

1 Definitions and Interpretation

1.1 In these Conditions the following words have the following meanings:

“Agreement” means this agreement made between the Parties incorporating the Conditions;

“Business Day” means any day of the week except Saturday, Sunday or a bank, public or statutory holiday.

“Charges” means the Initial Charge and the Telecoms Usage Charge as calculated in PANOPTECH’s quotation

“Commencement Date” means the date upon which the Order is signed by authorised representatives of both PANOPTECH and the Customer;

“Conditions” means the details set out in these terms and conditions. Any special terms and conditions (“Special Conditions”) agreed in writing between the Customer and PANOPTECH a copy of which has been affixed to these conditions and signed by authorised representatives of each Party;

“Confidential Information” means secret or confidential commercial, financial, marketing, technical or other information, know-how, trade secrets and other information in any form or medium whether disclosed orally or in writing before or after the date of this Agreement, together with any reproductions of such information in any form or medium or any part(s) of this information (and “confidential” means that the information, either in its entirety or in the precise configuration or assembly of its components, is not publicly available);

“Documentation” means the operating manuals, user instructions, technical literature and all other related materials supplied to the Customer by PANOPTECH to assist in use of the Software;

“Goods Legislation” means any applicable statute, statutory rule, order, directive, regulation or other instrument having force of law (including any directive or order promulgated by any competent supra-national body), all British and European standards, UKAS (United Kingdom Accreditation Service) and all other legislation for the time being in force relating without limitation to the manufacture (including raw materials or chemicals used in the production process), packaging, delivery, carriage, storage, installation and use of the Goods;

“Goods” means the Hardware and Software (including any part or parts of them) and Documentation agreed in the Agreement to be supplied to the Customer by PANOPTECH;

“Message” means a single pictorial message (of no greater resolution than 768 x 540 pixels at 24 bits per pixel colour depth) transmitted using wireless cellular telephone networks and the Multimedia Messaging System protocol set by the GSM Association.

“Telephony Service” means the telephony services using PANOPTECH’s wireless cellular telephone facilities described in this Agreement to be provided to the Customer by PANOPTECH;

“Usage Charge” means the monthly charges relating to the Customer’s Message usage, taking into account, where applicable, any pre-paid Messages, and calculated in accordance with the applicable part of Section E (as indicated in Section B);

“Group Company” means any subsidiary or holding company of PANOPTECH and any subsidiary of such holding company (in each case from time to time) (and the terms “subsidiary” and “holding company” will have the meanings given to them by Sections 736 and 736A (Companies Act 1985) and “Group” will be construed accordingly;

“Hardware” means the equipment and items to be supplied to the Customer by PANOPTECH under this Agreement as listed in the relevant Section D or as part of or in conjunction with the provision of the Services;

“Initial Charge” means the figure calculated as the Initial Charge in the applicable part of Section E (as indicated in Section B);

“Initial Period” means the initial period of this Agreement as specified in the relevant part of Section D;

“Intellectual Property” means any patent, copyright (including moral rights), database right, design right, registered design, trade mark or service mark (whether registered or otherwise), domain name, know-how, utility model, unregistered design or other industrial or any other intellectual property right subsisting anywhere in the world and, where relevant, any application for protection of proprietorship of any such right;

“Licensor” means, in relation to any Software, an entity which either owns the relevant Software, or which has sufficient Intellectual Property in the relevant Software to grant the appropriate licence in the relevant Software to the Customer;

“Product” means one the PANOPTECH’s products as selected, each as more fully described in the quotation and specification;

“Service” means any service agreed in the Agreement to be provided to the Customer by PANOPTECH including without limitation the Support Services and Telephony Services. In the case of Telephony Services the terms and conditions of the Service Provider will apply to the Telephonic Services supplied to the Customer;

“Software” means the computer software products listed in the relevant sub-sections of Section D as determined by Section B and any future upgrade, new version or modification to those products acquired by the Customer during the subsistence of this Agreement;

“Support Service” means the telephone helpdesk and onsite support services as more fully described in Condition 8,

1.2 In these Conditions the words and phrases "other", "including" and "in particular" will not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.

2 Basis of Agreement

2.1 The contract between PANOPTECH and the customer will be subject to these Conditions to the exclusion of all other terms and conditions in any purchase order or other document issued by the Customer.

2.2 PANOPTECH reserves the right without liability to the Customer to make any changes in the specification of the Goods or Services which are required to conform with any applicable regulatory, statutory or EU requirements or which do not materially affect the quality or performance of the Goods or Services.

2.3 No order placed by the Customer will be deemed to be accepted by PANOPTECH, and no agreement shall be binding until the earlier of:

(a) A copy of an Agreement in this format is signed by an authorised representative of each party; or

(b) PANOPTECH have commenced performance of Services or provision of Goods to the Customer.

2.4 The Customer may only cancel an order (or any part of an order) that PANOPTECH has already accepted, with PANOPTECH’s prior agreement in writing and provided that the Customer indemnifies PANOPTECH in

full in terms agreed with PANOPTECH. PANOPTECH is not bound to agree to any such cancellation and may complete such order even if the Customer purports to cancel it.

2.5 If PANOPTECH's performance of the Agreement is suspended following PANOPTECH's acceptance of a request from the Customer or is delayed through the Customer's default (including, without limitation, lack of, incomplete or incorrect instructions or refusal to collect or accept delivery of the Goods), PANOPTECH will be entitled to and the Customer will immediately make payment in accordance with the Agreement for any part of the Services which had already been performed and for any part of the Goods which were already despatched to the Customer or were ready for despatch or were being manufactured prior to the suspension or delay and for any other additional costs that PANOPTECH incurs including storage, insurance and interest as a result of such suspension or delay provided that:

(a) if the Customer fails to collect or accept delivery of the Goods or any part of them within 30 days of written notification from PANOPTECH that the Goods are ready for collection or delivery, PANOPTECH will be entitled (without prejudice to PANOPTECH's other remedies under the Agreement for such breach) to sell the Goods and to apply the proceeds of sale (if sold) towards payment of all outstanding sums owed by the Customer to PANOPTECH under the Agreement; and

(b) PANOPTECH will store the Goods at the Customer's risk from the date upon which they are ready for despatch.

2.6 The Customer warrants to PANOPTECH that the Customer has not been induced to enter this Agreement by any prior representations or warranties, whether oral or in writing, except as specifically contained in this Agreement and the Customer hereby irrevocably and unconditionally waives any right it may have to claim damages for any misrepresentation not contained in this Agreement or for breach of any warranty not contained herein (unless such misrepresentation or warranty was made fraudulently) and/or to rescind this Agreement.

3 Description of the Goods and Services

3.1 The quantity, quality description of and any specification for the Goods or Services will be set out in PANOPTECH's Specification and quotation.

3.2 All drawings, descriptive matter, specifications and advertising issued by PANOPTECH and any descriptions, details or illustrations contained in PANOPTECH's catalogues or brochures are issued or

published for the sole purpose of giving an approximate idea of the Goods or Services described in them and they will not form part of the Agreement unless otherwise agreed in writing.

3.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by PANOPTECH will be subject to correction without any liability on the part of PANOPTECH.

4 Delivery and Acceptance of Goods

4.1 Unless otherwise agreed in writing by PANOPTECH delivery of the Goods will take place at PANOPTECH's place of business in normal business hours and the Customer will take delivery of the Goods within 7 days of PANOPTECH giving the Customer notice that the Goods are ready for collection.

4.2 Any dates specified by PANOPTECH for delivery of the Goods are intended to be an estimate only and time for delivery will not be of the essence. If no dates are so specified, delivery will be within a reasonable time.

4.3 If for any reason the Customer does not accept delivery of any of the Goods when they are ready for delivery, or PANOPTECH is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations then the Goods will be deemed to have been delivered, risk passing to the Customer (including for loss or damage caused by PANOPTECH's negligence) and PANOPTECH may:

(a) store the Goods until actual delivery whereupon the Customer will be liable for all related costs and expenses (including without limitation storage and insurance); or

(b) sell the Goods at the best price readily obtainable and (after deduction of all reasonable storage and selling expenses) charge the Customer for any shortfall below the Agreement Charges.

4.4 The Customer will be deemed to have accepted the Goods as being in accordance with the Agreement unless:

(a) within 14 days of the date of delivery of the Goods, the Customer notifies PANOPTECH in writing of any defect or other failure of the Goods to conform with the Agreement (which would be apparent upon reasonable inspection and testing of the Goods within 14 days); or

(b) the Customer notifies PANOPTECH in writing of any defect or other failure of the Goods to confirm with the Agreement within a reasonable time where the defect or failure would not be so apparent within 14 days of the date of delivery, failing which the Customer will not be entitled to reject the Goods and PANOPTECH will have no liability for such defect or failure, and the Customer will be bound to pay the Charges as if the Goods had been delivered in accordance with the Agreement.

4.5 Goods, once delivered, may not be returned unless their return is agreed in advance in writing by PANOPTECH, and subject to the following conditions:

(a) Goods are returned in a new and unused condition;

(b) Any packaging remains unbroken and in reasonable condition;

(c) Returns are made within 3 weeks of delivery of those Goods, all transport and other re-delivery costs of whatever nature paid by the Customer;

(d) Payment by the Customer to PANOPTECH of a restocking charge of 20% of the net invoice value of the relevant Goods; and

(e) Returned goods will be accompanied by a written record of invoice number, date and a note of reasons for their return.

4.6 PANOPTECH will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by PANOPTECH's negligence), nor will any delay entitle the Customer to terminate or rescind the Agreement unless such delay exceeds 90 days.

4.7 PANOPTECH will only be liable for any non-delivery of Goods (even if caused by PANOPTECH's negligence) if the Customer gives written notice to PANOPTECH within 7 days of the date when the Goods would, in the ordinary course of events, have been delivered. In this event, PANOPTECH's liability for non-delivery of the Goods will be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Agreement rate against any invoice raised for such Goods.

5 Passing of Risk and Legal Title

5.1 The Goods will be at the risk of the Customer from the time of delivery.

5.2 Full legal, beneficial and equitable title to and property in the Hardware will remain vested in PANOPTECH (even though they have been delivered and risk has passed to the Customer) until:

- (a) payment in full, in cash or cleared funds, for all the Hardware has been received by PANOPTECH; and
- (b) all other money payable by the Customer to PANOPTECH on any other account or under the Agreement or any other contract has been received by PANOPTECH.

5.3 Until full legal, beneficial and equitable title to and property in the Goods passes to the Customer:

- (a) the Customer will hold the Goods on a fiduciary basis as PANOPTECH's bailee;
- (b) PANOPTECH may at any time, on demand and without prior notice, require the Customer to deliver the Goods up to PANOPTECH and PANOPTECH may repossess and resell the Goods if any of the events specified in Condition 20 (Termination) occurs or if any sum due to PANOPTECH from the Customer under the Agreement or on any other account or under any other contract is not paid when due;
- (c) for the purposes of this Condition 5 PANOPTECH, its employees, agents and sub-contractors will be entitled to free and unrestricted access to any premises owned, occupied or controlled by the Customer and/or any other location where any of the Goods are situated at any time without prior notice;
- (d) PANOPTECH will be entitled to maintain an action against the Customer for the Charges relating to the Goods notwithstanding that legal, equitable and beneficial title to and property in the Goods has not passed to the Customer; and

5.4 PANOPTECH's rights and remedies set out in this Condition 5 are in addition to and will not in any way prejudice, limit or restrict any of PANOPTECH's other rights or remedies under the Agreement or in law or equity.

6 Software Licence

6.1 Under copyright law the Customer is not permitted to install or run a software product provided by PANOPTECH ("the Software") or use the user manuals and other documentation ("the Manuals") supplied without the permission of PANOPTECH ("the Owner").

6.2 In consideration of your agreement to the terms and conditions and subject to payment in full and cleared funds of the price for the Software and the Manuals, PANOPTECH shall grant to the organisation ("the Registrant") whose name and address appears on the **Registration Card** completed for the allocated and numbered copy of the Software, a non-exclusive right ("the Licence") to install and run the Software and

use the Manuals as permitted by this Agreement. All references to the Software mean the object code only of the program(s) comprising the Software.

6.3 In consideration of the payment by the Customer of the Charges and the performance of the other obligations of the Customer set out in this Agreement, PANOPTECH hereby grants to the Customer a non-exclusive, non-transferable licence to use the Software in object code for the purposes listed in Condition 6.3.

6.4 The Customer may use the Software:

(a) for the purpose(s) set out in PANOPTECH's specification and quotation; for any act which is reasonably incidental to that the use defined in clause 2.2 (a);

(b) for any act which is permitted by sections 50A to 50C of the Copyright, Designs and Patents Act 1988 save that the Customer acknowledges that, for the purposes of section 50B of that Act, PANOPTECH is prepared on request to make available such information as the Customer may require to achieve the "permitted objective" (as defined in that section).

6.5 Save as stated in clause 6.1 and 6.2, the Customer will not use, copy, adapt, reverse engineer, disassemble or modify the Software without the prior written consent of PANOPTECH.

6.6 Where either the Special Conditions

(a) stipulate restrictions on the use of the Software by reference to:

(b) individual servers upon which the Software may be installed;

(c) the total number of servers upon which the Software can be installed;

(d) the maximum or minimum number of processors in the servers(s) upon which the Software is installed;

(e) the maximum or minimum number of operations per second that the server(s) upon which the Software is installed is/are capable of;

(f) the maximum or minimum Internet connection bandwidth available to the server(s) upon which the Software is installed;

(g) the maximum number of users that may access the Software or the server(s);

(h) the maximum number of cameras or other imaging devices that may be connected to or feed data to the Software or the server(s);

(i) the locations (whether by reference to premises or territories) in which servers upon which the Software is installed can be based; or

(j) the locations (whether by reference to premises or territories) from which the Software can be accessed by remote clients;

then such restrictions shall apply to the Customer's installation and use of the Software as licence terms, which, if breached, shall constitute a serious material breach of the licence which is incapable of remedy after the fact (even where the Customer later desists from such action) giving rise to an automatic right for PANOPTech to terminate the licence and this Agreement in accordance with Condition 21.1 (a).

6.7 Where restrictions of the types listed in Condition 6.4 above have not been included in either the Special Conditions or the applicable parts of Sections D and E (as determined by Section B), then by default the Customer shall be licensed to:

(a) install the Software upon servers housed at secure premises owned or wholly controlled by the Customer to which only the Customer has access; and

(b) grant access to the installed Software only to users accessing the servers from within the jurisdiction within which the server(s) are based.

6.8 The Customer will effect and maintain adequate security measures to safeguard the Software and the Documentation from unauthorised access, use or copying.

6.9 YOU MAY NOT NOR PERMIT OTHERS TO:

(a) use, copy or transfer the Software or the Manuals except as permitted by this Agreement;

(b) distribute, rent, loan, lease, sub-licence or otherwise deal in the Software and Manuals;

(c) alter, adapt, merge, modify or translate the Software or the Manuals in any way for any purpose, including, without limitation, for error correction;

(d) reverse-engineer, disassemble or decompile the Software except that you may decompile the Software only to the extent permissible by law;

(e) remove, change or obscure any product identification or notices of proprietary rights and restrictions on or in the Software and the Manuals;

6.10 TERM AND TERMINATION

(a) The Licence will be for 10 years unless terminated earlier. You may terminate it at any time by destroying the Software and Manuals together with all copies in any form. If you choose to terminate the licence then the loss of data and the consequences thereof are entirely your responsibility

(b) Your Licence to use the Software and Manuals will terminate automatically if you fail to comply with any term of this Agreement.

(c) Upon termination of the Licence for any reason you will destroy the Software and Manuals together with all copies in any form, including copies of your hard and back-up disks. Any use of any copies of the Software or Manuals after termination of the Licence is unlawful.

6.11 LIMITED WARRANTY

(a) The Owner warrants only to you, as the original licensee, that the Software when used properly will provide the functions and facilities as described in the Manuals supplied for the Software.

(b) The owner's entire liability and your exclusive remedy under the warranties given in this Section 14 will be, at the Owner's option so far as permitted by law, to either:-

(i) repair or replace the Software or media which does not conform with the warranty, or

(ii) refund the price paid for the Software and terminate the Licence.

This remedy is subject to the return of the Software with a copy of your payment receipt to your supplier not later than 30 days after the date of your receipt of the Software

6.12 EXCLUSION OF OTHER WARRANTIES

The Owner warrants only to you, as the original licensee, that the Software when used properly will provide the functions and facilities as described in the Manuals supplied for the Software.

6.13 **DISCLAIMER**

In no event will either the Owner or its suppliers be liable for any direct consequential, incidental, or special damage or loss of any kind (including without limitation loss of profits, loss of contracts, business interruptions, loss of or corruption to data) so far as is permitted by law however caused and whether arising under contract, tort, including negligence or otherwise.

6.14 If any exclusion, disclaimer or other provision contained in this Agreement is held invalid for any reason and the Owner becomes liable for loss or damage that could otherwise be limited, such liability, whether in contract, negligence or otherwise, will not exceed the amount actually paid by you for the Software.

6.15 The Owner does not exclude or limit liability for:

- (a) death or personal injury resulting from an act or negligence of the Owner or
- (b) damage caused by a defect in the Software within the meaning of the Consumer Protection Act 1987 Part 1.

6.16 You acknowledge that the allocation of risk in this Agreement reflects the price paid for the Software and also the fact that it is not within the Owner's control how and for what purposes the Software is used by you. The Owner does not accept liability for any loss or damage arising from the mis-use or illegal use of the Software by you.

7 **Access to PANOPTECH Telephony Services – when provided**

7.1 In consideration for the payment by the Customer of the Initial Charge and the continuing payment of the Usage Charge(s) (if applicable) the Customer will be granted access to the Telephony Services subject to this Condition 7.

7.2 The Customer must:

- (a) Register their contact details with PANOPTECH before their SIM card(s) will be activated or access to the Telephony Services will be granted, and inform PANOPTECH immediately should any of the registered contact details change from time to time;
- (b) Use the Telephony Services only for the purposes of sending Messages generated by either the Hardware or other equipment for which the Customer has been granted prior written approval by

PANOPTTECH to connect to and use with the Telephony Services not for any voice calls, text messages, or other data transfer of any kind whatsoever;

(c) not use the PANOPTTECH Telephony Service, the Hardware or the Software to send, store or receive any abusive, threatening, offensive, indecent or hoax messages or calls, or to do anything that is fraudulent or illegal. This includes, without limitation, using the service to illegally download, receive, store or transmit any data;

(d) comply with PANOPTTECH's reasonable instructions (including, without limitation, monitoring use of the PANOPTTECH Telephony Service and providing the details to PANOPTTECH) to assist PANOPTTECH in resolving problems relating to the PANOPTTECH Telephony Services; and

7.3 The upload and download speeds and the bandwidths accessible on the PANOPTTECH Telephony Service are controlled by the 3rd-party service providers, who may vary these speeds and bandwidths from time-to-time. PANOPTTECH will make every effort to ensure that the speed and bandwidths presented on these products are as advertised. PANOPTTECH are entirely dependent on the service providers for the fulfilment of this commitment and therefore cannot be held liable for any losses or damages caused by the shortfall on the quality of the services delivered by the service providers

7.4 The Customer acknowledges that PANOPTTECH are reliant upon a number of third party service providers, some of whom PANOPTTECH have no direct legal or commercial relationship, to maintain various parts of the communications networks PANOPTTECH use to supply the PANOPTTECH Telephony Services. Consequently, (subject always to Condition 15.2) PANOPTTECH will have no liability for, and the Customer hereby waives any claim for, any losses, costs, claims, expenses or damages of any sort, each whether direct, indirect, consequential or otherwise, for any failure or unavailability of the PANOPTTECH Telephony Services which is beyond the reasonable control of PANOPTTECH.

8 Access to Support Services

8.1 Support Services

(a) PANOPTTECH will provide a telephone support line to the Customer available Monday to Friday from 0900 to 1730 UK time (excluding UK national holidays) whereby the Customer may report faults in the System and PANOPTTECH may provide technical advice as may be necessary to resolve the Customer's difficulties and queries in using the System ("**Telephone Support**").

(b) Upon receipt of a call to the Telephone Support by the Customer, PANOPTECH will supply the Customer with a support ticket number, which will identify the support enquiry until final resolution. PANOPTECH will prioritise each call according to its severity and will use best endeavours to provide a response to an/or fix such problem within a reasonable time. Where PANOPTECH is unable to provide a fix to a problem during the first call the problem will be referred up the chain to personnel of increasing expertise, and eventually to PANOPTECH's development staff for resolution of any bugs.

(c) PANOPTECH may, at its sole discretion, offer to attend the premises of the Customer in the event that Telephone Support does not resolve a problem with the Software. On-site support (if PANOPTECH offers to provide it and the Customer agrees to take it) will be charged at the then current charge rates of PANOPTECH. Travel expenses and charges for travel time will be due in addition to the charges for work done onsite. PANOPTECH's then-current rates for onsite work and travel-time will be notified to the Customer when on-site support is offered.

8.2 Excluded Services

- (a) The Support Services will not include services in respect of:
- (b) any version of the Software other than the unmodified current release;
- (c) any version of the Goods which has been modified except with written authorisation and approval from PANOPTECH;
- (d) incorrect use of the Goods or operator error; and
- (e) any services provided by third parties or services for which PANOPTECH has no operational control;

9 General Provision of Services

9.1 Where PANOPTECH is to perform Services at the Customer's premises, the Customer will procure safe access to the premises and the provision of adequate power, lighting, heating and other such facilities or supplies for PANOPTECH's employees or agents in accordance with the demands of any applicable legislation and as PANOPTECH will reasonably require.

9.2 The Services will be deemed to be completed and the relevant element of the Agreement Charges to be due and payable immediately:

- (a) when PANOPTECH issues a written notice to the Customer confirming such completion; or
- (b) if PANOPTECH is available to perform the Services but is prevented from doing so by reason of:
- (c) the lack of relevant assistance from the Customer (such as lack of availability of test components or parts from the Customer); and/or
- (d) the condition of the Customer premises on the site at which the Services are to be provided and/or the facilities available therein at the time agreed for the provision of the Services.

10 Intellectual Property Rights

10.1 All Intellectual Property Rights in the Software, Hardware, PANOPTECH Telephony Services and Support Services belong to either PANOPTECH or third party Licensors to PANOPTECH. Except as expressly stated in this Agreement the Customer will acquire no rights to or ownership of any Intellectual Property Rights whatsoever. Any use of the Hardware, Software or Services other than in accordance with the terms of this Agreement or with the Documentation is expressly prohibited.

10.2 To the extent that any new Intellectual Property Rights are created during or as a result of the Parties' performance under this Agreement, all such new Intellectual Property Rights will vest in and be the sole property of PANOPTECH. The Customer agrees to assign or procure the assignment of (and execute or procure the execution of any necessary documents in order to complete such assignment where additional documentation is legally required) all new Intellectual Property Rights to PANOPTECH.

10.3 The Customer agrees not to use the PANOPTECH Telephony Services to transmit, receive or store any material in breach of any licence agreement or which infringes the Intellectual Property Rights of any third party.

10.4 The Customer may use the Documentation/Manuals only in connection with the use of the Hardware, Software and Services under this Agreement. No copies may be made of the Documentation/Manuals without the prior written consent of PANOPTECH.

11 Confidentiality

11.1 The Customer will keep and procure to be kept secret and confidential all Confidential Information belonging to PANOPTECH disclosed or obtained as a result of the relationship of the parties under the Agreement and will not use nor disclose the same save for the purposes of the proper performance of the

Agreement or with the prior written consent of PANOPTECH. Where disclosure is made to any employee, consultant or agent, it will be done subject to obligations equivalent to those set out in these Conditions and the Customer will use its best endeavours to procure that any such employee, consultant or agent complies with such obligations. The Customer will be responsible to PANOPTECH in respect of any disclosure or use of such Confidential Information by a person to whom disclosure is made.

11.2 The obligations of confidentiality in this Condition 11 will not extend to any matter which either party can show:

- (a) is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under the Agreement; or
- (b) was in its written records prior to the date of the Agreement; or
- (c) was independently disclosed to it by a third party entitled to disclose the same; or
- (d) is required to be disclosed under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction.

11.3 The supply of Goods and/or Services under the Agreement will not constitute a licence for the Customer to use the Confidential Information for any purpose other than that for which the Confidential Information is provided to the Customer.

11.4 On expiry or termination of the Agreement (for whatever reason) the Customer will promptly return to PANOPTECH or dispose of in accordance with PANOPTECH's instructions all Confidential Information and other data and documents and copies thereof disclosed or supplied to the Customer pursuant to or in relation to the Agreement and will certify to PANOPTECH when the same has been completed.

12 Agreement Charges

12.1 Unless otherwise agreed by PANOPTECH in writing the Charges for the Goods and Services will be as set out in PANOPTECH's written Specification and Quotation, supplemented, in the case of any ongoing PANOPTECH Telephony Service Usages Charges for Messages above the Customer's pre-paid Message allowance in any month (if any), by PANOPTECH's then-current price list. Should any Telephone Services 3rd-party service providers change the pricing of their Services to PANOPTECH, then PANOPTECH maintains the right to vary its charges to reflect these changes by giving the customer 30-days notice of its intention to do

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12.2 PANOPTECH reserves the right, by giving notice to the Customer at any time before delivery, to increase the Charges for the Goods or Services to reflect any increase in the cost to PANOPTECH which is due to any factor beyond the control of PANOPTECH (such as, without limitation, any increase in the costs of labour, materials, or other costs of manufacture or supply), any change in the quantities of the Goods requested by the Customer or any change in the delivery dates of the Goods or Services requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give PANOPTECH adequate information or instructions.

12.3 Unless otherwise agreed in writing the Charges for the Goods and Services will be exclusive of any value added tax or other similar taxes or levies and all costs or charges in relation to packaging, labelling, loading, unloading, carriage, freight and insurance all of which amounts the Customer will pay, where appropriate, in addition when it is due to pay for the Goods and/or Services. Where travel to the Customer is required, travel expenses and charges for travel time will be due in addition to other Charges. PANOPTECH's then-current rates for travel-time will be notified to the Customer before journeys are undertaken.

13 Payment Terms

13.1 Unless otherwise specified in the Special Conditions, payment of the Charges for the Goods and/or Services is due 30 days after the earlier of:

- (a) delivery of Goods or provision of Services; or
- (b) the date of invoice.

13.2 Time for payment will be of the essence.

13.3 No payment will be deemed to have been received until PANOPTECH has received cleared funds.

13.4 Notwithstanding any other provision, all payments payable to PANOPTECH under the Agreement will become due immediately upon termination of this Agreement for whatever reason.

13.5 The Customer will make all payments due under the Agreement without any deduction whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by PANOPTECH to the Customer.

13.6 If payments received from the Customer are not stated to refer to a particular invoice, PANOPTECH may appropriate such payment to any outstanding invoice addressed to the Customer from PANOPTECH.

13.7 No indulgence granted by PANOPTECH to the Customer concerning the Customers obligations under this Condition 9 will be or be deemed to be a credit facility but if any such facility is granted to the Customer by PANOPTECH, PANOPTECH may withdraw it at its sole discretion at any time.

13.8 If any sum due from the Customer to PANOPTECH under the Agreement or any other contract is not paid on or before the due date for payment then all sums then owing by the Customer to PANOPTECH will become due and payable immediately and, without prejudice to any other right or remedy available to PANOPTECH, PANOPTECH will be entitled to:

(a) cancel or suspend its performance of the Agreement or any order including suspending deliveries of the Goods and suspending delivery of any other goods to the Customer and suspending provision of the Services or other services until arrangements as to payment or credit have been established which are satisfactory to PANOPTECH;

(b) appropriate any payment made by the Customer to such of the Goods or such of the Services (or any goods or services supplied under any other contract between the Customer and PANOPTECH) or as PANOPTECH may think fit;

(c) require the Customer to pay for Goods prior to their despatch or collection from PANOPTECH's place of business;

(d) suspend performance of Services remaining to be carried out; and

(e) charge the Customer:

(f) interest calculated on a daily basis on all overdue amounts (both before and after judgement) until actual payment at the rate of eight per cent (8%) per annum above the LIBOR rate from time to time until payment is made in full;

(g) reasonable debt recovery costs; and

(h) the cost of obtaining judgement or payment to include all reasonable professional costs (including legal fees) and other costs of issuing proceedings or otherwise pursuing a debt recovery procedure.

14 Warranty of Quality of Goods and Services

14.1 PANOPTECH warrants that it will use reasonable skill and care in providing the Services to the Customer.

14.2 If the Customer establishes to PANOPTECH's reasonable satisfaction that there is a defect in the materials or workmanship of the Goods manufactured by PANOPTECH or there is some other failure by PANOPTECH in relation to the conformity of the Goods manufactured by PANOPTECH with the Agreement or the Services have not been performed with reasonable care and skill, then PANOPTECH will at its option and sole discretion and within a reasonable time;

(a) repair or make good such defect or failure in such Goods manufactured by PANOPTECH free of charge to the Customer (including all costs of transportation of any Goods manufactured by PANOPTECH or materials to and from the Customer for that purpose);

(b) replace such Goods manufactured by PANOPTECH with Goods which are in all respects in accordance with the Agreement or re-perform such Services; or

(c) issue a credit note to the Customer in respect of the whole or part of the Agreement Charges for such Goods manufactured by PANOPTECH or Services as appropriate having taken back such Goods manufactured by PANOPTECH or materials relating to such Services subject, in every case, to the remaining provisions of this Condition 14 provided that the liability of PANOPTECH under this Condition 14 will in no event exceed the Charges for such Goods manufactured by PANOPTECH or Services and performance of any one of the above options will constitute an entire discharge of PANOPTECH's liability under this warranty.

14.3 Condition 14.2 will not apply unless the Customer:

(a) notifies PANOPTECH in writing of the alleged defect within 7 days of the time when the Customer discovers or ought to have discovered the defect and in any event within 30 days of the delivery of the Goods manufactured by PANOPTECH or performance of the Services to the Customer or such other periods as agreed by PANOPTECH in writing; and

(b) affords PANOPTECH a reasonable opportunity to inspect the relevant Goods manufactured by PANOPTECH or the location at which the Services were performed and, if so requested by PANOPTECH and where it is reasonable to do so, promptly returns to PANOPTECH or such other person nominated by PANOPTECH a sample of the Goods manufactured by PANOPTECH or materials relating to the Services within 14 days, carriage paid by the Customer, for inspection, examination and testing and/or

otherwise permit PANOPTECH to have access to the Goods manufactured by PANOPTECH or such materials at the Customer's premises or other location where they may be or the Services were performed for such purposes.

14.4 If PANOPTECH elects to replace the Goods manufactured by PANOPTECH or re-perform the Services pursuant to Condition 14.2, PANOPTECH will deliver the replacement Goods to or re-perform the Services for the Customer at PANOPTECH's own expense at the address to which the defective Goods manufactured by PANOPTECH were delivered and the legal, equitable and beneficial title to the defective Goods manufactured by PANOPTECH which are being replaced will (if it has vested in the Customer) re vest in PANOPTECH and the Customer will make any arrangements as may be necessary to deliver up to PANOPTECH the defective Goods manufactured by PANOPTECH which are being replaced or materials relating to the previously performed Services to PANOPTECH.

14.5 PANOPTECH will be under no liability under the warranty at Condition 14.2 above:

- (a) In respect of Goods not manufactured by PANOPTECH;
- (b) in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow PANOPTECH's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without PANOPTECH's approval;
- (c) if the total Charges for the Goods or Services has not been paid by the due date for payment;
- (d) in respect of any type of defect, damage or wear specifically excluded by PANOPTECH by notice in writing; or
- (e) if the Customer makes any further use of the Goods after giving notice in accordance with Condition 14.3.
- (f) in respect of defects which it considers result from:
 - (g) any modification or alteration to the Software other than by PANOPTECH;
 - (h) a defect or deficiency in, or a failure of, the equipment upon which the Software is operated or any software used in conjunction with the Software;
 - (i) incorrect handling or use of the Software by the Customer.

14.6 To the extent that the Goods or Software or any part thereof consists of goods manufactured by or software written by any third party, then PANOPTECH's obligations under the warranties in this Agreement are limited to assigning the benefit of any warranties given by such third party to PANOPTECH but only to the extent that PANOPTECH is able to do so.

14.7 Unless otherwise stipulated in the Special Conditions, the Customer acknowledges that the Goods have not been prepared to meet the Customer's individual requirements and that it is therefore the responsibility of the Customer to ensure that the facilities and functions described in the Documentation meet its requirements. PANOPTECH will not be liable for any failure of the Goods to provide any facility or function not specified in the Documentation.

14.8 The warranties set out in this document are the only warranties which will be given by PANOPTECH and all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

15 Exclusion and Limitation of Liability

15.1 Condition 4, Condition 14 and this Condition 15.1, together with Conditions 15.2, 15.3, 15.4 set(s) out the entire liability of PANOPTECH (including any liability for the acts or omissions of its sub-contractors and any member of its Group) in respect of any breach of these Conditions or the Agreement and any representation, statement or tortious act or omission including negligence arising under or in connection with the Agreement.

15.2 Nothing in these Conditions will exclude or limit PANOPTECH's liability for death or personal injury caused by PANOPTECH's negligence or for fraudulent misrepresentation.

15.3 PANOPTECH will not be liable for any economic loss of whatever nature (whether or not such loss or damage was foreseen, direct, foreseeable, known or otherwise), including loss of anticipated profits, loss of actual profits (direct or indirect), loss of anticipated savings, loss of business, or for any indirect, special or consequential loss or damage howsoever caused or any losses arising as a result of any third party bringing a claim in respect of any nature whatsoever.

15.4 Notwithstanding Conditions 15.1 - 15.4 above the total aggregate liability of PANOPTECH arising out of, or in connection with this Agreement whether for negligence or breach of contract or any case whatsoever will in no event exceed:

(a) Where the Agreement has been in place for more than 12 months, 100% of the sums paid by the Customer in the preceding 12 months of the Agreement;

(b) Where the Agreement has been in place for less than 12 months, but the total Term is more than 12 months, 100% of the sums paid or payable by the Customer in the first 12 months of the Agreement; or

(c) Where the Term is equal to or less than 12 months, 100% of the sums paid or payable by the Customer during the Term.

15.5 The Charges for the Goods and/or Services has been calculated on the basis that PANOPTECH will exclude or limit its liability as set out in the Agreement and the Customer by placing an order agrees and warrants that the Customer will insure against or bear itself any loss for which PANOPTECH has excluded or limited its liability in the Agreement and PANOPTECH will have no further liability to the Customer.

16 Indemnities and Bond

16.1 Subject to Condition 15, PANOPTECH will indemnify and keep indemnified the Customer against all costs, claims, demands, damages and expenses arising from any claim that the operation, possession or use of the Software or any constituent part thereof by the Customer strictly in accordance with this Agreement infringes the Intellectual Property Rights of a third party (an "**Intellectual Property Infringement**") provided that:

(a) any costs or expenses claimed under this indemnity have been agreed in advance by PANOPTECH;

(b) the Customer gives notice to PANOPTECH of any Intellectual Property Infringement as soon as reasonably practicable on becoming aware of the same;

(c) the Customer gives PANOPTECH reasonable assistance in connection with the defence of any claim or action in respect of any Intellectual Property Infringement and does not at any time admit liability or attempt to settle or compromise the said claim or action without the prior written consent of PANOPTECH; and

(d) the Customer acts in accordance with the reasonable instructions of PANOPTECH and gives to PANOPTECH such assistance as it will reasonably require in respect of the conduct of the said defence.

16.2 In the event of an Intellectual Property Infringement, PANOPTECH will be entitled at its own expense and option either to:

- (a) procure the right for the Customer to continue using the Software or the infringing part thereof; or
- (b) make such alterations, modifications or adjustments to the Software or that infringing part so that it becomes non-infringing without incurring a material diminution in performance, capacity, resilience or functionality; or
- (c) replace the Software or that infringing part with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance, capacity, resilience or functionality thereof (and the provisions of this indemnity will apply equally to any such substitutes).

16.3 The Customer acknowledges that PANOPTECH places particular reliance upon the provisions of the Agreement and in addition to any other remedy available to PANOPTECH, the Customer irrevocably and unconditionally agrees to indemnify PANOPTECH, its employees, sub-contractors and agents (who will have no duty to mitigate their loss) in full and on demand and keep them so indemnified against all claims, demands, actions, proceedings and all direct and indirect damages, losses, costs and expenses (including without limitation legal on an indemnity costs basis and other professional advisers' fees, economic loss, loss of profit, future revenue, reputation, goodwill, anticipated savings) and any consequential loss made against or incurred or suffered by any of them and whether wholly or in part resulting directly or indirectly from the matters listed below whether or not such losses or the consequences of the matters listed below were foreseeable at the date of the Agreement:

- (a) any claims that any Intellectual Property or Confidential Information or other exclusive right of PANOPTECH or any third party has been infringed or breached by the Customer or through Customer's use of the Goods or Services whether deliberately or inadvertently;
- (b) any claims that any individual's rights under the Data Protection Act 1998, Human Rights Act 1998 or similar privacy rights subsisting in any jurisdiction have been infringed through the Customer's use of the Goods or Services;
- (c) any claims resulting from the Customer's use of the Goods and Services other than in accordance with the terms of this Agreement;
- (d) the cancellation of any order by the Customer after its acceptance by PANOPTECH;
- (e) any breach by the Customer of its obligations under the Agreement;

16.4 In the event that the Customer is based in a territory that is not a party to the World Intellectual Property Organisation (“**WIPO**”) Copyright Treaty (Geneva 1996), then the Customer shall be required to deposit a sum in pounds sterling equal to 200% of the Initial Charge in an escrow account with HSBC or other reputable bank reasonably acceptable to PANOPTECH, and maintain such account in place for the duration of this Agreement. Interest payments made on the escrow account shall be paid to the Customer, but PANOPTECH shall retain sole call on the account, such call only to be made in the event that PANOPTECH has occasion to claim under the indemnity granted by the Customer in Condition 16.1 above, provided that the value of the deposit into the escrow account and any call against the escrow account shall in no way serve to limit the Customer’s liability under the indemnity granted in Condition 16.1. The Customer shall meet the entire cost of setting up and maintaining the escrow account in accordance with this Condition.

17 Safety and Recall

17.1 The Customer will comply at all times with the written instructions and all written guidelines issued from time to time attached to the Goods concerning their storage, application, installation, repair, maintenance and use and the Customer will refer its employees and its customers to such instructions and guidelines. The Customer will ensure that the Goods are only installed by those persons approved by PANOPTECH.

17.2 PANOPTECH may at its discretion recall any Goods already sold by PANOPTECH to its customers (whether for a refund or credit or for replacement of the Goods which will in each case be undertaken by PANOPTECH) and/or issue any written or other notification to its customers about the manner of use or operation of any Goods already sold by the Customer to its customers and/or offer to re-perform Services previously provided.

18 Subcontracting, Assignment and Third Party Rights

18.1 The Customer will not be entitled to assign, charge, subcontract, sublicense or transfer the Agreement or any part of it without the prior consent of PANOPTECH in writing.

18.2 PANOPTECH may assign, charge, subcontract or transfer the Agreement or any part of it to any person.

18.3 A person who is not a party to the Agreement (including without limitation any employee, officer, agent, representative or sub contractor of either party) will not have any right to enforce any term of the Agreement which expressly or by implication confers a benefit on that person without the express prior agreement in writing of PANOPTECH and the Customer.

18.4 Without prejudice to the intention of the parties to give no rights to the third parties under the Contract, any term of the Agreement can be varied and the Agreement can be cancelled or terminated without the consent of any third party who might benefit from its terms or have enforceable rights under the Agreement.

19 **Force Majeure**

PANOPTECH reserves the right to suspend or cancel the Agreement in whole or in part (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business and its obligations under the Agreement due to circumstances beyond the reasonable control of PANOPTECH affecting its ability to perform any of its obligations under the Agreement including, without limitation, Act of God, fire, flood, lightning, war, revolution, act of terrorism, riot or civil commotion, strikes, lock-outs or other industrial action, whether of the affected party's own employees or others, failure of supplies of power, fuel, transport, equipment, raw materials or other goods or services.

20 **Termination**

20.1 In addition to the termination rights described in 6.9.6, PANOPTECH may, as it thinks fit, (without prejudice to any other rights or remedies it may have against the Customer) immediately suspend further performance of the Agreement or cancel any outstanding provision of the Services or delivery of the Goods or stop any Goods in transit or by notice in writing to the Customer terminate the Agreement without liability to PANOPTECH if:

(a) the Customer commits a material breach of any of its obligations under the Agreement which is incapable of remedy;

(b) the Customer fails to remedy a breach of its obligations under the Agreement which is capable of remedy, or persists in any breach of any of its obligations under the Agreement after having been requested in writing by PANOPTECH to remedy or desist from such breach within a period of 14 days;

(c) any sum payable under the Agreement is not paid within 7 days of its due date for payment in accordance with this Agreement.

(d) any distress execution or diligence is levied upon any of the Customer's goods or property and is not paid out within 7 days of it being levied;

(e) the Customer (being a partnership) or the Customer's partner offers to make any arrangements with or for the benefit of the creditors of the Customer or the Customer's partner generally or there is presented in relation to the Customer or the Customer's partner a petition of bankruptcy;

(f) the Customer (being a limited company) is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or

(g) the Customer calls a meeting for the purpose of passing a resolution to wind it up, or such a resolution is passed; or

(h) the Customer presents, or has presented, a petition for a winding up order; or

(i) an application to appoint an administrator is made in respect of the Customer or a notice of intention to appoint an administrator is filed in respect of the Customer; or

(j) any other steps are taken by the Customer or any other person to appoint an administrator over the Customer; or

(k) the Customer has an administrator, administrative receiver, or receiver appointed over all or any part of its business, undertaking, property or assets; or

(l) the Customer takes any steps in connection with proposing a company voluntary arrangement or a company voluntary arrangement is passed in relation to it;

(m) the Customer ceases, or threatens to cease, to carry on business; or

(n) a secured lender to the Customer takes any steps to obtain possession of the property on which it has security or otherwise to enforce its security;

(o) the Customer suffers or undergoes any procedure analogous to any of those specified in Conditions 21.1(c) to 21.1(g) inclusive above or any other procedure available in the country in which the Customer is constituted, established or domiciled against or to an insolvent debtor or available to the creditors of such a debtor;

20.2 Notwithstanding any such termination or suspension in accordance with Conditions 21.1 above the Customer will pay PANOPTECH at the Agreement rate for all Goods delivered or Services provided up to and including the date of suspension or termination and the termination of the Agreement or any contract for

whatever reason will not affect the rights or remedies of either party in respect of any antecedent breach or in respect of any such owing or to become owing to the other.

21 Consequences of Termination

21.1 Upon termination of this Agreement for any reason whatsoever:

(a) the relationship of the parties will cease and any rights or licences granted under or pursuant to this Agreement will cease to have effect save as (and to the extent) expressly provided for in this Condition 22:

(b) Conditions 1, 5, 10, 11, 15, 16.3, 17, 19, 21, 22, 23, 24, 25 and any other provision which expressly or by implication is intended to come into or remain in force on or after termination will continue in full force and effect;

(c) the Customer will immediately return to PANOPTECH (or, if PANOPTECH so requests by notice in writing, destroy) all property of PANOPTECH in the Customer's possession at the date of termination, including all Confidential Information of PANOPTECH and will certify that it has done so, and will make no further use of such property.

22 Notices

22.1 Any notices sent under this Agreement must be in writing and may be served by personal delivery or by sending the notice by special delivery post (or other recorded delivery mail, provided that if posted outside the United Kingdom notices directed to PANOPTECH must be sent airmail) or facsimile transmission at the address given above or at such other address as the relevant party may give for the purpose of service of notices under this Agreement and every such notice will be deemed to have been served upon delivery if served by hand or at the expiration of 2 Business Days after despatch of the same if delivered by special delivery post or 5 Business Days if sent by a recorded delivery air mail service or at ten hours am local time of the recipient on the next Business Day following despatch if sent by facsimile transmission.

22.2 To prove service of any notice it will be sufficient to show in the case of a notice delivered by hand that the same was duly addressed and delivered by hand and in the case of a notice served by post that the same was duly addressed prepaid and posted in the manner set out above. In the case of a notice given by facsimile transmission, it will be sufficient to show that it was despatched in a legible and complete form to the correct telephone number without any error message provided that a confirmation copy of the

transmission is sent to the recipient by special delivery post or a recorded delivery air mail service as appropriate in the manner set out above. Failure to send a confirmation copy will invalidate the service of any facsimile transmission.

23 General

23.1 The Agreement is entered into in the English language and all amendments to the Agreement, all correspondence concerning or relating to the Agreement and all notices given and all documentation to be delivered by either party to the other under these Conditions will be in writing in the English language or will be accompanied by an English translation prepared by such person or body as PANOPTECH will have approved in advance.

23.2 No purported alteration or variation of these Conditions will be effective unless it is in writing, refers specifically to the Agreement and is signed by a duly authorised representative of each of the parties to the Agreement.

23.3 Nothing in the Agreement will create, or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the parties.

23.4 The rights and remedies of either party in respect of the Agreement will not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by such party to the other nor by any failure of, or delay by the said party in ascertaining or exercising any such rights or remedies. The waiver by either party of any breach of the Agreement will not prevent the subsequent enforcement of that breach and will not be deemed to be a waiver of any subsequent breach of that or any other provision.

23.5 If at any time any one or more of the Conditions of the Agreement (or any sub-Condition or paragraph or any part of one or more of these Conditions) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same will be deemed omitted from the Agreement and the validity and/or enforceability of the remaining provisions of the Agreement will not in any way be affected or impaired as a result of that omission.

23.6 The Agreement sets out the entire agreement and understanding between the Customer and PANOPTECH in connection with the sale of the Goods or supply of the Services and will supersede and replace all documentation previously issued by PANOPTECH purporting to set out its terms and conditions of sale of the Goods or supply of the Services.

24 Law and Jurisdiction

24.1 This Agreement and any dispute or claim arising out of or in connection with it will be governed by and be construed in all respects in accordance with English law.

24.2 All disputes or claims arising out of or relating to this Agreement will be subject to the exclusive jurisdiction of the English courts to which the parties irrevocably submit.

24.3 Notwithstanding Conditions 25.1 and 25.2 above, PANOPTECH reserves the right to bring actions against the Customer in any jurisdiction(s) where the Customer is based, has assets or premises, or any jurisdiction(s) where the Agreement is being performed;

24.4 The parties agree that the United Nations Convention Agreements for the International Sale of Goods 1980 will not apply to the Agreement.

25.0 Payment Schedule and Payment Review

25.1 The Payment Schedule shall be defined in PANOPTECH's written quotation

25.2 Additionally, Enterprise Licence Customers will be invoiced quarterly in advance, the first invoice to be rendered alongside the invoice for the Initial Charge, and upon each three calendar month anniversary thereafter for the Term, for the Enterprise Support Service described below ("**Enterprise Support Charges**"). The Enterprise Support Charges are in two parts:

A) calculated as 22.0% of the Software licence fee.

B) as set out in the Company's price list as software maintenance charges for "Front-end" hardware (FlexiBurner, AudioBurner etc)

25.3 PANOPTECH may revise the ongoing Charges to the Customer on the first anniversary of the Commencement Date and upon each anniversary thereafter, and the revised Charges shall be the then-current Charges plus indexation at the same rate as the increase in the Retail Prices Index (as published by the Office for National Statistics in the United Kingdom, or any successor index thereto) over the last 12 months for which figures are published at the date of the revision.

26. Duration

26.1 The Agreement will come into force on when signed by authorised representatives of both Parties (the “**Commencement Date**”), the agreement will continue in force unless terminated earlier by either Party in accordance with Condition 21 (the “**Term**”).

26.2 Either Party may terminate the agreement by giving to the other at least 3 months prior written notice (“**Termination Notice**”). If either Party has provided such a Termination Notice to the other in accordance with this paragraph, then the Agreement will terminate at the end of the notice period.

27. Enterprise Support Service

27.1 In addition to the Support Services described in Condition 8, Enterprise Licence Customers shall receive the following services in consideration of the payment of the Enterprise Support Charges:

27.2 The Enterprise Support Services shall comprise the provision by PANOPTECH of “Preventative Maintenance”, “Curative Maintenance” and “Mandatory Engineering Changes” (as each are listed below) in respect of the Software and Hardware and each constituent part thereof.

27.3 Preventative Maintenance

Preventative Maintenance shall comprise:

(a) The routine inspection and testing (by attendance on-site or remotely) by PANOPTECH of the Software and Hardware and each constituent part thereof;

(b) The carrying out by PANOPTECH of such repairs, replacement of parts, cleaning, lubrication or adjustment to each constituent part of the Hardware as may reasonably be required as a result of the routine inspection and testing referred to in (a) above.

27.4 Curative Maintenance

Curative Maintenance shall comprise;

(a) Upon receipt of a request from the Customer the inspection, testing and diagnosing (by attendance on-site or remotely) by PANOPTECH of any fault reported in the Software or Hardware or constituent part thereof; and

(b) The carrying out by PANOPTECH of such repairs, replacement of parts, cleaning, lubrication or adjustment as may reasonably be required following the remedy of the reported fault.

27.5 Mandatory Engineering Changes

Mandatory Engineering Changes shall comprise the implementation of such mandatory alterations, adjustments, additions or modifications to the Software and/or Hardware and each constituent part thereof in accordance with the manufacturers specifications and as may otherwise be reasonably required.

27.6 Customer's Obligations

In addition to meeting all its obligations described elsewhere in this Agreement the Customer must:

- Allow PANOPTECH or its authorised representatives full access to their premises for the purposes of carrying out the services above; and
- Keep the network connections and Internet Connections in place required by PANOPTECH to carry out the services described above (including keeping certain TCP/IP ports open to PANOPTECH and granting all such network access rights as PANOPTECH may require);

And to the extent that any provision of the Enterprise Support Services is hampered or prevented by the Customer's failure to comply with these additional obligations or any other obligation described in this Agreement (subject always to the provisions regarding the limitation of liability) PANOPTECH shall be excused from any liability for the same.

28. Installation

Unless the Special Conditions contain provisions to the contrary, the Customer will be responsible for installation of all Hardware and Software in accordance with the instructions provided in the Documentation/Manuals. The Customer may call upon the Support Services for further information or troubleshooting advice when installing the Hardware or Software.