1 DEFINITIONS

1.1 "Customer" means the person, firm, company or other organisation commissioning the Services to be carried out.

1.2 "Confidential Information" means all information confidential to the Customer whether relating to the Customer's business, customers, clients, suppliers or otherwise but excluding information now or at any time hereafter becoming generally known or accessible to the general public (unless due to the default of the Company hereunder) and information obtained by the Company from a third party free of restrictions on use or disclosure.

1.3 "Contract" means the agreement between the Customer and the Company consisting of the following documents (or their equivalents), which can be read as a whole: Project Brief, Specifications (Functional and Technical), Instruction to Proceed and these Terms and Conditions.

1.4 "Company" means Asckey Data Services Limited.

1.5 "Core Code" means the source library of computer programming code developed by the Company as part of the tools of its trade in respect of conducting a systems development business.

1.6 "Fee basis" means the nature and structure of the total fee compensation for the Services – time-based or monthly.

1.7 "Intellectual Property Rights" means all and any of the following, namely patents, designs, registered designs (and applications for any of the same) copyright, design right, inventions, improvements, discoveries, techniques, know-how and any other intellectual property rights.

1.8 "Monthly Fee" means the total fee for the Services performed over an agreed time span, agreed in total, but invoiced in a series of variable monthly instalment amounts in accordance with a pre-agreed schedule.

1.9 "Run Time Licence" means a licence granting the holder the right to use a software item but conferring no entitlement to outright ownership or right to access, amend or further develop the item.

1.10 "Services" means the systems analysis, design, development, testing and other services to be performed under this Contract.

1.11 "Third Party Component" means an item of software written by a third party purchased by the Company to be supplied in turn to the Customer as a part of the total system developed.

1.12 "Time-based Fee" means the total fee for the Services, accumulating over the duration of the Services and based on the sum of the products of time spent and charge-out rates.

1.13 "Variation" means a change to the Services in the original Contract.

2 COMPANY'S OBLIGATIONS

2.1 The Company will provide the Services to the Customer in accordance with the Contract. For the avoidance of doubt nothing in this Contract shall be construed as restricting or prohibiting the Company from at any time providing services (whether or not similar to the Services) to any third party.

2.2 Without prejudice to any other obligation of confidentiality from time to time subsisting between the Customer and the Company the Company hereby undertakes (subject to the Customer's written consent) not at any time hereafter to disclose any Confidential Information to any third party nor to use any Confidential Information save (in either case) as may be reasonably necessary for the purposes of providing the Services hereunder or as may be required under a court order or lawful order of a government authority.

2.3 The Company will use all reasonable endeavours to provide the Services to the Customer within the estimated timings provided but all timings agreed to by the Company are business estimates only (but given in good faith) and the Company will not be liable for any loss, injury, damage or expenses arising directly or indirectly from any delay and time will not and cannot ever be of the essence in respect of the Company's performance of its obligations hereunder.

3 VARIATION

3.1 The Contract may only be varied by a written and agreed Variation, which may be raised by either party, using the agreed documentation.

3.2 The party requesting a Variation should do so promptly whenever the need for a Variation is identified.

3.3 Each Variation shall be supported by a statement of the reason for the Variation, a description of the work involved, a quotation for any changes in fees and a statement of its impact upon any aspect of the Contract or Services, all of which must be completed within 14 days of the date of the request.

4 INVOICING & PAYMENT

4.1 Payment and acceptance of all terms and conditions detailed to or referred to in this document.

4.2 On a Time-based Fee basis, an invoice will be raised each month in respect of the value of work performed in that month.

4.3 On a Monthly Fee basis, an invoice will be raised each month for the instalment value noted for that month in the pre-agreed schedule.

4.4 Car travel costs at a rate of 60p per mile, all other business expenses necessarily incurred in the performance of the Services and the cost of Run Time Licences supplied will be payable by the Customer and may be added to any fee invoice or invoiced separately if appropriate or in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 or, as otherwise provided by statute.

4.5 All invoices must be settled by the Customer within 30 days of the date in invoice. Any disputed item must be notified to the Company by the Customer within 14 days.

4.6 Without prejudice to any other contractual right, the Company reserves the right to charge interest on overdue invoices at a rate of 3% above Bank of England Base Rate, compounded monthly until settlement.

5 FORCE MAJEURE

5.1 Neither party shall be liable to the other under this Agreement, nor deemed in breach of this Agreement, for failure to carry out its provisions to the extent that such failure is caused by any cause beyond the parties' respective reasonable control including without limitation fire, war, riot, sabotage, sickness or industrial action. The Customer or the Company (as the case may be) shall promptly inform the other party of the existence of such conditions of force majeure. In the event that such conditions of force majeure continue or are expected to continue for more than 2 months the parties shall consult together in order to find a mutually acceptable solution.

6 INTELLECTUAL PROPERTY RIGHTS

6.1 Each party acknowledges the existence of the other's intellectual property at the commencement of this Contract and neither party obtains any right to the other's intellectual property by entering into this contract.

6.2 The Company shall retain ownership of and all intellectual property rights in the Core Code and any additions or improvements to it.

6.3 The Company shall retain intellectual property rights in any reusable new or improved technique, program component, sub-routine or method that adds to the Company's know-how or other intellectual property that arises in the performing of the Services.

6.4 Subject to the Customer first paying to the Company all sums payable to the Company hereunder, the Customer shall obtain a Run Time Licence for its use of the whole system, including Third Party Components, subject to all the terms and conditions attaching to these items. The Customer shall receive the source code for any bespoke Customer- or site-specific programmes.

6.5 The Company shall not infringe the Intellectual Property Rights of any third party and shall indemnify the Customer against all claims, costs and expenses that the Customer may suffer as a result of any such infringement.

7 LIABILITY

7.1 The Company shall indemnify and hold harmless the Customer from and against all costs, claims, demands and expenses accruing to the Customer arising out of any claim or cause of action with respect to any loss of or damage to any property or any personal injury or death of any person which is occasioned whether directly or indirectly by any act or omission on the part of the Company, its agents or employees.

7.2 The Customer shall indemnify and hold harmless the Company from and against all costs, claims, demands and expenses accruing to the Company arising out of any claim or cause of action with respect to any loss of or damage to any property or any personal injury or death of any person which is occasioned whether directly or indirectly by any act or omission on the part of the Customer, its agents or employees.

7.3 Clauses 7.1 and 7.2 will not apply where the party concerned is able to demonstrate that such death or personal injury, or loss or damage, was not caused or contributed to by its default or negligence, or the default or negligence of its staff or subcontractors, or by any circumstances under its control.

7.4 The Company's maximum aggregate liability for any and all losses, claims, demands, damages, costs and/or expenses of any kind whatsoever arising out of or in connection with any order confirmation and/or these Terms and Conditions (whether in contract, tort, by statute or otherwise) shall not, in total, exceed the amount actually paid by the Customer to the Company for the services which are the subject of the order confirmation in question.

7.5 All warranties and conditions, express or implied by law or otherwise with respect to the Services are hereby excluded and the Company shall not be liable to the Customer for any loss or damage whatsoever (including without prejudice to the generality of the foregoing any liability in contract, negligence or any other tort for any indirect, consequential or economic loss or for loss of profit or opportunity of any kind) arising directly or indirectly in connection with the Services or otherwise except insofar as any exclusion or limitation of the Company's liability hereunder is prohibited void or unenforceable by law.

8 TERMINATION

8.1 The Customer has the right to terminate the contract at any time by giving 1 months' written notice to the Company.

8.2 The Company may terminate the agreement at any time by giving notice of 1 month. You, as the customer, accept that you will have no claim for any compensation as a result of our decision to terminate the Agreement.

8.3 Either party may terminate forthwith if the other party adopts a resolution for its winding up (unless the same be part of a solvent reconstruction or amalgamation) or if any petition is presented for the appointment of an administrator or a receiver or to wind up the other party or a receiver or an administrative receiver is appointed in respect of any part of the other party's undertaking or assets or if the other party suffers any other action in consequence of debt or if the other party is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 (or any re-enactment or further enactment thereof) or if the other party makes or attempts to make any arrangement or composition with or for the benefit of its creditors or ceases to carry on business or if any event analogous to any of the foregoing under any foreign jurisdiction occurs.

8.4 Either party may terminate if the other party is in breach of this Contract and fails in the case of a breach capable of remedy to remedy the same or in the case of a breach not capable of remedy to pay reasonable compensation in either case within 14 days of a written notice requiring the defaulting party to remedy such breach or (as the case may be) pay such reasonable compensation (which shall be specified in such notice).

9 CONSEQUENCES OF TERMINATION

9.1 If the Customer terminates this Contract, then the Customer shall be entitled to retain any part-system completed or under development provided to the Customer by the Company in performing the Services and to use the same in accordance with Clauses 6 and 7 but provided that the Customer shall forthwith reimburse the Company all expenses and pay to the Company all other sums accrued due hereunder together with a further fair and reasonable sum to provide that the Company's total compensation takes full account of the work done up to the date of termination by the Company in providing the Services.

9.2 If the Company terminates this Contract, then the Customer shall forthwith at its own cost and as directed by the Company return to the Company or destroy all materials and records embodying any part-system delivered (and certify to the Company that it has done so), reimburse the Company all expenses and pay to the Company all fees falling due up to the date of termination and a sum equal to the Company's loss of profit resulting from such termination, and all outstanding licences under the Intellectual Property Rights in accordance with Clause 6.4 shall forthwith and automatically be revoked.

10 CUSTOMER RESPONSIBILITY FOR TESTING

10.1 During the performance of the Services and at their conclusion the Company will deliver a module, sub-system or complete system for acceptance by the Customer. The Customer will have responsibility for conducting its own testing in accordance with its own test standards and plans in order to accept the item delivered.

10.2 The Customer will report its test findings back to the Company in a timely manner and in an agreed format.

10.3 On any occasion when there is no report back to the Company within 28 days of the delivery date, the module, sub-system or complete system will be deemed accepted by the Customer. Thereafter, the Customer will be charged and will pay additional fees in respect of further amendments to the module, sub-system or complete system.

11 SUBCONTRACTING

11.1 The Company shall have the right to subcontract any part of the Contract to a subcontractor of its choosing.

11.2 The Company shall remain responsible for the acts and omissions of any of its subcontractors.

11.3 The Company will ensure that its subcontractors sign a confidentiality agreement which is wholly consistent with the Company's confidentiality undertaking to the Customer.

12 DATA PROTECTION

12.1 By entering into this Contract, the Customer agrees that any "personal data", as defined by the Data Protection Act 1998 provided to the Company pursuant to this Contract may be processed by the Company for the following purposes:

- Administration and provisioning of the Services, including support and billing of the Services.

- To identify and inform the Customer, whether by mail, facsimile, electronic mail or other means of communication of additional services and products available from the Company that may be of interest.

12.2 By entering into this Contract, the Customer represents and warrants that it has drawn the attention of its employees and agents to this clause and has obtained informed and express consent from them to the processing of their data as outlined in clause 12.1.

12.3 If the Customer, its employees or agents do not wish to receive further information from the Company, then a request to this effect should be sent to the Company's Commercial Director.

13 MISCELLANEOUS

13.1 Neither party shall be deemed by virtue of this Contract to be an agent or the partner of the other and each party will make clear in all dealings with third parties that it has no authority to make representations on behalf of the other or to bind the other contractually with any third party.

13.2   If any of the terms of this Contract are held to be void or unenforceable by any reason of law they shall be void or unenforceable to that extent only and no further and all other terms shall remain valid and fully enforceable.

13.3   The Customer shall not have any right of set off.

13.4   No indulgence granted by either party to the other in relation to any term hereof shall be deemed a waiver of such term or prejudice the later enforcement of that or any other term hereof.

13.5   The headings in this Contract are for convenience only and shall not affect its interpretation.

13.6   The contract shall be governed by and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the English courts.