

# Gower Business Systems Ltd

## Terms and Conditions of Trading

### 1. DEFINITIONS

In this agreement, unless the context otherwise requires, the following expressions have the following meaning:

|                        |   |
|------------------------|---|
| "The Customer"         | means the person or persons specified on this contract.   |
| "The Hardware"         | means the computer hardware as specified by GBS in the attached proposal.   |
| "The Software"         | means the computer software specified by GBS in the attached proposal.  |
| "The Firmware"         | means the computer firmware specified by GBS in the attached proposal.  |
| "The Services"         | means the services as specified in the attached proposal or in clause 1 of the maintenance contract.                              |
| "The Service Fee"      | means the figure referred to overleaf as the service fee and in subsequent periods, the figure referred to on the annual invoice. |
| "The System"           | means the hardware, the software, the firmware and documentation relating thereto.  |
| "The Anniversary Date" | means an anniversary date of the commencement of the contract.  |
| "The Annual Invoice"   | means the invoice in the form prepared by GBS and sent to the customer.   |

- 1.1 "Company" means the customer placing an order for Goods or Services with GBS
- 1.2 "GBS" means Gower Business Systems Ltd, its trading divisions, subsidiary or associated Companies;
- 1.3 "Goods" means all equipment, software or services which are subject to the Company's order which are to be supplied to the Company by GBS under these conditions.

### 2. ORDERS

- 2.1 There shall be no binding agreement between the Company and GBS until the Company's order has been accepted in writing by GBS. Any prior indications by GBS made verbally shall be provisional only.
- 2.2 All orders are accepted subject to the availability of goods and to these Conditions. No terms or conditions put forward by the Company shall be binding on GBS unless accepted by GBS.
- 2.3 The Company accepts that these Conditions and any specific details stated on its accepted order constitute the entire understanding between the parties and supersede any prior promise, representation, undertaking or understanding of any kind.
- 2.4 If the Company requests a change or cancellation of any order GBS reserves the right to reject the change or cancellation or accept it.
- 2.5 No cancellation will be accepted in respect of orders for items not normally stocked by GBS.

### 3. PRICES

- 3.1 Unless otherwise expressly agreed in writing the goods shall be sold and invoiced at GBS current prices at the date of despatch. Catalogues, price lists, videos and other advertising materials are provided for illustrative purposes only.
- 3.2 Unless otherwise agreed in writing prices do not include delivery and taxes (if any) and such costs shall be payable by and invoiced to the Company.
- 3.3 All quotations are valid only on the data given and all quotations and prices are based on details provided by the Company and do not apply where the Company alters the details on which such quotations and prices are based. GBS reserve the right to charge for any omission or additional cost arising from the provision of inaccurate or insufficient information by the Company and to revise prices to take into account increases in any costs of providing the goods which occurs between the date of quotation and delivery.

### 4. DELIVERY

- 4.1 Delivery shall be at the Company's premises or, if different, the place specified in the Company's order.
- 4.2 Dates and times quoted by GBS are estimates only and any delay in meeting delivery dates shall not give rise to a right to cancel the order or to claim damages.
  - 4.2.1 GBS shall use its best endeavours to deliver the goods to the Company's premises at the times and on the dates quoted by GBS or as soon as possible thereafter.
  - 4.2.2 If GBS shall fail to deliver the goods within 14 days of the dates quoted by GBS the Company shall be entitled to specify by notice to GBS such revised delivery dates as the Company shall in its opinion think fit making time of the essence.
- 4.3 The Company shall note any claim for short delivery and/or damage to components or packaging on the delivery schedule at the time of delivery and shall confirm such claims in writing to GBS within 7 days from the date of delivery. All goods are deemed delivered and completed if such notice is not received within such period.
- 4.4 GBS reserves the right to make part deliveries. Any request by the Company for GBS to delay or split delivery may result in a stockholding charge and any additional cost incurred by GBS being payable by and invoiced to the Company. Any goods so held shall be at the risk of the Company which shall insure them accordingly.
- 4.5 Subject to clause 4.4 risk in the goods shall pass on delivery or collection by the Company or its agent, whichever is the earlier.

### 5. PAYMENT

- 5.1 If the Company is not an account holder approved in writing by GBS all invoices are payable 7 days from delivery of goods or services provided the goods and services are in order.
- 5.2 If the Company is an approved account customer all hardware and software invoices are payable net within 7 days and all stationery invoices are payable net within 28 days of the date of the invoice.
- 5.3 Time is of the essence with regard to payment of any sum due to GBS.
- 5.4 The Company shall not be entitled to withhold payments of any amount due to GBS in respect of any claim for damage to goods or any alleged breach of contract by GBS, nor shall the Company be entitled to any right of set-off.
- 5.5 Without prejudice to GBS other rights if the Company fails to pay any amount on

the due date.

- 5.5.1 GBS have the right to cancel any contract made with the Company and/or to suspend deliveries.
- 5.5.2 GBS reserves the right to charge interest on a daily basis on overdue amounts at the rate of 4% above Lloyds bank base rate per annum calculated on a daily basis until payment;
- 5.5.3 The Company shall indemnify in respect of all costs (including legal fees) reasonably incurred in attempting to recover such overdue amounts;
- 5.5.4 The whole of the balance then outstanding to GBS by the Company on any account whatsoever shall become immediately due and payable.
- 5.6 GBS reserves the right to require the Company to pay for goods in advance and to charge or refuse discount if the Company fails to maintain credit account arrangements satisfactory to GBS.
- 5.7 In consideration of the provision of the Maintenance Contract, the Customer shall pay the maintenance contract fee prior to the period covered by the fee. No payment shall be considered as made until it is received by GBS.
- 5.8 Any charges for services provided by GBS on a time and materials basis will become due on the date of GBS' invoice.
- 5.9 GBS shall be entitled at any time and from time to time to vary the service fee with effect from the next anniversary date. GBS shall advise the customer in writing prior to any variation 120 days prior to the anniversary.

### 6. TITLE

- 6.1 GBS shall retain full ownership of and title to all goods delivered to the Company or any part thereof unless and until the Company has paid all sums owing to GBS. GBS transfers no title to or ownership in goods comprising software (or any other software) to the Company or any third party.
- 6.2 While any amount remains outstanding to GBS from the Company.
  - 6.2.1 The Company will deliver up or have delivered up to GBS goods upon demand and GBS may without limiting any other rights or remedies available to it at law in equity or by statute seize repossess and/or resell goods at its discretion and in the exercise of such rights GBS may enter any premises in working hours in which it reasonably believes from time to time any goods are located;
  - 6.2.2 The Company may only sell transfer or otherwise dispose of the goods to its customers in the ordinary course of its business and in accordance with provisions of these conditions;
  - 6.2.3 Where the Company is paid by or on behalf of any customer or shall receive the proceeds of any insurance claim in respect of any goods it shall pay such proceeds to GBS as soon as reasonably practicable to do so after receipt until GBS is paid in full and shall hold the same as trustee for GBS and keep a separate account of all such proceeds for such purpose;
  - 6.2.4 The Company shall take all due care (or ensure that all due care is taken) of the goods and the Company shall bear the sole liability for insurance of the goods and shall indemnify GBS for any loss whatsoever suffered or incurred by GBS arising out of any failure to insure such goods.

### 7. WARRANTY

- 7.1 Subject to the limitations upon its liability set out in this Clause 7 GBS warrants to the Company that the goods will for a period of 12 months from the date of their delivery to the Company's premises be free from defects in or arising from design materials workmanship delivery or installation.
- 7.2 The Company shall give notice to GBS as soon as it is reasonably able upon becoming aware of a breach of warranty.
- 7.3 GBS shall as soon as it is reasonably able investigate any alleged breach of warranty and in the case of a breach of warranty falling within Clause 7.1 shall remedy the same free of charge by:
  - 7.3.1 carrying out such repairs modifications or alterations to the goods; and/or
  - 7.3.2 replacing the goods or such component parts as it shall in its absolute discretion think fit
- 7.4 The obligations of GBS under Clause 7.3 above shall be discharged between the hours of 9.00am to 5.30pm Monday to Friday (Bank and other Public Holidays excepted).
- 7.5 Subject to the foregoing and with the exception of the conditions and warranties implied by Section 12 of the Sale of Goods Act 1979 all conditions warranties terms and undertakings express or implied statutory or otherwise in respect of the goods are hereby excluded.
- 7.6 The following provisions set out GBS's entire liability (including any liability for the acts and/or omissions of its employees agents and sub contractors) to the Company in respect of:
  - 7.6.1 any breach of its contractual obligations arising under this Agreement; and
  - 7.6.2 any representation statement or tortious act or omission including negligence arising under or in connection with this Agreement.
- 7.7 Any act or omission on the part of GBS or its employees agents or sub contractors falling within Clause 7.6 above shall for the purpose of this Clause 7 be known as an "Event of Default".
- 7.8 GBS's liability to the Company for:
  - 7.8.1 Death or injury resulting from its own or that of its employees agents or sub contractors negligence; and
  - 7.8.2 All damage suffered by the Company as a result of the implied statutory undertakings to the title quiet possession and freedom from incumbrances shall not be limited.
- 7.9 Subject to the limits set out in Clause 7.10.1 below GBS shall accept liability to the Company in respect of damage to the tangible property of the Company resulting from the negligence of GBS or its employees agents and sub contractors.
- 7.10 Subject to the provisions of Clause 7.8 above GBS's entire liability in respect of any Event of Default shall be limited to damages as follows:
  - 7.10.1 one million pounds in the case of an Event of Default falling within Clause 7.9 above; and

- 7.10.2 the purchase price of any particular component of the goods in the case of any other Event of Default.
- 7.11 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise only to one claim under this Agreement.
- 7.12 The Company hereby agrees to afford GBS not less than 28 days in which to remedy any Event of Default hereunder.
- 7.13 Except in the case of an Event of Default arising under Clause 7.8 above GBS shall have no liability to the Company in respect of any Event of Default unless the Company shall have served notice of the same upon GBS within one year of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.
- 7.14 Nothing in this Clause 7 shall confer any right or remedy upon the Company to which it would not otherwise be legally entitled.
- 7.15 The Company acknowledges that software products are by their nature susceptible to imperfections in operation and subject therefore to the foregoing provisions of this Clause 7 no warranty is given in relation to software products.

## 8 RETURNS AND TRADE IN OFFERS

- 8.1 All goods shall be deemed accepted unless rejected by notice in writing to GBS within 7 days of delivery or collection of the goods. Any such notice shall give detailed reasons for such rejection.
- 8.2 Any payment, credit or refund following return of such rejected goods to the company shall only be given once the same has been received by GBS from manufacture, supplier or insurer as the case may be.
- 8.3 Before returning any goods which have been rejected in accordance with clause 8.1 the Company shall comply with GBS returns procedure and in particular but with out limitation shall obtain from GBS a designated returns label which will contain an identification number and which shall be affixed by the Company to the packaging of the goods to be returned in a prominent position. The issue of the return label is solely for administrative purposes and shall not be taken as an admission of any fault and/or liability whatsoever on the part of GBS in relation to the goods being returned.
- 8.4 No goods shall be returned without GBS prior approval and GBS reserves the right to repair goods rather than accept their return.
- 8.5 Where goods are returned in connection with a trade-in offer from the manufacturer GBS will accept such goods as agent for the Company at the Company's risk and expense.

## 9 PRODUCT CHANGES

- 9.1 GBS will use its reasonable endeavours to inform the Company of any alterations made by the manufacturer to the specification of goods.
- 9.2 GBS shall be entitled to substitute an alternative product of equivalent functionality and at the same price or to cancel any orders for goods which have been declared end of life by the manufacturer subject to customers agreement.

## 10 TRADEMARKS, PATENTS AND COPYRIGHTS

- 10.1 The Company recognises the manufacturers ownership of and title to all trademarks, service marks, trade names, patents, copyright and intellectual property rights.
- 10.2 The Company will take no action to violate, obliterate, remove, alter, conceal or misuse any such marks, trade name or copyright notice.
- 10.3 The Company will promptly notify GBS if it becomes aware of any infringement of such intellectual property rights by any third party and shall provide its reasonable assistance to GBS and/or the manufacturer in connection with any resultant proceedings.

## 11 CONFIDENTIAL INFORMATION

- 11.1 GBS may from time to time impart to the Company certain confidential information of a commercially sensitive or technical nature and the Company hereby agrees that it will use such information solely for the purpose of this Agreement and that it shall not disclose such information whether directly or indirectly to any third party.

## 12 SOFTWARE LICENSING

- 12.1 GBS shall grant to the Company only such rights in connection with any goods that are software and the copyright and other intellectual property rights relating thereto as it shall be licensed to grant pursuant to the terms upon which GBS is licensed by the owner thereof. The Company shall only be entitled to sub-license such software to its end user customers using the standard form license supplied by GBS.

## 13 EXPORT CONTROLS

- 13.1 The Company acknowledges that the goods may be subject to U.S. and local government export controls. Where these apply it is the Company's sole responsibility to obtain authorisation from the appropriate authorities before re-exporting the goods from the country of purchase.

## 14 SEVERABILITY

- 14.1 If to the extent that any provision or any part of these conditions is deemed to be illegal void or unenforceable for any reason then such provision or part thereof (as the case may be) shall be deemed to be severed from the remaining provisions or parts of the relevant provisions (as the case may be) all of which remaining provisions shall remain in full force and effect.
- 14.2 In particular, should any limitation of GBS liability contained in these conditions be held to be illegal void or unenforceable under any applicable statute or law it shall to that extent only be deemed severed herefrom, but, GBS thereby becomes liable for any loss or damage, such liability shall be subject to all other relevant limitations contained in these conditions.

## 15 RECORDS

- 15.1 The Company shall maintain complete and accurate records of all goods sold or returned or traded in and the names and addresses of all persons to whom software has been sub-licensed.
- 15.2 The Company shall provide such activity reports in connection with the sale and sub-licensing of goods as GBS shall reasonably request from time to time.

## 16. FORCE MAJEURE

- 16.1 GBS shall not be liable to the Company on any account whatsoever in the event that GBS is prevented from fulfilling its obligations hereunder due in whole or in part of an event of force majeure which expression shall mean:
- 16.2 Act of god, fire, flood, storm, power failure, reduction of power supplies, mechanical failure or lack or shortage of materials or stock or any other circumstance beyond the reasonable control of GBS; and whether or not within GBS control, strikes, lock-outs or disputes in relation to GBS or any other party or any action taken by GBS in connection therewith in consequence or furtherance thereof.
- 16.3 In such an event GBS may at its option either suspend performance or cancel the contract in question or so much of it as remains unperformed without liability for any loss and without prejudice to GBS rights to receive payment of the price of all goods previously delivered.

## 17. CONFIGURATION

- 17.1 GBS will configure and install goods to the specification provided by GBS at the time of proposal or quotation at such rates as it notifies to the Company from time to time.
- 17.2 GBS will use reasonable care and skill in performing such installation/configuration and will perform such services within a reasonable time.
- 17.3 In the event the Company changes the specification for such installation/configuration GBS reserves the right to require payments for implementing such changes at rates notified to the Company from time to time.

## 18. GENERAL

- 18.1 All goods are manufactured for standard commercial uses and are not intended to be sold or licensed for use in critical safety systems or in nuclear facilities, other nuclear applications, mass transportation and aviation applications.
- 18.2 The Company may not assign or transfer any of its rights, duties and obligation without the written consent of GBS.
- 18.3 This agreement sets forth the entire agreement between the parties and supersedes and cancels all prior communications, representations, warranties and agreements whether oral or written between the parties other than the order and related correspondence.
- 18.4 Failure by GBS to enforce any of the terms of this agreement will not be constructed as a waiver of any of its rights.
- 18.5 If the customer is more than one person all agreements and undertakings on the part of the customer contained herein shall be joint and several.

## 19. LIABILITY

- 19.1 GBS shall not in any circumstances whatsoever be liable for indirect or consequential loss including but not limited to loss of profits, loss of data or use and shall have no liability for any claim based upon the combination or use of any goods with equipment, data or programming not supplied by GBS or based upon a modification of the goods.
- 19.2 The Company may not assign or transfer any of its rights, duties and obligations without the written consent of GBS.
- 19.3 The relationship between the Company and GBS shall be as buyer and seller and nothing contained herein shall be deemed to create a partnership or agency.
- 19.4 The parties shall indemnify each other and keep each other indemnified against any liability claims costs proceedings loss or damage caused by any negligent act or omission or willful misconduct of the customer, its employees, agents or sub-contractors.
- 19.5 GBS will be liable to the customer for death, personal injury and direct physical damage to the property at the location to the extent it is caused by the negligence of GBS or its employees acting in the course of GBS business. Apart from the foregoing, GBS shall not be responsible for any loss, expense or damage of any kind howsoever caused arising directly or indirectly from any failure in the equipment or from the use thereof. If GBS provide maintenance or servicing for the machine, whether pursuant to this agreement or otherwise, it will use its best endeavours to do so with the minimum of delay, nevertheless delay in providing the maintenance or service will not constitute a breach of agreement, and GBS shall not be liable for any loss or damage, direct or indirect arising therefrom.

## 20. TERMINATION

- 20.1 This agreement may be terminated:
- 20.1.1 forthwith by GBS if the Company fails to pay any sum due hereunder within 30 days of the due date therefor;
- 20.1.2 forthwith by either party if the other commits any material breach of any term of this Agreement (other than one falling within 20.1.1 above) and which (in the case of a breach capable of being remedied) shall not have been remedied within 28 days of a written request to remedy the same; and
- 20.1.3 forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a Voluntary Arrangement within either Part 1 or Part VIII of the Insolvency Act 1986 or any proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or if a Trustee Receiver Administrator Receiver or similar officer is appointed in respect of all or any part or parts of the business or assets of the other party or if a petition is presented or an meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up or the other party or for the making of an Administrative Order (otherwise than for the purpose of an amalgamation or reconstruction);
- 20.1.4 forthwith by the Company if GBS shall fail to comply with the terms of a notice served upon it by the Company pursuant to the provisions of Clause 4.2.2 above.
- 20.2 Any termination of this Agreement pursuant to this Clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

## 21 STAFF

- 21.1 Neither party will at any time during the continuance of this agreement or within 6 months thereafter solicit or entice away or employ any employee of the other party or attempt to solicit or entice away or employ any employee of the other party.

## 22 LAW

- 22.1 These conditions shall be construed according to the laws of England and the Company and GBS submit to the non-exclusive jurisdiction of the English courts in connection with any dispute or proceedings arising out of any contract incorporating these conditions.
- 22.2 All charges payable hereunder are exclusive of Value Added Tax which shall be paid by the customer at the rate and in the manner for the time being prescribed by law.

23. **DOMAIN NAME REGISTRATION AND WEB HOSTING**

23.1 GBS acts as the Customer's agent in dealing with the Naming Authority for domain name registration and WEB hosting purposes.

23.2 The contract for registration is between the Customer and the Naming Authority and/or the WEB host is subject to the Naming Authority's and/or WEB Host's standard terms and conditions of supply – a copy of which has already been supplied to the Customer or will be supplied to the Customer by GBS on request.

23.3 GBS cannot guarantee that any requested domain name will be registered by the naming authority and the Customer must not assume registration has been effected until the Customer receives specific confirmation in writing of such registration either from GBS or from the Naming Authority.

24.4 GBS gives no warranty that the domain name requested by the Customer will not

infringe the rights of any third party and the Customer agrees to indemnify and keep indemnified GBS against any claim, cost, damages awarded or liability made or directed against GBS arising out of registration and/or use of its chosen domain name.

23.5 The customer agrees with GBS that it shall have no claim against GBS for loss of turnover, sales, revenue, profits or indirect consequential or special loss arising out of registration, non-registration or use or in any way in connection with the domain name or its hosting.

23.6 The Customer agrees to indemnify and keep indemnified GBS against any costs, claims, damages awarded or liability made or directed against GBS arising from the content of the Customers web sites.

23.7 It is the Customers responsibility to renew the registration of the Domain Name as and when such registration is due for renewal

# Gower Business Systems Ltd

## Maintenance Contract

**1. THE CONTRACTED SERVICE**

- 1.1 In providing the contracted service Gower Business Systems Limited will use reasonable endeavours to maintain the equipment in good operating condition in accordance with the manufacturer's specification and recommendations.
- 1.2 Gower Business Systems Limited, unless otherwise agreed, will use their best endeavours to attend within the response time of 8 working hours by telephone or site visit but this is not guaranteed.
- 1.3 The agreement will cover any number of emergency calls, all labour, travel, fares, workshop repairs (should the scheduled equipment require extended workshop attention), all replacements for worn or defective parts excluding consumable items such as toner, drum unit, paper, ink, ribbons, print wheels, magnetic media, print heads, platen and feed rolls. Any parts removed shall become the property of Gower Business Systems Limited.
- 1.4 The services provided under this agreement will be provided during Normal Business Hours (meaning between 9.00 hrs and 17.00 hrs Monday to Friday excluding statutory and bank holidays). If the customer requires services to be provided outside of Normal Business Hours and Gower Business Systems Ltd agrees to provide such services then the cost of supply of these services is not included in this Support Agreement and will be charged for and invoiced separately. The Customer agrees to discharge such invoices within 30 days of receipt of the same.
- 1.5 Gower Business Systems Limited may at its discretion temporarily provide a unit in substitution for any part of the hardware which has failed or is malfunctioning.

**2. RESPONSIBILITIES OF THE CUSTOMER**

- 2.1 The Customer shall ensure that the equipment is kept and used only by competent personnel in a normal and proper manner and in accordance with the recommendations of the manufacturer and or Gower Business Systems Limited.
- 2.2 The Customer shall give Gower Business Systems Limited full and unrestricted access during normal working hours to inspect and maintain the equipment and shall provide safe and suitable working conditions in each location for Gower Business Systems Limited service engineers.
- 2.3 The Customer shall maintain a back-up record of data adequate for its needs should any data held in the equipment be lost or corrupted.
- 2.4 The Customer shall ensure that proper environmental conditions are maintained for the hardware and shall maintain in good condition the accommodation of the hardware, the cables and fittings associated therewith and the electricity supply thereto.
- 2.5 The Customer shall ensure that no alterations, repairs, maintenance or adjustments are made or attempted to be made to the equipment other than by a Gower Business Systems Limited Engineer.
- 2.6 The Customer shall not make any addition or any modification to the hardware without Gower Business Systems Limited prior written consent. Such consent shall not be unreasonably withheld.
- 2.7 The Customer shall not move the hardware nor remove the hardware from the installation site without Gower Business Systems Limited prior written consent.
- 2.8 The Customer shall make available to Gower Business Systems Limited such programs including releases and updates, operating manuals and information as may be necessary to enable Gower Business Systems Limited to perform its obligations hereunder and shall if requested by Gower Business Systems Limited provide staff familiar with the Customer's programs and operations, which staff shall upon request provide written descriptions of any failure or malfunction and co-operate fully with Gower Business Systems Limited personnel in the diagnosis of any malfunction of the hardware including the performance of such tests as Gower Business Systems Limited personnel may require.
- 2.9 The Customer shall make available to Gower Business Systems Limited free of charge all facilities and services reasonably required by Gower Business Systems Limited to enable Gower Business Systems Limited to perform the services.
- 2.10 The Customer shall at all times keep a record of all hardware and software used in a form to be approved by Gower Business Systems Limited and allow Gower Business Systems Limited to inspect such record at all reasonable times.
- 2.11 The Customer shall insure any substitute units supplied pursuant to Clause 1.3 and 1.5 to their full replacement value with a reputable insurance company and indemnify Gower Business Systems Limited for any loss or damage suffered by Gower Business Systems Limited as a result of loss or of damage to such units.

**3. ELIGIBILITY FOR SUPPORT**

- 3.1 In order to be eligible for support under this hardware service agreement, the system must:-
  - have been installed by Gower Business Systems Limited and be unmodified, properly maintained and operated according to Gower Business Systems Limited specifications and must be in good operating condition.
  - or have been purchased from a reputable manufacturer or authorised agent less than three months prior to placing under the service agreement.
- 3.2 If the system does not meet the above criteria Gower Business Systems Limited may examine and test the system to ascertain its eligibility for support prior to the provision of the service. If the system is ineligible for support or is not operational at the time of commencement of this agreement, any reasonable repairs, modifications and adjustments which Gower Business Systems Limited determine to be necessary shall be made by Gower Business Systems Limited and charged to the customer at Gower Business Systems Limited current time and materials rate.

**4. EXCLUSIONS**

- 4.1 The obligation on the part of Gower Business Systems Limited to provide the services shall not apply where:-
  - (i) Modification to the hardware, the software, the firmware or related documentation has been made by anyone other than Gower Business Systems Limited.
  - (ii) Hardware not approved by Gower Business Systems Limited has been attached to the system.
  - (iii) The system has been used outside the specifications laid down.
  - (iv) The customer has failed to notify Gower Business Systems Limited of any defect or suspected defect in the system as soon as reasonable the same comes to the knowledge of the customer.
- 4.2 For the avoidance of doubt, the services do not include the following non-exhaustive list of items:-
  - (i) Electrical work external to hardware
  - (ii) Work requested by the customer for rearrangement including without limitation providing additional wiring, moving cabling, relocating the hardware or repairing a previously prepared site to make it operational.
  - (iii) Adding or removing accessories, attachments or other devices.
  - (iv) Refurbishment or repair of the hardware casing.
  - (v) The provision of consumable items or such other items whose serviceable lives are defined by the original manufacturer of the equipment by reference to the volume or amount of usage of the equipment.
  - (vi) The repair of damage resulting from accident, transportation, neglect or misuse, lightning, failure or fluctuation of electrical power, air conditioning or humidity control, telephone line failure, failure of foreign interconnecting equipment, operator error or causes arising other than as a result of ordinary use.
  - (vii) The maintenance or support of software, including Windows Versions 3 to 2000, NT Server, Exchange Server, Small Business Server or MS Office products unless purchased under category C of the Customer Care Plan.
  - (viii) Workshop overhauls or rebuilding work.
  - (ix) External Leads, cables and plugs.
  - (x) Software or Hardware fixes or services designed to make systems Year 2000 Compliant
  - (xi) Problems caused by Viruses, worms, spy ware or other malicious attacks.
- 4.3 Gower Business Systems Limited shall have no obligation to provide these services outside Gower Business Systems Limited normal business hours specified in Clause 1.4 unless otherwise specified. overleaf.
- 4.4 Gower Business Systems accepts no responsibility for the loss of data due to backup failure. It is the customers responsibility to ensure their backups are taken and verified.
- 4.5 Gower Business Systems accept no responsibility for the loss of e-mails, faxes or loss of business due to the loss of e-mails or faxes whether transmitted or received.

Signed on behalf of  
Gower Business Systems Limited



Title ...M Bowling.....

Date ....22 November 2006.....

Signed on behalf of

Title .....

Date

