

Appendix 2:

**AUSTNET SUPPORT GROUP Pty Ltd:
TERMS AND CONDITIONS**

These terms and conditions apply to all work undertaken by Austnet for any Customer and all Goods, services or equipment supplied by Austnet to any Customers whether these terms are stated explicitly or delivered in writing to the Customer or not. These terms and conditions apply to the Customer at the time of entering into either:

- .1 a Technical Support Agreement and/or
- .2 an agreement to supply services including consultancy, IP, or application or software development and/or
- .3 an agreement to supply Goods including software systems

with the Customer and shall apply unless these Terms and Conditions have been varied in writing signed by the party against whom the variation is sought to be enforced.

1. **INTERPRETATION:**

- 1 **THAT** in these Terms and Conditions the following terms shall have the following meanings unless such meanings are repugnant to or are excluded by the context or subject matter:
 - .1 "Austnet" means Austnet Support Group Pty Ltd (ACN. 060-330-252) in its capacity as trustee for the Austnet Unit Trust whose business premises are located at 88 St Kilda Road, St Kilda, Victoria, 3182, Australia.
 - .2 "Contract Support Blocks" means a specified period of time of such duration as the parties agree for the provision of Technical Support;
 - .3 "Customer" means "Client" and "Client" means "Customer"
 - .3 "the Customer" means any person or organisation entering into a business agreement to be supplied goods and/or services and/or Technical Support or other expertise from Austnet and its agents employees and servants from time to time;
 - .4 "Customer Sites" means any place or location advised or requested by a Customer to Austnet for the provision of Technical Support and/or the supply of Goods;
 - .5 "Disbursements" includes all telephone call charges, Internet connection charges, parking, freight and courier, travel costs to and from Customer sites or other sites in the course of providing technical support or other services to the Customer, chargeable vendor incidents, any appropriate accommodation charges and any other costs incurred in the course of providing goods, services or technical support to the Customer;
 - .6 "Emergency Call Out" means a request by a Customer for immediate attendance and provision of Technical Support by Austnet outside the Normal Response Time;
 - .7 "Goods" means any goods and/or equipment to be supplied either directly or indirectly by Austnet or to be procured by Austnet to be supplied or provided by a third party to the Customer;
 - .8 "Maintenance Contract" means the provision of technical support through a service or maintenance contract;
 - .9 "Normal Response Time" means Austnet responding to or attending to the Customer's request for Technical Support within 4 hours of receiving a telephone call from the Customer specifically making a request for a Response from Austnet during the normal business hours of 8:30 am to 5:30 pm on week days, unless otherwise specified in writing;
 - .10 "Response" means any contact initiated by Austnet with the Customer from Austnet or any third party or other contact between Austnet and the Customer subsequent to a call specifically making a request for a Response whether that contact is by telephone, email or personal visit.
 - .11 "Set Period contract" means a contract for the period specified in such contract;
 - .12 "Set Task" means an agreement to perform a specific function or task or to provide specific technical support;
 - .13 "Standard Rates" means the rates which Austnet may impose for the provision of services and / or technical support pursuant to these Terms and Conditions and which are more particularly the published rates of Austnet in operation at the time of entry into the relevant agreement to which such rates apply;
 - .14 "Supply of Goods" means the supply of Goods by Austnet to the Customer pursuant to these Terms and Conditions details of which Goods are described in an invoice delivered to the Customer by Austnet or in any letter of offer or quotation from Austnet to the Customer for the Supply of Goods;
 - .15 "Technical Support" means generally any service which Austnet is requested to provide to a Customer in the ordinary course of Austnet's business howsoever but not including the Supply of Goods and includes all of the following:
 - .1 any work, support, maintenance, technical services, technical work, **project**, consultancy, software / application development or other jobs or tasks or management or consultancy to be undertaken by Austnet either directly or through a third party,
 - .2 the documentation of anything undertaken in 1.1.2 above,
 - .3 attendance at and preparation for any meetings discussing anything undertaken in 1.1.2 above, and/or
 - .4 anything undertaken in 1.1.2 above in association with warranties undertaken by third parties being suppliers of that warranty with respect to the Customer's computer systems, computer network and communications systems or any other systems.
 - .16 "Telephone Support" the provision of Technical Support through a telephone call;
 - .17 "Technical Support Agreement" means any Agreement for the provision of Technical Support either pursuant to a Set Period contract, a Contract Support Block or generally,
 - .18 All Service Level Agreements (SLA) shall be subservient to these terms and conditions
 - .18 "Support Contract" means any Agreement for the provision of Technical Support either pursuant to a Set Period contract, a Contract Support Block or generally, and

.2 **THAT** in the interpretation of these Terms and Conditions except to the extent that such interpretation shall be excluded by or be repugnant to the context when used herein:

- .1 a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under that legislation or legislative provision;
- .2 reference to the singular shall include the plural and vice versa;
- .3 references to one gender shall include all other genders;
- .4 headings in these Terms and Conditions are for convenience only and have no legal significance;
- .5 a word denoting an individual or person includes a corporation, firm, authority, government or any governmental or semi-governmental authority and vice versa;
- .6 a reference to a recital, clause schedule or annexure is to a recital, clause schedule or annexure of or to this Agreement;
- .7 a reference to "these Terms and Conditions" shall include all modifications alterations amendments variations supplements to replacements of and excisions herefrom and which is executed by the party against whom such modification alteration amendment variation supplement to replacement of or excision from is claimed;
- .8 a reference to any party to these Terms and Conditions or any other document or arrangement includes that party's executors successors legal

- representative permitted assigns administrators and substitutes as the case may be;
- .9 where an expression is defined another part or grammatical form of that expression in these Terms and Conditions shall have the corresponding meaning, and
- .10 if any part of these Terms and Conditions is illegal or void for any reason whatsoever then provided that the substance of the agreement is not lost thereby such offending clause or paragraph shall be excised herefrom and these Terms and Conditions shall be construed accordingly.

2. TECHNICAL SUPPORT AGREEMENTS.

Austnet AGREES as follows:

- .1 to provide Technical Support and or any other services to the Customer to the best of its ability with due diligence and in a professional manner by competent professional suitably qualified personnel, and
- .2 to use its best endeavours and professional skills to solve any technical support problem which the Customer has or requests and to implement such solutions as it sees fit without being liable for the success or failure of such implemented solutions.

3. PERFORMANCE

Under these terms and conditions:

- .1 Performance under these Terms and Conditions by Austnet is wholly dependant upon payment of the fees costs disbursement and expenses agreed between the Customer and Austnet for the supply of Goods and Technical Support. In the event of a delay or non-payment by the Customer to Austnet then Austnet shall have the right to suspend the provision of Technical Support until all payments due to Austnet by the Customer have been made in full.
- .2 Austnet shall engage appropriately qualified sub-contractors to perform and provide Technical Support under these Terms and Conditions.

4. CUSTOMERS AGREEMENT.

The Customer AGREES as follows:

- .1 To pay to Austnet for such Services rendered and Goods supplied, and fees costs disbursements and expenses which are invoiced to the Customer or otherwise provided pursuant to these Terms and Conditions on the dates due for such payments without deduction;
- .2 not to hire or sub contract any employee, contractor or company which is or has been employed or contracted by Austnet to provide Technical Support or other services to or for the Customer for a period of 12 months following the cessation of that work or Technical Support undertaken by that employee, contractor or company, without the written consent of Austnet.

5. RESPONSE.

Austnet shall use its best endeavours to achieve the Normal Response Time in responding to a Customer's request for Technical Support.

6. FORM OF AGREEMENT.

A Technical Support Agreement may be for a Set Period, for a Contract Support Block, or for a Set Task **or a specific project.**

- .1 Set Period Contracts.
 - .1 Technical Support or maintenance Agreements will not be for a Set Period unless specified period is stated by unless the Parties.
 - .2 In the absence of an agreement to the contrary a Set Period Contract shall be automatically renewed at the end of the period of such contract for the same period. The Customer will become liable to pay for such extended contract immediately upon renewal of such contract.
- .2 Contract Support Block.
 - .1 Where a Contract Support Block is for a specified number of hours of Technical Support purchased in advance such Agreement may be renewed or extended by payment to Austnet by the Customer of an agreed amount for a further Contract Support Block.
 - .2 Where any portion of the specified hours for a Contract Support Block remains unused for a period greater than 13 months from the time of commencement of such Contract Support Block such remaining time shall forthwith lapse. In the event that the Customer requires further services in the absence of agreement to the contrary the Customer must purchase a new Contract Support Block from Austnet.
 - .3 Payments for all Contract Support Blocks shall unless agreed to the contrary be paid by the Customer to Austnet at the commencement of such Contract Support Block. Time expended with respect to any Contract Support Block shall be debited against the Customers account as it is expended until the period of such Contract Support Block has either ended or lapses (after 13 months of inactivity).
 - .4 Where a project has a drawn out timetable, or is in stages, customers will be required to pay part progress payments in advance as determined by Austnet.
- .3 Set "Task" **or specified project.**

Payments for a Set Task or **project**, shall be in accordance with the agreement between the parties with respect to such set task or **project.**

7. PAYMENTS FOR TECHNICAL SUPPORT.

- .1 All payments due by the Customer to Austnet for all Technical Support shall unless agreed to the contrary be made prior to any Technical Support commencing.
- .2 In any case where payment is not due to be made prior to the commencement of the provision of Technical Support the Customer shall pay any invoice upon Austnet delivering such invoice for that Technical Support to the Customer.
- .3 The Customer shall pay Austnet all payments due to it including any payments due by invoice without deduction in accordance with Austnet's terms and conditions.
- .4 Should a client not use pre paid support hours purchased for any purpose within 13 months of the date of purchase any support hours in credit for time shall be forfeited, and the client will need to purchase a support contract or more hours.
- .5 Support purchased on the basis of a monthly support contract or a monthly health check contract shall have that support for that month only up to the maximum hours described, after that any unused hours shall be forfeited, and the next months support shall be applicable.
- .6 Austnet will charge for all intellectual property, skill or management including meetings, project management, audits, consultancy, research, written reports, consultancy or recommendation documents at a rate agreed in writing or at Austnet's current advertised rates.

8. HOURS AND LOADINGS

Unless agreed in writing to the contrary the hours during which Austnet will provide Technical Support and the loadings applicable to such hours are as follows:

- .1 Standard hourly rates apply to Technical Support provided by Austnet between 8:30 am & 5:30 pm on normal week days.
- .2 Unless otherwise agreed Austnet has the right to charge a loading of an additional 50% of the standard rate for Technical Support provided outside normal working hours on normal business days between 5:30 pm and 8:30 pm. In addition Austnet has the right to charge a loading of an additional 100% of the standard rate for Technical Support provided outside normal working hours on normal business days between 8:30 pm and 8:30 am.
- .3 Unless otherwise agreed Austnet has the right to charge a loading of an additional 50% of the standard rate for Technical Support provided on Saturdays between 9:00 am and 12:00 pm. In addition Austnet has the right to charge a loading of an additional 100% of the standard rate for Technical Support provided at all other times on Saturdays, Sundays and public holidays.

9. RATES

- .1 The Parties agree that the rates which Austnet shall be entitled to charge to the Customer shall unless agreed to the contrary be at the Standard

Rates advertised by Austnet in its literature.

- .2 Any variation to rates payable shall be in writing and signed by the parties prior to the commencement of the provision of the Technical Support which is subject to such variation.

10. MINIMUM CHARGE OUT TIME:

- .1 The minimum time for which Austnet may charge for the provision of Technical Support shall be 1 hour except as follows:
 - .1 in the case of Telephone Support in which case Austnet may charge a minimum of **¼ hour**, and
 - .2 in the case of Emergency Call Outs in which case Austnet may charge a minimum of 2 hours.
- .2 In the case of Technical Support after the first 1 hour has elapsed, any additional time may be charged in increments of 15 Minutes (**¼ hour**) rounded up to the next nearest **¼ hour**.
- .3 In the case of an Emergency Call Out Austnet may charge a loading of 100% of the standard Rate with a minimum charge of 2 hours as noted above.
- .4 In the case of Telephone Support after the first 15 Minutes (**¼ hour**) has elapsed, any additional time may be charged in increments of 15 Minutes (**¼ hour**) rounded up to the next nearest **¼ hour**.
- .5 Travelling time incurred by Austnet in order to reach a destination to provide Technical Support to a Customer may be charged at half of the standard hourly rate.

11. DISBURSEMENTS

The Customer shall reimburse Austnet for all Disbursements reasonably incurred by Austnet in the course of providing Technical Support to the Customer, including travel, Taxi's, parking expenses accommodation, and any other expenses .

GOODS AGREEMENT

Austnet AGREES to supply Goods to the Customer to the best of its ability with due diligence and the Customer agrees to pay for such Goods as is herein provided.

13. TITLE

- .1 Ownership and property of any Goods supplied by Austnet to the Customer pursuant to these Terms and Conditions shall **not** pass to the Customer until invoices for such Goods have been paid in full with cleared funds.
- .2 The Customer shall only hold the Goods as bailee for Austnet until Austnet has been paid in full.
- .3 If the Customer fails to pay any amount of the Customers total indebtedness to Austnet under the terms and conditions applicable to such contract Austnet can without prejudice to any of its other rights and remedies recover and/or resell the Goods and is HEREBY GRANTED a licence to enter and may enter upon the Customers premises for that purpose.
- .4 Austnet shall be entitled to take such steps and actions as it deems necessary to reclaim possession of Goods in respect of which total consideration has not been paid.
- .5 The Customer acknowledges that Austnet has a general lien over all Goods in Austnet's possession belonging to the Customer to secure payment of any or all monies owing to Austnet from time to time.
- .6 The Customer acknowledges that Austnet has a right to sell repossessed goods recover all monies owing to Austnet and that should there be a shortfall Austnet has the right to pursue the customer for full recovery of monies owing.

Title: Intellectual property rights (IP).

- .7 Nothing in Austnet's dealings with Clients will confer any express or implied right in relation to any of Austnet's or others parties intellectual property and we do not have the right to grant you any express or implied rights in relation to the intellectual property of any manufacturer or other third party.
- .8 In the case of the development of any program, application and software, the application, program and software shall be sold to the customer on a basis of a licence for the right to use as the customer sees fit however intellectual property rights and any ownership, title rights and copyright in the source code and any programming routines and applets shall be retained by Austnet and its developers, unless specifically agreed to in writing by the parties.
- .9 Any application, program and software code may be delivered to the customer upon receipt of payment for that any application, program or software but this will not constitute sale of ownership of the source code or any programming routines or applets nor will it constitute transfer of title or the assigning of copyright to the customer unless specified and agreed in writing.
- .10 In the case of the development of any program, application and software, the application, program and software shall be sold to the customer on a basis of a licence for the right to use by the customer but will not unless specified in writing and agreed to by Austnet entitle the customer to sell, resell or offer as a commercial product this program, application and software.

14. PAYMENTS FOR GOODS.

- .1 The Customer is liable to pay any invoices for Goods supplied by Austnet upon delivery of those Goods and the Customer agrees to pay Austnet any such invoices without deductions in accordance with Austnet's terms of credit, where no terms of credit are specified in an offer from Austnet immediate payment is due on presentation of the invoice.
- .2 The Customer shall pay to Austnet all Austnet's invoices provided with respect to all spare parts, software, hardware items, services, or services provided by third parties to or for the benefit of the Customer.

15. DELIVERY

- .1 It is the Customers obligation to supply all delivery information on its purchase order to Austnet. Austnet shall endeavour to deliver Goods in accordance with the Customers instructions. Unless otherwise specified the Customer shall bear any delivery costs of any Goods supplied to it.
- .2 Any time quoted for delivery of Goods is an estimate only and Austnet shall not be liable for any delay in delivery. The Customer shall not be relieved of any obligations to accept or pay for any Goods by reason of any delay in supply or delivery of such Goods.

16. RETURNS OF GOODS:

- .1 Except as is provided herein the customer shall not have the right to reject any Goods supplied to it by Austnet or where the supply is procured by Austnet.
- .2 The Customer shall be entitled to refuse to accept delivery of and shall be entitled to return any Goods not ordered by it from Austnet.
- .3 Austnet will only accept the return of Goods from the Customer if they are returned in an as new condition complete with manuals, software, all other written documentation, all packaging, all of which is in new condition.
- .4 If the Customer returns the Goods supplied to it for any reason other than a default on the part of Austnet, and if the Goods are in an as new condition (as outlined above) then Austnet reserves the right to charge a 20% restocking fee based upon the invoice value of the Goods.
- .5 No return of allegedly defective Goods will be accepted by Austnet unless Austnet has given prior written authorisation for the return of those Goods in writing.
- .6 If the Customer wishes to return the Goods supplied for any reason other than a default on the part of Austnet then Austnet is under NO Obligation to accept the return of the Goods at any time.

GENERAL

17. TERMS OF CREDIT:

Austnet's terms of credit are:

- .1 Payments for any Technical Support is due prior to commencement of work and is due on the date identified as due on the invoice with respect to such Technical Support.
 - .2 Payment for any Goods or equipment is due upon delivery unless it is a Government department in which case 7 day credit terms are granted.
 - .3 Any credit terms must be requested by the Customer in writing to Austnet and is ONLY given upon written approval from Austnet..
 - .4 Any credit terms outside these terms may be granted in writing by Austnet.
 - .5 Austnet has the right to decline any request for credit without explanation.
 - .6 Austnet has the right to withdraw or reduce Customers credit terms without explanation. Such withdrawal or reduction may or may not be advised to the Customer in writing.
 - .7 The customer as the applicant for credit declares that all information supplied with or in his application for credit is complete, accurate and not misleading and undertakes to promptly notify AUSTNET of any material change to the applicant's details or circumstances
 - .8 Under these Terms and conditions the customer as an applicant for credit hereby irrevocably authorizes Austnet as allowed under the Privacy Act to enquire whether written or oral, with the trade references, credit reporting agencies or with any other organizations in relation to commercial credit provided by Austnet as to the customers credit record and to report to or exchange with credit information providers the credit status of a customer including any payment defaults.
 - .9 Overdue payments. If any amount owed to Austnet is not paid within 7 days of the due date, then at our election all monies+ that are owed to us on any account becomes immediately payable despite any previously agreed credit conditions.
 - .10 Any credit terms that Austnet extends is granted subject to the condition that complete disclosure has been made in the credit application of all material information relevant to Austnet's decision to extend credit and also keeping Austnet promptly informed of any material adverse change in your financial or business circumstances or of any matters of fact.
 - .11 Austnet reserves the right to enforce its rights for fully recovery of costs and therefore maintains the right to seize any goods owned by the customer in order to recover costs.
18. ADDITIONAL CHARGES.
- .1 The Parties may agree from time to time that Austnet shall be able to charge additional costs and charges with respect to circumstances and/or services not originally contemplated in any agreement concluded between the parties. Such additional agreement shall be in writing and signed by both parties.
 - .2 Where Austnet installs an Evaluation, Pilot or Test System, Austnet may charge at Standard Rates. Austnet may charge for rental of any equipment used at a rate to be agreed prior to commencement of the Evaluation, Pilot or Test System or otherwise determined as a fair market rate, whether or not the Evaluation, Pilot or Test System are purchased or implemented.
19. QUOTATIONS FROM AUSTNET.
Unless otherwise specified in writing any quotation made by Austnet is subject to variation or withdrawal prior to Austnet entering into any binding Agreement with the customer with respect to such quotation. Errors, omissions and exceptions made in any quotation may void that quotation, such that it may be altered, varied or cancelled at ANY time, even after delivery of goods or services.
20. ORDERS TO AUSTNET.
No Customer purchase order shall be binding upon Austnet unless accepted in writing by Austnet. Austnet is not obliged to accept cancellation of any order once accepted, or the return of any goods once delivered.
21. INSISTENCE OF PERFORMANCE.
Failure of Austnet to insist upon strict performance of any of its Terms and Conditions shall not be deemed a waiver of any other rights that Austnet may have and shall not be deemed to constitute a waiver of any subsequent breach of any term or condition.
22. RECOVERY.
- .1 In addition to any other rights provided herein Austnet may take whatever action and steps it considers necessary to enforce these terms and conditions and to recover debts owing for the Supply of Goods or Technical Support.
 - .2 Austnet has the right to charge interest upon overdue accounts at a rate equal to the interest specified in the Penalty Interest Rates Act 1983 from the date of the invoice until payment is received and funds are cleared.
 - .3 Should the monies owing remain unpaid outside Austnet's credit terms Austnet has the right to charge any costs for the recovery of monies invoiced including legal costs, mercantile agents fees, administration costs incurred by Austnet in recovering the outstanding monies.
23. REFUNDS.
- .1 The Customer shall not be entitled to a refund of any fees or charges or part thereof if Austnet suspends or ceases to provide Technical Support to the Customer by reason of the Customers failure to comply with these Terms and Conditions.
 - .2 The Customer shall not be entitled to claim for or receive a refund of any fees or charges or part thereof paid by it to Austnet if the Customer unreasonably terminates the Agreement to provide Technical Support by Austnet without due cause.
 - .3 Purchases of time under Austnet's Technical Support Contracts are not transferable to or able to be exchanged for purchases of Goods.
24. CUSTOMERS DUTIES.
The Parties AGREE as follows:
- .1 The Customer shall be responsible for maintaining all its systems as virus free and shall maintain full protection from viruses. Austnet shall not be liable for any virus infection of a Customer's system howsoever caused and/or any damage to the Customer's systems, programs or data, and any consequential loss of systems, programs or data or any consequential loss of productivity or any other damages caused by infection of a Customer system by a virus.
 - .2 The Customer acknowledges that any work undertaken on any computer system carries a degree of risk of failure or data loss or system loss and shall accept liability and cost for recovery from such loss including lost productivity, data recovery, and system recovery.
 - .3 The Customer shall have disaster and data recovery costs covered by their insurance policies and shall have insurance which covers any loss of business or productivity.
 - .4 The Customer shall maintain a full back up of all its system files, program files and data files in a format and/or in a form that can be fully efficiently and reliably restored.
 - .5 The Customer shall provide free, reasonable and unhindered access during the normal working hours to Austnet its staff and contractors in order to enable Austnet to provide all Technical Support required under its Agreement. Failure to observe this clause shall entitle Austnet to recover all reasonable costs and losses incurred by Austnet as a consequence of the Customers failure to provide such access.
 - .6 Notwithstanding any due diligence, use its best endeavours and professional skills on Austnet's part, ultimate responsibility for acceptance of solutions, procedures, equipment or any other technical decision lies with the Customer who must undertake its own independent verification and due diligence of proposals.
 - .7 **Disaster Recovery:**
Not with standing the above Austnet engineers will use their best efforts and technical expertise and diligence to recover failed systems for customers, but Austnet does not offer any guarantee success in a disaster recovery of failed systems to customers.
 - .8 Whether successful or not the customer agrees to pay Austnet on a time and materials basis with the appropriate penalty rates whether successful or not in the recovery, Austnet is not liable for damages or cost should it fail to recover failed systems.
 - .9 The customer agrees to pay in advance of completion of the disaster recovery work any amount deemed appropriate to cover estimated time and materials in that disaster recovery processes

25. LIABILITY OF AUSTNET.

The Parties AGREE that:

- .1 Austnet will not be liable for failure to carry out any undertaking made to the Customer if such failure is due to bugs, incompatibilities conflicts or any other issues which prevent or hinder Austnet being able to provide the Technical Support or which prevents the performance of any software, service or hardware manufactured or provided by any other party.
- .2 Austnet will not be liable for the failure of any solution or system or service recommend by it and is not liable for payment of any costs for any losses or damages as a result of any failure.
- .3 Austnet is NOT liable for any cost to recover data or system and shall not be liability for any costs for recovery from such loss including lost productivity, data recovery, and system recovery or any consequential damages.
- .4 Austnet will not be liable for any failure to carry out its undertaking pursuant to any Technical Support tasks if such failure is due to Austnet being prevented hindered or delayed by reason of cause or causes beyond the control of Austnet and which cannot be overcome by due diligence of Austnet.
- .5 Austnet will not be liable for any loss of systems, programs or data whatsoever which arises as a consequence of or because of:
 - .1 inadequate data backup or inability to adequately restore data, programs, or systems and/or
 - .2 backup and restoration problems or limitations.
 - .3 Any actions or activity or any inaction or error or any failure to undertake or not undertake any action by any member of staff or contractor
- .6 Austnet shall not be liable for any direct, indirect, special or consequential damages in connection with or arising out of its obligations under these Terms and Conditions or any statute howsoever caused.
- .7 To the extent permitted by law the liability of Austnet for damages in connection with or arising out of these Terms and Conditions shall be limited to:
 - .1 The replacement of Goods or the supply of equivalent Goods;

The repair of the Goods or the payment of having the Goods repaired, and/or

The resupply of Technical Support or the cost of having the Technical Support re-supplied.

26. WARRANTY

The parties hereto agree as follows:

- .1 That no warranty is offered by Austnet with respect to any of the Goods provided under any Supply of Goods Agreement and Technical Support provided under an Agreement for the provision of Technical Support including but not being limited to any installation configuration and/or performance of any installed system other than has been specifically provided herein.
- .2 That the only warranty available to a Customer apart from what is otherwise contained herein is the following:
 - .1 The Warranty offered by the manufacturer of any Goods acquired by the Customer under any agreement of the supply of Goods;
 - .2 warranty is available from software manufacturers only to the extent provided by such manufacturers or software developers;
- .3 No guarantee or warranty is offered by Austnet as to "year 2000" compliance of products, software or systems, all liability is deemed to lie with the manufacturer. Austnet will implement systems to the best of its ability and assess "year 2000" compliance to the best of its ability but without warranty.
- .4 Notwithstanding anything otherwise herein contained any warranty hereunder shall become immediately void in the event that any installation or configuration of any Goods or any Technical Support is without the written consent of Austnet altered amended varied or reconfigured in any way or is reinstalled.
- .5 No guarantee or warranty is offered by Austnet on software supplied by it or installed or configured by it, or for any non-performance of that software whether due to "bug" incompatibility, error, failure to install, perform or configure according to manufacturers advertised or advised specification or functionality, all liability is deemed to lie with the manufacturer. Customers are due to pay at Austnet's normal rates for ALL time spent endeavouring to install, implement, or obtain functionality of such software.

27. CHANGE OF OWNERSHIP:

In a case where the Customer is a corporation such Customer is liable to notify Austnet of any changes in ownership of the Customer within 7 days of that change of ownership becoming effective. The Customer hereby indemnifies Austnet against any loss or damage incurred by it as a result of a breach of this Clause.

28. ASSIGNMENT.

The Customer shall not assign or transfer any Agreement entered into with Austnet or the benefit thereof without the written consent of Austnet which shall not be unreasonably withheld.

29. ACKNOWLEDGMENT

The Customer acknowledges that it has read these Terms and Conditions understands them and agrees to be bound by them and further agrees that subject to any written agreement or variation to the contrary these terms and conditions are a complete and exclusive statement of the agreement between the parties superseding all proposals written or oral and all other communication between the parties.

30. SUBSTITUTED CONTRACT

THAT if before the expiration of the relevant period the Customer is amalgamated or reconstructed whether or not involving liquidation AND Austnet is offered continued engagement with the reconstituted Customer for a period that is not less than the then unexpired term of any Technical Support Contract and on terms not less favourable than the terms of the original Technical Support Contract Austnet shall have no claim against the Customer in respect of such early termination.

31. ARBITRATION

THAT the Parties hereto hereby agree that:

- .1 In the event of any dispute arising at any time between the parties such dispute shall be determined in accordance with the provisions of the commercial arbitration legislation in force in the State of Victoria at the time of such dispute.
- .2 In anticipation of determining such dispute the parties hereto shall jointly appoint a person to act as arbitrator.
- .3 In the event that the parties are unable to agree upon the arbitrator as aforesaid then such arbitrator shall be nominated by the then Chairman of the Council of the Institute of Chartered Accountants in the place of business of Austnet and failing there being such a Chairman or council by the then president of the National Council of the Institute of Chartered Accountants in Australia.
- .4 The parties here to shall bear their own expenses in relation to the determination of such dispute and any remaining costs shall be borne as to one-half by each party hereto