

Purpose

The purpose of this Agreement is to regulate the terms and conditions for the Supplier's supply of its system GuardTools® and therewith Associated Services such as support and consultancy services, to the Customer.

Definitions

Unless the context or circumstances clearly indicate otherwise, the following words and expressions shall have the meanings stated below.

Consultancy Service: Associated Services which are delivered in connection with the delivery of the System, such as implementation assistance and training etc.

Customer: the Agreement comprises the Customer and (future) subsidiaries in which companies the Customer, directly or indirectly, owns more than 50 %.

Customer's Data: means the entire Customer's data which the Customer processes in the System.

Modules: means a part of the Software containing a compilation of functions in order to support a well-defined area.

Software: GuardTools® Office, GuardTools® Mobile, GuardTools® Android, GuardTools® Web including server software for GuardTools®, in their current and future versions.

Source code: the programming code that the Software is constructed of.

Subscription Period: the agreed period of time during which the Customer is entitled to use one User License. Different Subscription Periods may apply to different User Licenses.

System: means the System provided by the Supplier to the Customer under this agreement, including the Software, the database structure and all results of the Supplier's performance of Associated Services to the Customer.

System License: means the agreed right of use to the System and Software in the Customer's business according to the terms of this agreement.

Term of Agreement: the agreed term for the validity of the Customer's right of use to the System and Software.

User License: means each individual User's right to use the Software for an agreed Subscription Period.

The Supplier's general undertakings

The Supplier undertakes to deliver the System and the Associates Services in accordance with the following:

- Provide the System to the Customer for the prices agreed upon as detailed on page 1, the Quotation / Agreement.
- Provide support services in accordance with this agreement.
- Observe and adhere to the terms and conditions of this agreement.

The Customer's general undertakings

The Customer undertakes to:

- Strictly adhere to all terms and conditions that apply to the Customer's use of the System and the Software. The Customer warrants that it shall not under any circumstances violate any of the Supplier's rights, including but not limited to intellectual property rights, in the System and Software.
- Make sure that the IT environment where the System is to be installed, at the time of installation and for the duration of the Term of the Agreement, fulfills the Supplier's requirements.
- Provide designated contact persons at each location where the Supplier is expected to perform any delivery, such as installation, support, training etc.
- Provide the Supplier access to the Customer's installation of the System and Software in order to make it possible for the Supplier to provide the System maintenance and support services for the Software and System.
- Observe and adhere to the terms and conditions of this agreement.

Grant of License to the System and Software

During the term of the agreement, the Customer shall obtain a non-exclusive and non-transferable right to use the System and Software as set forth in this Agreement, for the number of Users specified therein.

Unless otherwise provided in this agreement, the Customer may only use the System and Software for its intended use and for its internal business purposes.

The Customer shall not make any copy of the System or Software or any part thereof, including but not limited to back-up copies or for security purposes, unless such copy has been expressly approved in writing by the Supplier. The Customer shall not use or allow the System or Software to be used, directly or indirectly, in any manner that would enable its affiliates, subcontractors, customers or any other person or entity to copy or use the System or Software in breach of this Agreement.

The Customer may not allow any other supplier of any type of IT services or software access to the System or Software without the Supplier's prior written consent.

The System and Software may only be used within the Customer's business and within the country of its registered principal office. The System and Software may only be used as long as the Customer purchases support and maintenance services from the Supplier.

The Customer may implement the System and Software as one part of the Customer's system solution. The parties have agreed that the Customer shall not be obligated to visually present the System or Software as a part of the Customer's complete solution in respect of its own customers.

Additional User Licenses

Orders for additional User Licenses shall be made by an authorized member of the Customer's staff via e-mail or letter. In connection with every change to the number of User Licenses, the Agreement will be updated by the Supplier and thereafter signed by the Customer.

Terms of payment

The Package:

The Customer's right to use the System and Software shall be subject to the License Fees stated in the Agreement. The package fees are charged monthly in advance.

Payment shall be made no later 30 days from the date of the invoice.

Set-Up & Training:

Associated set-up and training services are invoiced as required by the client and payment shall be made no later than 30 days from the date of the invoice.

Operations, maintenance and support

Support and maintenance:

The Supplier undertakes to provide support and maintenance in accordance with the support package purchased.

If the Customer reports an error in the System to the Supplier and it turns out that the error was not caused by any item for which the Supplier is responsible, the Customer shall compensate the Supplier for the agreed work performed in connection therewith and any potential costs, such as travel time etc.

Customer's Data

The Customer holds all rights to the Customer's Data. The Supplier may not use Customer's Data for any other purpose than the fulfilment of this agreement.

Upon termination of this agreement, regardless of the cause for termination, the Customer shall, upon request, obtain a copy of the Customer's Data in a format made available by the Supplier prior to terminating the Customer's access to the System, specifically the database and database structure.

Intellectual Property Rights etc.

All rights, including but not limited to intellectual property rights such as patents, copyright, design rights, icons, trademarks and know-how, related to the System and Software, including any source code and object code and any result created during the course of the performance of the Associated Services, are the sole property of the Supplier.

The Customer may not make any modifications and extensions to, or transfers of, the System or Software or any result derived from the Associated Services unless agreed beforehand in writing.

In the event the Supplier develops, either independently or jointly with the Customer, any modification or extension to the System or Software, such modification or extension and all rights associated therewith will be the exclusive property of the Supplier, and the Customer will not grant, either expressly or impliedly, any rights, title, interest, or licences to such modifications or extensions to any third party unless agreed beforehand in writing. The Customer shall be entitled to use such modifications and extensions developed for or with the Customer on the designated units under the terms set forth in this agreement. The Customer agrees to assign all rights, title and interest in and to jointly developed modifications and extensions to the Supplier.

The Customer agrees to execute, acknowledge and deliver to the Supplier all documents and do all things necessary, at the Supplier's expense, to enable the Supplier to obtain and secure such modifications or extensions. The Customer agrees to secure the necessary rights and obligations from relevant employees or third parties in order to satisfy the above obligations.

Through this agreement the Customer will gain actual physical access to parts of the System, such as the database structure, that are of great value to the Supplier. It is of outmost importance to the Supplier that the Customer will not make any use of the System, or parts thereof, in violation of the terms of this agreement. Specifically the Supplier wants to point out, and the Customer hereby warrants, that the Customer shall not make any use of the System which could result in the Customer itself or any other party making use of the information obtained in connection with this agreement for development of a similar or competing system. Any breach of this undertaking by the Customer may cause the Supplier irreparable damage. In case of breach of this warranty, the Customer shall be liable to pay liquidated damages is the amount of [£2 million] to the Supplier. If the Supplier's actual damage is greater than the liquidated damages paid, the Supplier is entitled to claim damages for any damage suffered in excess of such liquidated damages.

The Customer undertakes not to, for the duration of the Term of the Agreement and a period of three (3) years thereafter, engage in any activities, directly or indirectly, with the objective to develop a system which can be considered to, wholly or partly, compete with the System or the Software. In case of breach of this undertaking, the Customer shall be liable to pay liquidated damages is the amount of [£2 million] to the Supplier. If the Supplier's actual damage is greater than the liquidated damages paid, the Supplier is entitled to claim damages for any damage suffered in excess of such liquidated damages.

Development of the System and Software

The Supplier reserves the right to at any given point in time, without any prior notice to the Customer, make alterations in the Software's design, function, technical specification and content, provided that such alteration does not affect the intended use of the Software.

The Customer undertakes to, at all times, implement the latest version of the System and Software made available by the Supplier. Unless otherwise agreed such implementation of the latest version shall be completed no later than two (2) weeks after the Supplier's delivery of the new version to the Customer.

In the event the Supplier develops new versions of the Software containing one or more new Modules, the Supplier may offer such version to the Customer at an additional fee. The Customer may choose not to purchase and use such Modules, meaning that such Modules will not be available for the Customer.

Confidentiality

A Party may not, without obtaining prior written consent from the other Party, use or make available to third parties such trade secrets or other confidential information, whether oral or written or in visual, electronic or tangible form, regarding or relating to a Party which it obtains from the other Party as a consequence of this Agreement or the preparation or negotiation thereof. This duty to preserve trade secrets and other confidential information shall survive the expiration or termination of this Agreement until the information is no longer confidential. The System and Software, as well as any result or deliverable provided in relation to this agreement by the Supplier, contains trade secrets which are owned by the Supplier.

The receiving Party shall exercise at least the same degree of care in safeguarding confidential information of the disclosing Party as the receiving Party exercises in respect of its own confidential or proprietary information of like importance, inter alia by restricting the access to such information on a need to know basis within its company.

Upon the request of the disclosing Party, the receiving Party shall return all copies of and documentation containing trade secrets and confidential information of the disclosing Party to the disclosing Party within ten days of such request.

The Parties mutually recognise and acknowledge that information is not to be considered as confidential information, if:

- (i) the information is, at the moment of the communication, in the public domain or later comes into the public domain other than as a result of the breach of the obligations imposed by this Agreement by the Party in receipt of such information; or
- (ii) the information is, at the moment of communication, already known by the Party who receives it because this Party has independently developed such information or a third party has independently communicated it to the Party; or
- (iii) information which is independently communicated to the Party by a third party who did not thereby breach any obligation of confidentiality; or which is independently developed by one Party without use of information disclosed by the other party.

A Party may not, without the prior written consent from the other Party, make public the content of this Agreement.

Marketing

All external communication, such as news, press releases and other marketing activities that include the Customer's name or logo shall be approved in advance by the Customer.

Limitation of liability

The Supplier's total liability for damages under this agreement shall be limited to an amount equal to the total Package Fees for one calendar year.

The Customer acknowledges that the Supplier shall not be responsible for:

- Any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the equipment or otherwise caused by the Customer or its officers, employees, agents and contractors or any other third party not under the control of the Supplier. The Customer undertakes to indemnify the Supplier on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Supplier to comply with the terms of this Agreement.
- Failure of the Equipment to do that which it is designed and intended to do as a result of obstruction, vandalism or any other action caused by the Customer or its officers, employees, agents and contractors or any other third party whether or not they are authorized to be on the Site.
- Anything causing failure or hindering the performance of the Equipment / Software which is beyond the control of the Supplier, including but not limited to mobile network failure, signal issues and network or power disruption.

Term and termination

This agreement shall enter into force on the day both Parties have signed the agreement and shall remain in force until it expires or is terminated by either Party in accordance with this agreement. The Supplier may terminate this agreement, and thereby the System License and all User Licenses, with immediate effect if the Customer violates any material term of this agreement, after negotiations which have shown to be ineffectual. All terms and conditions regarding the right of use to the System and Software are always considered material terms of this agreement.

The Supplier may further terminate this agreement, and thereby the System License and all User Licenses, with immediate effect if the Customer is subject to major changes in ownership or management which affect the justified interests of the Supplier or if the Customer should come under the direct or indirect direction or control of any person, legal or individual, who the Supplier cannot reasonably accept as an indirect party to this agreement (such as a competitor).

This agreement is automatically terminated when all User Licenses have expired. Upon the expiration or termination of this agreement, regardless of cause, the Customer's right to use the System and Software immediately terminates and the Customer shall immediately and in accordance with the Supplier's instructions, return or destroy the System and Software. At the same time the Customer shall confirm in writing to the Supplier that the System and Software has been returned or destroyed and that the Customer does not, either directly or indirectly, in whole or in part, hold or dispose of any part of the System or the Software or any copy thereof.

Force Majeure

The following circumstances shall be considered as constituting valid grounds of exemption from liability, provided that they could not reasonably have been foreseen, namely: war, mobilisation, resurrection, riot, terrorism, governmental requisition, general strike or general lock-out, natural catastrophe, fire or any other corresponding circumstance which could not have been avoided by the use of reasonable care as well as delays by subcontractors due to any such circumstance.

Exemption from liability is subject to the party invoking force majeure giving written notice thereof to the other party without delay. Written notice shall also be given without delay when the force majeure event has ceased.

A party shall take reasonable efforts to mitigate the effect of the force majeure and continue its fulfilment of the impeded obligations as soon as practically possible.

Assignment

Neither party has the right to assign or transfer any part of its rights or obligations under this agreement without the prior written consent of the other party.

Changes and additions

Changes and additions to this agreement must be made in writing and be duly executed by the Parties.

Disputes

At all times, both parties will use their best endeavors to resolve disputes amicably.

This Agreement shall be governed by English Law and the Customer agrees to submit to the non-exclusive jurisdiction of the English Courts.