FUNCTIONAL
SOFTWARE

SOFTWARE LICENCE AGREEMENT

STANDARD TERMS AND CONDITIONS

1. DEFINITIONS

1.1 In this agreement the following words and expressions have the meaning stated in this clause:

Annual Maintenance Fee means the maintenance fee payable each year in relation to the Software installed on its Designated Processors as specified in the Software Schedule for the provision of Maintenance and Support Services.

Designated Processors means the host details specified in the Software Schedule.

End User means the organisation licensed to use the Software under the terms and conditions of this agreement.

Functional means Functional Software Pty Ltd or its licensors.

Initial Period means twelve (12) months commencing on the day on which the Warranty Period expires.

Licence Fee means the Licence Fee payable in relation to the Software specified in the Software Schedule.

Maintenance and Support Schedule means the maintenance and support schedule attached to this agreement.

New Release means software produced primarily to extend, alter or improve the Software by providing additional functionality or performance enhancement while still retaining the original purpose of the Software.

Renewal Period means a twelve (12) month period commencing after the completion of the Initial Period or previous Renewal Period.

Software means each software module specified in the Software Schedule in relation to the Designated Processor.

Software Installation Date means the date of delivery of the Software to the End User.

Software Schedule means the software schedule pursuant to this agreement.

Transfer Fee has the meaning given in clause 7.2.

Update means an update to the current release of the Software, which is designed to improve the reliability of the Software.

User Documentation means the supporting documentation provided by Functional, as updated by Functional from time to time.

Warranty Period in relation to Software means a period of thirty (30) days from the Software Installation Date.

1.2 In this agreement, unless the context otherwise requires:

(a) headings are for convenience only and do not affect the interpretation of this agreement;

(b) the singular includes the plural and vice versa;

(c) a reference to a party includes its successors and assignees;

(d) all references to dollars, $, cost, value and price are to Australian currency; and

(e) a reference to this agreement includes the Software Schedule and Maintenance and Support Schedule.

1.3 The provisions of this agreement apply to all Updates and New Releases as if they were part of the Software.

2. LICENCE GRANT

2.1 Functional grants a non-exclusive, non-transferable, perpetual licence to the End User to use the Software and User Documentation on the terms of this agreement.

2.2 Subject to clause 7.1, the End User must only use the Software in object code form and only on the Designated Processor.

2.3 The End User must not:

(a) sub-license or otherwise provide the Software or User Documentation either directly or indirectly to any third party;

(b) reverse engineer or decompile the whole or any part of the Software, or

(c) create or attempt to create the source code or any part thereof from any of the Software or User Documentation or from other information made available under this agreement or otherwise.

2.4 The End User may make copies of the Software for the purpose of backup, disaster recovery and system archives.   Each copy must contain all legends and notices and will be subject to the same conditions and restrictions.

2.5 The End User must use the Software and User Documentation for End User's internal business purposes only, unless prior written consent is obtained from Functional.

3. OWNERSHIP

3.1 End User acknowledges that it has no rights of ownership in the Software or User Documentation.

3.2 All right, title and interest in the Software and User Documentation, including all modifications, enhancements or adaptations to the Software updates, are and remain the property of Functional or its licensors.

3.3 This agreement applies to the Software as modified, enhanced or altered.

4. LICENCE FEES AND LICENCE KEYS

4.1 On the Software Installation Date, Functional will provide the End User with a temporary licence key for 30 days.

4.2 End User must pay Functional the Licence Fee within thirty (30) days of the Software Installation Date.

4.3 Functional will issue permanent Licence Keys when

(a) The Licence Fee has been paid; and

(b) A Licence Agreement has been executed.

5. WARRANTIES

5.1 Functional warrants that the Software will conform to Functional's specifications during the Warranty Period.

5.2 In the event that the Software does not comply with the warranty provided in clause 5.1, the End User's sole remedy is the provision of services in accordance with the Maintenance and Support Schedule at no additional cost to the End User.

5.3 The End User acknowledges that it has inspected the specifications of the Software and that it relies on that inspection and its own skill and judgement as to the utility of the product for the purposes to which it intends to apply it.

5.4 Functional does not warrant that:

(a) the Software is free from defects or errors or that all Software defects will be corrected;

(b) performance of the Software will be uninterrupted;

(c) the Software will meet End User's requirements or be fit for any particular purpose.

6. MAINTENANCE AND SUPPORT SERVICES

6.1 In consideration for the payment of the Annual Maintenance Fee, Functional will provide Maintenance and Support Services to the End User as specified in the Maintenance and Support Schedule, in relation to the specified Software on the Designated Processor for the Initial Period and each Renewal Period, unless the End User terminates the provision of Maintenance and Support Services in accordance with clause 6.3.

6.2 The Annual Maintenance Fee for the Initial Period must be paid before the expiry of the Warranty Period and each subsequent annual payment must be paid before the commencement of each Renewal Period.

6.3 The End User may only terminate the provision of Maintenance and Support Services in relation to a Renewal Period by giving not less than 60 days written notice before the commencement of that Renewal Period.

6.4 The End User acknowledges that Functional may increase the Annual Maintenance Fee payable in relation to Renewal Periods, but in no event shall such an increase exceed the increase in the Consumer Price Index in the preceding twelve (12) month period.

7. TRANSFER OF LICENCE

7.1 Notwithstanding clause 2.2, the End User may transfer the use of the Software from the Designated Processor to a different processor (which will there upon become the "Designated Processor") provided that:

(a) the transfer is made within a five (5) year period from the Software Installation Date;

(b) the End User has a then current entitlement to Maintenance and Support Services in accordance with clause 6; and

(c) the End User pays the Transfer Fee.

7.2 The Transfer Fee will be based on Functional's then current licence fee for use of the Software on the designated processor to which the End User seeks to transfer the Software less an applicable transfer credit calculated in accordance with Functional's licence transfer policy from time to time.

8. INDEMNIFICATION FOR INFRINGEMENT

8.1 Functional warrants that the Software does not infringe any copyright of any third party.

8.2 Functional shall indemnify the End User against any liability under final judgement in proceeding brought by a third party against End User determining that the End User's use of the Software in accordance with this agreement constitutes an infringement of the third party's copyright.

8.3 Functional will only be liable under clause 8.2 if End User:

(a) notifies Functional within thirty (30) days as to any such action;

(b) gives Functional the option to conduct the defence of the claim, including negotiations for settlement or compromise before the institution of legal proceedings;

(c) provides Functional with full information and reasonable assistance in conducting the defence of the claim;

(d) permits Functional to modify, alter or substitute the Software at its own expense, to render it non-infringing; and

(e) authorises Functional to procure for End User the authority to continue the use and possession of the Software.

8.4 Functional will not be liable to indemnify End User under clause 8.3 if the infringement arises from:

(a) modification or alteration of the Software without the prior consent of Functional or by a person other than Functional; or

(b) any transaction entered into by End User in breach of this agreement or relating to the Software without Functional's prior consent.

8.5 End User indemnifies Functional against any loss, cost, expense or demand, whether direct or indirect, arising out of the claim by a third party alleging infringement of that person's intellectual property rights, including copyright, if:

(a) the claim arises from any event specified in clause 8.4; or

(b) the ability of Functional to defend a claim has been prejudiced by the failure of End User to comply with its obligations under clause 8.3; or

(c) information provided to Functional by End User to enable Functional to develop, modify or alter the Software encroaches on the intellectual property rights of the third party.

8.6 In defence or settlement of any claim, Functional may, at its option and expense:

(a) obtain for End User a licence to continue to use the Software;

(b) substitute or modify the Software so that it becomes non-infringing; and/or

(c) grant the End User a credit, less a reasonable amount for End User's use of the Software.

8.7 Notwithstanding any other provision in this clause 8, in the event of a settlement of any claim, Functional shall not be responsible for any settlement reached without Functional's prior written consent.

8.8 This clause 8 sets out the sole remedies available to End User for breach of the warranty in clause 8.1. Functional excludes all liability for breach of any other intellectual property rights.

9. LIABILITY

9.1 To the extent permitted by law, all express or implied warranties, representations, statements, terms and conditions relating to Functional and this agreement, not contained in this agreement, are excluded from this agreement.

9.2 Where a condition or warranty is implied into this agreement by a law which cannot be excluded, the liability of Functional is limited to one or more of the following at the option of Functional:

(a) in the case of supply of goods, the replacement or repair of the goods or payment of the cost of having the goods replaced or repaired; or

(b) in the case of supply of services, the supply of the services again or the

payment of the cost of having the services supplied again.

9.3 The aggregate liability of Functional to End User, whether arising from breach of contract, negligence or any other tort, in equity or otherwise and whether or not Functional was advised of the possibility of such loss or damage, is limited to fees paid to Functional under the terms of this agreement.

9.4 In no event shall Functional be liable under or relating to the terms of this agreement for any indirect, incidental, special or consequential loss or damage, loss of use, revenues, profits, goodwill, bargain or loss of opportunities, anticipated savings, loss of or corruption of data from any cause, whether arising from breach of contract, negligence or any other tort, in equity or otherwise and whether or not even if Functional was aware of the possibility of such loss or damage.

10. TERM AND TERMINATION

10.1 This agreement will commence on the Software Installation Date and will continue until such time as it terminated in accordance with this clause 10.

10.2 Either party may terminate this agreement if the other party breaches a provision of this agreement and the breach is not remedied within thirty (30) calendar days after receiving notice of the breach.

10.3 Either party may terminate this agreement immediately by giving notice to the other party if:

(a) the other party ceases to carry on business;

(b) any step is taken to enter into any scheme of arrangement between the other party and its creditors;

(c) any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of the other party's assets or business;

(d) any step is taken to appoint a receiver, a receiver and manager, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of the other party's assets or business;

(e) the other party ceases to be able to pay its debts as they become due.

10.4 Termination of this agreement will not affect the accrued rights or remedies of either party.

11. FORCE MAJEURE

11.1 Neither party shall be liable for non-performance or delays from causes beyond its reasonable control (except the obligation to pay fees under this agreement) including but not limited to strikes (of its own or other employees), fires, insurrection or riots, embargoes, container shortages, wrecks or delays in transportation, inability to obtain supplies and raw materials, or requirements or regulations of any civil or military authority (each being a Force Majeure Event")

11.2 In the event of a Force Majeure Event:

(a) the affected party shall notify the other in writing of such events or circumstances promptly upon their occurrence;

(b) the date of performance shall be deferred for a period equal to the duration of the Force Majeure Event; and

(c) notwithstanding clause 2.2, the End User may use the Software on a business continuity system until such time as Force Majeure Event ceases.

12. GENERAL PROVISIONS

12.1 Notices. Any notice required or permitted by this agreement to either party shall be deemed to have been duly given if in writing and delivered personally, sent by registered mail, or faxed to the Functional Representative or the End User Representative (as the case may be) at the address or on the number specified in this agreement.

12.2 Assignment. End User must not assign its rights or obligations under this agreement without the prior written consent of Functional. Functional may assign its rights or obligations under this agreement at any time by notice to the End User.

13. ENTIRE AGREEMENT

This agreement sets forth the entire agreement and understanding between the parties as to the subject matter of this agreement and merges all prior discussions between the parties.

14. GOVERNING LAW AND SEVERABILITY

This agreement shall be governed by and construed in accordance with the laws in force in the State of New South Wales, Australia and each party submits to the exclusive jurisdiction of the courts of this State.