

SELLERDECK LTD whose registered office is 1 Emperor Way, Exeter Business Park, Exeter, Devon, EX1 3QS whose company number is 03221222 ("Sellerdeck") LICENCE AND DATA REGISTRATION AGREEMENT

This software licence and data registration agreement ("Agreement") governs the use of software accompanied by or containing the Agreement. By installing or using the software you agree to be bound by the terms of the Agreement and agree that you are an authorised person able to agree to these terms.

"SELLERDECK PARTNER"

Sellerdeck Partner means any reseller of the Software authorised by Sellerdeck. If you have any doubts as to whether a reseller is authorised by Sellerdeck please contact Sellerdeck (see Contacts below). No legal partnership exists between Sellerdeck and any such reseller.

"SOFTWARE"

Software comprises and includes computer software and any upgrade or update in its unmodified form as supplied by Sellerdeck Limited ("Sellerdeck") direct to you or to the Sellerdeck Partner, any associated media on which such software is recorded, any Software Documentation and any licensing system or licensing control device such as a dongle. The Software does not comprise any computer software or modifications to the unmodified Sellerdeck product added or modified by you or any third party.

"SOFTWARE DOCUMENTATION"

Software Documentation comprises any printed materials provided to you by Sellerdeck in relation to the Software and any online or electronic documentation to which you are directed by Sellerdeck.

IMPROPERLY OBTAINED COPIES OF THE SOFTWARE

The Software may only be used lawfully if you have obtained a licence key or device from Sellerdeck or a Sellerdeck Partner or you are using it for evaluation purposes as set out in this Agreement.

RIGHT TO WITHDRAW

If you are dissatisfied with the Software for any reason, you may return the Software to your Sellerdeck Partner (or to Sellerdeck if you purchased the Software directly from Sellerdeck) and cease use of the software in return for a full refund of the purchase price at any time within 30 days from the date of purchase.

GRANTING OF LICENCE

Subject to the terms of this Agreement and payment of the applicable licence fees, Sellerdeck grants to you a non-exclusive licence to use the Software subject to the following terms and conditions.

EVALUATION USE ONLY

In the event that your use of the Software is for the purpose of evaluating whether to purchase a licence, Sellerdeck grants you subject to the following terms and conditions a non-exclusive licence

to use the Software free of charge. The evaluation period for use is limited (the period being notified by Sellerdeck and normally 30 days) and all of the Licence Terms apply (except Granting of Licence).

SOFTWARE UPDATES

Nothing in this licence shall oblige or require Sellerdeck to provide any updated, improved or other version of the software other than that supplied at the commencement of this licence.

LICENCE TERMS

You may in accordance with the terms of this agreement:

(A) use the Software in accordance with the Software Documentation on any single computer;
(B) copy the Software for archival purposes, provided any copy must contain all of Sellerdeck's proprietary notices and the backup copy is only used when the original copy cannot and is not being used.

You may not:

(A) permit other individuals (other than your agent on your behalf) to use the Software;
(B) use one licensed copy of the Software to operate more than one website excepting where the product version has multi-site capability.
(C) use one licensed copy of the Software on more than one computer except for backup purposes as described above or where the contents of a single web site are uploaded from one computer and a second computer is used to download orders from that web site and where the same functions within the software are never used concurrently on two different computers and the product version does not have multi-user capability.
(D) modify (except to the extent explicitly permitted in the Software Documentation which you acknowledge you have read), translate, reverse engineer, decompile, disassemble, or create derivative works based on the Software (except to the extent permitted by s50 of the Copyright, Designs and Patents Act 1988 or otherwise by the law of the country in which you acquired the Software);
(E) copy the Software other than as specified above;
(F) rent, lease, grant a security interest in, or otherwise transfer your rights under the terms of the Agreement, except as agreed in writing by Sellerdeck;
(G) remove any proprietary notices or labels on the Software other than as specifically permitted in writing by Sellerdeck;
(H) divulge details of the Software to any person except as necessary to install and operate the Software in accordance with the terms of this licence;
(I) use the Software to sell or promote products that are illegal, adult, pornographic or distasteful, as determined by Sellerdeck at its sole discretion;
(J) use, or permit the use of, a prior release of the Software if this version of the Software is an upgrade to a previous version, other than for testing purposes during parallel running;
(K) continue using the Software if it has been provided on a rental basis and the rent has ceased to be paid;
(L) use the Software to process commercial orders if the Software's order processing functionality is documented as not for commercial use or if the license keys supplied to you were designated as "not for commercial use";
(M) Interfere in any way with the licensing systems controlling features and availability of the software.

TITLE

The Software is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. You will be entitled to use and operate the Software on your computer during the currency of the Agreement and for so long as all fees and obligations are paid and met by you. The Software will not become your property at any time. The property in the programme data and material used in operation of the Software remains at all times the property of Sellerdeck.

ASSIGNMENT

This licence may not be assigned, sublicensed or otherwise transferred by you, by operation of law or otherwise, without prior written consent from Sellerdeck.

TRADE MARKS

"Sellerdeck" is a registered trade mark of Sellerdeck Ltd or its wholly owned subsidiaries in the United Kingdom, USA, EU, Canada, Australia and Japan. You may not use the Sellerdeck trade marks in any way without Sellerdeck's prior written consent, nor will you challenge the validity or ownership of such trade marks.

SUPPORT

If you have purchased the Software from a Sellerdeck Partner you must direct initial support enquiries to such Sellerdeck Partner. If the Sellerdeck Partner is unable to resolve your problem or you purchased the Software direct from Sellerdeck you are entitled to the following support from Sellerdeck.

Payment of the applicable licence fees entitles you to 30 days free e-mail and telephone support.

Subsequent telephone and email support is only available on payment of a separate charge.

Sellerdeck cannot guarantee that all problems will be corrected. Sellerdeck's sole support obligation is to provide reasonable, timely and good faith efforts to correct problems encountered when using the software in accordance with the Software Documentation or otherwise within the terms set out in this Agreement.

WHERE SUPPORT WILL NOT BE PROVIDED

Sellerdeck expects to provide support in a professional and courteous manner. It is a condition of support that this is reciprocated.

Sellerdeck will not provide support where the software is used to sell or promote products that are illegal, adult, pornographic or distasteful, as determined by Sellerdeck at its sole discretion.

Sellerdeck is under no obligation to provide support where the fault has occurred through use of the Software otherwise than set out in the Software Documentation.

If your use of the Software is for evaluation or trial prior to purchase of a licence for the Software, or if you have received the software free of charge under a Sellerdeck promotion, then you are entitled to e-mail installation support for a period of 30 days only.

TERMINATION

Without prejudice to any other rights, Sellerdeck may terminate this agreement if you fail to comply with any of the terms and conditions of this Agreement or if you suffer any form of insolvency or administration. By accepting these terms and conditions you undertake and agree upon termination of this licence, or in the event of your failing to purchase a full licence within the evaluation period of installing an evaluation copy, to destroy forthwith (and if necessary subsequently on demand) all copies of the Software held and to remove them from any computer data storage medium.

LIMITED WARRANTY

Sellerdeck warrants that for a period of ninety (90) days from the date of purchase (the "Warranty Period") the Software will operate in substantial conformity with the Software Documentation. Notwithstanding the foregoing, because of the multiple hardware and software environments into which the Software may be put, Sellerdeck warrants that the Software will only so operate if used: (1) with software and hardware that complies with the Minimum System Requirements set out at the web site www.Sellerdeck.co.uk and may be varied in the light of environmental changes such as changes to operating systems or browsers and (2) strictly within the limitations set out in the Software Documentation. Any alleged breach of the foregoing warranty must be reported to Sellerdeck by e-mail during the Warranty Period, specifying the non-conformity and the circumstances under which it occurs. Sellerdeck's sole liability and your sole remedy for breach of the foregoing limited warranty shall be Sellerdeck's commercially reasonable efforts to correct the non-conformity or, if such correction is, at Sellerdeck's sole discretion, not commercially practicable, refund of the licence fees paid for the non-conforming copy of the Software. Except as specifically set forth in this paragraph, the Software is provided 'as is' and with no warranties, express or implied, and, to the full extent permitted by law, Sellerdeck specifically disclaims all other warranties, implied, statutory, or based on custom or usage, including, without limitation, the implied warranties of merchantability, fitness for a particular purpose and non-infringement. For the avoidance of doubt Sellerdeck gives no warranty as to the operability of the Software if modified outside of the strict parameters set out in the Software Documentation by you or your agents.

Good data processing procedure dictates that any program be thoroughly tested with non-critical data before relying on it. Reasonable precautions have been taken to ensure the Software is virus free. However, before using it you should first ensure that its use will not interfere with the proper functioning of your computer software and hardware (including networks) and that you maintain adequate protection for the reconstruction of lost data.

If any claim is made against you based upon infringement of a third party United Kingdom patent or copyright by your use of the Software within the terms of this Agreement you shall notify Sellerdeck in writing. You agree that in these circumstances Sellerdeck may modify or substitute the Software so that it becomes non-infringing, or procure you the right to continue to use the Software or terminate this licence in return for compensation for loss you suffer of up to the purchase price of the Software. Sellerdeck shall not be liable for any infringing use of the software arising out of the combination of the Software with any other software not supplied by Sellerdeck or any use outside the terms of this Agreement.

No warranty is given as to the suitability and effectiveness of the default data settings incorporated within the Software. In particular, any incorporated Terms and Conditions have not been reviewed by lawyers and are for illustrative purposes only and tax settings have not been reviewed by a qualified accountant and are for illustrative purposes only. Appropriate professional advice should

be taken before publishing your own terms and conditions and commencing commercial activities using the software.

EXCLUSION AND LIMITATION OF LIABILITY

1 Nothing in this Agreement shall exclude or limit the liability of either party for death or personal injury resulting from the negligence of that party or in respect of fraud or of any statements made fraudulently by that party, or arising under Part 1 of the UK Consumer Protection Act 1987 in respect of any defect in the Software.

1.1 Subject to the exception set out in paragraph 1 above and to the extent permissible by law, Sellerdeck will not be liable to you whether in contract (including under any indemnity or warranty), in tort (including negligence), under statute or otherwise for any (whether direct or indirect):

- (a) loss of profit;
- (b) loss of revenue;
- (c) loss of sales;
- (d) loss of anticipated savings;
- (e) loss or corruption of data;
- (f) loss of contract or opportunity;
- (g) loss of goodwill;
- (h) costs incurred in modifying the Software (whether in accordance with the Software Documentation or not);
- (i) unreasonable costs in remedying any loss; or
- (j) indirect or consequential loss or damages; or
- (k) costs incurred in testing, implementing, configuring, designing, loading data, or preparing data in connection with the Software (whether in accordance with the Software Documentation and other instructions and training or not).

1.2 Subject to the exception set out in paragraph 1 above and to the extent permissible by law, in the event that Sellerdeck is liable to you in contract (including under any indemnity or warranty), in tort (including negligence), under statute or otherwise its liability shall be limited to a claim for the purchase price for the Software. This limitation is for any one event or series of connected events.

1.3 For purposes of this section, "Sellerdeck" includes its employees, sub-contractors and suppliers.

1.4 You acknowledge that given the price paid for the Software, the complicated nature of the Software, the almost limitless number of software and hardware environment combinations into which the Software might be introduced, the fact that Sellerdeck cannot anticipate the particular purpose for which you are using the Software and the availability of insurance for any loss that the above limitations and exclusions are reasonable in all the circumstances.

1.5 If any provisions of this Agreement are held to be invalid under any applicable statute or rule of law, they are to that extent omitted from the Agreement without affecting the validity or enforceability of the remainder.

HIGH VALUE TRANSACTIONS

Sellerdeck's maximum liability under this agreement is the purchase price for the Software. You are therefore strongly advised to obtain insurance or further warranties from any third parties who may modify the Software on your behalf if you are using the Software to conduct high value transactions.

GENERAL PROVISIONS

This Agreement is the entire agreement between the parties with respect to its subject matter and supersedes all written or oral understandings with respect thereto. All notices permitted or required by this Agreement will be sent via e-mail with confirmation of receipt. The failure of either party to demand performance or pursue any right arising hereunder shall not constitute a waiver of future performance or such right. Each party and its respective employees are independent contractors in relation to one another with respect to all matters arising under this Agreement.

You agree that any export of this product or any direct by-product thereof from the United States must conform to the laws of the United States including, without limitation, the Export Administration Regulations of the U.S. Department of Commerce.

Any action relating to this Agreement must be brought within 2 years after the cause of action arises. If any provisions of this agreement are held to be invalid under any applicable statute or rule of law, they shall, to the fullest extent practicable, be amended so as to be valid and to reflect the intent of the parties or, if not practicable, to that extent omitted from the agreement without affecting the validity or enforceability of the remainder.

CHOICE OF LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English and Welsh law and the parties hereby submit to the exclusive jurisdiction of the English and Welsh Courts.

CONTACTS

Sellerdeck Website:
www.sellerdeck.co.uk

Sellerdeck Support Email Address:
support@sellerdeck.co.uk

REGISTRATION AND DATA PROTECTION

The Software may automatically register at a Sellerdeck website when it is used and Sellerdeck may query the Software. This measure is primarily to prevent software piracy and ensure that the best service is provided to you. Your name, telephone numbers, address and email address and statistics concerning use of the software ("Your Data") will be put into the Sellerdeck database and processed by Sellerdeck in servicing its relationship with you, including disclosure to third party outsourcers and consultants. Your Data will not include the details of any individual identifiable prospects, customers, products or transactions.

You agree to the storage, use and disclosure of Your Data. Unless you notify Sellerdeck otherwise you agree that Sellerdeck may use and analyse Your Data to give you information about Sellerdeck's services which may be of interest to you. If you do not wish to be contacted for marketing purposes by Sellerdeck or by third parties please email Sellerdeck as follows: sales@sellerdeck.co.uk.

You agree that only for the purposes described above Your Data may be transferred to countries outside both the EEA and the United States.