



SOFTWARE LICENCE TERMS AND CONDITIONS

1. Interpretation

1.1 The "Supplier" means the Numerical Algorithms Group Limited (Co. No. 01249803), the registered office of which is at Wilkinson House, Jordan Hill Road, Oxford, OX2 8DR, UK and the "Customer" is as referred to in the Order.

1.2 The other definitions and rules of interpretation in Schedule 1 apply in these terms and conditions this Licence.

2. Delivery

2.1 The Supplier shall deliver one copy of the Software electronically to the Customer within five Business Days of the signing of the Order by both parties.

2.2 By separate agreement and subject to payment of the Supplier's then current fee, the Supplier can provide the Software on disk, but otherwise on the same basis as in Clause 2.1. Risk in any tangible media on which the Software is delivered shall pass on delivery.

3. Licence

3.1 In consideration of the Fee paid by the Customer to the Supplier, receipt of which (or the first periodic payment of which) the Supplier acknowledges, the Supplier grants to the Customer a non-exclusive Licence of the Software of the licence type Licence Type set out in the Order, on an Annual, Multi-Year or Perpetual basis, as set out in the Order, starting on the date on which the Order has been signed by both parties.

3.2 In relation to scope of Use:

(a) the Customer may not Use the Software other than as specified in Clause 3.13.4 without the prior written consent of the Supplier, and the Customer acknowledges that additional fees may be payable on any change of use approved by the Supplier.

(b) the Customer may make as many backup copies of the Software as may be necessary for its lawful use. The Customer shall record the number and location of all copies of the Software and take steps to prevent unauthorised copying.

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(c) except as expressly stated in this ~~Clause~~clause GEFORMAT ~~33~~, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, ~~de-compilation~~decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Customer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.

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3.3 ~~The Customer may not use any such information provided by the Supplier or obtained by the Customer during any such reduction permitted under Clause~~clause~~ 3.2(c) to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.~~

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3.4 The Customer shall not:

- (a) sub-license, assign or novate the benefit or burden of this Licence in whole or in part;
- (b) allow the Software to become the subject of any charge, lien or encumbrance; and
- (c) deal in any other manner with any or all of its rights and obligations under this Licence,

without the prior written consent of the Supplier.

3.5 The Supplier may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this Licence, provided it gives written notice to the Customer either before or after the event.

3.6 Other than in relation to a Perpetual Licence, the Licence does not include any support or maintenance, which can be provided under a separate ~~Support~~Maintenance Agreement.

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3.7 The Customer shall:

- (a) where applicable, ensure that the number of persons using the Software does not exceed the authorised number stated in the Order;
- (b) ensure that the Software is installed on suitable equipment only;

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- (c) keep a complete and accurate record of the Customer's back-up copying of the Software and its users, and produce such record to the Supplier on request from time to time; and
- (d) notify the Supplier as soon as it becomes aware of any unauthorized use of the Software by any person.

3.8 The Customer shall permit the Supplier to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is being kept or used, and have access to any records kept in connection with this Licence, for the purposes of ensuring that the Customer is complying with the terms of this Licence, provided that the Supplier provides reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times.

4. Trial Licence

~~3. TRIAL LICENCE~~

3.104.1 Where the Order relates to a Trial, the Supplier grants to the Customer a non-exclusive Licence to Use the Software for the Trial Period, on the expiry of which the Licence shall terminate automatically.

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5. Beta Testing

~~3. beta testing~~

3.125.1 Where the Order relates to Beta Testing, the Supplier grants to the Customer a non-exclusive Licence to Use the beta Software for the Beta Testing Period, which Licence shall terminate automatically on the earlier of (a) the expiry of the Beta Testing Period and (b) the first commercial release of the relevant Software by the Supplier.

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3.135.2 It is a condition of the grant of a Beta Testing Licence that the Customer provides the Supplier with comments and feedback on the beta version of the Software, including but not limited to usability, bug reports and test results and will notify the Supplier of all problems and suggestions for solutions, improvements and enhancements ("Solutions") which result from the Beta Testing.

3.145.3 By way of present and future assignment, the Customer assigns to the Supplier all copyright, all other Intellectual Property Rights and all right, title and interest in the Solutions.

4.6. Fees

4.16.1 The Customer shall pay to the Supplier the Fees, for the applicable Licence Type of the Software specified in the Order, either on a one off basis for a Multi-Year or Perpetual Licence or on an annually recurring basis for an Annual Licence, in each case ~~within 30 days~~ immediately, on the Order being signed by both parties.

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4.26.2 All ~~amounts~~ sums payable under this Licence shall bear exclusive of VAT or ~~any~~ relevant local sales taxes, ~~(if any) which shall be paid by, for which,~~ the Customer ~~at the rate and in the manner for the time being prescribed by law~~ shall be responsible.

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~~4.36.3~~ If the Customer fails to make any payment due to the Supplier under this agreement by the due date for payment, then, without limiting the Supplier's remedies under ~~Clause~~clause 19674" \h \w \\* MERGEFORMAT ~~12.12~~, the Customer shall pay interest on the overdue amount at the rate of ~~[5%]~~ per annum above the base lending rate of Barclays Bank PLC in force from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. ~~The Customer shall pay the interest together with the overdue amount~~ on demand.

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~~5.7.~~ **Confidentiality and Publicity**

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~~5.17.1~~ Each party shall, during the term of this Licence and thereafter, keep confidential, and shall not use for its own purposes (other than implementation of this Licence) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its Affiliates, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Licence, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

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~~5.27.2~~ The Customer shall not make, or permit any person to make, any public announcement concerning this Licence without the prior written consent of the Supplier (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

~~6.8.~~ **Export**

~~6.18.1~~ The Customer shall not export, directly or indirectly, any technical data acquired from the Supplier under this Licence (or any Software, incorporating any such data) in breach of any applicable laws or regulations ("Export Control Laws"), including UK and United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

~~7.9.~~ **Supplier's Warranties**

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~~7.19.1~~ The Supplier warrants that the Software will conform in all material respects to the Specification for a period of 90 days from the date on which the Order is signed by both parties ("Warranty Period"). If,

within the Warranty Period, the Customer notifies the Supplier in writing of any defect or fault in the Software in consequence of which it fails to conform in all material respects to the Specification, and such defect or fault does not result from the Customer, or anyone acting with the authority of the Customer, having amended the Software or used it outside the terms of this Licence for a purpose or in a context other than that for which it was designed or in combination with any other software not provided by the Supplier, or it has not been loaded onto Supplier-specified or suitably configured equipment, the Supplier shall, at the Supplier's option, do one of the following:

- (a) repair the Software;
- (b) replace the Software; or
- (c) terminate this ~~Licence~~ immediately by notice in writing to the Customer and refund any of the Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Software to the date of termination) on the Customer producing a certificate that it has destroyed the Software and all copies thereof in its possession or control,

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9.2 provided the Customer provides all the information that may be necessary to assist the Supplier in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable the Supplier to re-create the defect or fault.

7.29.3 The Supplier does not warrant that the use of the Software will be uninterrupted or error-free.

7.39.4 The Customer accepts responsibility for the selection of the Software to achieve its intended results and acknowledges that the Software has not been developed to meet the individual requirements of the Customer.

7.49.5 Where applicable, the Customer acknowledges that any Open-Source Software provided by the Supplier is provided "as is" and expressly subject to the disclaimer in ~~Clause~~

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~~7.59.6~~ All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this Licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

**8.10. Limits of Liability**~~liability.~~

~~8.10.1~~ Except as expressly stated in Clause~~clause~~

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- (a) the Supplier shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:
  - (i) special damage even if the Supplier was aware of the circumstances in which such special damage could arise;
  - (ii) loss of profits;
  - (iii) loss of sales or contracts;

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- ~~(iii)(iv)~~ loss of anticipated savings;
- ~~(iv)(v)~~ loss of business opportunity;
- ~~(v)(i)~~ ~~loss of sales or contracts;~~
- (vi) loss of goodwill;
- (vii) loss or corruption of data,

provided that this Clause shall not prevent claims for loss of or damage to the Customer's tangible property that fall within the terms of Clause 10.1(a) 10.1(b);

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- (b) the total liability of the Supplier, whether in contract, tort (including negligence) or otherwise and whether in connection with this Licence or any collateral contract, shall in no circumstances exceed (a) in relation to a Beta Testing Licence or a Trial Licence ~~exceed~~ ~~[£500.00]~~ and (b) in relation to any other Licence, a sum ~~equivalent~~ ~~to the lower of~~

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~~300% of the [three times] the Fee payable by the Customer, in relation to this Order in which the liability arises, or £500,000; and~~

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- (c) the Customer agrees that, in entering into this Licence, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this Licence or (if it did rely on any representations, whether written or oral, not expressly set out in this Licence) that it shall have no remedy in respect of such representations and (in either case) the Supplier shall have no liability in any circumstances otherwise than in accordance with the express terms of this Licence.

~~8.210.2~~ The ~~9.69.5~~ exclusions and ~~10.140.1~~ in ~~Clause~~ shall apply to the fullest extent permissible at law, but the Supplier does not exclude liability for:

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- (a) death or personal injury caused by the negligence of the Supplier, its officers, employees, contractors or agents;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) any other liability which may not be excluded by law.

~~8.310.3~~ All dates supplied by the Supplier for the delivery of the Software shall be treated as approximate only. The Supplier shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.

~~8.410.4~~ All references to "the Supplier" in this ~~Clause~~ shall, for the purposes of this clause and ~~Clause~~

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~~1817~~ only, be treated as including all employees, subcontractors and suppliers of the Supplier and its Affiliates, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause, in accordance with ~~Clause~~clause

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9.11. Intellectual ~~Property Rights~~ property rights

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9.11.1 The Customer acknowledges that all Intellectual Property Rights in the Software and any ~~Point~~Maintenance Releases belong and shall belong to the Supplier and the Customer shall have no rights in or to the Software other than the right to use it in accordance with the terms of this Licence.

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9.211.2 The Supplier undertakes at its own expense to defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the possession or use of the Software (or any part thereof) in accordance with the terms of this Licence infringes the UK Intellectual Property Rights of a third party ("~~Claim~~") and shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by or awarded against the Customer as a result of or in connection with any such Claim. For the avoidance of doubt, this ~~Clause~~clause

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w \\* MERGEFORMAT ~~11.244.2~~ shall not apply where the Claim in question is attributable to possession or use of the Software (or any part thereof) by the Customer other than in accordance with the terms of this Licence, use of the Software in combination with any hardware or software not supplied or specified by the Supplier if the infringement would have been avoided by the use of the Software not so combined, or use of a non-current release of the Software.

~~9.311.3~~ If any third party makes a Claim, or notifies an intention to make a Claim against the Customer, the Supplier's obligations under ~~Clause~~*clause* ~~11.244.2~~ are conditional on the Customer:

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- (a) as soon as reasonably practicable, giving written notice of the Claim to the Supplier, specifying the nature of the Claim in reasonable detail;
- (b) not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Supplier (such consent not to be unreasonably conditioned, withheld or delayed);
- (c) giving the Supplier and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Customer, so as to enable the Supplier and its professional advisers to examine them and to take copies (at the Supplier's expense) for the purpose of assessing the Claim; and
- (d) subject to the Supplier providing security to the Customer to the Customer's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, taking such action as the Supplier may reasonably request to avoid, dispute, compromise or defend the Claim.

~~9.411.4~~ If any Claim is made, or in the Supplier's reasonable opinion is likely to be made, against the Customer, the Supplier may at its sole option and expense:

- (a) procure for the Customer the right to continue to use the Software (or any part thereof) in accordance with the terms of this ~~Licence~~*licence*;
- (b) modify the Software so that it ceases to be infringing;

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- (c) replace the Software with non-infringing software; or
- (d) terminate this Licence immediately by notice in writing to the Customer and refund any of the Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Software to the date of termination) on return of the Software and all copies thereof,

provided that if the Supplier modifies or replaces the Software, the modified or replacement Software must comply with the warranties contained in Clause clause  
\* MERGEFORMAT 9.19-1 and the Customer shall have the same rights in respect thereof as it would have had under those clauses had the references to the date of this Licence been references to the date on which such modification or replacement was made.

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9.511.5 This Clause clause 1144 constitutes the Customer's exclusive remedy and the Supplier's only liability in respect of Claims and, for the avoidance of doubt, is subject to Clause clause

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**12. Contributor Code**

12.1 Some portions of object code in the distributed Software may be subject to terms imposed by other licensors as stated in the associated Software documentation. In some instances source is available and can be obtained via the NAG website.

**~~10.13.~~ Duration and Termination~~termination~~**

~~10.13.1~~ Either party may terminate ~~this~~ Licence:

- (a) In the case of a Trial Licence or Beta Testing Licence, immediately at any time on giving written notice to the other;
- (b) In the case of an Annual Licence, on giving not less than ~~three~~3 months' written notice prior to the anniversary of the date on which the Order was signed by the parties (and if such notice is not given, the Annual Licence shall renew automatically and the relevant Fee shall be payable to the Customer by the Supplier on such anniversary); and
- (c) ~~I~~in the case of a Multi-Year Licence, on giving not less than ~~three~~3 months' written notice to expire no earlier than the end of the Multi-Year Licence period.~~I~~

~~10.213.2~~ Without affecting any other right or remedy available to it, either party may terminate this Licence ~~agreement~~ with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than ~~ten~~10 Business Days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this ~~Licence agreement~~ which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of ~~3028~~30 days after being notified in writing to do so;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a

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scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within ~~14~~ days;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in ~~Clause~~ Clause ~~13.2(c)~~ 13.2(i) to ~~Clause~~ Clause ~~13.2(e)~~ 13.2(i) (inclusive); or

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- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

~~10.313.3~~ Termination or expiry of this Licence ~~agreement~~ shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the ~~Licence agreement~~ which existed at or before the date of termination or expiry.

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~~10.413.4~~ On termination for any reason, other than in relation to a Perpetual Licence:

- (a) all rights granted to the Customer under this Licence shall cease;
- (b) the Customer shall cease all activities authorised by this Licence;

- (c) the Customer shall immediately pay to the Supplier any sums due to the Supplier under this Licence; and
- (d) the Customer shall immediately destroy or return to the Supplier (at the Supplier's option) all copies of the Software (including but not limited to Software elements or executables built into Customer programs) then in its possession, custody or control and, in the case of destruction, certify to the Supplier that it has done so.

~~10.5~~13.5 In all cases, all support and maintenance shall cease on termination of the Licence (including a Perpetual Licence).

~~10.6~~13.6 Any provision of this Licence ~~agreement~~, which expressly or by implication is intended to come into or continue in force on or after termination of this ~~Licence agreement~~, including ~~Clause~~clause, ~~77~~, ~~88~~, ~~99~~ ~~Clause~~clause (except ~~9.19.1~~), ~~clause~~ ~~10~~10, ~~clause~~ ~~12~~12 and Schedule 1 shall remain in full force and effect.

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**11.14. Waiver**

No failure or delay by a party to exercise any right or remedy provided under this ~~Licence agreement~~ or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. ~~Remedies~~

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Except as expressly provided in this Licence, the rights and remedies provided under this Licence are in addition to, and not exclusive of, any rights or remedies provided by law.

**12.15. Entire Agreement**

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~~12.15.1~~ This Licence and its ~~Schedule~~ and the documents referred to in them contain the whole agreement between the parties relating to its subject matter and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

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~~12.215.2~~ Each party acknowledges that, in entering into this ~~agreement~~ Licence, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to this ~~Licence~~ Licence or not) ("~~Representation~~") other than as expressly set out in this Licence.

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~~12.315.3~~ Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in this Licence.

~~12.415.4~~ Nothing in this clause shall limit or exclude any liability for fraud.

**13.16. Variation**

No variation of this Licence shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**14.17. Severance**

~~14.17.1~~ If any provision or part-provision of this Licence is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Licence.

~~14.217.2~~ If any provision or part-provision of this ~~Licence agreement~~ is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

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**15.18. Third-party Rights**

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~~15.18.1~~ A person who is not a party to this Licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

~~15.218.2~~ The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Licence are not subject to the consent of any person that is not a party to this Licence.

~~16.19. Publicity/publicity / No Partnership/partnership or Agency/agency~~

~~16.119.1~~ The Supplier may refer to the Customer as being a client of the Supplier in customer reference lists and sales presentations ~~unless, but shall not refer to~~ the Customer ~~withdraws in any advertising or press release without the prior written~~ consent ~~as detailed in of the Order~~ Customer.

~~16.219.2~~ Nothing in this Licence is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of the other party, or authorise a party to make or enter into any commitments for or on behalf of the other party.

~~16.319.3~~ Each party confirms it is acting on its own behalf and not for the benefit of any other person.

~~16.419.4~~ The parties may agree to enter a mutual non-disclosure agreement, in such form as they may agree.

~~17.20. Force Majeure/majeure~~

Neither party shall be in breach of this Licence nor liable for any delay in performing, or failure to perform, any of its obligations under this Licence if such delay or failure result from events, circumstances or causes beyond its reasonable control ("force majeure"). In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of force majeure continues for ~~six~~ months, the party not affected may terminate this Licence by giving ~~3028~~ days' written notice to the affected party (provided the force majeure does not end during such notice period).

~~18.21. Notices~~

~~18.121.1~~ Any notice given to a party under or in connection with this Licence (but excluding a notice relation to court proceedings) shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to a published email address.

~~18.221.2~~ Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;
- (c) if sent by email, immediately following transmission, provided the sender does not receive a non-delivery message.

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**19.22. ~~Governing Law~~ and ~~Jurisdiction~~**

~~19.122.1~~ This Licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

~~19.2~~ The Customer irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Licence or its subject matter or formation (including non-contractual disputes or claims), but the Supplier shall be entitled to bring a claim before any court of competent jurisdiction.

~~This Licence will be legally binding on the Supplier and the Customer on the date on which the Order for the relevant Software is signed by both parties.~~

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Schedule 1 :

Definitions and Interpretation

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A. In this Licence:

**Affiliate:** includes, in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party or any business entity from time to time controlling, controlled by, or under common control with, either party.

**Annual:** a ~~Licence~~ ~~licence~~ granted for 12 calendar months as stated in the Order from the date on which the Order is signed by both parties, which can be renewed annually on the anniversary of that date.

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**Beta Testing:** use of the Software, as provided by the Supplier, for its testing and evaluation prior to its commercial release by the Supplier.

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**Beta Testing Period:** 30 days or such other period as specified in the Order, from the date on which the Order is signed by both parties.

**Business Day:** any day from Monday to Friday inclusive, excluding ~~English~~ public holidays, as may be varied by the Supplier from time to time.

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**Compiler:** the software which converts source code into object code.

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**Control:** a business entity shall be deemed to "control" another business entity if it owns, directly or indirectly, in excess of ~~50%~~ of the outstanding voting securities or capital stock of such business entity, or any other comparable equity or ownership interest with respect to a business entity other than a corporation OR as defined in section 1124 of the Corporation Tax Act 2010.

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**Development Licence:** a licence which permits use of the Software for development purposes.

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**Fee:** the licence fee as specified in the Order, payable by the Customer to the Supplier under ~~Clause~~ ~~clause~~.

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**Holding company and subsidiary:** mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

**Licence:** a Development Licence, a Runtime Licence, a Beta Testing Licence or a Trial Licence.

**Licence Type:** one of the types of Licence listed from time to time on the Supplier's website, [www. ]

**Maintenance Agreement:** the Supplier's form of maintenance agreement for the Software, from time to time applicable.

**Maintenance Release:** release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.

**Multi-Year:** a licence granted for the number of calendar years as stated in the Order, taking effect from the date when the Order has been signed by both parties.

**New Release Version:** any new version of the Software which from time to time is publicly marketed and offered for purchase by the Supplier in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product.

**Open-Source Software:** open-source software as defined by the Open Source Initiative (<http://opensource.org>) or the Free Software Foundation (<http://www.fsf.org>).

**Order:** the order form setting out the Software Licensed by the Supplier to the Customer, as signed by both parties.

**Perpetual:** a Licence for the full period of copyright in the relevant Software.

**Point Release:** a release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Release.

**Runtime Licence:** a licence which permits the Customer to allocate a Licence licence to use the Software as part of a specific derivate work created under a Development Licence. Unless otherwise stated in the Order, the Customer can allocate the Software on a single-named user or single-named system basis and is

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responsible for keeping accurate records of all licences allocated, which must be made available to the Supplier on request. Once allocated, licences cannot be re-allocated without the Supplier's prior written agreement.

**Software:** the software listed and as Licensed in the Order, by reference to the descriptions in REF "a954047" \h \w \\* MERGEFORMAT ~~0~~Schedule 1 and any ~~Point Maintenance~~ Release which is acquired by the Customer during the subsistence of this licence.

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**Specification:** the document detailing the specification of the relevant Software ~~as specified in which form of Annex A~~ to the Order.

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**Trial:** Use of the software by the Customer for a trial period ~~(as specified in the Order).~~

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**Trial Period:** 30 days or such other period as specified in the Order, from the date on which the Order is signed by both parties.

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**Use:** the installation loading of the Software into temporary memory or permanent storage on the relevant computer, operation and use of the Software in object code form only and solely on the computer(s), in the environment(s) and at the site(s), as specified in the Order or as otherwise agreed in writing by the Supplier, for the purpose of processing the Customer's data for normal business purposes (which shall not include allowing the Use of the Software by or for the benefit of any other person than an employee of the Customer, or in the case of an Academic Licence, students of the relevant academic institution).

B. In this Licence, the ~~schedule forms~~schedules form part of it; clause, schedule and paragraph headings shall not affect its interpretation; words in the singular include the plural and the opposite applies; a reference to one gender shall include a reference to the other genders; and any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

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C. In the case of conflict or ambiguity between any provision contained in the body of this Licence and any provision contained in the ~~Schedule~~Schedules, the provision in the body of this Licence shall take precedence.

D. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

~~NAG Website: www.~~  
~~Licence Types~~

~~Development Licences~~

Code	Description	Notes
<del>DL-SNUNLD</del>	<del>Single, named user node locked desktop licence</del>	
<del>DL-NLSC</del>	<del>Node locked server with number of cores specified in the Order</del>	
<del>DL-F</del>	<del>Floating licence for a limited number of sessions stated in the Order, to be used by one person at a time</del>	<del>Floating licences are only sold for the Compiler</del>
<del>DL-UF</del>	<del>Floating licence with an unlimited number of sessions</del>	

**Internal Runtime Licences**

Code	Description	Notes
<del>IRL-SNUNLD</del>	<del>Single, named user node locked desktop licence</del>	
<del>IRL-NLSC</del>	<del>Node locked server with number of cores specified in the Order</del>	
<del>IRL-GC</del>	<del>Grid/clusters licence for the maximum number of cores set out in the Order</del>	

**External Runtime Licences**

Code	Description	Notes
<del>ERL-SNUNLD</del>	<del>Single, named user node locked desktop licence</del>	
<del>ERL-NLSC</del>	<del>Node locked server with number of cores specified in the Order</del>	
<del>ERL-GC</del>	<del>Grid/clusters licence for the maximum number of cores set out in the Order</del>	

**Licence Fee Structure (Internal)**

The Supplier recognises three types of customer (and the Supplier's categorisation shall be final):

"Government": any central Government Department, the Welsh Assembly and any London Borough, District or Town council in the UK [or the equivalent anywhere else in the world];

~~“Academic”: any recognised higher or further education university, college or institution, whether in the UK or elsewhere;~~

~~“Commercial”: any customer which is not Government or Academic.~~

~~The default Library sale is “The NAG Library”, which comprises~~

- ~~— C Library — Toolbox for MATLAB — Library for Python — Library for JAVA — Library for .NET —~~
- ~~— Fortran Library — Library for SMP & Multicore — NAG Library for Xeon Phi~~

**Development Licences**

~~Licence Type: Single named user node locked desktop licences~~

~~Validity: Annual — x 1 licence~~

<del>NAC Ltd</del>	<del>NAC Inc</del>
<del>Academic — £420</del>	<del>\$640</del>
<del>Government: — Not sold</del>	<del>Not sold</del>
<del>Commercial: — Not sold</del>	<del>Not sold</del>

~~Validity: Annual — x 2 licences~~

<del>Academic — £750</del>	<del>\$1160</del>
<del>Government: — £1570</del>	<del>\$2420</del>
<del>Commercial: — £1740</del>	<del>\$2690</del>

~~Validity: Multi-Year — All multi-year prices are based on multiples of standard pricing, no discounts are applied since the customer avoids annual price increases~~

~~Validity: Perpetual (includes 1 year of support) —~~

<del>Academic — £1250</del>	<del>\$1930</del>
<del>Government — £2610</del>	<del>\$4030</del>
<del>Commercial — £2900</del>	<del>\$4480</del>

1) Quantity Discounts as below	
Quantity Purchased	Discount on current purchase

1	0%
2-5	10%
6-9	15%
10-24	20%
25-49	30%
50-99	40%
100+	50%

~~Licence Type: Node locked Server with specified number of cores  
This licence type doesn't restrict the number of users~~

~~Example:~~

~~1 CPU Server, Up to 2 cores~~

~~Validity: Annual~~

~~Academic: £1190 \$1840  
Government: £2760 \$4260  
Commercial: £3070 \$4730~~

~~Validity: Multi Year — All multi year prices are based on multiples of standard pricing, no discounts are applied since the customer avoids annual price increases~~

~~Validity: Perpetual (includes 1 year of support)~~

~~Academic: £3580 \$5520  
Government: £8280 \$12780  
Commercial: £9200 \$14200~~

~~These prices increase depending on the number of cores, but not by a static percentage.~~

**Basic Runtime Licences**

~~Licence Type: Single named user node locked desktop licences~~

~~Validity: Perpetual~~

~~Commercial: £840 \$1300  
10-24 25% discount 25% discount  
25-99 40% 40%  
100-249 60% 60%  
250-999 70% 70%  
1000 88% 88%~~

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Annual validity POA

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