

VISTRA LIMITED whose registered office is at First Floor, Templeback, 10 Temple Back, Bristol, BS1 6FL ("VISTRA" which expression, where the context permits, includes VISTRA's successors and assigns) and the person, company or firm ("the Licensee") whose name and address as specified in the order form herewith

1 DEFINITIONS In this Agreement the following expressions shall, where the context permits, have the following meanings:

- (a) "the Package" means the computer software known as "PC Sec" as specified in the order form herewith and includes any alterations, adaptations, enhancements, modifications, updates and additions supplied by or on behalf of VISTRA and each and every copy and part thereof;
- (b) "the Documentation" means the reference, instruction, training and operating manuals, books, guides, information sheets and other materials or documentation supplied by or on behalf of VISTRA for use in connection with the installation, operation or support of the Package, and includes each and every copy and part thereof;
- (c) "the Equipment" means the computer equipment meeting the minimum system requirements as specified by VISTRA and updated from time to time;
- (d) "the Authorised Location" means the location stated as the site address on the order form herewith;
- (e) "Company Legislation" means the Companies Act 2006 and any re-enactment, amendment or replacement thereof or thereto in force from time to time.

2. LICENCE

- (a) In consideration of the charges payable to VISTRA under this Agreement, VISTRA grants to the Licensee a non-transferable, non-exclusive licence to use the Package and the Documentation on or in conjunction with the Equipment at the Authorised Location on the terms and conditions set out in this Agreement.
- (b) The Licensee shall be entitled to use the Package on stand-by equipment at a location other than the Authorised Location at any time when the Equipment at the Authorised Location is not operational, provided that the Licensee shall take all necessary steps to ensure that no copy of the Package shall remain at the location of the stand-by equipment after such use by the Licensee. Use of the Package on stand-by equipment shall be at the sole risk of the Licensee who shall indemnify VISTRA against any loss or damage sustained or incurred by VISTRA as a result of such use. VISTRA shall not have any liability under clause 5(b) or clause 8 below in connection with such use.
- (c) The Licensee's right to use the Package and the Documentation shall commence on the date of delivery of the Package and the Documentation to the Licensee and shall continue until this Agreement is terminated pursuant to clause 5(c) or clause 7 below.

3. INSTALLATION AND TRAINING

- (a) The Package has been designed to enable the Licensee to install it himself on the Equipment. If the Licensee requires any assistance in installing the Package, and VISTRA agree to provide the same, the Licensee shall pay to VISTRA such fee(s) as VISTRA may charge for the provision of such assistance.
- (b) The operating manual and on-screen help facilities are designed to obviate the need for training. If the Licensee requires any training, and VISTRA agree to provide the same, the Licensee shall pay to VISTRA such fee(s) as VISTRA may charge for the provision of such training.

4. PAYMENT

- (a) The Licensee shall pay to VISTRA the charges specified in (e) below, plus Value Added Tax or any tax replacing Value Added Tax in accordance with Statute.
- (b) Any charges payable by the Licensee under this Agreement shall be paid within thirty (30) days of the date of VISTRA's invoice for the same.
- (c) If any sum is not paid within fourteen (14) days of the due date then, without prejudice to its other rights and remedies, VISTRA may charge interest on the sum outstanding on a day-to-day basis (before and after judgement) from the due date until the date of payment (both dates inclusive) at the rate of 4% above the base rate of Barclays Bank PLC in force from time to time.
- (d) In the event of this Agreement being terminated part way through a year no refund of the annual licence and support fee shall be made to the Licensee.
- (e) On or before the first anniversary and each subsequent anniversary of the first day of the month which this Agreement is dated, during the continuance of the Agreement, such annual licence and support fee as VISTRA may from time to time charge, provided that, unless the number of subscribers to the support service falls below 50 at any time, VISTRA shall not increase the annual licence and support fee for any year by more than the greater of:
 - (i) 10% of the immediately preceding annual licence and support fee; and
 - (ii) the percentage increase in the Index of Retail Prices between the date of this Agreement and the date of VISTRA's invoice to the Licensee for the relevant annual licence and support fee.

5. OWNERSHIP

The Licensee acknowledges that:

- (a) the Package and the Documentation and all intellectual property rights (including, but not limited to, copyright) in the Package and in the Documentation, as between the Licensee and VISTRA will remain at all times the property of VISTRA and that the Licensee is entitled to no rights in the Package or in the Documentation other than those expressly granted by this Agreement;
- (b) should any claim be made against the Licensee alleging that the Package or the Documentation infringes the copyright of a third party in the United Kingdom, VISTRA shall, subject to the other provisions of this Agreement, indemnify the Licensee against the order of any competent court made against the Licensee as the direct result of such infringement, provided that the Licensee immediately notifies VISTRA of any such claim with full particulars thereof, gives VISTRA's immediate and complete control and assist VISTRA in the defence of such claim and all negotiations, does not prejudice VISTRA's defence or negotiations, and provided also that the claim does not arise in connection with the act or omission of the Licensee or in connection with the use of the Package in combination with any equipment or in combination with any software not supplied by VISTRA;
- (c) VISTRA shall have the right to replace or change the Package and/or the Documentation, or to terminate this Agreement in order to avoid infringement;
- (d) the foregoing states the entire liability of VISTRA to the Licensee in connection with the infringement of intellectual property rights.

6. THE LICENSEE'S OBLIGATIONS

The Licensee agrees with VISTRA that:

- (a) the Licensee shall not make nor permit to be made any copy of the Package (except for back-up purposes) or of the Documentation, nor shall the Licensee use or permit the Package or the Documentation to be used in any way or for any purpose save as expressly permitted in this Agreement;
- (b) the Package and the Documentation may only be used for the Licensee's internal business purposes (including the provision of company secretarial services to the Licensee's clients) and not for any other purpose whatsoever;
- (c) the Licensee shall treat as confidential and not disclose to any person any information embodied in the Package or the Documentation or imparted to the Licensee in training, nor shall the Licensee supply copies of either the Package or of the Documentation to any person other than to its employees who need to have access to the same for the Licensee's internal business purposes;
- (d) except with the prior written consent of VISTRA or in accordance with Clause 2(b) above, the Licensee shall not use or permit the Package to be used except on the Equipment at the Authorised Location;
- (e) the Licensee shall keep or cause to be kept accurate and complete records of the number of copies of the Package made by the Licensee and of the location of each such copy and of the person or persons responsible for the custody of each copy and, upon request, the Licensee shall make such records available for inspection by VISTRA;
- (f) the Licensee shall not decompile, reverse engineer or disassemble the Package or combine it with any other software and shall not permit the Package to be decompiled, reverse engineered, disassembled or so combined;
- (g) the Licensee shall not make nor permit to be made any translation, alteration, adaptation, enhancement, modification, update or addition to the Package without the prior written consent of VISTRA;
- (h) should the Licensee make any copy of the Package, the media on which that copy is stored shall be the property of VISTRA and the Licensee shall ensure that each such copy bears the proprietary notice of VISTRA;
- (i) the Licensee shall take all necessary steps to ensure that any person to whom the Package or the Documentation (or their contents) is disclosed or who shall receive training in their use shall be aware of the provisions of sub-clauses (a), (b), (c), (d), (e), (f), (g) and (h) of this Clause and to ensure that that person shall himself comply with each of those provisions;
- (j) the Licensee shall indemnify VISTRA against any loss or damage suffered by VISTRA arising out of, or as a result of, or in connection with, any breach of or non-compliance with the provisions of this Agreement by the Licensee or by any person who has access to the Package or the Documentation (or their contents) via the Licensee;
- (k) in the event of the Package or the Documentation being lost or stolen, the Licensee shall immediately notify VISTRA and shall take such steps as VISTRA may reasonably require to recover the Package or the Documentation (as the case may be) and the Licensee shall compensate VISTRA for any loss or damage suffered by VISTRA in connection with such loss or theft;
- (l) the Licensee shall use only the latest release of the Package supplied to the Licensee pursuant to this Agreement and shall immediately on receipt of a new release from VISTRA, return to VISTRA the previous release of the Package and each and every copy thereof;
- (m) the Licensee shall ensure that the Package is used only by competent, trained employees;
- (n) the Licensee shall keep full back-up copies of the Package and of the Licensee's data in accordance with the best computing practice;
- (o) the Licensee shall not request, permit or authorise anyone other than VISTRA or its authorised agents to provide any support services in connection with the Package; and

- (p) the Licensee shall co-operate fully with VISTRA's staff or agents in the diagnosis of any problems with the Package and shall make available to them all information, facilities and services required by them or VISTRA in connection with the support of the Package.

7. TERMINATION

- (a) This Agreement may be terminated by either party giving to the other not less than six (6) months' notice of termination to expire on the first or any subsequent anniversary of the first day of the month on which this Agreement is dated.
- (b) If the Licensee defaults in payment of any sums payable hereunder or fails to observe and perform any of the terms, provisions or conditions of this Agreement, or if the Licensee shall have a receiver or administrative receiver appointed of it or over any part of its business, assets, or undertaking, or shall pass a resolution for winding-up (except for a bona fide scheme of solvent amalgamation or reconstruction), or if a court shall make an order to that effect, or if the Licensee shall become subject to an administration order, or shall enter into any voluntary arrangement with its creditors, or shall threaten to cease, or actually cease, to carry on business, VISTRA may, at its discretion, suspend the provision of services under this Agreement or determine this Agreement immediately or at the end of such period as VISTRA may decide.
- (c) Upon the termination of this Agreement the Licensee shall deliver up the Package and the Documentation to VISTRA at the address of VISTRA stated in this Agreement or at such other address as VISTRA may specify.
- (d) The provisions of clauses 5, 6(c), 6(j), 7(c), 8(b), (c) and (d) and 10 shall survive the termination of this Agreement. The termination of this Agreement shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision which is expressly, or by implication, intended to come into or to continue in force on or after such termination.

8. WARRANTY

- (a) In the event of the Licensee notifying VISTRA that the Package does not perform substantially in accordance with the Documentation and the Licensee giving to VISTRA full details of how the Package so fails to perform during the first three (3) months following delivery of the Package to the Licensee, VISTRA shall, at VISTRA's own expense, take reasonable steps to make the Package perform substantially in accordance with the Documentation, provided that no alteration, adaptation, enhancement, modification, update or addition has been made to the Package. After the end of that three (3) month period, VISTRA shall have no responsibility for the performance of or the facilities and functions offered by the Package other than pursuant to clause 9 of this Agreement.
- (b) If VISTRA shall fail to make the Package perform substantially in accordance with the Documentation within a reasonable time of receipt of notice from the Licensee under sub-clause (a) above, VISTRA shall refund to the Licensee all monies paid by the Licensee to VISTRA pursuant to this Agreement. VISTRA's liability to the Licensee under clause 8(a) of this Agreement shall be limited to the refund of such monies.
- (c) The Licensee acknowledges that neither the Package nor the Documentation has been prepared to meet the Licensee's requirements and that it is, therefore, the responsibility of the Licensee to ensure that the Package and the Documentation meet its requirements. VISTRA shall not be liable for any failure of the Package to provide any facility or function or to perform in accordance with any criteria not specified in the Documentation.
- (d) Except as expressly provided in this Agreement no warranty, condition, undertaking or term, express or implied, statutory or otherwise, as to the condition, quality, performance, merchantability or fitness for purpose of the Package, the media onto which the Package is encoded or the Documentation is given or assumed by VISTRA and all such warranties, conditions, undertakings and terms are hereby excluded.

9. SUPPORT

Subject to the Licensee complying with its obligations under this Agreement, VISTRA shall provide the following services to the Licensee:

- (a) Error Correction
If the Licensee notifies VISTRA that the Package does not substantially perform in accordance with the Documentation and the Licensee gives VISTRA full details of how the Package so fails to perform, VISTRA shall take reasonable steps to make the Package perform substantially in accordance with the Documentation. The error correction service does not include services in respect of:
- (i) defects or errors or failure to perform in accordance with the Documentation resulting from any alteration, adaption, enhancement, modification, update or addition to the Package made by anyone other than VISTRA or its agents specifically authorised by VISTRA to make the same;
 - (ii) any version or release of the Package other than the latest release supplied to the Licensee pursuant to this Agreement;
 - (iii) incorrect use of the Package or operator error;
 - (iv) any fault in the Equipment or other computer software or hardware;
 - (v) defects or errors or failure to perform substantially in accordance with the Documentation caused by or in connection with the use of the Package on or with any equipment or with any software not supplied by VISTRA.
- The Licensee shall pay VISTRA such fee as VISTRA may charge for any services provided but which are not included in the error correction service, or which VISTRA deems are not necessary.
- (b) Updates
The making of such modifications to the Package (excluding any bespoke alterations, adaptations, enhancements, modifications, updates and additions) as VISTRA may from time to time decide to make generally available to its Licensees free of any charge over and above the annual licence and support fee payable hereunder in order to make the Package conform to any changes in Company Legislation, and the provision of such updates and modifications to the Package as VISTRA from time to time may decide to make generally available to its Licensee free of any charge over and above the annual licence and support fee payable hereunder. If the Licensee requires any additional updates or modifications and VISTRA agrees to provide and/or support the same, the Licensee shall pay VISTRA such fee(s) as VISTRA may charge for the provision and support of such additional updates and/or modifications.
- (c) Hot-Line
The provision of telephone advice and assistance relating to the use of the Package on such telephone number as VISTRA may from time to time notify to the Licensee between the hours of 9.00 am to 5.00 pm Mondays to Fridays, excluding bank or public holidays.

10. DATA PROTECTION

- (a) Where VISTRA process Personal Data (as defined in the Data Processing Addendum) on the Licensee's behalf it shall do so as a Processor (as defined in the Data Processing Addendum) and in accordance with the [Data Processing Addendum](#). To the limited extent that VISTRA may act as a Controller (also as defined in the Data Processing Addendum) of Personal Data please refer to the [Data Processing Addendum](#) and the [Privacy Notice](#).

11. GENERAL

- (a) This Agreement is subject to and shall be construed in accordance with, the Laws of England.
- (b) Neither any failure, relaxation, forbearance, delay or indulgence by VISTRA in enforcing any of the terms or conditions of this Agreement, nor the granting of time by VISTRA to the Licensee, shall prejudice, affect or restrict the rights, remedies or powers of VISTRA under this Agreement or the general law, and no waiver by VISTRA of any breach of this Agreement shall operate as a waiver of any subsequent or continuing breach.
- (c) Except in respect of injury to or the death of any person arising from VISTRA's negligence (for which no limit applies) the liability of VISTRA to the Licensee whether arising in contract, tort (including negligence) or in any other way shall not exceed:-
- (i) in respect of damage to tangible property a total of £500,000 (five hundred thousand pounds); and
 - (ii) in all other respects £10,000 (ten thousand pounds).
- (d) Notwithstanding anything else in this Agreement, VISTRA shall not be liable to the Licensee (except in respect of injury to or the death of any person arising from VISTRA's negligence) for any of the following: any indirect loss or damage; consequential loss or damage; costs, expenses or other claims for consequential compensation whatsoever (howsoever caused); loss of profit; loss of business; depletion of goodwill or loss of savings..
- (e) This Agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between them relating to the subject matter of this Agreement. No addition or variation of this Agreement shall be binding upon the parties unless recorded in writing and signed by the duly authorised representative of each party.
- (f) The Licensee shall not assign or otherwise transfer this Agreement or any of its rights or obligations under it, whether in whole or in part, nor shall the Licensee sub-license the use of the Package or the Documentation. VISTRA may sub-contract, in whole or in part, its obligations under this Agreement.
- (g) All notices which are required to be given under this Agreement shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address in England as the recipient may designate by notice given in accordance with the provisions of this clause. Any such notice may be delivered personally or sent by pre-paid first class post and shall be deemed to have been served, if by hand, when delivered, or if by first class post, 48 hours after posting.
- (h) The headings to the clauses to this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.
- (i) Notwithstanding anything else contained in this Agreement, VISTRA shall not be liable for any delays in or failure to perform its obligations under this Agreement if such delay is caused by circumstances beyond its reasonable control including, without limitation, Act of God, the act or omission of any governmental authority, riot, civil commotion, fire, explosion, accident, industrial dispute, war or any act or omission of the Licensee or any third party.
- (j) If any provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law then it shall be deemed omitted and if, as a result, VISTRA becomes liable for loss or damage which would otherwise have been excluded, such liability shall be subject to the remaining clauses of this Agreement.
- (k) Nothing in this agreement is intended to, or does, confer any right on a third party whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.