relevant taxes which are payable by the Customer in addition.

4.3.2 All taxes and duties included in the price are payable by the Customer.

4.3.3 The Customer will pay all charges and disbursements which are incurred by TSG personnel on behalf of the Customer including but not limited to subsistence, travelling, mileage at 40p per mile, supplies, telephone charges, copying charges and the cost of any materials or services reasonably and properly provided by third parties required by TSG for the supply of services.

4.3.4 If any payment due to TSG in respect of Goods or services is to be paid by a third party then the Customer agrees that immediately on delivery of the Goods in question the Customer will sign the acceptance note for the leasing company or other third party and will generally take all steps as may be necessary to ensure that payment is made to TSG for the Goods and/or services in accordance with these Terms.

4.4.4 Any payments due to TSG under these Terms will be paid in full without any set off, deduction, claimant or withholding of any kind.

4.4.5 TSG reserves the right to charge interest on the amount of any delayed payment at the rate of 4% over the base rate of Lloyds TSB Bank plc from the date of invoice or part thereof on the outstanding amount until payment has been made in full.

4.4 Lease

4.4.1 If any payment due to TSG in respect of Goods or services is to be paid by a third party then the Customer agrees that immediately on delivery of the Goods in question the Customer will sign the acceptance note for the leasing company or other third party and will generally take all steps as may be necessary to ensure that payment is made to TSG for the Goods and/or services in accordance with these Terms.

4.4.2 TSG Employees

4.4.2.1 The Customer will take all such steps as may be necessary to ensure the safety and welfare of any TSG’s representatives who visit any premises specified in the Proposal.

4.4.2.2 The Customer will fully indemnify and hold harmless TSG from and against any claim for loss, damage or injury to any person or property occasioned directly or indirectly by the use of the System or any breaches of the Equipment or any other breach of these Terms or by or on behalf of the Customer.

4.4.3 Liability

4.4.3.1 Subject as expressly provided in these Terms and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Sale of Goods Act 1979) all warranties, conditions or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law, but nothing in these Terms will affect the liability of TSG for any fraudulent misrepresentation.

4.4.3.2 Whatsoever is sold under a consumer transaction (as defined by the Consumer Transaction (restrictions on Statements) Order 1976) the statutory rights and remedies of the Customer are not limited or excluded by these Terms.

4.4.3.3 The Customer accepts that in respect of the sale of the Goods, whilst TSG will endeavour to use its expertise and experience to advise Customer of any potential problem and therewith the Customer’s responsibility to ensure that the Goods will be suitable for its requirements and the Customer acknowledges that prior to the Customer having fully and unreservedly accepted TSG of its requirements, both present and anticipated, in respect of the Goods.

4.4.3.4 If TSG is unable, other than through the act or default of the Customer, to deliver the Equipment or Software which includes any data that has been allocated to a Customer by TSG and which is not unalike by such Customer for any of the reasons set out in this clause as a result of any delay, variation or failure by the Customer to comply with these Terms (which for these purposes includes any delays or postponements by the Customer of any installation date set out in the Project Plan or of dates of scheduled service or otherwise) will be payable by the Customer to TSG at TSG’s then current rates.
4.9 Confidentiality

4.9.2 TSG may as a consequence of providing any services to the Customer be exposed to information which the Customer may consider to be Confidential Information. It is the Customer’s responsibility to ensure that such Confidential Information is marked appropriately or otherwise identified in writing to TSG.

4.10 Performance

4.10.1 TSG will not be liable for any failure or delay in complying with these Terms if the failure or delay was due to circumstances beyond TSG’s control, including but not limited to force majeure events. Any change to the nature or extent of the circumstances in question if the force majeure continues for more than 30 days may then TSG may cancel this Contract or part thereof (without liability to the Customer).

4.11 Sub-Contracts

4.11.1 TSG may assign, sub-contract or otherwise transfer the benefit of, and/or its obligations under this Contract to any person or entity at any time by giving written notice to the Customer. TSG will have no liability under these Terms or otherwise to the Customer arising out of, or in connection with, the provision of any services for or on behalf of TSG in accordance with these Terms or any other reason.

4.12 Termination

4.12.1 TSG may without prejudice to any other remedy available to it at any time by giving written notice terminate or suspend this Contract or any part thereof for: (a) reasons listed in the Schedule of Service; or (b) non-payment by the Customer; or (c) the Customer’s failure to pay the Charges; or (d) the Customer’s failure to maintain adequate back-up copies of all its operating system software, application software, data files and other information; or (e) failure to maintain adequate back-up copies of all its operating system software, application software, data files and other information; or (f) the Customer’s non-payment of any other sum due and payable.

4.13 Data Protection

4.13.1 These Terms will be governed by and construed in accordance with the Data Protection Act 1998, the provisions of which do not apply to any data provided to TSG for the purposes of these Terms.

4.14 Law and Jurisdiction

4.14.1 These Terms will be governed by and construed in accordance with English law and the English courts will have exclusive jurisdiction to hear all disputes arising in connection with these Terms.

DEFINITIONS

In these terms and conditions, unless the context otherwise requires, the following words have the following meanings:

Agreement Start Date
The date set out in the Scope of Service.

Acceptance Tests
The tests undertaken by the Customer to confirm the System complies in all material respects with the Functional Specification.

Call
Communication (including a video conference) by TSG to the Customer reporting a failure or malfunction in the Equipment.

Charges
The sums payable by the Customer to TSG for SystemCare, as set out in the Scope of Service.

Confidential Information
Any trade secrets or confidential or proprietary information of either party, including these Terms, but excluding any information:

(a) in the public domain otherwise than by a breach of the Contract;
(b) which, prior to disclosure, was already known by the recipient;
(c) that the other party develops independently of or to any information that is disclosed to it under the provisions of the Contract; or
(d) which is subsequently disclosed to the recipient by a third party at liberty to disclose it.

Contract
The contract between the Customer and TSG for the sale of Goods, Services and/or SystemCare in accordance with these Terms.

Customer
The person who accepts TSG’s written quotation for the sale of the Goods, Services and/or the supply of SystemCare or whose written order in respect thereof is accepted by TSG.

Definition of Service
The document provided to the Customer by TSG setting out response times and support in relation to the Goods, Services and/or SystemCare as set out in the Scope of Service.

Engagement
The employment, hire or other use, directly or indirectly and whether as an employee or on a self-employed basis.

Equipment
All or part of the network, hardware, software and Third Party Software as specified or identified in the Scope of Service.

Functional Specification
The functional specification document detailing the System that is to be delivered.

Goods
The computer hardware, software and related equipment which TSG is to supply in accordance with these Terms.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Term</td>
<td>The fixed period for which SystemCare is to be provided as specified in the Scope of Service.</td>
</tr>
<tr>
<td>Intellectual Property Rights</td>
<td>Patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.</td>
</tr>
<tr>
<td>Installation Address</td>
<td>The address specified in the Scope of Service at which the Equipment is located or such other address as may be agreed in writing by TSG.</td>
</tr>
<tr>
<td>Liability</td>
<td>Any liability arising by reason of any representation (unless fraudulent), or any breach of any implied warranty, conditions or other term or any duty at common law, or under any statute, or under any express term of this Contract.</td>
</tr>
<tr>
<td>Loss</td>
<td>In relation to the Customer means loss of profit (or any other loss), damages, costs or other compensation and any legal or other expenses awarded against or incurred by or paid or agreed to be paid in settlement of any claim by the Customer, howsoever arising and whether by reason of negligence of TSG, its employees, its agents or otherwise.</td>
</tr>
<tr>
<td>Normal working hours</td>
<td>09:00 to 17:30 Monday to Friday but excluding bank or statutory holidays.</td>
</tr>
<tr>
<td>Operating Platform</td>
<td>The complete configuration of hardware, ancillaries/accessories and operating system for an item of Equipment.</td>
</tr>
<tr>
<td>Personnel</td>
<td>Any employee, agent, consultant and/or sub-contractor of the party concerned.</td>
</tr>
<tr>
<td>Project Plan</td>
<td>The plan describing the Services and setting out the estimated timetable and responsibilities for the provision of the Services by TSG.</td>
</tr>
<tr>
<td>Project Milestone</td>
<td>A date by which a part of the Services are estimated to be completed, as set out in the Project Plan.</td>
</tr>
<tr>
<td>Proposal</td>
<td>The proposal to the Customer setting out TSG's understanding of the Customer's requirements.</td>
</tr>
<tr>
<td>Renewal Period</td>
<td>The period commencing after the Initial Term, which unless stated otherwise in the Scope of Service, will be for the period equal to the Initial Term, during which TSG will continue to provide SystemCare in accordance with the Scope of Service and Definition of Service.</td>
</tr>
<tr>
<td>Services</td>
<td>The services to be provided by TSG as set out in the Proposal and/or Project Plan, together with any other services including but not limited to training and consultancy which TSG provides or agrees to provide to the Customer.</td>
</tr>
<tr>
<td>Scheduled Service Hours</td>
<td>The times during which TSG will endeavour to provide SystemCare as specified on the Definition of Service.</td>
</tr>
<tr>
<td>Scope of Service</td>
<td>The Schedule signed by the Customer setting out details of the Equipment and other information in respect of SystemCare.</td>
</tr>
<tr>
<td>SystemCare</td>
<td>The provision of a maintenance service for the Equipment together with proactive support visits as set out in the Scope of Service.</td>
</tr>
<tr>
<td>System Audit</td>
<td>Means an inspection of the Equipment or part thereof but does not include repair or replacement.</td>
</tr>
<tr>
<td>System</td>
<td>The configured computer program(s), network, documentation, data, diagrams, reports and specifications (including drafts) delivered as a result of the Services provided by TSG.</td>
</tr>
<tr>
<td>Third Party Software</td>
<td>Software developed and licensed by a third party, for which TSG have agreed to provide support, as detailed in the Scope of Service.</td>
</tr>
<tr>
<td>TSG</td>
<td>Technology Services Group Limited (CRN 4816673) or such other group company as may be notified to the Customer from time to time.</td>
</tr>
<tr>
<td>User Acceptance Sign Off</td>
<td>A customer sign off sheet to be completed and signed by the Customer and delivered to TSG pursuant to clause 3.7.1.</td>
</tr>
</tbody>
</table>