

# PurePagesONE

## Integrated Marketing Communications

### Standard Terms and Conditions For contracts and projects with PurepagesONE

(A division of Purepages Group Limited)

The complete document containing all relevant standard terms and conditions  
is available for printing in Doc format at  
[www.purepagesgroup.com/clientterms.doc](http://www.purepagesgroup.com/clientterms.doc)

## CONTENTS OF AGREEMENT

	Page No
1. Definitions	4
2. Scope of services to be provided	5
3. Term or duration of agreement	5
4. Charges & payments	6
5. Delivery and working hours	6
6. Customers obligations	7
7. Data Protection Act (DPA)	7
8. Confidentiality & Publicity	8
9. Intellectual Property Rights (IPR)	8
10. Indemnities	9
11. Termination	9
12. Limitation of Liability	10
13. Inducement of Employees	11
14. Licensed Software	11
15. Maintenance and Support Services	14
16. Consultancy Services	15
17. The use of Sub-Contractors and Agents	19
18. Force Majeure	19
19. Clauses and Schedules	19
20. Waiver	19
21. Alteration of Agreement	20
22. Contracts (Rights of Third Parties) Act 1999	20
23. Notices	20
24. Severance	20
25. Headings	20
26. Plural	20
27. Assignment	21
28. Entire Agreement	21
29. Proper Law	21
30. Schedule 1 - Licensed Software	22
31. Schedule 2 – Provision of Maintenance & Support	23

**CUSTOMER SERVICE AGREEMENT**

Reference .....

Dated .....

BETWEEN PUREPAGES GROUP LIMITED whose registered office is at Meadow House, Edgworth, near Bolton. Lancashire BL7 0DQ and

.....

Whose registered office is at:

.....  
.....

(Hereafter called 'the Customer' and together described as "the parties")

**This Agreement sets out the agreed terms and conditions that apply for the provision of Services detailed in the Quotation or Statements of Work which is expressly agreed between the parties and which refers to the Agreement Reference documented above**

Signature of this Agreement does not obligate CLIENT to purchase, nor PurePages Group to provide Services, but merely sets out the terms under which such provision will occur.

For and on behalf of PurePages Group:      For and on behalf of Customer:

Signature:

Signature:

Name:

Name:

Position:

Position:

Date:

Date:

## 1. DEFINITIONS

For the purpose of this Agreement, the following terms shall have the following meanings:

- Category A:** means those Faults in the Licensed Software that cause the system to fail and seriously impact the Customer's business.
- Category B:** means those Faults that allow the Licensed Software to be used albeit in a limited or undesirable way and that must be corrected within a reasonable time.
- Category C:** means those Faults that are cosmetic by nature and will not prevent the successful operation of the Licensed Software.
- Changes:** means any amendments, enhancements or modifications to the Licensed Software, which the Customer requires PurePages to carry out.
- Charges:** means those charges and fees for the Services set out in the Schedules to this Agreement.
- Documentation:** means such manuals and other necessary installation instructions as may be issued by PUREPAGES in support of the Licensed Software.
- Fault:** means where the Licensed Software does not perform as described in the Software Specification; or, in the absence of a Software Specification, where the Licensed Software does not perform as described in the Documentation.
- Hardware:** means the computer hardware, if any, set out in Schedule 1.
- Installation Address** means the installation address, if any, set out in Schedule 1.
- Licence Fee:** means the licence fee, if any, set out in Schedule 1 being the charge for the granting of the licence in clause 14 of this Agreement.
- Licensed Software:** means the software, if any, set out in Schedule 1 to this Agreement or which is a product of the Consultancy Services and in which the intellectual property rights do not vest in the Customer pursuant to clause 9.
- Operating System:** means the operating system, if any, set out in Schedule 1 or such other operating system as may by the written agreement of the parties replace it.
- Quotation:** means the agreed quotation for any specific statement of works
- Service Commencement Date:** means the date when the product comes into effect
- Services:** means those services to be provided by PurePages to the Customer as defined in the Schedule(s) to this Agreement.

- Software specification** means the published specification for the Licensed Software or the specification agreed in writing between the Customer and PurePages for the Licensed Software.
- Software Issue:** means replacement in full or part of specified Licensed Software components to resolve known Faults, errors or omissions or improve and/or enhance an existing facility in terms of performance.
- Software Release:** means replacement in full or part of the Licensed Software, which replaces existing facilities or adds new facilities.
- Statement of work:** means the document annexed hereto that is the complete and exclusive description of the services to be supplied the PurePages Group under this agreement. The statement of work also includes a list of any additional Customer's obligations under this agreement
- Third Party Software:** means the Operating System software and any other third party software as set out in Schedule 1.
- User:** means an individual having access to the Licensed Software or any part of the Licensed Software on the Hardware at the Installation Address.
- User Limit:** means the maximum number of Users to which the Licence Fee refers as defined in Schedule 1.

## **2. SCOPE OF SERVICES TO BE PROVIDED**

- 2.1** In consideration for the payment of the Charges and subject to the terms and conditions hereof, PUREPAGES shall provide the Services expressly defined in the Schedules to this Agreement.
- 2.2** In addition to the stated Services, PUREPAGES, may, by the written agreement of authorised signatories of both parties, provide additional services to the Customer on terms to be agreed between the parties at the time of any such request. The parties shall agree to the provision and receipt of the additional services either by signing a Purchase Order in the form of one or more of the schedules or otherwise in writing by both parties.

## **3. TERM OR DURATION OF AGREEMENT**

- 3.1** This Agreement shall commence on the date of execution and shall subsist until terminated in accordance with the terms herein.
- 3.2** In respect of each Service, the provision thereof shall commence on the Service Commencement Date, and subject to the provisions for earlier termination contained herein, shall continue for the term applicable to each Service set out in the Schedules.

## **4 CHARGES AND PAYMENTS**

- 4.1** The Customer shall pay to PUREPAGES the Charges specified in the Schedules to this Agreement.

- 4.2** Except where otherwise specified in the Schedules, the cost of travel, transportation or any supplies and any reasonable expenses incurred by PurePages staff in the performance of this Agreement shall be borne by the Customer.
- 4.3** Any Charge or rate of charge may be increased annually by PUREPAGES upon not less than thirty days prior written notice to the Customer to take effect any time after the first anniversary of the commencement of this Agreement by an amount agreed between the parties. In the absence of such agreement the charges will be increased by a percentage not greater than the percentage increase over the preceding twelve-month period in the Computing Services Industry Index as published by Computer Economics Limited.
- 4.4** All Charges hereunder are exclusive of VAT and any other taxes or duties, which shall be charged in addition at the rates in force at the time of application.
- 4.5** Invoices rendered by PUREPAGES to the Customer shall be paid by the Customer in full without discount, deduction, set-off or counterclaim of any kind, within thirty days of the invoice date.
- 4.6** Should the Customer fail to make any payment due under the terms of this agreement by the due date for payment to PurePages, then PUREPAGES shall be entitled without prejudice to any other right or remedy to charge the Customer interest on the amount outstanding on a daily basis at the rate of 5 per cent per annum above the base rate of Barclays Bank plc from time to time in force, such interest to be calculated from the due date for payment thereof to the date of actual payment.

## **5. DELIVERY AND WORKING HOURS**

- 5.1** PUREPAGES shall employ all reasonable endeavours to comply with Service Commencement Dates and other delivery dates agreed in writing with the Customer.
- 5.2** PUREPAGES normal working hours ('Working Hours') are a professional working day usually taken between 9.00am and 5.30pm Monday to Friday excluding Bank and Public holidays.
- 5.3** PUREPAGES reserves the right to schedule annual leave with its staff in accordance with their entitlement and also requires its staff to attend company meetings, internal training courses and technical seminars from time to time.
- 5.4** If PUREPAGES staff are unable to work on the Services as a result of site shutdown, labour disputes or any other cause within the Customer's, but beyond PUREPAGES's control, the days lost will be charged to the Customer. The rates charged will be in accordance with Clause 4.

## **6 THE CUSTOMER'S OBLIGATIONS**

- 6.1** The Customer shall promptly perform its obligations under this Agreement and shall provide at no charge to PUREPAGES, the specifications, documents, data and other information and services necessary to enable PUREPAGES to perform its obligations under this Agreement, including, without limitation and where appropriate those obligations included in Clauses 14.7 and 15.6

- 6.2** Allow adequate access to the Customer's premises and to relevant personnel and administration systems; handling of any security issues: advance notification of potentially hazardous environments
- 6.3** Take decisions and make information available as requested by PUREPAGES either within the timescales required by PUREPAGES or in the absence of a required timescale as soon as reasonably practicable following the request having been made.
- 6.4** If appropriate to the project, suitable office accommodation for PUREPAGES employees, agents or sub-contractors as and when reasonably required to include necessary power supplies, telecoms systems and networks, storage space, parking spaces and secretarial, typing and copying services;
- 6.5** Ensure all necessary consumables are in good condition and fit for their purpose.
- 6.6** PUREPAGES shall not be liable for any loss, damage or delay in providing the Services caused by or arising from the Customer's failure to comply with its obligations under this clause and the time for performance of PUREPAGES's obligations under this Agreement shall be extended by PUREPAGES as required.
- 6.7** PUREPAGES shall not be responsible for products or services supplied which incorporate or are based upon information or materials supplied by the Customer or third parties. Responsibility for decisions taken on the basis of advice given by PUREPAGES will remain with the Customer.
- 6.8** Customer shall assign a project manager who shall be responsible for accepting or rejecting services, authorising payments and reviewing status reports of services. The project manager shall be responsible for implementation of the services within the customer's organisation

## **7. DATA PROTECTION ACT**

Both parties agree that they will at all times comply with their obligations under the Data Protection Acts 1998. Subject to clause 12, each party will indemnify the other against all actions, claims and expenses whatsoever which arises out of any breach of this provision.

## **8. CONFIDENTIALITY AND PUBLICITY**

- 8.1** Each party agrees to employ and to procure that its employees, agents and sub-contractors use all reasonable endeavours to ensure that all data and information relating to the other's business provided to or acquired by it, its employees, agents or sub-contractors ("Receiving Party") under this Agreement is treated as secret and confidential and will not be disclosed to any third party without the prior written consent of other party unless:
  - 8.1.1** The information was already lawfully known or became lawfully known to the Receiving Party independently of its involvement in this Agreement, or
  - 8.1.2** The information is or becomes within the public domain other than due to the wrongful disclosure by the Receiving Party, or

- 8.1.3** Disclosure or use is necessary for the proper and effective performance of the Receiving Party's rights under this Agreement, or
- 8.1.4** Disclosure is required by a person or body having a legal right, duty or obligation to have access to the information and then only in pursuance of such a legal right, duty or obligation, or
- 8.1.5** Disclosure is to those employees, agents or sub-contractors who need to know the information in order to perform obligations under this Agreement.
- 8.2** The Customer shall not unreasonably refuse to agree to the following:
- 1) That PUREPAGES may announce the fact that PurePages is providing the Services to the Customer;
  - 2) Agree press releases with PUREPAGES at appropriate project or Services milestones;
  - 3) Assist PUREPAGES with the preparation of a case study after completion of all or part of the Services;
  - 4) All material which has been authorised by the Customer may be used by PurePages for the purpose of marketing (including being used on the Internet);
  - 5) To act as a reference site.
- 8.3** The provisions of this clause 8 shall survive the termination of this Agreement.

## **9. INTELLECTUAL PROPERTY RIGHTS (IPR)**

- 9.1** All patents, trade marks, copyright and all intellectual property rights used or embodied in or in connection with the Licensed or Bespoke Software, the Documentation or any other material created or supplied by PUREPAGES under this Agreement ("the Material") shall be and shall remain the sole property of PUREPAGES or of PUREPAGES licensor and is provided to the Customer on the terms set out in clause 14. No title or intellectual property rights in the Material or in any modification or extension thereof shall pass to the Customer who agrees that its rights in the Material and to the information therein contained shall be limited to those specified in this Agreement. The Customer also agrees that it shall not alter or remove from the Material any details of ownership or intellectual property rights used or embodied in or in connection with Material.

### **OR**

- 9.1** Subject to clause 9.2, all patents, trademarks, copyright and all other intellectual property rights in the material created by PUREPAGES pursuant to this Agreement shall vest in the Customer on receipt of payment in full therefore by PUREPAGES. All pre-existing patents, trademarks, copyright and all other intellectual property rights shall remain with PUREPAGES and/or its licensor. Any such material is provided to the Customer on the terms of clause 14.
- 9.2** PUREPAGES reserves the right to use in any way it thinks fit any skills, knowledge and techniques acquired by PUREPAGES in performing any Programming or Consultancy Services.

## **10. INDEMNITIES**

- 10.1** Subject to clauses 11.2 and 12 PUREPAGES and the Customer hereby mutually indemnify each other and hold the other harmless against any liability, costs, claims and expenses which may be incurred by the other arising out of a claim by a third party relating to the infringement of intellectual property rights in software or any other material supplied by one party to the other hereunder.-
- 10.2** Notwithstanding the foregoing, a party shall not be obliged to indemnify the other under this clause 10 where:
- 10.2.1** Such infringement is caused by an act (other than the use of the Licensed or Bespoke Software in accordance with this Agreement) of the party seeking indemnity;
- 10.2.2** Such infringement arises from the improper use of any specification, information, data or materials provided by the party seeking indemnity;
- 10.2.3** the party seeking the indemnity does not promptly notify the other in writing of the details of any claim or does not, if requested, give sole conduct and control of all negotiations and litigation to the other party;
- 10.2.4** the party seeking indemnity at any time admits liability or otherwise attempts to settle or compromises a defence to any claim or does not give to the indemnifying party such advice and assistance as it shall reasonable require.

## **11. TERMINATION**

- 11.1** In addition to any other provision for the termination of this Agreement, either party may terminate this Agreement in the event that the other party:
- 11.1.1** Commits any material breach of its obligations under this Agreement and fails to remedy the same within 30 working days of written notice to do so. For the purpose of this clause a material breach shall be any act which deprives or which may deprive the party not in breach of the substantial benefit of this Agreement and, for the avoidance of doubt, a failure to meet a deadline shall be considered a breach capable of being remedied; or
- 11.1.2** Has a receiver or administrator appointed over the whole or any substantial part of its business or assets, or if any order is made or a resolution is passed for its winding up (other than for the purpose of a bona fide amalgamation or reconstruction of a solvent company).
- 11.2** Should the Customer fail to make any payment due under the terms of this Agreement (other than and then only to the extent that any part of such a payment is reasonably disputed by the Customer) and such payment remains unpaid 30 days after the date of due payment then PUREPAGES shall be entitled without prejudice to its other rights by written notice to the Customer to suspend the Services and by written notice of not less than 14 days to terminate this Agreement without further liability therefore.
- 11.3** No termination of this Agreement however occasioned shall affect any accrued rights or liabilities of either party.

## **12. LIMITATION OF LIABILITY**

- 12.1** PUREPAGES accepts liability for death or personal injury, which is due to the negligence of PUREPAGES or its employees in the performance of this Agreement.
- 12.2** PUREPAGES accepts liability for direct physical damages to the tangible property of the Customer caused solely by the negligence of PUREPAGES provided always that PUREPAGES's total liability for any such loss or damage does not exceed a total of £1,000,000 in respect of any one event or series of connected events.
- 12.3** In the event that PUREPAGES fails to comply with its obligations under this Agreement then it shall be entitled to be given a reasonable opportunity to correct any errors and re-perform its obligations and provide the services hereunder.
- 12.4** In the event that PUREPAGES's failure to comply with its obligations is not remedied as above then the total amount of PUREPAGES's liability to the Customer for all losses, damages, costs, claims and expenses howsoever and whenever arising under this Agreement shall not exceed in aggregate the amount paid to PUREPAGES under this Agreement.
- 12.5** The sums set out in Clauses 12.2 and 12.4 represent the total liability accepted by PUREPAGES for any claims arising under or in connection with this Agreement save that no limit shall apply to any claims under Clause 13.1.
- 12.6** In no event shall PUREPAGES be liable to the Customer for any consequential, indirect or economic loss or damage, loss of profits or revenue, loss of savings, interest or production whether such losses or damages arise in contract or tort.
- 12.7** No action (whether in contract or otherwise, whether based upon the negligence of PUREPAGES, its employees, agents or subcontractors or not and irrespective of the form and forum) arising out of this Agreement or in connection with the Services supplied or to be supplied or the work carried out or to be carried out hereunder or under any indemnity may be brought by either party more than 12 months after the cause of action arose.

## **13. INDUCEMENT OF EMPLOYEES**

- 13.1** Neither party shall, during the term of this Agreement and for a period of 12 months after termination howsoever caused, directly or indirectly solicit or entice away or endeavour to solicit or entice away from the other party any employee of the other party who has been engaged in the provision of the Services or the performance of this Agreement.
- 13.2** In the event that a party is found to be in breach of clause 13.1 then that party shall pay the other party by way of liquidated damages an amount equal to the gross annual salary, as at the time of the breach, of the employee concerned. This provision shall be without prejudice to the other party's right to seek injunctive relief.

## **14. LICENSED SOFTWARE**

**14.1** In the event that the Services include, in whole or part, the provision of Licensed Software, the provision of the Licensed Software is subject to the following provisions of this clause 14 (the "Licence") and on the terms set out in Schedule 1.

### **14.2 Licence**

**14.2.1** PUREPAGES hereby grants to the Customer a personal non-exclusive non-transferable licence to use the Licensed Software and the Documentation for the term set out in Schedule 1 and subject to the terms of this Agreement.

In the event that PUREPAGES has agreed to undertake any changes to the Licensed Software then the Licence granted and provisions of this Agreement shall apply to all programs and other deliverables so provided incorporating such Changes in the same manner as they apply to the original Licensed Software.

### **14.3 Use of the Licensed Software**

**14.3.1** The Customer shall only be entitled to use and run the Licensed Software for its own internal business purposes at the Installation Address on the type and configuration of Hardware for up to the User Limit except that the Customer may copy the Licensed Software to the extent that is necessary for back-up purposes provided that not more than 2 copies shall be in existence at any one time without prior written notification to PUREPAGES.

**14.3.2** The Customer shall follow all reasonable instructions issued by PUREPAGES from time to time with regard to the use of the Licensed Software. The Customer shall permit PUREPAGES at all reasonable times and at PUREPAGES's expense to verify that the use of the Licensed Software by the Customer is in accordance with this Agreement.

**14.3.3** In the event that PUREPAGES has agreed to undertake any Changes to the Licensed Software then all programs and other deliverables so provided shall be deemed to be completed and accepted by the Customer if they are used in a live environment and shall be deemed to have been accepted by the Customer two weeks after installation or re-installation unless the Customer gives written notice of non-acceptance specifying the reason for non-acceptance within the two weeks. In the event of such non-acceptance then PUREPAGES will undertake modification and re-submit the programs and deliverables within a reasonable time. For the avoidance of doubt, in the event that the Customer does not accept the Licensed Software, it shall cease using the Licensed Software forthwith until PUREPAGES has re-delivered the Licensed Software in which case the provisions of this clause shall apply to the modified Licensed Software.

### **14.4 Temporary Use**

**14.4.1** The use of the Licensed Software shall be restricted in accordance with clause 14.3.1 except that upon written notice to PUREPAGES the Licensed Software shall be temporarily transferable to agreed hardware other than the Hardware at the Installation Address ('Temporary Hardware') in the circumstances that the Hardware at the Installation Address is inoperative due to disaster or to malfunction or during preventative maintenance or engineering work or for the

purposes of an agreed re-siting of the Hardware, or for the purposes of testing agreed disaster recovery procedures, provided always that the period of use of such Temporary Hardware shall be no longer than is reasonable given the circumstances of the incident necessitating the transfer. The temporary use permitted by this clause shall be at the risk of the Customer and during such use no warranties or indemnities given in respect of the Licensed Software shall apply.

#### **14.5 Licence Fee**

The Customer shall not be permitted to use the Licensed Software until PUREPAGES has received payment in full of the Licence Fee in accordance with Schedule 1.

#### **14.6 Liability in relation to the Licensed Software**

**14.6.1** PUREPAGES hereby warrants that it has the right to licence the Licensed Software and that the Licensed Software when supplied to the Customer shall function in general accordance with its then current Software Specification.

**14.6.2** PUREPAGES shall not be liable to the Customer for the functioning of the Licensed Software save as expressly provided under clause 14.6.1.

**14.6.3** PUREPAGES does not warrant that the operation of the Licensed Software shall be uninterrupted or error free.

**14.6.4** PUREPAGES shall be under no liability whatsoever for any loss or damage however caused by any defect in the Licensed Software or arising out of or in connection with its operation if the Licensed Software is not used in accordance with this clause 15 or has been altered or modified by the Customer or by any other person who is not acting specifically for or on behalf of PUREPAGES.

#### **14.7 The Customer's Obligations**

The Customer hereby undertakes:

**14.7.1** not to copy the Licensed Software (except as provided in clause 14.3.1 above) or to reproduce, translate, decompile (except insofar as the same cannot by law be prohibited or restricted), adapt, vary or modify the Licensed Software without PUREPAGES's prior written consent;

**14.7.2** to maintain accurate and up-to-date records of the number and location of all copies of the Licensed Software supplied by PUREPAGES or which it makes in accordance with this clause 14

**14.7.3** to notify PUREPAGES in writing should the Customer propose that the number of Users exceed the User Limit and not to permit such additional Users without the prior written consent of PUREPAGES and upon payment to PUREPAGES of such additional charges as PUREPAGES may make in respect thereof in accordance with PUREPAGES's then applicable rates.

**14.7.4** to supervise and control the use of the Licensed Software in accordance with the terms of this clause 15;

**14.7.5** to reproduce and include the copyright notice of PUREPAGES on all and any copies of the Licensed Software;

**14.7.6** to procure (with the assistance of PUREPAGES) in the Customer's name all appropriate licences for the use of the Third Party Software and to observe all the obligations contained within those licences.

#### **14.8 Sub-Licensing and Bureau Use**

The Licensed Software may in no circumstances be used on a bureau basis and the Customer shall not be entitled to sub-licence the use of the Licensed Software.

#### **14.9 Confidentiality**

**14.9.1** In addition to the other obligations concerning confidentiality provided for under clause 9 of this Agreement, the Customer shall ensure that the information contained or embodied in or concerned with the Licensed or Bespoke Software is treated in the strictest confidence and shall not be disclosed in any form to any person or body except (and then under conditions of the strictest confidentiality and only to the extent that such disclosure is necessary) to:

**14.9.2** The Customer's own employees, and other persons authorised by PUREPAGES in connection with the Customer's business to whom the information needs to be imparted for the proper use of the Licensed Software.

**14.9.3** To any person, who is for the time being appointed by the Customer to maintain the Hardware and then only for the purpose of such maintenance.

**14.9.4** The Customer shall be responsible for any breach of its obligations to safeguard such information and/or failure to prevent the use by persons and for purposes not permitted herein. The obligations by the Customer undertaken under this clause shall be continuous and survive any termination of this Agreement.

#### **14.10 Termination of the Licence**

**14.10.1** Should the Customer fail to comply with any of the material provisions of this Licence, then PUREPAGES shall be entitled to terminate such Licence by giving not less than fourteen (14) days prior written notice to the Customer.

**14.10.2** Upon termination of this Licence for any reason whatsoever, the Customer's right to use the Licensed Software will cease, and the Customer will forthwith deliver the Licensed Software to PUREPAGES or otherwise destroy all copies made of the Licensed Software (or any part thereof) for any purpose and certify in writing to PUREPAGES that all such copies have been destroyed.

### **15. MAINTENANCE AND SUPPORT SERVICES**

**15.1** In the event that the Services comprise, in whole or part, maintenance and support of the Licensed Software, then the provision of such maintenance and support services is subject to the following provisions of this clause 15.

#### **15.2 Maintenance Services**

**15.2.1** Where requested by the Customer, PUREPAGES will provide maintenance and support of the Licensed or Bespoke Software in accordance with Schedule 3 of this Agreement (“Maintenance and Support Services”) to comprise the following:

**15.2.2** Remedial maintenance to the Licensed or Bespoke Software during Working Hours in respect of Faults in the Software notified to PUREPAGES by the Customer during such hours;

**15.2.3** The provision to the Customer of Software Issues and Software Releases in accordance with the provisions of clause 15.5;

**15.2.4** Access by telephone for the Customer to assistance and advice concerning the Licensed or Bespoke Software during Working Hours.

### **15.3 Fault Reporting**

**15.3.1** Faults may be reported to PUREPAGES during Working Hours. All Faults so reported by telephone shall subsequently and as soon as reasonably possible be confirmed to PUREPAGES in writing or by on-line reporting.

**15.3.2** The Customer hereby agrees to cause to be installed at its own expense suitable modem and telephone connections for the purpose of:

**15.3.2.1** On-line reporting of Faults to PUREPAGES

**15.3.2.2** PUREPAGES being able to access the Customer's Hardware in order to identify the nature of a Fault;

**15.3.2.3** The provision of corrections or circumventions by PUREPAGES direct to the Customer's Hardware; such provision to be carried out only after the prior approval of the Customer has been obtained (the Customer making available personnel with the authority necessary to give such approval where appropriate);

**15.3.2.4** The delivery of Software Issues and Software Releases.

**15.3.3** The Customer also agrees to appoint a co-ordinator (“Fault Reporting Co-ordinator”) who shall be responsible for reporting Faults to PUREPAGES and receiving information on the status and resolution of Faults from PUREPAGES. The Customer shall keep PUREPAGES informed of the name and telephone number of the Fault Reporting Co-ordinator from time to time.

**15.3.4** When reporting each Fault the Customer shall furnish sufficient details of the Fault's effect on the Customer's business operation to enable PUREPAGES to classify the Fault as Category A or Category B or Category C. PUREPAGES shall notify the Customer of the Fault's assigned Category by telephone and shall confirm this in writing or by on-line reporting.

### **15.4 PUREPAGES Response to Fault Reports**

**15.4.1** PUREPAGES will, during Working Hours, promptly answer telephone calls to its help desk and give telephone assistance in resolving a Fault in the Licensed Software where possible. PUREPAGES will deal with Faults notified to it by the Customer, dependent on the category of the Fault concerned, in accordance with the provisions set out below.

**15.4.2** For the purpose of this clause 15.4.2, 'Hour' shall mean one hour worked within the Working Hours. In responding to the Faults reported by the Customer in accordance with clause 16.3, PUREPAGES hereby agrees to respond to the Fault reports as follows:

#### **15.4.2.1 Category A Faults**

PUREPAGES will use reasonable endeavours to investigate the Fault concerned and respond within 8 Hours of notification (but failing that, as soon as possible thereafter);

#### **15.4.2.2 Category B Faults**

PUREPAGES will use reasonable endeavours to investigate the Fault concerned and respond within 48 Hours of notification (but failing that, as soon as possible thereafter);

#### **15.4.2.3 Category C Faults**

PUREPAGES will use reasonable endeavours to investigate the Fault concerned and respond within one month of notification (but failing that, as soon as possible thereafter). PUREPAGES will attempt to generate a fix in the next planned Software Release but reserves the right to abandon attempts to provide a fix where the costs are likely to be excessive or the benefit to the Customer is small.

**15.4.3** The Customer acknowledges that PUREPAGES may provide a temporary, practical circumvention (as opposed to a permanent fix) for a Fault; if PUREPAGES does so, it will however continue to use its reasonable endeavours to provide a permanent fix save as described for certain Category C fixes above. Where PUREPAGES provides such a practical circumvention to a Category A Fault that Fault shall become a Category B Fault.

**15.4.4** Should both parties decide that it is appropriate, then PUREPAGES may send a suitably qualified person to the Installation Address at PUREPAGES's expense to assist in problem diagnosis and correction. In other circumstances, where the Customer requests a suitably qualified person from PUREPAGES to attend at the Installation Address then this will be charged to the Customer at PUREPAGES's then applicable charging rates plus reasonable expenses.

**15.4.5** If any Fault is subsequently found to have been caused or contributed to by the Customer including a breach of clause 16.6 then PUREPAGES shall be entitled to charge a fee at PUREPAGES's then applicable charging rates for all work undertaken on each such Fault plus any expenses incurred.

### **15.5 Software Issues and Software Releases**

**15.5.1** From time to time and at PUREPAGES's discretion, PUREPAGES will provide to the Customer:

**15.5.1.1** Software Issues which will be made and delivered to the Customer as and when any correction, improvement or modification has been effected to the Licensed Software by PUREPAGES; and

**15.5.1.2** Software Releases, which will be delivered to the Customer, as and when made or effected by PUREPAGES. PUREPAGES will provide all Software Issues

and Software Releases at the highest available or the immediately preceding level of the appropriate operating software.

**15.5.2** Notwithstanding anything herein contained PUREPAGES shall be entitled to charge a fee (to be calculated on a time and materials basis at a rate not exceeding PUREPAGES's then applicable charging rates) where PUREPAGES provides the Customer (at the Customer's written request) with any Software Issue or Software Release incorporating amendments required by any alteration in statutory requirements. If the work involved in amending the Licensed Software to meet any alterations in statutory requirements is reasonably expected by PUREPAGES to require more than 30 man days of effort on PUREPAGES's part, PUREPAGES will submit a quotation for the provision of such Software Issue or Software Release and will be obliged to provide such Software Issue or Software Release only upon the Customer's acceptance of such quotation.

**15.5.3** In the event that the Customer notifies PUREPAGES of an apparent defect in the Licensed or Bespoke Software and it transpires that the Customer has failed to install a Software Issue or Software Release within six months of its delivery to the Customer and such Software Issue or Software Release remedies such defect then PUREPAGES shall be entitled to treat the apparent defect as having been caused by the Customer and shall be entitled to levy the Charges set out in Clause 15.8 until such time as the Customer installs the Software Issue or Software Release.

**15.5.4** Nothing in this clause 15 shall require the Customer to accept or install a Software Issue or Software Release that contains less functionality than the previous Software Issue or Software Release.

## **15.6 The Customer's Obligations**

The Customer undertakes:

**15.6.1** To use the Licensed or Bespoke Software in accordance with the procedures specified in any manuals and training courses provided by PUREPAGES to the Customer;

**15.6.2** To notify PUREPAGES in accordance with clause 15.3 as soon as possible in the event that the Customer detects a Fault in the Software;

**15.6.3** To supply free of charge to PUREPAGES sufficient computer time on the Customer's Hardware together with any necessary data preparation services to enable PUREPAGES to perform its obligations in the event that maintenance of the Licensed or Bespoke Software is required;

**15.6.4** To ensure that upon completion of any remedial maintenance work by PUREPAGES an authorised representative of the Customer shall be available to sign a call-logging document specifying the work done and confirming its completion

**15.6.5** To permit sufficient and proper access to the Software at the Installation Address by PUREPAGES

**15.6.6** To give Purepages reasonable prior written notice of any intention to replace the Operating System.

## **15.7 Term**

The provision of the Maintenance and Support Services shall commence on the relevant Service Commencement Date specified in Schedule 3 hereto, and subject always to the provisions for earlier termination contained in this Agreement shall continue until terminated by either party giving not less than six months written notice to the other to expire on any anniversary of the Service Commencement Date (or such other period as may be specified in Schedule 2).

## **15.8 Charges**

**15.8.1** Subject to the provisions of this Clause 15 the charges for the provision of the Maintenance and Support Services will be as defined in Schedule 3 and will be invoiced in advance of the period to which they apply.

**15.8.2** Any maintenance or support performed for the Customer by PUREPAGES either in respect of a fault which is not attributable to a Fault in the Licensed Software or which is other than that defined in clause 16.2 above shall be subject to additional charges on a time and materials basis at PUREPAGES's then applicable charging rates.

## **15.9 Prior Termination**

In the event that the Licensed Software has without PUREPAGES's prior written consent:

**15.9.1** Been maintained, altered, modified or adjusted by the Customer or by other third parties on behalf of the Customer or been used by the Customer together with other software not supplied or approved in writing by PUREPAGES or

**15.9.2** Is used by the Customer in breach of any of the provisions of this Agreement

**15.9.3** Or requires maintenance by reason of the fault or negligence of the Customer, its employees, agents or sub-contractors;

Then PUREPAGES may, without prejudice to its other rights under this Agreement, at its option cease to maintain such part of the Licensed Software as has been so altered, modified, or used or is adversely affected thereby.

## **16. CONSULTANCY SERVICES**

In the event that the Services include, in whole or part, the provision of Consultancy Services by PUREPAGES, then the provision of such Consultancy Services is subject to the following provisions of this Clause 16.

### **16.1 Consultancy Services**

When requested by the Customer, PUREPAGES will provide the services of consultants to carry out the tasks set out in Schedule 4 to this Agreement ('the Consultancy Services') for the term and at the rates specified therein.

### **16.2 Consultant Skills and Availability**

**16.2.1** PUREPAGES warrants that all consultants employed by PUREPAGES in the performance of any Consultancy Services shall possess skill and experience as is necessary for the proper performance of the Consultancy Services.

**16.2.2** The availability of any consultant is always subject to that consultant's continued employment, sickness, holidays, promotion and necessary training; all reasonable endeavours will be made by PUREPAGES to minimise any disruption to the Consultancy Services due to the unavailability of any consultant.

### **16.3 Charges**

**16.3.1** Unless specifically agreed otherwise and documented in Schedule 4 the Consultancy Services will be provided within Working Hours on a time and materials basis at PUREPAGES's then applicable charging rates.

**16.3.2** In the event that the Customer requests, and PUREPAGES agrees in writing that a consultant should work time outside Working Hours, then such time will be charged by PUREPAGES to the Customer at an hourly rate equal to 200% of the pro rata hourly rate defined in clause 16.3.1 above.

**16.3.3** PUREPAGES will invoice the Customer in accordance with Schedule 4.

**16.3.4** Where the Customer contracts for a specific number of man days in accordance with the provisions of Schedule 3 then the Customer agrees to use and/or pay for such number of man days except where Schedule 3 allows for termination of the Consultancy Services upon notice.

**16.3.5** The Customer will pay for the Consultancy Services during any permitted notice period.

**16.3.6** The Customer will be able to suspend the provision of the Consultancy Services on one month's written notice unless otherwise agreed in writing.

## **17. THE USE OF SUB-CONTRACTORS AND AGENTS**

PUREPAGES may employ any person, company or firm as its agent or sub-contractor to perform all or any of its obligations or duties under this Agreement, provided always that such employment shall not relieve PUREPAGES from any of its obligations hereunder.

## **18. FORCE MAJEURE**

Neither party or any of its employees, servants, agents or sub-contractors shall be under any liability whatsoever to the other party for any non-performance, defective performance or delay in the performance of any of the services or work to be supplied hereunder caused directly or indirectly by an Act of God or by any other event or circumstance beyond the reasonable control of that party.

In the event that the Force Majeure event continues for a period of 90 days, either party can terminate the contract on written notice to the other. In the event of such termination, the Customer shall pay all outstanding charges to PUREPAGES forthwith.

## **19. CLAUSES AND SCHEDULES**

References to clauses and schedules shall be to clauses and schedules of this Agreement. The schedules to this Agreement form part of this Agreement and shall be interpreted accordingly.

## **20. WAIVER**

The waiver by either party of its rights in respect of any breach of any provision of this Agreement shall not be taken or held to be a waiver in respect of any subsequent breach thereof.

## **21. ALTERATION OF AGREEMENT**

No alteration, modification or addition to this Agreement shall be valid unless made in writing and signed by the duly authorised representatives from both parties.

## **22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

Nothing in this Agreement shall give, directly or indirectly, any third party any enforceable benefit or any right of action against PUREPAGES and such third parties shall not be entitled to enforce any term of this Agreement against PUREPAGES.

## **23. NOTICES**

All notices, documents and other communications relating to this Agreement must be in writing and delivered, or posted by first class pre-paid post or sent by facsimile transmission to the registered office of PUREPAGES or the Customer as appropriate and any such notice shall be deemed to have been duly served upon and received by the party to whom it is addressed at the time of delivery if delivered by hand, on the expiry of 48 hours after posting or at the time of transmission in the case of facsimile transmission .

## **24. SEVERANCE**

If any part of this Agreement is found to be unreasonable, invalid or unlawful under any enactment or rule of law the Court shall have the power to strike out or override that part whether it be an entire clause or clauses or some part or parts thereof and enforce this Agreement as if the offending part or parts had not been included.

## **25. HEADINGS**

The clause headings in this Agreement are inserted for ease of reference only and shall not affect the construction or interpretation of this Agreement.

## **26. PLURAL**

In this Agreement the singular shall be deemed to include the plural and the plural shall be deemed to include the singular unless the context requires otherwise.

## **27. ASSIGNMENT**

Neither party may assign the benefit of all or part of this Agreement without the prior written consent of the other party which shall not be unreasonably delayed or withheld, except that PUREPAGES may upon written notice to the Customer assign the benefit and burden of this Agreement to its holding company or to any company which is a subsidiary of its holding company.

## **28. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the parties. Other than as expressly stated otherwise in this Agreement neither party shall be under any liability for any representations made prior to or during the operation of this Agreement.

## **29. PROPER LAW**

This Agreement shall be governed and construed in accordance with the Laws of England and shall be subject to the exclusive jurisdiction of the Courts of England.

**Schedule 1  
Bespoke Software Design and Build (Example)**

<b>Title of Project</b>	Website for www.UKaudileasing.com
<b>Summary of Primary objectives and functionalities</b>	<p>Primary Objective: to sell Audi cars by business lease and personal contract hire (PCH)</p> <p>Primary Functionalities:</p> <ul style="list-style-type: none"> <li>• To draw people to the site by virtue of superior graphics and user friendly mechanisms</li> <li>• To easily lead both business and private purchasers through the leasing process</li> <li>• To allow Swansway staff to alter prices and specifications at will, without reference to Purepages staff</li> </ul>
<b>Full list of objectives, functionalities and design requirements are found in the following documents</b>	<ol style="list-style-type: none"> <li>1) Purepages proposal document</li> <li>2) Design documents, Appendices 1-4</li> <li>3) Notes from Swansway, Appendix 10</li> </ol>
<b>Project length</b>	4 weeks from acceptance confirmation
<b>Cost of Project</b>	£xxxx plus VAT @ 17.5%

This Schedule forms part of and is subject to the Customer Service Agreement between the parties dated \_\_\_\_\_, Reference \_\_\_\_\_ and unless stated otherwise is additional to all other Schedules agreed pursuant to that Agreement.

For and behalf of  
PUREPAGES Limited

For and on behalf of  
[CUSTOMER]

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**SCHEDULE 2  
(LICENSED SOFTWARE)**

Service Commencement Date:
Term: [PERPETUAL OR LIMITED?]
The Installation Address(es):
The Hardware:
The Licensed Software [specify object/source code]: User Limit
The Operating System:
Other Third Party Software:
Fees: Installation Fee Licence Fee [per annum/quarter/month] Increase in User Limit Fee Total:

**SCHEDULE 3  
(PROVISION OF MAINTENANCE AND SUPPORT SERVICES)**

Service Commencement Date:
Term/Notice Period:
Supported Software:
Supported Sites:
Supported Hardware:
Supported Users:
Charges (exclusive of VAT):
Additional Charges:
Expenses: All expenses reasonably incurred to be paid by the Customer.

This Schedule forms part of and is subject to the Customer Service Agreement between the parties dated \_\_\_\_\_, Reference \_\_\_\_\_ and unless stated otherwise is additional to all other Schedules agreed pursuant to that agreement.

For and behalf of  
PUREPAGES Limited

For and on behalf of  
[CUSTOMER]

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**Schedule 4  
Consultancy Services**
