

Applied Principles Limited – Standard Terms and Conditions

These terms and conditions apply to the sale of hardware, the licence of software and/or the provision of support services to you, the Customer, by us, Applied Principles Limited of Hampton Court, Rainbow Hill, Worcester, WR3 8NF, United Kingdom (“**Applied Principles**”).

1 Definitions

1.1 In these Terms and Conditions, the following words shall have the following meanings:

“**Act**” has the meaning set out in clause 13;

“**Agreement**” means the agreement between Applied Principles and the Customer and which consists of these Terms and Conditions, the Order Confirmation and the Quotation;

“**Confidential Information**” means the Software and any information which is designated by the party disclosing it to be confidential;

“**Consultancy Rate**” means Applied Principles’ standard consultancy rates from time to time;

“**Customer**” means the person, firm or company to whom Applied Principles sells Hardware and/or licences Software and/or provides Support Services;

“**Documentation**” means any instruction manuals and other information associated with the Software and/or Hardware which may be supplied by Applied Principles to the Customer;

“**Effective Date**” means the date of Applied Principles’ Order Confirmation to the Customer;

“**Enhanced Support**” has the meaning set out in clause 6;

“**Hardware**” means the hardware forming part of the System and excludes the Software;

“**Licence**” has the meaning set out in clause 5;

“**Order Confirmation**” means the confirmation provided by Applied Principles to the Customer that Applied Principles will fulfil the Quotation;

“**Per Machine Licence**” means that the Software may only be installed and used on up to the specified number of hardware devices (including without limitation PDAs and PCs) under the Licence;

“**Per Server Licence**” means that the Software may only be installed on up to the specified number of servers, although may be accessed from the server on a number of client devices under the Licence;

“**Per User Licence**” means that the Software may only be used concurrently by up to the specified number of individuals under the Licence;

“**Price**” means the total price payable for the System as set out in the Quotation;

“**Quotation**” means the details of the relevant System, Price and Licence and any Support Services provided by Applied Principles to the Customer, as amended from time to time by agreement between the parties in writing;

“**Software**” means the software forming part of or supplied with the System and specified in the Quotation including all modules specified in the Quotation;

“**Standard Support**” has the meaning set out in clause 6;

“**Support Services**” means the services described in clause 6 and which shall be provided on a Standard Support, Enhanced Support basis, as set out in the Quotation;

“**System**” means the Software and/or Documentation and/or Hardware specified in the Quotation;

“**Warranty Period**” has the relevant meaning set out in clause 10;

“**Working Days**” means Monday to Friday excluding UK bank and public holidays; and

“**Working Hours**” means 8am to 6pm UK time.

1.2 In these terms and conditions (except where the context otherwise requires):

1.2.1 any reference to a clause is to the relevant clause of these terms and conditions;

1.2.2 the clause headings are included for convenience only and shall not affect the interpretation of these terms and conditions;

1.2.3 use of the singular includes the plural and vice versa;

1.2.4 any reference to a statute, statutory provision or subordinate legislation (“legislation”) shall be construed as referring to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates

(with or without modification)
any such legislation.

2 Basis of contract

- 2.1 Each acceptance of a Quotation by the Customer shall be deemed to be an offer by the Customer subject to the Agreement.
- 2.2 A binding contract subject to the Agreement shall come into existence between Applied Principles and the Customer upon issuance of a written Order Confirmation by Applied Principles to the Customer.
- 2.3 In the event of a conflict between the provisions of these Terms and Conditions and those of the Quotation, the provisions of the Quotation shall prevail.

3 Delivery of System

- 3.1 Applied Principles shall use its reasonable endeavours to deliver the System and/or install the Software on the date or dates specified in its Quotation, but any such date is approximate only. If no dates are so specified, delivery and/or installation shall be within a reasonable time of the Order Confirmation. Time is not of essence as to the delivery and/or installation of the System and Applied Principles is not liable for any delay in delivery, however caused.
- 3.2 The Quotation shall specify whether Applied Principles is to install the Software.
- 3.3 Delivery shall be made during Working Hours and on Working Days and shall be made to the place of delivery specified in the Quotation. Applied Principles' may levy additional charges for any deliveries which are made outside such hours at the Customer's request.
- 3.4 In the event of damage or loss in transit, provided that the Customer notifies it to Applied Principles (or its carrier, if applicable) within three days of receipt by the Customer of the System and that the System has been handled in accordance with Applied Principles's stipulations, Applied Principles will, at its option replace or repair any System which is proven to Applied Principles' satisfaction to have been lost or damaged in transit.
- 3.5 Where the System is supplied for export from the United Kingdom, the Customer shall be responsible for complying with any legislation governing:
 - 3.5.1 the importation of the System into the country of destination; and
 - 3.5.2 the export and/or re-export of the Systemand shall be responsible for paying any duties on it.

4 Title and risk

- 4.1 The Hardware shall be at the risk of Applied Principles until delivery to the Customer.
- 4.2 Ownership of the Hardware shall pass to the Customer on the later of completion of delivery to the Customer, or when Applied Principles has received in full in cleared funds all sums due to it in respect of the Hardware from the Customer.
- 4.3 Until ownership of the Hardware has passed to the Customer under clause 4.2, the Customer shall:
 - 4.3.1 hold the Hardware on a fiduciary basis as Applied Principles' bailee;
 - 4.3.2 store the Hardware (at no cost to Applied Principles) in satisfactory conditions and separately from all of the Customer's other equipment or that of a third party, so that it remains readily identifiable as Applied Principles' property;
 - 4.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Hardware; and
 - 4.3.4 keep the Hardware insured on Applied Principles' behalf for its full price against all risks to the reasonable satisfaction of Applied Principles', and hold any proceeds of such insurance on trust for Applied Principles.

5 Software Licence

- 5.1 Where Software is provided to the Customer, Applied Principles grants to the Customer a non-exclusive, non-transferable licence ("**Licence**") to use the Software and to possess and refer to the Documentation in accordance with this Agreement. Unless otherwise agreed in writing in the Quotation, the Software is licensed for use solely on the Hardware.
- 5.2 The Customer is granted a licence as specified in the Quotation and such Licence may be a Per Machine Licence, Per User Licence or Per Server Licence as per the Quotation.
- 5.3 Except to the extent permitted by statute or pursuant to clause 5.4, the Customer shall not reproduce, modify, adapt, merge, translate, disassemble, decompile, recompile or reverse engineer the Software or create derivative works based on the whole of or any part of the Software or incorporate the Software into any other software program not provided by Applied

Principles. The information necessary to achieve interoperability of the Software with other computer software programs is available from Applied Principles on request.

5.4 For the avoidance of doubt, the Customer has the right to make backup copies of the Software to the extent such copies are reasonably necessary for the Customer's own operational security and use within the scope of this Agreement.

5.5 The Customer shall only use the Software and the Documentation for its internal business purposes, and shall not make the Software and/or the Documentation available for use by any third party in any manner whatsoever.

5.6 The Customer shall not copy the whole or any part of the Documentation, and shall not remove any trade mark, copyright or proprietary notices from the Documentation.

6 **Support Services**

6.1 Applied Principles shall provide Support Services for the System in accordance with this Agreement for the period of 12 months from the Effective Date, or such alternative period as is set out in the Quotation. Following expiry of such period, Applied Principles shall provide further Support Services on request by the Customer at the applicable Consultancy Rate.

6.2 Applied Principles shall provide the following Support Services:

6.2.1 a helpdesk facility by telephone and/or e-mail, including advice and assistance on issues relating to defects in the System, the contact details for which are provided on Applied Principles' website at www.appliedprinciples.eu

6.2.2 provision of workarounds, patches or other maintenance releases not providing any new functionality issued for the Software;

6.2.3 repair or, at Applied Principles' option, replacement of any part of the relevant System which is defective.

6.3 Applied Principles commits to the following service levels in respect of critical support issues, being problems that result in Hardware or Software being unusable such that the Customer's ability to perform their relevant business function which uses

the System is materially adversely affected:

6.3.1 where the Support Services are provided on a "**Standard Support**" basis, during Working Hours and on Working Days only:

- (i) respond to all support requests from the Customer within 2 Working Hours to confirm that resolution of the issue has commenced; and
- (ii) where in Applied Principles' reasonable opinion it is necessary, visit the Customer's premises to rectify the problem and/or replace the relevant Hardware within 2 Working Days; or

6.3.2 where the Support Services are provided on an "**Enhanced Support**" basis, respond to all support requests from the Customer within 1 hour to confirm that resolution of the issue has commenced; and where in Applied Principles' reasonable opinion it is necessary, visit the Customer's premises to rectify the problem and/or replace the relevant Hardware within 24 hours.

6.4 Where either:

6.4.1 performance of the Support Services is made more difficult or costly as a result of the Customer's failure to inform Applied Principles of a problem as soon as reasonably practicable; or

6.4.2 the Customer requests that Applied Principles provides the Support Services at the Customer's premises where Applied Principles does not consider this to be necessary,

Applied Principles reserves the right to charge the Customer an additional sum for the provision of the Support Services at the applicable Consultancy Rate.

6.5 Applied Principles shall have no obligation to provide the Support Services where issues or faults arise from:

6.5.1 misuse, incorrect use of or damage to the System; or

- 6.5.2 failure to maintain the necessary environmental conditions for use of the System, including but not limited to an appropriately configured internet connection, wireless network, up to date licensed copies of relevant operating and database software and (where applicable) a appropriately configured and fully operational server; or
- 6.5.3 failure to maintain a frequent backup copy of all data stored on the System; or
- 6.5.4 failure to comply with minimum system requirements as set out on Applied Principles' website at www.appliedprinciples.eu ; or
- 6.5.5 use of the Software in combination with any System or software not provided by the Supplier, or any fault in any such System or software; or
- 6.5.6 relocation of the System by any person other than Applied Principles or a person acting under Applied Principles' instructions; or
- 6.5.7 modification of the structure of the underlying database which forms part of the System, or modification of the server configuration which affects the SQL server, or amendments, additions or deletions to the data within the database made other than by use of the Software; or
- 6.5.8 any breach of the terms of the Licence or the Customer's obligations under this Agreement.
- 6.6 The Customer shall provide all reasonable assistance to enable Applied Principles to reproduce, diagnose the cause of, and rectify any fault.
- 6.7 The Customer shall provide remote access to its systems in the manner agreed with Applied Principles so as to enable the provision of remote System support.
- 6.8 Any consultancy work including without limitation bespoke development, and any training in connection with the System which is carried out by Applied Principles for the Customer shall, unless otherwise agreed between the parties, be chargeable at the applicable Consultancy Rate.

7 Upgrades

- 7.1 Subject to clause 7.2, from time to time Applied Principles may make available upgrades, new versions or other revisions or amendments to the Software, which provide additional features or change the functionality of the Software.
- 7.2 Major upgrades (being a change of the Software version number before the first decimal point), shall be provided to the Customer on payment of a fee to be decided by Applied Principles. Minor upgrades (being any upgrade other than a major upgrade) may, at Applied Principles' discretion, be provided to the Customer free of charge.
- 7.3 Where the Support Services are provided on an "Enhanced Support" basis, major upgrades will be provided free of charge.
- 7.4 Any upgrades provided to the Customer shall form part of the Software and shall be subject to the Licence.

8 Price and payment

- 8.1 All Prices shall be as stated in Applied Principles' Quotation and save where otherwise stated in writing, Prices are exclusive of delivery, packaging, packing, shipping, carriage, insurance, VAT and other charges and duties. The Customer shall be responsible for paying any taxes which arise under this Agreement save for taxes on Applied Principles' income.
- 8.2 The Price and any other sums due under this agreement shall be due and payable within 30 days of the date of Applied Principles' invoice for payment. Time for payment shall be of the essence and unless otherwise stated in the Quotation, delivery of the System will not be made to the Customer until Applied Principles has received the relevant Price.
- 8.3 If the Customer does not pay the Price and any other sums due under this Agreement within 30 days of the date of the relevant invoice, Applied Principles reserves the right to charge interest at a daily rate on all sums outstanding until payment in full is received at a rate of 4% above the UK base lending rate of Barclays Bank plc from time to time or to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

9 Intellectual Property Rights

- 9.1 The Customer acknowledges that Applied Principles owns or is licensed to use, all copyright and other intellectual property rights of whatever nature in and relating to the System together with any consultancy, development, customisation and/or configuration work carried out by Applied Principles under the provisions of this Agreement. Nothing contained in this

- Agreement shall be construed as an assignment or transfer of any copyright or other intellectual property rights in the System.
- 9.2 The Customer shall refrain from analysing or reverse engineering the Hardware except to the extent necessary to use the System in accordance with this Agreement.
- 9.3 Applied Principles warrants that the use and licence of the System in accordance with this Agreement will not infringe the copyright belonging to any third party.
- 9.4 Subject to clause 9.5, in the event of any claim being brought against the Customer that the normal use or possession of the System in accordance with this Agreement infringes the copyright of a third party, Applied Principles hereby indemnifies and will keep indemnified the Customer against any damages that are awarded to be paid to any such third party in respect of a claim and any losses, costs (including all reasonable legal fees) and expenses incurred by or on behalf of the Customer provided that the Customer:
- 9.4.1 shall as soon as reasonably practicable notify Applied Principles in writing of any such claim of which it becomes aware;
- 9.4.2 does not make any admission as to liability or compromise or agree any settlement of any claim without the prior written consent of Applied Principles, which consent shall not be unreasonably withheld or delayed, or otherwise prejudice Applied Principles or any other third party's defence of any claim;
- 9.4.3 gives Applied Principles, or such person as Applied Principles shall direct, immediate and complete control of the conduct or settlement of all negotiations and litigation arising from any claim; and
- 9.4.4 upon payment of its reasonable costs, gives Applied Principles and such other third parties as Applied Principles shall direct all reasonable assistance with the conduct or settlement of any such negotiations or litigation.
- 9.5 In the event of a claim that the use by the Customer of the System in accordance with the provisions of these Terms and Conditions infringes the copyright of a third party, Applied Principles shall have the right in its absolute discretion and at its own expense:
- 9.5.1 to procure the right for the Customer to continue using the System in accordance with this Agreement;
- 9.5.2 to make such alterations, modifications or adjustments to the System so that they become non infringing;
- 9.5.3 to replace the System with non-infringing software and/or documentation and/or hardware; or
- 9.5.4 to refund the Price paid by the Customer for the System depreciated over a 5 year period.
- 9.6 In the event of any claim attributable to the use or possession by the Customer of the System other than in accordance with the provisions of this Agreement, the provisions of clauses 9.3 to 9.5 shall not apply and the Customer shall indemnify Applied Principles against all liabilities, costs and expenses which Applied Principles may incur as a result of such claim.
- 9.7 THIS CLAUSE SETS OUT APPLIED PRINCIPLES'S ENTIRE LIABILITY TO THE CUSTOMER IN RESPECT OF THE INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY ARISING OUT OF THE PROVISION AND/OR USE OF THE SYSTEM.
- 10 Warranties**
- 10.1 Applied Principles warrants that:
- 10.1.1 the Software will perform in all material respects in accordance with the Documentation for a period of 90 days from the Effective Date (to be known as the "**Warranty Period**" in respect of Software);
- 10.1.2 the Hardware will be free from defects in materials and workmanship for a period of 1 year from the Effective Date, (to be known as the "**Warranty Period**" in respect of Hardware); and
- 10.1.3 any Support Services shall be provided with reasonable skill and care.
- 10.2 Subject to clause 10.4, if Applied Principles receives written notice from the Customer of any breach of a warranty in

clause 10.1 then Applied Principles shall at its own expense and within a reasonable time after receiving such notice, as appropriate:

(i) repair or, at its option, replace that part of the relevant System which is defective or otherwise remedy such defect; or

(ii) re-perform the relevant Support Services

PROVIDED THAT APPLIED PRINCIPLES SHALL HAVE NO LIABILITY OR OBLIGATIONS IN RESPECT OF THE SYSTEM UNDER THE SAID WARRANTY UNLESS IT SHALL HAVE RECEIVED WRITTEN NOTICE OF THE DEFECT OR FAILURE IN QUESTION NO LATER THAN THE EXPIRY OF THE RELEVANT WARRANTY PERIOD. The legal and beneficial ownership of any defective Hardware shall revert to Applied Principles upon the replacement of such defective Hardware, whereupon the legal and beneficial ownership of the replacement Hardware shall vest in the Customer.

10.3 APPLIED PRINCIPLES SHALL HAVE NO LIABILITY OR OBLIGATIONS UNDER THE WARRANTIES IN CLAUSE 10.1 OTHER THAN TO REMEDY BREACHES THEREOF BY THE PROVISION OF MATERIALS AND SERVICES WITHIN A REASONABLE TIME AND WITHOUT CHARGE TO THE CUSTOMER.

10.4 Applied Principles shall not be liable for any defect in the System which results from:

10.4.1 use of the System other than as specified in the Documentation;

10.4.2 the modification of the System by the Customer;

10.4.3 the System being subject to unusual physical or electrical stress; or

10.4.4 accident, hazard, misuse or failure or fluctuation of electrical power, air conditioning, humidity control or other environmental conditions.

10.5 EXCEPT AS EXPRESSLY SET OUT IN CLAUSES 9.3 AND 10.1, ALL CONDITIONS, WARRANTIES, TERMS AND UNDERTAKINGS, EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, TRADE PRACTICE, CUSTOM, COURSE OF DEALING OR OTHERWISE (INCLUDING WITHOUT LIMITATION AS TO QUALITY, PERFORMANCE OR FITNESS OR SUITABILITY FOR PURPOSE) IN RESPECT OF THE SYSTEM AND/OR SUPPORT SERVICES ARE HEREBY

EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.

11 Limitation of Liability

11.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of one party or for liability for any fraudulent misrepresentation by a party to this Agreement.

11.2 SUBJECT TO THE PROVISIONS OF CLAUSES 11.1 AND 11.3 THE LIABILITY OF APPLIED PRINCIPLES TO THE CUSTOMER FOR DIRECT LOSS IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE CUSTOMER'S USE OF THE SYSTEM SHALL BE LIMITED FOR ANY ONE INCIDENT OR SERIES OF CONNECTED INCIDENTS TO THE AMOUNT PAID OR PAYABLE UNDER THIS AGREEMENT TO APPLIED PRINCIPLES BY THE CUSTOMER.

11.3 SUBJECT TO THE PROVISIONS OF CLAUSE 11.1, IN NO CIRCUMSTANCES SHALL APPLIED PRINCIPLES BE LIABLE TO THE CUSTOMER WHETHER IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE IN RESPECT OF LOSS OF PROFITS, REVENUE, GOODWILL, BUSINESS OPPORTUNITY, LOSS OF OR COST OF RESTORATION OF DATA OR ANY INDIRECT, CONSEQUENTIAL, FINANCIAL OR ECONOMIC LOSS OR DAMAGE COSTS OR EXPENSES WHATSOEVER OR HOWSOEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE CUSTOMER'S USE OF THE SYSTEM.

11.4 IF ANY LIMITATION OR EXCLUSION CONTAINED IN THIS AGREEMENT IS JUDGED BY A COMPETENT COURT TO BE UNREASONABLE IN THE CIRCUMSTANCES, THEN APPLIED PRINCIPLES' MAXIMUM LIABILITY UNDER THIS AGREEMENT IS INCREASED TO THE AMOUNT THAT APPLIED PRINCIPLES' CAN RECOVER UNDER ITS INSURANCE FOR THE LOSS OR DAMAGE IN QUESTION.

11.5 The Customer acknowledges and agrees that it is the responsibility of the Customer to ensure that the System is suitable for the Customer's requirements. The Customer acknowledges that the System may contain bugs or errors and as such may not be suitable for use in performance critical environments.

11.6 The Customer acknowledges and agrees that the Customer is responsible for ensuring that the installation and use of the System by the Customer complies with all

relevant legislation and regulations and subject to clause 11.1, APPLIED PRINCIPLES SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE ARISING FROM USE OF THE SYSTEM BY THE CUSTOMER OR UNDER THE CUSTOMER'S CONTROL.

12 **Termination**

12.1 This Agreement may be terminated immediately by either party if:

12.1.1 the other commits a material or persistent breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same; or

12.1.2 the other party ceases or threatens to cease to carry on business; or

12.1.3 an interim order is made, or a voluntary arrangement approved, or if a petition for bankruptcy order is presented or a bankruptcy order is made against the other party or if a receiver or trustee is appointed of the other party's estate or a voluntary arrangement is approved or a notice is served of intention to appoint an administrator or an administrator is appointed by Court order or by any other means, or a receiver or administrative receiver is appointed over any of the other party's assets or undertaking or a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding up petition or make a winding up order.

12.2 Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under these Terms and Conditions or at law.

12.3 Within seven days of the termination of this Agreement (by either party for whatever reason) the Customer shall, at Applied Principles' option, either return to Applied Principles or destroy all copies of the

Software and Documentation in its possession and a duly authorised officer of the Customer shall certify in writing to Applied Principles that the Customer has complied with such obligation.

13 **Data Protection**

13.1 Each party shall comply with the Data Protection Act 1998, including any statutory amendments or re-enactments of it, and all the regulations made under it (the "Act").

13.2 The parties acknowledge that Applied Principles will act as a Data Processor (as defined by the Act) in respect of any Personal Data (as defined by the Act) transferred to or acquired by Applied Principles in relation to this Agreement. Accordingly, the Parties acknowledge that the Customer will be the Data Controller in respect of all such Personal Data and remain responsible for compliance with the Act in respect of such Personal Data including but not limited to obtaining all necessary consents and providing all necessary notices in relation to such compliance.

13.3 Where Applied Principles is acting as a Data Processor for the Customer, Applied Principles undertakes in respect of the Personal Data processed by it:

13.3.1 to keep the Personal Data confidential and not to use or disclose the Personal Data other than as provided for under this Agreement save at the specific request of Customer or as required by law;

13.3.2 to ensure that:
(i) only such of its employees who may be required during the course of their employment to perform tasks relating to services undertaken to be provided by Applied Principles under this Agreement shall have access to the Personal Data; and
(ii) such employees are aware of the data protection principles set out in Part I of Schedule 1 to the Act and Applied Principles' obligation under this Agreement to comply with them in relation to all personal data

- processed by it on behalf of Customer;
- 13.3.3 to have in place appropriate technical and organisational measures to safeguard against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access to the Personal Data. Such measures shall (taking into account the state of technological development and the cost of implementing such measures) be appropriate to the nature of the Personal Data processed by Applied Principles.
- 13.4 The Customer shall indemnify and keep indemnified Applied Principles from and against all costs, actions, claims, demands, liabilities, expenses, damages or losses arising out of or in connection with the Customer's breach of the terms of this clause 13 or any action or claim brought by a Data Subject (as defined by the Act) or any other person relating to any failure by the Customer duly and punctually to observe and perform the provisions of the Act.
- 13.5 Where the Software includes web reporting functionality, the Customer agrees that:
- 13.5.1 its name shall be publicised as a Customer on the web site apmqm.com;
- 13.5.2 the Customer's data stored on the System may be transmitted via the web site to those third parties that the Customer has authorised via the systems put in place by Applied Principles to have such access; and
- 13.5.3 the web reporting functionality is provided subject to the Customer maintaining an appropriately configured internet connection.

14 Confidentiality

- 14.1 Neither party shall at any time after the Effective Date:
- 14.1.1 divulge or communicate to any person, company, business entity or other organisation; nor
- 14.1.2 use for its own purposes or for any purposes other than exercising its rights or fulfilling its obligations under this Agreement; nor
- 14.1.3 through any failure to exercise due care and

diligence, cause any unauthorised disclosure of

Confidential Information relating to the other party provided that these restrictions shall cease to apply to any such information which shall become available to the public generally otherwise than through a breach of a duty of confidentiality owed to the other party and further provided that neither party shall be restricted from disclosing the Confidential Information or any part of it pursuant to a judicial or other lawful government order, but only to the extent required by such order and subject to the party obliged to comply with such order giving the other party as much notice of the terms of the order as may be reasonably practicable.

15 General

- 15.1 The failure or delay of a party to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time or times thereafter.
- 15.2 This Agreement constitutes the entire understanding between the parties with respect to the subject matter and supersedes and replaces all prior agreements, negotiations and discussions between the parties relating to the same, including without limitation any terms which are attached to or purported to be incorporated in the Customer's order. The Customer confirms and acknowledges that it has not been induced to enter into this Agreement by any representation, warranty, or undertaking not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.
- 15.3 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 15.4 Neither party shall be liable for any delay in or for failure to perform its obligations under this Agreement, other than an obligation to make any payment due to the other party, if that delay or failure is caused by circumstances beyond the control of that party including, without limitation, fires, strikes, insurrection, riots, embargoes, failure of a telecommunications or internet service provider, lack of availability of parts, or regulations of any civil or military authority.
- 15.5 No person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 15.6 If any provision of this Agreement shall be held to be unlawful, invalid or unenforceable, in whole or in part, under

any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.

- 15.7 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand or sent by fax, in the case of the Customer, to the address set out in the Quotation or as otherwise notified to Applied Principles in writing; and in the case of Applied Principles, to the address set out in this Agreement and to Mills & Reeve (ref: KC), 112 Hills Road, Cambridge CB2 1PH (or such other address as may have been notified). Any such notice or other document shall be deemed to have been served if delivered by hand - at the time of delivery; and if sent by fax at 9.00 am on the next business day after the fax was dispatched.
- 15.8 The Customer shall not assign, delegate, subcontract, mortgage, charge or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of Applied Principles. Applied Principles may assign all or any of its rights or obligations under this Agreement. Applied Principles shall be entitled to use subcontractors or consultants for the performance of its obligations under this Agreement.
- 15.9 This Agreement shall be governed by and construed and interpreted in accordance with English law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts.