

# PART III

## CUSTOMISED SOFTWARE MODULES AND EXTENSIONS

### 1. Additional Facilities and Features

Where the Client has required that additional functionality be included beyond the features available in the Standard Software covered in Part IV of the Agreement, this requirement may be expressed in this part of the Agreement as an outline requirement for which a fixed charge for preparation of a detailed specification is agreed; alternatively, where an agreed specification already exists or the change is agreed to be simple to implement, a fixed charge is quoted for the complete customisation or system extension including its integration with Standard Software and deployment in the Client's Environment. In either case the charges for particular changes identified at date of this Agreement are set out in Schedule A.

### 2. Development and Testing

2.1 The Provider will apply reasonable skill and care in the development of agreed changes and extensions and will be responsible for initial program testing of such work. Acceptance testing of new features or changes will be the responsibility of the Client to ensure that they work in accordance with the Specification and that no unintended side-effects take place in the wider operation of the Systems.

2.2 Liability for payment for changes completed and tested by the Provider will commence immediately upon delivery of the Software to the Client for acceptance testing and acceptance sign-off by the Client who will authorise and permit the Provider to promote and integrate the new Software with live running systems at the Client's Site, but failure to sign-off and implement changes will not remove the Client's liability

for payment for the work done, except where it is proven by the client through demonstrable major faults that the software as delivered does not do the tasks defined in the specification prepared by the supplier for the work, and it is further accepted by the supplier that the defects reported are not capable of being corrected within 30 days or such other time period accepted as reasonable by both parties for the circumstances of the problem and corrections.

2.3 The Client acknowledges that the Software cannot be tested in every possible combination and operating environment, and that it is not possible to produce economically (if at all) computer programs known to be error-free or which operate in an uninterrupted manner. Accordingly the Provider does not warrant that the Client or any other third parties will be able to use the Software at any particular time and the Client agrees that the Provider shall have no liability to the Client if any such persons are not able to use the Software for any given period of time.

### 3. Maintenance and Upgrades

3.1 No guarantee can be given by the Provider that particular changes and extensions will continue to work with all possible future releases of Third Party Software either utilised to develop the change or to interface with them. Rapid changes in technology may make it possible to implement the Software changes in different or improved ways but which may not be compatible with the Initial Development.

3.2 The Provider agrees to offer the Client a confirmed charge and time period for which the charge or extension will be maintained without further charge; unless otherwise specified in Schedule A the fee for this service is twenty-five per cent of the fee for the Initial Development renewable by agreement every twelve months.

#### 4. Intellectual Property Rights

4.1 The Client acknowledges that any and all of the Intellectual Property Rights created, developed, subsisting or used in or in connection with the Software are and shall remain the sole property of the Provider or the third party Licensor (as applicable). The Client shall not during or at any time after the completion, expiry or termination of this Agreement in any way question or dispute the ownership by the Provider or Licensor of such Intellectual Property Rights.

4.2 In the event that new inventions, designs or processes evolve in performance of or as a result of this Agreement, the Client acknowledges that they shall be the exclusive property of the Provider.

4.3 The Client shall indemnify the Provider on a full indemnity basis against all liabilities, costs and expenses which the Provider may incur as a result of work done in accordance with the Client's requirements and the Client's contribution to the Specification involving infringement of any copyright, trade or service mark database right, patent, breach of confidence or any other proprietary right.

4.4 The Client agrees to take all reasonable precautions to protect the Provider's Intellectual Property Rights.

4.5 The Client agrees to follow all reasonable instructions as the Provider or Licensor (as applicable) may give from time to time with regard to use of trade marks and other indicators of the property and rights of the Provider or Licensor (as applicable) in the Software.

#### 5. Software Licence

5.1 In consideration of the payment by the Client of the charges set out in Schedule A, the Provider hereby grants to the Client on the following terms and conditions, a non-transferable and non-exclusive licence to use the Software [and Software Documentation] solely for its own internal business purposes by or on the permitted number of users, concurrent users, terminals or servers (as applicable) specified in Schedule A.

5.2 The Licence is for an initial term of 12 months, renewable on payment of the annual charges set out in Schedule A.

5.3 The Client undertakes to:

5.3.1 use the Software only on the Client's Environment;

5.3.2 use the Software exclusively for its own internal and business purposes (for the avoidance of doubt, excluding those of its Associated Companies) and not permit any third party to use the Software in any way whatsoever, not to use the Software on behalf of or for the benefit of any third party in any way whatever (such as using the Software for the purpose of providing a bureau or other remote service for third parties);

5.3.3 effect and maintain adequate security measures to safeguard the Software from access or use by any unauthorised person;

5.3.4 make no copies of the Software except incidental to normal use of the Software on the System and such copies of the Software as are necessary for the purpose of back-up and operational security;

5.3.5 make no alteration to or modification of the whole or any part of the Software nor permit the Software or any part thereof to be combined with or become incorporated in any other programs, nor

decompile or disassemble the object code version of the Software nor attempt to do any of such things, save only according to the extent that such cannot be precluded by section 296A of the Copyright, Designs and Patents Act 1998;

5.3.6 if and when the Provider provides any updated or upgraded version(s) of the Software in accordance with Part V Clause 2, to replace the current version of the Software with the updated or upgraded version forthwith on receipt and to (at the Provider's direction) return the previous version to the Provider or destroy the previous version and certify in writing to the Provider that this has been done

## PART III SCHEDULES

### SCHEDULE A: SPECIFIC CUSTOMISATION AND EXTENSIONS OF SOFTWARE

#### A. Data Migration and Implementation\*

Charge to specify, develop and program test: rates	per diem at project basis
Charge for annual support and upgrade:	not applicable

#### B. Custom Forms for Special Stationery/Layouts\*

tbi

#### C. Management and Operational Reports\*

Charge to specify, develop and program test:	not applicable
Charge for annual support and upgrade:	not applicable

NB: Reports developed by Atlas for Client in Crystal and SRS are specifically excluded and those developed in Omnis are included provided specified in E below.

#### D. Custom Modifications to Standard Software Operation\*

Not applicable

#### E. Custom Systems – Front-Ends, Back-Ends, Inter-System Bridges\*

Charge to specify, develop and program test:	not applicable
Charge for annual support and upgrade:	not applicable
Charge to specify, develop and program test:	not applicable
Charge for annual support and upgrade:	not applicable

\* Unless otherwise stated explicitly to be Fixed Price (“FP”) the man day and cost estimates included above are provisional best estimates of development time based on current understanding/concept of requirements and subject to confirmation on completion of consultancy/functional specifications. Variation of up to minus 15 per cent to plus 20 per cent is likely for individual items.