

IBMS Product Suite – Software Licence Agreement

1. What this agreement is about

This agreement describes how you may use the software which accompanies this agreement, which we refer to as 'Software'. This agreement is worded so that it can cover all of the parts of software which make up the IBMS Product suite. However this agreement only applies to your use of the software which came with this agreement.

Summary of this agreement

This agreement says that if you accept these terms and pay the appropriate fees, you may use the Software as described in this agreement and the relevant documentation, such as our invoice, the help file in the Software and the support pages on our web site.

Paragraphs 4 and 5 describe your right to use the software and some limitations on how you may use it.

Paragraph 5.3 tells you about how we use your information and personal data.

Paragraph 6.1 is about technical support.

Paragraph 7 sets out what happens if there is a problem with the Software.

Paragraph 8 is also important as it describes that Sapphire's financial responsibility to you is limited in certain circumstances.

If there is a conflict between this summary and a term below, the term below contains the correct wording.

Please make sure you are happy with all the terms below before using IBMS and related products.

2. How you indicate that you accept this agreement and when this agreement starts

2.1. You indicate that you accept every term of this agreement by:

2.1.1. Using any of the IBMS product suite.

2.1.2. Installing the Software and keeping it installed for longer than 10 days.

2.2. If you don't accept this agreement, you should notify us or your supplier as soon as possible. You should also permanently delete the Software from all computers which it has been installed on, as soon as possible, and in any event within 10 days of the date you first installed the Software. Once you have notified us or your supplier in writing that you do not accept this licence agreement, we or they may need to verify that you have permanently deleted it, and we or they may contact you to discuss this.

2.3. If you are dissatisfied with the Software, or have any other concern with it, please email our customer care team on support@sapphire-computers.co.uk or call 02392 512090.

3. Who this agreement is between and what certain defined words mean

3.1. This agreement is between Sapphire Computers Ltd Limited (company registered number 3188427, VAT number GB 675840207) whose registered office is at MERRYDALE HOUSE, LINFORD ROAD CHADWELL ST, MARY, GRAYS, ESSEX, RM16 4JS (which we refer to as 'Sapphire Computers', 'we' or 'us' in this agreement) and you, the individual or organisation which is registered to use the Software (which we refer to as 'you' in this agreement). By entering into this agreement we both acknowledge that we both intend to be bound by this agreement and to follow its terms. In return for you doing this, we agree to let you use the Software as described in this agreement.

3.2. The following words have the following meanings when used in this agreement:

3.2.1. 'Documentation' means the technical and user guides (including guidance as to minimum system requirements) or similar documentation which we make available for use with the Software, and if relevant our invoice;

3.2.2. 'Licence' has the meaning given in paragraph 4.1; and

3.2.3. 'Replacement Software' means any software we generally make available to all our customers to replace all or part of the Software. Replacement Software excludes anything which we inform you is separate software, even if it is similar to the Software, or capable of being integrated with the Software.

4. Your rights to use the Software

4.1. So long as you have paid any applicable fee to use the Software and have accepted this agreement in one of the ways set out in paragraph 2.1, we grant you the right (called a 'Licence') to use the Software in the way described in this agreement. You may not use the Software in any other way, although please read

paragraph 4.11 about how you may use the Software.

4.2. Your Licence is non-exclusive, which means that we may grant the same and similar rights to others.

4.3. At all times you must only use the Software for your legitimate business purposes and with your own.

4.4. This Licence allows you to use the object code of the Software only. Object code is a set of written instructions that a computer can read, but which is difficult for a person to understand.

4.5. The duration of your Licence depends on the Software and the reason for which you are using it.

4.5.1. If you are using a demonstration or evaluation copy of the Software, or we have informed you that you may only use it for a limited period for another reason, then you may only use it for the limited period of time that was communicated to you when we (or your supplier) provided the Software to you. Please note that demonstration and evaluation copies of our software may only work for a limited period of time, or, after the initial demonstration or evaluation period, may only work in a limited way.

4.5.2. Otherwise the Licence for the Software is not time limited. You should note that the Licence may be ended if the circumstances described in paragraph 9 arise.

4.6. If you have purchased a multi user licence, you may permit up to the specified number of concurrent users to use the Software.

4.6.1. Users and concurrent users. A user is a person who inputs information into the Software, or uses it to gain information. Only you or your employees, or contractors providing services (which are similar to the activities an employee would carry out) to you and who have signed a written contract with you, may be users. The Software is usually licensed with reference to 'concurrent users' which means that up to the specified number of users may use it at any one time. You may reduce the number of concurrent users who have access to the Software at any one time, but if you do this we will not give you a refund.

4.6.2. Company. By 'company', we mean a company, business or other organisation (which is in a group of businesses owned by the same person or people), which you want to manage using the Software, and for which you have a set of stand alone records and data (which we call a 'data set'). If you want to manage more than one company data set with the Software, you must have a company licence for each company data set that you want to manage.

4.6.3. The software includes a mechanism which ensures that only the correct

number of concurrent users use the Software at one time. If this mechanism prevents you from using the Software, please contact us.

4.7. You may use the IBMS product suite on a network, so long as you use that Software in line with the rest of this paragraph 4 and paragraph 5. If you use that Software over a network, the performance of the network may affect the performance of that Software. If you use that Software on a network which is not a local area network then: (a) you may experience problems with that Software, (b) we may be unable to provide any technical support for such use, and (c) the contractual promises we give in paragraph 7.1 do not apply. You should read the Documentation which sets out the minimum specifications for network use, and for further details on limitations with using that Software remotely.

4.11. If you have received additional documentation from Sapphire Computers which includes wording that says you may use the Software in a different way, or on a different basis to what is described in this agreement, the wording in that documentation overrides this agreement. Examples of that sort of additional documentation include a 'laptop licence' and business partner agreement.

4.12. Some features of the Software are dependent on third party technology. Subject to paragraph 8.3 (about what liability is not restricted), we are not responsible for any failure or problem with any third party technology and will not be liable for such failures or problems.

4.13. The Software may not be transferred to any other person or organisation. For example you may not sell it if you no longer wish to use it, and (in line with paragraph 9.2) if you become insolvent, an insolvency practitioner may not pass on the Software as part of the assets of your business.

4.14. You may transfer a copy of the Software from one computer to another owned by you, so long as you always use the Software in accordance with paragraphs 4 and 5 of this agreement, and the Documentation. Once you have transferred a copy of the Software from one computer to another, you must permanently delete the Software from the computer on which the Software was originally installed. You may not install more than one copy of the Software on one computer.

5. Limitations on use of the Software

5.1. Software owned by others. With the Software you may receive other software which is not owned by us (for example database software). You may not use software owned by others by itself - you may only use it in the course of using the Software. If you do use software owned by others, you agree to comply with any licence agreement which accompanies that other software. If there is no licence agreement with that other software, this agreement will apply to your use of that

other software.

5.2. Changing, taking apart and copying the Software

5.2.1. You must not change or take apart the Software, nor allow anyone else to do so. Please contact us if you wish to do this, when we will try to help if you wish to do this for a legitimate reason and at the very least fulfil our legal obligations.

5.2.2. You must not copy any of the Software, nor allow anyone else to do so. As an exception to this you may make one back-up copy of it. This back-up copy may only be used on a computer (i.e. in a 'live environment') if you need to use it because your original copy is no longer available. For clarity, we are not trying to restrict how many copies of your own data you make, as you are free to make as many copies of your own data as you like.

5.3. In addition to the mechanism described at paragraph 4.6.3, the Software may contain technology which ensures that you only use the Software in the intended manner. You agree that we may include this technology in the Software and that (if contained in the Software) it will start working once the Software is activated.

5.4. Unauthorised use of our Software. This paragraph is included to make clear that certain use of our Software is not permitted. The following list gives some examples of things you must not do with the Software, and you must ensure that no one else does them with your copy of the Software.

5.4.1. You must not use the Software in any way other than as specifically permitted by this agreement, the Documentation or as separately permitted by us in writing.

5.4.2. The Licence is non-transferable. This means that except as set out in paragraph 4.14, you must not pass the Software on to another person or organisation in any way, whether or not you are paid money to do so. For example, you may not sell the Licence or the Software, including if someone buys the assets of your business.

5.4.3. You must not make the Software available for anyone else to use or access, nor give anyone else any right (of any kind) to distribute or exploit the Software in any way. For example you may not use the Software with someone else's data to provide a service to them (these services are sometimes called bureau services), except as described in paragraphs 4.9 and 4.10. Whilst you may provide your users with remote access to the Software via a network, please read paragraph 4.7 and note the limitations on such use. Please also note that you may not use the Software to permit anyone other than your users to have remote access to the Software, for example by providing the Software as a service - sometimes called a hosted service or application service provider (ASP) service.

5.4.4. You must not use, nor try to use, the Software in a way which we have not specifically permitted. For example you must not try to make the Software work in a particular way if it does not usually work that way.

5.4.5. The following sentence is to make it clear that we do not want anyone to use our Software to develop their own software. You must not use or copy (no matter how much is copied) the whole or any part of the Software's graphical user interface, operating logic or underlying database structure for incorporation into or the development of any software or other product or technology, unless that use or copying is permitted by law.

5.4.6. In the unlikely event that we believe your use of the Software may break any part of this agreement, we will check by asking one of your directors, partners or similar senior managers to confirm to us in writing (using a form which we will provide to you), that you have complied with all parts of this agreement. If despite this we tell you in writing that we believe you may not have complied with any part of this Agreement, you now give us permission to visit your office(s) during normal office hours, to carry out an audit of your relevant systems and records to check this. You agree not to revoke this permission. When carrying out this audit, we will minimise the disruption to your business and you will give us your reasonable assistance.

5.5. Ownership of the Software. Although you have rights to use the Software as described in paragraph 4, we have not passed ownership of the intellectual property rights in the Software to you. Intellectual property rights are, in summary, exclusive rights for an owner to say how certain things, like music, films and software, may be used. We (or the owner of the Software, if we are not the owner) continue to own the intellectual property rights in the Software including any Replacement Software and any copies of it made by you. The only rights you have to the Software and any related materials are the Licence (to use the Software as described in paragraph 4) and any other rights specifically given to you in this agreement.

6. Technical Support and Replacement Software

6.1. Technical Support. If specified in the Documentation, for no additional charge we will provide you with technical support covering problems you may have in using the Software - details of the technical support are given in the Documentation. We will provide this from the date you first purchase an IBMS product for any version of the Software, for the period specified in the Documentation. Once we have provided you with one free period of technical support in relation to particular Software, we will not provide another free period of technical support for it, even if you purchase a subsequent version of that particular Software. If you do not wish to continue to receive this technical support, you should contact us to tell us. From time to time we may change the

terms relating to our provision of technical support. We will inform you if we do this.

6.2. Replacement Software. If you obtain Replacement Software which replaces all or part of the Software (for example a new release) the Licence described in paragraph 4 will cover you to use it, from the date you first use Replacement Software. To allow a smooth change over to the Replacement Software, you may continue to use both the Software and the Replacement Software for 3 months. Then the Licence to use the Software will stop and only cover the Replacement Software, and the wording of paragraph 9.4 (about returning the Software) will apply to the replaced Software.

6.3. We may stop providing technical support and/or Replacement Software for the Software at any time, though we will give you a reasonable amount of notice if we decide to stop providing this, and our doing so will not affect your Licence to use the Software.

6.4. From time to time we may introduce separate software which is similar to the Software or capable of being integrated with the Software.

7. Sapphire's contractual promise and disclaimers about the Software

7.1. We make a contractual promise to you (sometimes called a 'warranty') that, from the start date of this agreement, the Software will provide the functionality and will perform substantially as described in the Documentation. This promise only applies so long as you use the Software in accordance with the Documentation. If you notify us in writing during this warranty period that the Software does not perform substantially in accordance with the Documentation and this non-performance is material to your use of the Software, we will try to replicate and verify that non-performance.

7.2. In relation to the Software, we do not make any promises or give any assurances about any of the following:

7.2.1. That the Software will meet your requirements;

7.2.2. That there will be no interruptions in your use of the Software. This is because like all software, there may be defects in the Software, despite the fact that we follow good industry standards when testing the Software before it is released;

7.2.3. That you will be able to use the Software in any particular way;

7.2.4. That you will get particular outputs from the Software; and

7.2.5. That the results of your use of the Software, for example in terms of

content, correctness, accuracy, reliability or otherwise, will be to a certain standard.

The fact that you have told our representative about your intended use will not affect the disclaimer in the previous sentence. This is because the Software is boxed software that has been developed for use by many different types of users and it is your responsibility to set up the Software so that you can use it in the particular way you require, and to use it as best suits your circumstances and needs.

7.3. We give you a warranty that we will use our reasonable skill and care in providing any service to you under this agreement.

7.4. This agreement describes all of the obligations and responsibilities we owe you for the Software. Unless it is contained in this agreement, Sapphire Computers is not bound by any other contractual terms, warranties, or other type of promise, whether given specifically or not. To the fullest extent the law allows it, Sapphire Computers is not bound by any binding term, warranty, or other type of promise about the Software which might otherwise be introduced into this agreement by the automatic effect of law. Every statement in this paragraph is subject to paragraph 8.3 (about what liability is not restricted).

8. Our responsibility if something goes wrong

8.1. Our maximum responsibility and liability (including for negligence) in relation to this agreement will be limited to paying you an amount equal to the total amount of fees you paid for the Licence to use the Software.

8.2. In no event will Sapphire Computers be responsible for any of the following:

8.2.1. Financial or similar loss of any kind, including for example: loss of profits, business, chargeable time, anticipated savings, goodwill, any business interruption or loss of or corruption to data; in each case however caused and in each case whether caused directly or indirectly;

8.2.2. Loss or damage which we could not have reasonably known about at the time you entered this agreement (sometimes called indirect, consequential, incidental or special damage);

8.2.3. Losses you suffer which arise from you using the Software other than as described in the Documentation;

In each case described in paragraphs 8.2.1-8.2.3, even if we actually knew or should have known about the possibility you could experience such loss.

8.3. The following sentence is necessary under English law to help ensure that we

benefit from the protection given by the rest of this paragraph 8. Nothing in this agreement will prevent or limit either of our liability for:

8.3.1. Fraud;

8.3.2. Death or personal injury arising out of our negligence; or

8.3.3. Any legally binding promise which is implied by law, that we can give you the Licence or that you can use the Software without interference.

8.4. We both acknowledge that the allocation of risk and responsibility in this agreement is reasonable because it reflects that:

8.4.1. It is not within our control how, and for what purposes, you use the Software;

8.4.2. We have not developed it specifically for you; and

8.4.3. While we follow good industry practice, it is not economically possible for us to exhaustively test the Software.

9. How this agreement may be brought to an end

9.1. You may end this agreement at any time by writing to tell us. If you do this, we will not give you a refund, and if any payment is outstanding or you are making payments by direct debit, you will have to immediately pay everything you owe by the end date of this agreement. If you are receiving paid for technical support or any other service from us and want to end that service, you should read the relevant contract terms for information on how to stop that service.

9.2. This agreement will automatically (i.e. without us having to tell you) and immediately end without refund if you become bankrupt (or something similar happens) or your business is not able to pay its debts, stops trading or becomes insolvent (or something similar happens), or if any finance arrangement you have made with another party in relation to the Software has ended for any reason without the finance being paid in full. This means that in those circumstances the Licence for the Software may not be transferred by any person. For example any firm trying to sell your assets (such as an insolvency practitioner) is not able to pass on the Software once you become insolvent, as the Licence stops as soon as that happens.

9.3. If either of us discovers that the other has done something which is not allowed by this agreement, or has not done something which is required by it, the person who discovered the situation has the option to give the other 30 days' advance written notice that they require the situation to be remedied. If it is remedied in that time, that will be the end of the matter. If it is not remedied in

that time, the person who discovered the situation will then have the option to end this agreement by giving written notice to the other, when this agreement will immediately end.

9.4. If we write to you asking you to do so, within ten working days of the end of the Licence for any reason, you will uninstall the Software (including any whole or partial copies of it) and provide a certificate signed by one of your directors, partners or similar senior managers to confirm compliance with this paragraph 9.4.

9.5. No matter how this agreement ends, the data you store in the Software remains your data and you are entitled to extract it from the Software before the end of the agreement. However, your failure to extract it will not prevent this agreement ending. To be clear, in those circumstances we are under no obligation to extract your data from the Software, nor to help you to do so.

10. Miscellaneous terms

10.1. Any supplier or business partner (accredited or not) from which you buy the Licence is an independent contractor and is not appointed or authorised by us as our servant or agent. No such person has any authority or right to enter into any contract or provide any representation, warranty or guarantee with or to you on our behalf, or otherwise to bind us in any way at all. We are not responsible for any modifications or mergers made to the Software by these organisations, nor for anything they do or fail to do.

10.2. If you are purchasing a product or service directly from us and we quote you a price on our web site or by telephone, that price is subject to confirmation.

10.3. We own the rights in our Software and any related logos. Other owners own the rights in their software and their logos. You do not obtain any ownership of those rights or logos, and the rights you obtain to access and use the Software and other software supplied with it are as specifically described in this agreement.

10.4. If a court or similar body decides that any wording in this agreement is invalid or unenforceable, that decision will not affect the rest of this agreement, which will remain binding on both of us. However, if the wording that is invalid or unenforceable can be made valid and enforceable by deleting part of it, we will both treat the wording as if it is deleted, so that the wording in question becomes valid and enforceable.

10.5. If either of us fails or delays the exercise of any rights or remedies under this agreement, we will not be deemed to have given up those rights or remedies in any way.

10.6. This agreement is the entire agreement between you and us with respect to your use of the Software, and supersedes all documentation, information and other

communications (in each case whether spoken or written) between us with respect to such access and use. In case of any inconsistency, the paper licence agreement overrides the terms of the electronic licence agreement displayed by the Software.

10.7. It is important to us to have a direct relationship with the users of our software, so you will not transfer this agreement to anyone else.

10.8. From time to time we may modify this agreement by notifying you that it has been modified. If you do not agree with those modifications, please contact us as soon as possible. By making an additional purchase from us (or your Software supplier) which relates to the Software after you have been notified that this agreement has been modified, you indicate your acceptance of those modifications.

10.9. If circumstances happen that are beyond our reasonable control, we will not be liable for any failure to perform our obligations in this agreement because of those circumstances, and we will be excused from that failure for so long as those circumstances continue.

10.10. The following sentence means that only you, we and the owners of other software owned by others (described in paragraph 5.1.2), can benefit from the rights in this agreement. Nothing in this agreement will give anyone any right or benefit under the Contracts (Rights of Third Parties) Act 1999, except that the owners of that other software can benefit from paragraphs 4, 5, 8 and any other part of this agreement that is applicable to that other software. However we both reserve the right to terminate this agreement or change any term of it by written agreement between ourselves, without the consent of any of those owners.

10.11. This agreement is governed by the laws of England and Wales and we both agree that the courts of England and Wales will be the only courts that can decide on legal disputes or claims about this agreement.