



TERMS OF BUSINESS: of SeeByte Limited ('SeeByte'), a company incorporated in Scotland (registered number SC194014)
for software products and related services offered by SeeByte

PART ONE

1. Interpretation

1.1 Definitions

In these Terms of Business (Parts One to Three inclusive), except where the context otherwise requires, the following words and expressions shall have the following meanings:

'Acceptance' has the meaning given in Clause 3.2 of Part One;
'Acceptance Certificate' means written confirmation by the Customer to SeeByte in accordance with Clause 3 of Part One that all Acceptance Tests have been completed to the reasonable satisfaction of the Customer (such confirmation not to be unreasonably withheld or delayed or made conditionally) using SeeByte's standard acceptance certificate form;

'Acceptance Test' means a demonstration by SeeByte to confirm to the Customer that SeeByte's obligations pursuant to Clause 2.2 of Part One have been carried out and completed by SeeByte;

'Agreement' means the agreement formed by the Customer's acceptance of the Quotation, which agreement incorporates these Terms of Business and other related documents as specified in the Quotation;

'Confidential Information' means information passing between the parties which has been disclosed to or otherwise obtained by one party (the **'Recipient'**), by the other (the **'Discloser'**), which has been expressed to be confidential or which would appear to a reasonable person to be confidential;

'Critical Issue' means an issue which affects the core functionality of the Product and where there is no known workaround;

'Customer' means the company, partnership or other legal person to whom the Quotation is addressed and shall be deemed to include a reference to its successors, (or permitted transferees or permitted assignees, if any);

'Customer Engineering Request' means a request in writing by the Customer for a new feature not included in the current Product specification, or a request to add new functionality to an existing Product feature;

'Deemed Acceptance' has the meaning given to it in Clause 3.4 of Part One;

'Delivery Date' has the meaning given to it in the Quotation;

'Documentation' means any user guide to the System and its operation and any other literature supplied with the same by SeeByte (whether in electronic or hard copy form) to the Customer;

'Force Majeure Event' has the meaning given in Clause 11.1 of Part One;

'Intellectual Property' means all intellectual property rights of whatever nature anywhere in the world (including, without limitation, patents, inventions know-how, trade secrets, confidential information, registered designs, unregistered design rights, registered and unregistered trade marks and all goodwill relating thereto, business names, domain names, copyrights (including rights in computer software), databases and rights in databases and all other similar proprietary rights

which may subsist in any part of the world) together with (i) all renewals, extensions, revisions, (ii) applications for registration of any of the foregoing (to the extent registrable) and (iii) any and all rights to apply for registration of any of the foregoing;
'Knowledge Base' means the Product help-guide accessed via SeeByte's website at www.seebyte.com;

'Losses' means any one or more of the following: loss of revenue, loss of actual or anticipated profits, loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of goodwill, loss of reputation, loss of programs or loss of data (due to, but not limited to, damage, corruption, hacking, breaches of security, computer misuse, denial of service attack, viruses, disabling or harmful devices or otherwise);

'Maintenance Services' has the meaning given in Clause 1.1 of Part Two;

'Major Update' means a major update release which contains major new functionality or Product structure changes (in this situation the major release number will be incremented, for example Version 3.8.915 becomes 4.0);

'Minor Update' means a minor update release which indicates some functional enhancements to the Product (in this situation the build number will be incremented, for example: Version 3.8.915 becomes 3.8.920);

'Non-Critical Issue' means an issue which affects the core functionality of the Product and where there is a known workaround;

'On-Site' means any premises or other location(s) used by the Customer which are not recognized as a SeeByte site or office;

'Prices' shall be the amounts and/or rates stated in the Quotation;

'Parties' means SeeByte and the Customer and **'Party'** shall be construed accordingly;

'Product' means any hardware and/or Software element of a System;

'Purchase Order' means a purchase order agreed between the Customer and SeeByte for the purchase by the Customer of the Product(s) and/or the Services in accordance with these Terms of Business;

'Quotation' means the quotation issued by SeeByte to the Customer, which refers to and incorporates these Terms of Business;

'Services Charge' means the charges payable periodically in advance for the Support Services (as may be set out in the Quotation), subject to future amendment from time to time in accordance with the provisions of Clause 5 of the Service Terms;

'Service Levels' means those standards of performance and response times that SeeByte shall use in performing the Support Services as set out in Clause 3 of Part Two of these Terms of Business;

'Service Terms' means the conditions on which SeeByte will perform the Support Services as set out in Part Three of these Terms of Business;

'Software' means SeeByte's proprietary software embedded in and forming part of the System;



'Standard Technical Support Hours' means 8:30am to 6:00pm (United Kingdom time) on any Working Day;

'Support Agreement' means the Software support agreement entered into or to be entered into between the Parties which incorporates the Service Terms;

'Support Staff' means those individuals (who will be either employees of or contractors to SeeByte from time to time) who perform SeeByte's technical obligations under the Support Agreement;

'Support Services' means either Maintenance Services or Support Services or both;

'System' has the meaning given to it in the Quotation;

'Specification' has the meaning given to it in the Quotation;

'Warranty Period' means 30 days from the Delivery Date; and

'Working Day' means any day in the range Monday-Friday inclusive during any week, but excluding public and other national or local holidays taken by either or both of the Parties whether in the United Kingdom or elsewhere.

1.2 Any reference in these Terms of Business to any statute or statutory provision shall include a reference to any statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision.

1.3 The singular includes the plural and the masculine includes the feminine and vice versa.

1.4 References to persons shall include bodies corporate, partnerships, and unincorporated associations.

1.5 The headings to Clauses are for convenience only and shall not affect the interpretation of these Terms of Business.

1.6 References to Clause numbers are to clause numbers in the relevant Part of these Terms of Business.

1.7 In the event of any conflict between these Terms of Business and the Quotation, then the Quotation shall prevail, unless it is clearly and expressly stated that the opposite should be the case.

2. Supply of System

2.1 SeeByte shall use all reasonable endeavours to deliver the System to the Customer on/by the Delivery Date in accordance with the Specification and subject to the terms of the Agreement.

2.2 The installation shall be performed by or on behalf of SeeByte by persons exercising reasonable care and skill.

2.3 To enable SeeByte to deliver and install the System the Customer shall:

2.3.1 make available free of charge to SeeByte (a) full and safe access to the relevant On-Site location and all relevant equipment of the Customer and (b) all information, facilities and services reasonably required by SeeByte for the performance of its obligations under the Agreement; and
2.3.2 nominate one person to be the Customer's principal contact for the Agreement and to whom SeeByte shall send all correspondence; and

2.3.3 notify SeeByte immediately on becoming aware of any fault in the System or the equipment and/or facilities of the Customer that is relevant to the installation of the System; and
2.3.4 make all relevant staff available at the Customer's expense for training prior to use by them of the System; and

2.3.5 make available to SeeByte such documentation as may be necessary to enable SeeByte to perform its obligations hereunder; and

2.3.6 use best endeavours (in the event of a fault) to carry out all tests necessary to help ascertain the cause of the problem.

2.4 If the Customer fails to comply with any of the provisions set out in Clause 2.3 above, or fails to pay any sum on the due date, then SeeByte may, on written notice suspend forthwith, without any penalty to SeeByte whatsoever, the installation of the System until such failure has been remedied (if it is capable of remedy).

2.5 Unless SeeByte and the Customer agree to the contrary in writing, SeeByte shall be under no obligation to provide any services except in accordance with this Agreement, but if it does so, then in default of express agreement to the contrary, SeeByte shall be entitled to charge the Customer the cost of so doing in accordance with its then current charging arrangements.

2.6 SeeByte shall be responsible for delivery of the System to the Customer's designated On-Site location and risk shall pass to the Customer as soon as the System has been delivered.

2.7 Title shall remain with SeeByte until the Customer has made payment in full for the System when title (excluding title to the Software) shall pass to the Customer.

3. Acceptance Test

3.1 Upon completion by SeeByte of its obligations pursuant to Clause 2.2 above, the Customer shall agree with SeeByte a suitable date or dates for running Acceptance Tests.

3.2 Upon passing all Acceptance Tests to the Customer's reasonable satisfaction ("Acceptance") the Customer will sign and deliver to SeeByte forthwith an Acceptance Certificate.

3.3 In the event that the Customer notifies SeeByte within 7 days of running the final Acceptance Test that the System has failed to pass the Acceptance Tests or any of them, the Customer will afford SeeByte the opportunity of rectifying, replacing and re-testing the same.

3.4 If within 7 days of running the final Acceptance Test the Customer either does not notify SeeByte of any failure to pass the Acceptance Tests or fails to deliver the Acceptance Certificate, the System will be deemed to have passed the Acceptance Test ('Deemed Acceptance').

4. Licence of Software

4.1 In consideration of the payments due hereunder, SeeByte hereby grants the Customer a limited perpetual non-exclusive licence to use the Software, subject to the terms of the Agreement and SeeByte's standard form end-user licence agreement which is presented for acceptance when the Software is installed as part of the System.

4.2 Some run-time system libraries contained within the System are covered by open source licenses, for which details and source code are available on request.

4.3 The Customer shall:

4.3.1 use the Software only within the System;

4.3.2 make no copies of the Software;

4.3.3 not provide details of the Software to any third party without SeeByte's prior consent;

4.3.4 make no alteration to or modification of the whole or any part of the Software nor permit the Software or any part thereof to be combined with or become incorporated in any other programs (except with the written authorisation of SeeByte) or instruct any third party to do so, in each case without SeeByte's prior consent;



4.3.5 not delete or obscure any copyright notice of SeeByte contained within the Software (or part thereof);
4.3.6 not reverse, engineer, decompile, disassemble or otherwise reduce any part of the Software to human-readable form (except to the extent permitted by law) nor permit any third party to do so;
4.3.7 not grant any sub-licence of the Software or any part thereof to any third party;
4.3.8 use the Software only in accordance with the Documentation and any subsequent instructions from SeeByte;
4.3.9 ensure that all of its staff who use the Software are competent and properly trained in respect of such use;
4.3.10 ensure proper management of passwords amongst the Customer's staff and notify SeeByte immediately if staff with knowledge of passwords leave the Customer or if any unauthorised access to any of such passwords becomes apparent; and
4.3.11 promptly notify SeeByte if the Customer detects, suspects, or otherwise becomes aware that the Software or any part thereof is being misused and provide all details within its knowledge with respect to the same.

5. Intellectual property rights

5.1 All intellectual property rights in the System shall remain at all times the property of SeeByte.
5.2 SeeByte warrants to the Customer that:
5.2.1 SeeByte is the legal and beneficial owner of and/or permitted licensee of the intellectual property rights to the System and has authority to grant the licence of intellectual property rights contained herein; and
5.2.2 SeeByte is not aware (having carried out no specific enquiries) that the System infringes the intellectual property or any other rights of any other person.
5.3 The Customer agrees that it shall not under any circumstances open any sealed unit containing the System without the prior consent of SeeByte.

6. Payments

6.1 The Customer shall make all payments due under the Agreement on the dates specified therein.
6.2 SeeByte shall be entitled to charge interest on all overdue payments at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998, or other equivalent legislation applicable at the Customer's location.
6.3 SeeByte shall be entitled to suspend performance of any part of its obligations under this Agreement in the event that payments are overdue by more than 30 days.

7. Support

7.1 If the Customer has paid for Support Services under this Agreement the Customer is entitled to provision of the Support Services in accordance with the Service Terms.
7.2 The Customer shall ensure that the System is at all times maintained in a secure operating environment in accordance with the Documentation and specifically that it is at all times free from damp, vibrations, extremes of temperature, radiation, magnetic fields and external shocks and that all external connections and cables are using compatible connections and power supplies.

8. Warranties

8.1 Each Party warrants to the other that it is entitled to enter into and perform the Agreement.

8.2 SeeByte warrants to the Customer that the System shall for the period of 30 days from Acceptance (the "Warranty Period") conform substantially in all material respects to the Specification.

8.3 The Customer's sole remedy for breach of the warranty in Clause 8.2 above is to require SeeByte to modify, repair or replace (at SeeByte's sole discretion) the System so that it complies with the said warranty, such work to take place within a reasonable time at no charge to the Customer provided that (i) any such breach of warranty is notified to SeeByte in writing during the Warranty Period and (ii) any such non-compliance has not been caused by any modification, variation or addition to the System not performed by SeeByte or caused by its incorrect use, or by use of the System with other equipment with which it is incompatible.

8.4 The express terms of the Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.

9. Liability

9.1 This Clause 9 prevails over all other Clauses and sets forth the entire liability of SeeByte to the Customer.
9.2 Nothing in this Agreement shall exclude or limit SeeByte's liability for death or personal injury or any liability which cannot be excluded or limited by law.
9.3 Save as provided in Clause 9.2 above, but subject to Clause 9.5 below, SeeByte does not accept and hereby excludes any liability for loss or damage to the Customer's property other than caused by SeeByte's negligence.
9.4 SeeByte shall have no liability under or in connection with the Agreement for indirect, special or consequential losses, or for loss of profits or contracts or increased costs of working or storage of data or third party claims against the Customer for loss or damage (other than those that may arise as a result of a breach of Clause 5.2 or Clause 8.1 of this Part One).
9.5 Save as provided in Clause 9.2 above, SeeByte's maximum and aggregate liability for any loss or damage arising out of or in connection with the Agreement, howsoever arising, shall not exceed the aggregate total of the payments actually made to SeeByte by the Customer in accordance with the Agreement.

10. Termination

10.1 Either Party may (without prejudice to its other rights) terminate the Agreement at any time forthwith by notice in writing to the other if:
10.1.1 a voluntary agreement is approved, or an administration order is made, or a receiver or administrative receiver is appointed over any of the other Party's assets or undertaking or a resolution or petition to wind up the other Party is passed or presented (other than for the purposes of a genuine scheme of solvent amalgamation or reconstruction) or if any circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order or the other Party ceases to carry on business; or
10.1.2 the other Party commits any material breach of the Agreement and (in the case of a breach which can be remedied) has failed, within 30 days after receipt of a request in writing to do so, to remedy the breach; declaring that SeeByte will not be in material breach by virtue of failing to meet a target date for performance of its obligations hereunder.



10.2 Termination of the Agreement, for any reason, shall be without prejudice to the rights and liabilities of either Party which may have accrued on or at any time up to the date of termination.

11. Force Majeure

11.1 SeeByte shall not be liable for any delay in performing or for failure to perform its obligations hereunder if the delay or failure results from any cause or circumstance whatsoever beyond its reasonable control ("Force Majeure Event").

11.2 Notwithstanding Clause 11.1 above, if SeeByte becomes aware of circumstances of a Force Majeure Event which give rise to or which are likely to give rise to any failure or delay on its part, it shall forthwith notify the Customer with the period for which it is estimated that such failure or delay shall continue.

11.3 Notwithstanding Clause 11.1 above, SeeByte shall use all reasonable endeavours to (i) continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure Event; and (ii) minimise the effects of such Force Majeure Event.

11.4 If any Force Majeure Event continues for a period of 120 days or more, the Customer may, forthwith by notice in writing to SeeByte, terminate the Agreement with immediate effect.

12. General

12.1 Entire Agreement: The Agreement supersedes and cancels all previous agreements and working arrangements whether oral or written, express or implied between the Parties in respect of or in connection with the specific matters referred to in the Agreement.

12.2 No Waiver: No delay or failure by SeeByte in exercising or enforcing any of its rights or remedies under the Agreement will prejudice or restrict its rights, nor will any waiver of rights by SeeByte operate as a waiver of subsequent rights.

12.3 Notices: Notices to be given under the Agreement must be in writing and sent to the address of the recipient set out in the Agreement, or any other address which the recipient may tell the other in writing. Any notice may be delivered by hand personally or sent by first class prepaid letter (within the United Kingdom) or airmail (if overseas) or by facsimile and will be treated as served: if by hand, when delivered; if by first class post, 48 hours after posting; if by airmail, 6 business days after posting; or if by facsimile, when despatched, provided the sender's fax machine produces automatic confirmation of error free transmission to the recipient's fax number.

12.4 Amendment: The Agreement may be amended only in writing signed by a director of SeeByte and a duly authorised representative of the Customer.

12.5 Assignment: The Agreement is personal to the Customer and neither the Agreement nor any rights, licences or obligations under the Agreement may be assigned or novated by the Customer without the prior written consent of SeeByte (such consent not to be unreasonably withheld or delayed). The Agreement or any of SeeByte's rights, licences and obligations under the Agreement may be assigned or novated by SeeByte provided the Customer is given written notice by SeeByte of such assignment or novation.

12.6 Confidentiality: The terms of the Agreement and any matters arising from or relating to it shall be kept confidential by the Parties at all times (except where such information (i) at the date of the Agreement is demonstrably within the public domain, (ii) after the date of the Agreement comes into the public domain, otherwise than by reason of a breach of this

Clause 12.6, or (iii) with the prior written consent of the other Party); declaring that SeeByte shall however be entitled to (a) make references to the installation of the System as a case study or as part of any tender for the provision of services to any third party and (b) provide such details of the Agreement as SeeByte may determine to its sub-contractors as part of their engagement with the provision of the Services.

12.7 Independent Contractor: Each Party to the Agreement is an independent contractor, and the Agreement does not create a partnership, agency, joint venture or employment relationship between SeeByte and the Customer.

12.8 Sub-contractors: SeeByte shall be entitled to sub-contract its obligations and responsibilities under the Agreement provided that SeeByte shall be responsible for the compliance by such sub-contractors with the obligations and responsibilities of SeeByte under the Agreement.

12.9 Survival of Clauses: If any of the Clauses or other provisions of the Agreement are found by an arbiter, court or other competent authority to be void or unenforceable, such provision shall be deemed to be deleted from the Agreement but the remaining provisions of the Agreement shall continue in full force and effect insofar as they are not affected by any such deletion. In the event of any such deletion, the Parties shall negotiate in good faith with a view to replacing the provisions so deleted with legal and enforceable provisions that have similar economic and commercial effect to the provisions so deleted.

12.8 Governing Law: The Agreement shall be governed by and construed and interpreted in accordance with the laws of Scotland and the Parties submit to the non-exclusive jurisdiction of the Scottish courts. In the event of any dispute arising under this Agreement the Parties shall in the first instance refer such dispute to mediation in accordance with the Code of Conduct prescribed by the Centre for Effective Dispute Resolution (www.cedr.co.uk).

PART TWO

Maintenance and/or Support Services

SeeByte's standard Service Terms are set out in Part Three of these Terms of Business. What follows is a description of the available Support Services.

1. Maintenance Services

SeeByte shall use all reasonable endeavours to provide Minor Update releases to the Customer as scheduled or as available while the Support Agreement continues in effect. SeeByte shall use all reasonable endeavours to ensure that all Minor Updates are compatible with previous versions of the Products but shall have no responsibility for interface or other functional incompatibility with third party software or hardware which may arise for whatever cause following installation of any such Minor Update.

Issues can be reported via email for inclusion in future releases, but if the Customer has only purchased Maintenance Services, SeeByte is under no obligation to follow up any reported issues.

2. Support Services

2.1 All Support Services are provided as specified in Clause 3.3 of the Service Terms. Support Services include:



2.1.1 Technical support by phone, which will be provided during Standard Technical Support Hours.

2.1.2 At all times outwith the Standard Technical Support Hours calls will be logged by SeeByte representatives and will be passed to the Support Staff the next Working Day. SeeByte's Support Staff will acknowledge receipt of such calls the next Working Day.

2.1.3 All email services are provided as specified in Clause 3.3 of the Service Terms.

2.1.4 Prioritisation of Critical Issues for rectification in a future scheduled Minor Update release. The provision of a non-scheduled Minor Update release to rectify a Critical Issue will be at the sole discretion of SeeByte.

2.1.5 Identification of workarounds for Non-Critical Issues, where reasonably possible, prior to rectification of these issues in a future scheduled Minor Update release.

2.1.6 Access to the on-line Knowledge Base. Unless otherwise agreed with SeeByte, the Customer acknowledges that any problem resolution and fixes arising from an issue raised by the Customer may be disclosed on the Knowledge Base, subject to SeeByte using all reasonable to protect the Customer's identity.

2.2 The Customer acknowledges and agrees that: Customer Engineering Requests or any other additional Customer requests are not included within the Services Charge. All On-Site support and resulting travel expenses shall be chargeable to the Customer in addition to the Services Charge. Any issues resulting from the Customer's use of the Products outwith the terms of the Documentation are not included as part of the Services and shall incur additional costs and will be charged by SeeByte to the Customer as an additional engineering project.

3. Service Levels

3.1 Upon receipt of a reported Critical Issue or Non-Critical Issue, via either phone or email from the Customer, a member of the Support Staff will, within five Working Days, respond with an estimated schedule for the release of a fix for the issue. If the initial report is made to SeeByte by phone, the Customer agrees to provide confirmation to SeeByte in writing, giving such details as SeeByte may require in order to reproduce the effects of the Critical Issue or Non-Critical Issue, as the case may be.

3.2 In order to resolve a Critical or Non-Critical Issue SeeByte may require additional information or data to be provided by the Customer.

3.3 The estimated schedule for any fixes will be subject to the prompt disclosure to Support Staff of any such information or data. Any period of delay in the communication of such information or data to the Support Staff will result in an extension of time (by at least the same period) of the estimated schedule for the release of a fix for the Critical Issue or Non-Critical Issue, and may also cause a delay in the issue of an initial response from Support Staff in respect of an estimated schedule for the release of a fix for the issue.

PART THREE

SUPPORT SERVICES CONDITIONS ("Service Terms")

1. Interpretation

1.1 Definitions

In the Service Terms, except where the context otherwise requires, words and expressions defined in Part One of the Terms of Business shall have the same meanings.

2. Term

2.1 The Support Agreement shall continue for the period agreed at the time when the Services Charge was paid, subject to (i) earlier termination in accordance with these Service Terms or (ii) service of notice in accordance with Clause 2.2.

2.2 Either party may, upon giving the other party at least 90 days prior notice in writing, terminate the Support Agreement at any time "without cause".

2.3 If SeeByte terminates the Support Agreement in accordance with Clause 2.2, SeeByte shall promptly repay to the Customer the pro-rata portion of the Services Charge which relates to the remaining future period for which the Services Charge was paid.

2.4 If the Customer terminates the Support Agreement in accordance with Clause 2.2, no repayment of the Services Charge shall be made by SeeByte to the Customer.

3. Support Services

3.1 In consideration of payment of the Services Charge, SeeByte will carry out the Support Services (or the relevant part thereof) for the Customer in accordance with this Clause 3.

3.2 If Maintenance Services are included within the Services Charge, SeeByte will provide the Maintenance Services in accordance with the relevant Service Levels, during the Standard Technical Support Hours. Maintenance Services will include the provision of Minor Updates.

3.3 If the Customer requests receipt of Support Services, SeeByte will provide the Support Services in accordance with the relevant Service Levels during the Standard Technical Support Hours and will comprise:

- (a) a telephone "help-desk" number to provide first line technical support to users of the Products;
- (b) remote diagnosis;
- (c) an email support system where issues can be logged by email to the applicable e-mail address given at the Support tab on SeeByte's website at www.seebyte.com ;

3.4 Prior to the first provision of either Maintenance or Support Services by SeeByte to the Customer, the Customer shall send a signed copy of this Agreement to SeeByte by such means as may be required by SeeByte. The Services shall not be provided to the Customer until SeeByte has received a signed copy of the Support Agreement in terms of this Clause 3.4.

3.5 Any Support Services to be provided by SeeByte shall **not** include the provision of any of the following: Training, On-Site support (including travel), installations, developer support, Customer Engineering Requests, or any other additional support requested by the Customer unless SeeByte (at its sole discretion) agrees to carry out such additional support at SeeByte's standard charges for such work, as may be varied or amended from time to time.

3.6 Support Services will not be provided where the Customer (in SeeByte's opinion) has not used the Products in accordance with the Documentation provided, or if a Product has been discontinued by SeeByte, or if the relevant version of that Product as supplied to the Customer has been superseded by a Major Update or Minor Update which has not been incorporated into the Products as used by the Customer.

4. Customer's Responsibilities



4.1 The Customer will provide SeeByte, the Support Staff and all other persons duly authorised by SeeByte with such access to the Customer's premises as may reasonably be required for the purpose of performing the Support Services.

4.2 The Customer will ensure that appropriate environmental conditions are maintained for the Products and will take all reasonable steps to ensure that the Products are operated in a proper manner by the Customer's employees.

4.3 The Customer hereby acknowledges that, as between the Customer and SeeByte, all Intellectual Property in the Products, Documentation, Minor Updates, Major Updates, Customer Engineering Requests, the Knowledge Base, SeeByte's website and any and all fixes, workarounds, patches, builds, variations, modifications and upgrades developed by SeeByte are exclusively owned by SeeByte.

4.4 Except insofar as permitted by law, the Customer shall not reverse engineer, decompile, disassemble or otherwise reduce any part of the Product or Major Updates or Minor Updates to human-readable form nor permit the Customer or any third party to do so.

4.5 The Customer shall not grant any sub-licence of the Product, or any Intellectual Property detailed in Clause 4.3 above or any part thereof to any third party.

5. Payment

5.1 In consideration of the provision of the Support Services, the Customer shall pay SeeByte the Services Charge set out in the Agreement.

5.2 The Services Charge shall be paid by the Customer to SeeByte annually in advance (or on such other time period basis as the Parties may agree) within 30 days of receipt by the Customer of SeeByte's invoice.

5.3 All cash sums paid by the Customer under the Support Agreement are exclusive of Value Added Tax and any other applicable taxes and levies.

5.4 All proper and reasonable expenses incurred by SeeByte in the provision of the Support Services will be charged at cost to the Customer.

5.5 SeeByte shall be entitled to increase the Services Charge in accordance with the rates detailed in the Support Agreement.

5.6 Notwithstanding termination of the Support Agreement, the Customer shall remain fully liable to pay any costs and expenses incurred by SeeByte on behalf of the Customer and any loss or damage suffered by SeeByte as a result of such termination.

6. Support Staff & Manager

6.1 SeeByte shall provide sufficient Support Staff to fulfil its obligations under the terms of the Support Agreement. The Support Staff shall be suitably trained and experienced in the provision of the Services.

6.2 The Customer agrees at all times to be available to liaise with, and respond to queries from, the Support Staff; for example, as to the resolution of conflicting priorities between two or more items of support or maintenance (as part of the Support Services).

7. General

7.1 SeeByte undertakes to the Customer (when a Support Agreement is in effect) that SeeByte shall use all reasonable endeavours to carry out its obligations pursuant to Clause 3 of Part Three using reasonable care and skill.

7.2 SeeByte's obligations and undertakings as set out in this Part Three of the Terms of Business are in lieu of all other obligations and undertakings or other terms concerning the performance of the Support Services by SeeByte which might but for this Clause 7.2 have effect between SeeByte and the Customer or would otherwise be implied into or incorporated into the Support Agreement, whether by statute, common law or otherwise, all of which are hereby excluded to the fullest extent lawfully permitted.

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