



Software Licence Agreement

Cranbox Limited T/A Tesseract

1. Licence

- 1.1 We hereby grant you a non-exclusive, non-transferable and limited license for the term of this Agreement for the number of concurrent users specified in the proposal documentation ('Authorised Users') to use the software products specified in the proposal documentation, including any updates and any associated electronic or written documentation (together, the 'Software').
- 1.2 The Software may contain proprietary software licensed to us by a third party or third parties ('3rd Party Software') for which we will obtain a licence to sub-licence the 3rd Party Software to you under the terms of this Agreement.
- 1.3 You may load and store the Software on single computers or a server for a local area network to be used by up to the number of Authorised Users at any one time to process your own data for internal business purposes only.

European Office

1 Newmans Row,
Lincoln Road,
High Wycombe,
Buckinghamshire
HP12 3RE UK

2. Copying

- 2.1 You may make such copies of the Software (but not the documentation) as are reasonably necessary for back-up purposes.
- 2.2 This Agreement shall apply fully to all such copies and you shall ensure that all copies bear our proprietary notice.

sales
+44(0) 1494 465066

support
0844 4820226

facsimile
+44(0) 1494 464756

email
sales@tesseract.co.uk

web
www.tesseract.co.uk

3. Restricted Acts

During the term of this Agreement, you shall not:

- 3.1 modify, alter or adapt the Software without our prior written consent;
- 3.2 remove our trademark, copyright notice or any other proprietary notice from the Software;
- 3.3 translate, disassemble, decompile (except for the purpose of obtaining unavailable interoperability information) or reverse engineer the Software;
- 3.4 permit the Software to be used at any one time by more persons than the number of Authorised Users;
- 3.5 permit the Software to be used by any third party in any way whatsoever; or
- 3.6 utilise the Software on behalf of any third party in any way whatsoever, including, without limitation, using the Software for the purpose of operating a bureau service.



4. Fees

- 4.1 The fees for the Software are payable as specified in the proposal or other ordering document. Fees payable quarterly are payable quarterly in advance without prior invoice for the entire term of this Agreement. We shall be entitled to increase our quarterly charges from time to time to accord with changes in our standard scale of charges by giving you not less than three months' prior notice.
- 4.2 We reserve the right to charge, in addition to the fees specified in the proposal, in respect of any additional amounts charged to us during the term of this Agreement by third parties in respect of the 3rd Party Software, including but not limited to licence fees, sub-licence fees, and upgrade / update fees.
- 4.3 Any charges additional to the fees are payable on receipt of our invoice.
- 4.4 The fees and all other sums due from you are exclusive of VAT which shall be payable in addition.
- 4.5 Time for payment is of the essence. We reserve the right to charge you a compensatory fixed sum and statutory interest on overdue amounts in accordance with The Late Payment of Commercial Debts (Interest) Act 1998 as amended by The Late Payment of Commercial Debts Regulations 2002. Interest shall be calculated on a monthly basis.
- 4.6 You waive any right to set off counterclaims against our fees or other invoiced amounts.

Cranbox Ltd.
Reg. Office
As above

Reg. in Cardiff
No. 2136682



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5. Delivery, Risk & Installation

- 5.1 We shall deliver the Software in object code form on the designated storage media.
- 5.2 Risk in the media upon which the Software is recorded or printed passes to you on delivery.
- 5.3 Time of delivery is not of the essence. Any date mentioned is given only as a guide and we are not liable for any loss whatsoever arising from our failure to deliver on the stated date.
- 5.4 On delivery you shall be responsible for installing the Software.
- 5.5 If you require our on site attendance to assist in installation, we shall charge for our services at our current hourly rate plus out of pocket expenses.

6. Acceptance

- 6.1 You shall accept the Software immediately after the Software is successfully installed.
- 6.2 If you fail to accept the Software within 7 days following delivery you shall be deemed to have accepted it.

7. Proprietary Rights

- 7.1 All copyright and other intellectual property rights in the Software is and shall remain our property and the property of our suppliers.
- 7.2 You shall notify us immediately if you become aware of any unauthorised use of the Software.
- 7.3 You shall permit us to check the use of the Software at all reasonable times, and for this purpose you hereby irrevocably licence us, our employees and our agents to enter any of your premises.
- 7.4 We retain title to the media upon which the Software is recorded or printed.

8. Confidentiality

- 8.1 You shall treat as confidential, keep secret and not use or divulge any and all information contained or embodied in the Software and all information conveyed to you through support, maintenance, training and consultancy.
- 8.2 You may only disclose such information to:-
 - 8.2.1 your employees;
 - 8.2.2 government and regulatory bodies; and
 - 8.2.3 persons appointed to maintain the computer on which the Software is located;
to such an extent only as is necessary for the purposes contemplated by this Agreement, or where under a legal obligation to do so or as required by a court of competent jurisdiction, but you shall where practicable inform us of such proposed disclosure as soon as possible beforehand.
- 8.3 You shall ensure that the persons and bodies referred to in sub clause (2.) of this section are made aware of the confidential nature of any information prior to its disclosure.
- 8.4 These obligations shall not extend to any information which
 - 8.4.1 was rightfully in your possession prior to the date of this Agreement;
 - 8.4.2 is already public knowledge or becomes so at a future date (otherwise than through breach of this clause).
- 8.5 Your obligations in respect of confidential information shall survive the termination of this Agreement.

9. Warranties

- 9.1 We warrant to you that:
 - 9.1.1 we have the right, power and authority to licence the Software in accordance with this Agreement;
 - 9.1.2 the media upon which the Software is stored will be free from defects in materials and workmanship for a period of 90 days from the date of acceptance;



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- 9.1.3 the Software will substantially perform the facilities and functions set out in the relevant written technical specifications for a period of 90 days from the date of acceptance;
- 9.1.4 we have taken all reasonable steps to provide the Software virus-free but it is your duty to scan the Software for viruses. If you fail to take all reasonable steps to detect viruses this warranty shall not apply.
- 9.2 To claim the benefit of these warranties, you must give notice to us of a relevant defect within 7 days of discovering it and within the warranty period specified above, and (if possible) provide us with a documented example of such defect.
- 9.3 You acknowledge that it is your responsibility to ensure that the facilities and functions described in the relevant technical specifications meet your requirements. We shall not be liable for any failure of the Software to provide any facility or function not specified in the relevant written technical specification.
- 9.4 You acknowledge that software in general cannot be error free and agree that the existence of errors in the Software shall not constitute a breach of this Agreement.
- 9.5 We shall have no liability under the warranties (whether in contract or tort including without limitation negligence) other than to remedy breaches of the warranties, which are notified to us within the warranty period specified above, by providing materials and services within a reasonable time.
- 9.6 If we are unable to replace defective media or provide corrected Software within a reasonable time, we shall either replace the Software with functionally similar software or refund the licence fee, less a reasonable rental fee upon the return of the Software to us.
- 9.7 These warranties shall not apply if the media or Software:
 - 9.7.1 have been subjected to damage or abuse; or
 - 9.7.2 have been altered or changed in any way without our consent.
- 9.8 We do not warrant that:
 - 9.8.1 the use of the Software will meet your data processing requirements; or
 - 9.8.2 the operation of the Software will be uninterrupted or error free; or
 - 9.8.3 the functions of the Software will operate in the combinations which you select for use.
- 9.9 In return for the benefit of these warranties, you agree that all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

10. Intellectual Property Rights Indemnity

- 10.1 If any claim is made against you that the Software infringes the United Kingdom patent, copyright, design or trademark rights of any other person, then we will pay the amount of any settlement, or damages and costs awarded against you, plus in either case reasonable legal fees (if any) in connection with the claim, provided:
 - 10.1.1 you give us notice of receipt of any claim issued by a court within five (5) working days and of any claim received by you within ten (10) working days of it becoming reasonably apparent to you that the claim is serious;
 - 10.1.2 you do not make any admissions in respect of such claim without our written consent and you comply with all reasonable instructions given by us;
 - 10.1.3 we are given control of any proceedings or negotiations in connection with the claim;
 - 10.1.4 you give us all reasonable assistance for the purposes of any proceedings or negotiations;
 - 10.1.5 except pursuant to a final award, you do not pay or accept any such claim or compromise any such proceedings without our consent.
- 10.2 Without prejudice to your duty at common law, we shall be entitled to require you to take such steps as we reasonably require to mitigate or reduce any such damages, costs or expenses for which we are liable to indemnify you under this Section.



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10.3 We shall not be liable to you under this Section if the actual or alleged infringement is based upon or results from:

10.3.1 any modification or alteration of the Software that was not designed, supplied or approved by us; or

10.3.2 any breach by you of this Agreement; or

10.3.3 the combination, operation or use of the Software with any other software not approved by us.

10.4 In the event of an infringement we may at our option and expense either:

10.4.1 procure for you the right to continue to use the Software; or

10.4.2 modify the Software to render it non-infringing but equivalent in all material functional respects to the Software prior to such modification; or

10.4.3 replace the Software with non-infringing software which is equivalent in all material functional respects to the Software; or

10.4.4 refund the licence fee, less a reasonable rental fee for the period during which the Software was in use.

11. Liability

11.1 We accept liability without limit for (i) death or personal injury caused by our negligence or the negligence of our employees acting in the course of their employment; (ii) any fraudulent pre-contractual misrepresentations made by us on which you can be shown to have relied; and (iii) any other liability which by law cannot be excluded.

11.2 We will accept liability to pay damages to you in respect of loss or damage arising out of our breach of contract or negligence. Subject to clause 11.1, our total liability to you arising out of or relating to this Agreement, including without limitation in respect of performance or non-performance of obligations, whether in contract, tort (including without limitation negligence), statute or otherwise, will not exceed the total licence fees paid by you.

11.3 Notwithstanding clause 11.2 above, and whether or not you have advised us of the possibility of such loss arising or whether such loss was in the contemplation of the parties at the start of this Agreement, in no event will we have any liability, whether under contract, tort (including without limitation negligence) or otherwise, for any loss of profit or revenue, loss of production, loss of or corruption to data, loss of contracts or business opportunities, loss of goodwill or failure to achieve anticipated savings or benefits, or for any type of consequential, special or indirect losses or damages, or in all cases any associated costs and expenses.

11.4 You acknowledge and agree that the allocation of risk contained in this Agreement is reflected in the fees agreed by the parties.

11.5 We shall not be liable to you for any loss arising out of your failure to keep full and up-to-date security copies of your computer programs and data.

12. Duration & Termination

12.1 This Agreement shall continue until terminated in accordance with this Section.

12.2 You may terminate this Agreement at any time by giving us at least 30 days' prior notice, **provided** that where you are taking a licence of the Software on a quarterly basis the minimum terms is three years and such notice may only expire on or after the third anniversary of this Agreement.

12.3 We may terminate this Agreement immediately by notice if you:

12.3.1 are in breach of any of your obligations and, in the case of a breach capable of remedy, fail to remedy the same within 21 days after receipt of a notice giving full particulars of the breach and requiring it to be remedied. A breach shall be considered capable of remedy if you can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence);



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- 12.3.2** make any voluntary arrangement with your creditors or become subject to an administration order;
- 12.3.3** have a receiver or administrative receiver appointed over any of your property;
- 12.3.4** go into liquidation; or
- 12.3.5** cease, or threaten to cease, to carry on business.
- 12.4** Upon termination, you shall immediately cease to use the Software.
- 12.5** Where you are taking a licence of the Software on a quarterly basis, if we terminate this Agreement in accordance with this Section, or you terminate in breach of this Section, in either case prior to the third anniversary of this Agreement, you shall pay us on demand recoverable as a debt an amount equivalent to the remaining quarterly payments for the three year period, less 10%. You agree that this payment is agreed damages and a genuine pre-estimate of loss for the early termination of this Agreement taking into account but not limited to accelerated payment.
- 12.6** Within 7 days of termination you shall either return to us or destroy the Software (including all copies) and certify to us in writing, signed by a director, that you have complied with this obligation.
- 12.7** On termination you will not be entitled to any refund or compensation.
- 12.8** Termination of this Agreement shall not affect any accrued rights or liabilities 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 continue in force on or after such termination.

13. Third Party Beneficiaries

- 13.1** Our suppliers may enforce the terms of this Agreement subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 13.2** Except as provided in clause 13.1, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

14. Force Majeure

Neither party shall be liable to the other for any failure or delay in the performance of its obligations caused by circumstances beyond its control which would include act of God, war, riot, sabotage, explosion, abnormal weather conditions, fire, flood, strikes, lockouts, government action or regulations, delay by suppliers, accidents, and shortage of materials, labour or manufacturing facilities.

15. Whole Agreement

- 15.1** All terms of any purchase order or other ordering document submitted by you shall be superseded by this Agreement.
- 15.2** This Agreement and the proposal documentation constitute the entire agreement between the parties and supersedes all previous agreements and understandings relating to the subject matter of this Agreement.
- 15.3** You acknowledge that you have not relied on or been induced to enter into this Agreement by any statement, representation, warranty or understanding of any person (whether a party to this Agreement or not) which is not set out in this Agreement, the proposal documentation or the relevant written technical specifications for the Software.
- 15.4** You agree that you will have no right of action or remedy arising out of or in connection with any statement, representation, warranty or understanding of any person (whether a party to this Agreement or not) which is not set out in this Agreement, the proposal documentation or the relevant written technical specifications for the Software. The only remedy available to you will be damages for breach of contract of the terms of this Agreement.
- 15.5** Nothing in this Section shall operate to limit or exclude any liability for fraud or deliberate concealment.



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16. Assignment

You shall not assign or otherwise transfer this Agreement or any of your rights and obligations nor sub-licence the use (in whole or in part) of the Software without our prior written consent.

17. Waiver

Waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision.

18. Severance

If any provision in this Agreement is held by any court or other competent authority to be illegal, void or unenforceable, then such provision shall be deemed to be severed, but the validity, legality and enforceability of the remaining provisions shall not be affected.

19. Variation

No amendment to this Agreement may be made unless expressly accepted by us in writing.

20. Notices

- 20.1 Notices under this Agreement shall be in writing and may be delivered by:
- 20.2 first class post or by hand and addressed to the party concerned at its registered office or principal place of business;
 - 20.2.1 fax provided a confirmatory copy together with a copy of the relevant transaction report or slip printed by the transmitting machine is given by hand or sent by post within 24 hours of transmission addressed to the party concerned at its registered office or principal place of business; or
 - 20.2.2 by e-mail provided that a confirmatory copy together with a copy of any relevant transaction report or confirmation of sending produced by the transmitting computer is given by hand or sent by post within 24 hours of transmission addressed to the party concerned at its registered office or principal place of business.
- 20.3 Notices delivered by hand shall be deemed to have been given at the time of delivery.
- 20.4 Notices sent by post shall be deemed to have been received 48 hours after posting. In proving service by post (including proving postage of confirmatory copies of notices sent by fax or email) it shall only be necessary to prove that the communication was contained in an envelope which was duly addressed and posted in accordance with this Section.
- 20.5 A notice sent by fax or e-mail is to be treated as served on the day upon which it is sent or the next working day where the fax or e-mail is sent after 4 pm or on a day that is not a working day, whenever and whether or not it or the confirmatory copy is received.

21. Applicable Law

English law applies to this Agreement and any dispute arising in connection with it is subject to the non-exclusive jurisdiction of the English courts.

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For and on behalf of Cranbox Limited

.....
Date

.....
For and on behalf of (the Licensee)

.....
Date