PARTIES

1   The parties to this agreement are :

IADAPT

hereinafter referred to as ("IAdapt"),

and;

THE **E**ND **U**SER

This is a legal agreement between The Licensee (either an individual or a single entity) and binds the registered company for which The Licensee work.

hereinafter referred to as ("The Licensee ");

INTRODUCTION

By installing and using this instance of the software, The Licensee agrees to all of the terms of this agreement ("MSLA"). The Licensee agrees that The Licensee has read and understood these terms prior to the use of the software. It is specifically agreed that it is not required to be signed, but by The Licensee's installation thereof, The Licensee has agreed to all the terms contained herein.

As a company, The Licensee agrees that with The Licensee's use thereof The Licensee warrants that The Licensee is authorised to bind the company to all the terms of this agreement.

Please read the license terms below. If The Licensee does not agree to all of the terms of this License, then do not use, copy, transmit, distribute, or install the Software.

If the software is installed on The Licensee's computer system(s), The Licensee agrees to be bound by all the terms hereof and agrees that, without dispute, the license fee and first year maintenance is due by The Licensee to IAdapt and the terms and conditions contained in this license agreement are binding on The Licensee.

2   Interpretation

In this agreement headings embodied in the clauses are for convenience and shall not be used in its interpretation and, unless the context of this agreement clearly indicates a contrary intention:

2.1   the singular shall include the plural and vice versa;

2.2   a reference to any one gender shall be capable of being construed as a reference to any of the others; and

2.3   a reference to a natural person shall be capable of being construed as a reference to an artificial person and vice versa.

2.4   the headings appearing in the Agreement have been used for reference purposes only and shall not affect its interpretation.

3   Definitions

Unless the context clearly indicates a contrary intention, words or phrases defined in this clause shall have the meanings assigned to them:

3.1	"the agreement date"	means the date of installation of the Software.
3.2	"Server"	means a specific type of computer upon which the application software is compiled or installed and executed.
3.3	"Documentation"	means the standard user documentation published by IAdapt, or distributed by IAdapt under a third party license, describing the use of the Software, including any tutorial presentation of the capabilities of the Run-Time Versions and may include technical documentation which describes the design of the Software, but does not include any product over-views. Documentation may be released in an electronic media format.
3.4	"Product Update"	means a change or batch improvements of the Software or Documentation which involves a change in the version number of example 5.01 to 5.02 of the module in question but no change in the release number, for example 5.0 to 6.0 designed to correct Software Problem(s).
3.5	"Product Upgrade"	means a change or new release of the Software and/or Documentation module containing a package of improvements and which is indicated by a change in release number of the module in question, for example 5.0 to 6.0 designed to enhance the features of the Software or otherwise improve the functionality of the Software.
3.6	"Source Code"	means a compilable copy of the Software which allows the Software installer to compile the Software into a Run-Time Version using the appropriate Development System; some portions of the Source Code may already be compiled by IAdapt and provided in an executable, Run-Time or object code version only.

3.7	"Run-Time Version"	means a program which is used to execute the Software and other utilities that are part of the Software, but which does not allow a User to change the Software or to create new and different Software features.
3.8	"Software"	means all forms (Source Code and Run-Time versions) of the computer software programs which remains identical to the original software licensed to the Licensee in terms of the Master Software Licence Agreement together with all amendments, or in a Statement of Product, or in an invoice and shall include all updates, enhancements, modifications, upgrades or new releases provided under the terms of this Agreement or of a related support agreement.
3.9	"Software Problem(s)"	means defective Software distribution media and/or a failure of the original Software to function substantially in accordance with the Documentation.
3.10	"User"	means the unique combination of one log-in on one software display device with no more than five (5) Software processes running.
3.11	"Computer"	means a machine or system which uses logical devices known as central processing units to process information electronically.
3.12	"The Location"	means the place where the computer and related software reside
3.13	"Trade-up"	means an exchange of an existing software product for another on a different platform with no change to the product code.
3.14	"Third Party Software"	means software to which IAdapt does not hold proprietary rights over and which is purchased by IAdapt from the authors or distributors for resale to the end user.
3.15	"The Schedule"	means the schedule attached marked Schedule "A".
3.16	"IAdapt Port List"	The platforms and environments that IAdapt Software is certified to operate on. Such is a separate list adjusted on an ongoing basis and such then-current list is availble from IAdapt at any time.
3.17	"Instance"	means a single copy of the Software installed on the Server. The end-user shall not be entitled, unless specifically indicated on the paid invoice, to load more than one instance of the software on the Server or other computer.
3.18	"Invoice"	means the invoice for the software which is paid in full. Each invoice shall be a separate and distinct invoice and subject to these terms and conditions.

4   Recordal

The parties record that -

4.1   IAdapt is the authorised distributor and/or author of the software.

4.2   The parties agree that IAdapt holds the copyright or has the exclusive right to protect the copyright of all the Software detailed on the paid invoice(s), which right will not be disputed.

4.3   The Licensee wishes to purchase and maintain the software.

4.4   The parties enter into this Agreement to record the terms and conditions on which IAdapt will provide the software to the end user, and on which The Licensee will use the software.

5   Grant of License

IAdapt grants to Licensee the non-exclusive and non-transferable right to use one copy of the standard IAdapt Software programs invoiced and paid for ("Software"), and have the licensed number of Users (as detailed on the invoice and paid for) execute a single instance of the Software on the Server(s), and to use the associated Documentation, subject to the terms and conditions of this Agreement and in consideration of payment of the agreed upon license fees.

6   Rights of Licensee

Licensee may access the Software lawfully licensed to Licensee on any configuration of computers or display devices connected to the Server(s) provided the Software is installed or executes solely on the Server(s) and by as many users as it has paid for. Licensee may transfer the Software to any electronic storage device connected to the Server(s), provided Licensee keeps the original solely for backup or archival purposes. Licensee may modify the Software lawfully licensed to Licensee, and/or merge it with other programs, for Licensee's execution on the Server(s) in machine-readable object code format, but any portion so modified, or merged with other programs, shall continue to be subject to the terms and conditions of this Agreement. IAdapt shall not be liable for any customisations, not made by IAdapt to the Software, with regards to updates and upgrades which do not function with such updates and upgrades. All such modifications or mergers must be made using the Software Generation Tool as supplied by IAdapt.

7   Backup Copy

Licensee may make backup copies of the Software and of any portions thereof which are modified or merged with other programs in accordance with this Agreement. All such backup copies shall also be subject to the terms and conditions of this Agreement. Licensee must maintain an accurate record of the location of the backup copies at all times.

8   Restrictions on Use

Unless otherwise authorised by IAdapt, Licensee may not install, electronically transfer, network, or otherwise execute the Software as detailed on the Invoices on any computer other than the Server(s). Only one computer can be specified as the Server in a network unless additional licenses are purchased. Except as specifically provided above, Licensee may not make any copies of the Software. Except as specifically provided above, Licensee may not make alterations to those portions of the Software for which Source Code is not provided or to the Documentation, or to any part thereof, including, but not limited to, unmodified sub-routines, functions, libraries, or other binary code segments of the Software. Licensee may not rent, sub-license, lease, distribute, or grant other rights to the Software or the Documentation to others. Licensee may not reverse engineer, disassemble, decompile, reverse translate, or in any manner decode the Software in order to derive any source code not licensed by IAdapt.

9   Export Restrictions

Licensee may not export or re-export the Software or any copy or adaptation in violation of any Export Administration regulation or other applicable regulation.

10   Limited Warranty

10.1   IAdapt warrants that for a period of one hundred and eighty (180) days after the initial delivery of the Software to Licensee, the latest unmodified version of the Software released by IAdapt shall substantially perform in accordance with the standard Documentation.

10.2   All warranties in respect of the products shall be honoured by IAdapt in accordance with the terms thereof.

10.3   The parties specifically agree that no other warranties other than those provided in terms of this agreement are made by IAdapt regarding the software or documentation, including without limitation, express or implied warranties. IAdapt expressly disclaims the warranties of merchantability, fitness for the particular purpose and any other warranty, whether express or implied.

10.4   Any product purchased from IAdapt by The Licensee which manifests any defect during the warranty period therefore will be replaced by IAdapt, at the election of IAdapt. IAdapt will at no charge to The Licensee replace the products if such replacement is not necessitated by any wilful or negligent conduct on the part of The Licensee or by abnormal or unauthorised modification to the products.

10.5   In no event shall IAdapt or its licensor be liable for any incidental, special, indirect or consequential damages, loss of business, loss of profits, loss of goodwill or intellectual conduct relating to or arising out of any breach of publications or delay in delivering software or documentation under the agreement, or The Licensee's or its customers' inability to use the software even if IAdapt or licensor has been advised of the possibility of such loss or damage. Should the aforegoing limitations for whatever reason whatsoever not be enforceable then the liability of IAdapt or its licensor shall be limited to the total amount of the license fees paid by The Licensee to IAdapt.

11   Remedies

IAdapt's entire liability and Licensee's exclusive remedy shall be for IAdapt, at its option, to either: (i.) replace any defective media which prevents the Software from satisfying the limited warranty described above provided such defective media is returned to IAdapt; or (ii.) attempt to correct any errors which Licensee finds in the Software during this warranty period and which prevent the Software from substantially performing as described in the standard Documentation. Any replacement Software will be warranted for the remainder of the original warranty period or for thirty (30) days, whichever is longer.

12   Right to License

IAdapt warrants that it has the right to license the Software to Licensee.

13   Limitations of Warranty

The above warranty is null and void if failure of the Software has resulted from accident, abuse, or misapplication. The above warranty applies only to software problems which are apparent in the unmodified, standard Software which is not merged with other software. IAdapt does not warrant that the functions contained in the Software will meet Licensee's requirements, or that the operation of the Software will be uninterrupted or error free, or that all defects will be corrected. IAdapt shall not be required to correct errors during the above described warranty period attributable to: equipment malfunction; products other than the Software; use of the Software in conflict with or contravention of the Documentation or the terms of this Agreement; or accident, neglect, misuse, or abuse of the Software.

14   Disclaimer of Warranty

IAdapt makes no other warranties regarding the software or documentation, including without limitation, express or implied warranties, and expressly disclaims the warranties of merchantability, fitness for a particular purpose, and any other warranty, express or implied.

IAdapt shall not be liable for any claimed non-conformance of Software under Article 35(2) of the United Nations Convention on the International Sale of Goods, even if that Convention were to be determined to be applicable to these transaction(s).

15   Limitation of Liability

In no event shall IAdapt be liable for any incidental, special, indirect, or consequential damages, loss of business, loss of profits, loss of goodwill, or tortuous conduct. This limitation of liability shall include, but not be limited to, damages or losses caused by or arising out of licensee's use or inability to use the software, even if IAdapt has been advised of the possibility of such loss or damages. Some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages or certain tortuous conduct, so the above limitation may not apply to licensee. Any damages that IAdapt are required to pay for any and all causes, whether for negligence, breach of contract, or other-wise, and regardless of the form of the action in the aggregate, shall be limited in amount to the license fees paid by licensee to IAdapt for the specific copy or copies of software. Notwithstanding the foregoing, the above limitation on the amount of damages shall not apply to either party's obligations with respect to the indemnification provisions below.

16   Indemnification

16.1   IAdapt's Indemnification

IAdapt shall indemnify, defend and hold harmless Licensee against any action (direct or third-party claims) to the extent such action is based on a claim that Licensee's use of the Software or Documentation or any part thereof, under this Agreement, infringes a valid, enforceable patent or copyright, or misappropriates a trade secret, and IAdapt shall pay all damages and costs (including attorneys' fees) awarded or agreed to in settlement by IAdapt in respect of such action; provided that IAdapt is given notice in writing of such claim within fifteen (15) calendar days of the date Licensee knows of such a claim. IAdapt shall control the defence in any such action and, at its discretion, may enter into a stipulation of discontinuance and settlement thereof. Licensee shall co-operate with IAdapt in any such defence and shall make available to IAdapt all those persons, documents and things required by IAdapt in the defence of any such action. Reasonable out-of-pocket expenses incurred by Licensee in providing such assistance will be reimbursed by IAdapt. Licensee may, at its expense, assist in such defence.

16.2   IAdapt's Indemnification Remedies

If, in such an action, the Software is held to constitute an infringement or misappropriation, or the use, demonstration, distribution, marketing, or sublicensing thereof is enjoined or restricted, IAdapt shall, at its option, either procure for Licensee the right to continue using the Software, or modify the Software to permit Licensee to exercise its rights hereunder, or, if the foregoing options are not available, terminate the Agreement and promptly refund to Licensee all license fees paid by Licensee to IAdapt for the infringing Software amortised over a five (5) year period from the date of initial delivery (i.e., a refund pro-rated on a monthly basis over a sixty (60) month term).

16.3   Limitations of Indemnification

The foregoing indemnity shall not apply in respect of any infringement or misappropriation if such infringement or misappropriation resulted from Licensee's or any of its Users' use of the Software: (a.) in an operating environment other than that described in the Documentation or under this Agreement; (b.) in conjunction with an enhancement not created or owned by IAdapt; (c.) with the use of a superseded release of the Software; or (d.) in conjunction with other software not created or owned by IAdapt. The foregoing states the entire obligation of IAdapt with respect to the infringement of patents and copyrights, and misappropriation of trade secrets.

16.4   Licensee's Indemnification

Licensee shall, at its expense, indemnify, defend and hold harmless IAdapt against any claim or action to the extent such claim or action is based on a claim that any enhancement or any part thereof not created or owned by IAdapt infringes a patent or copyright, or misappropriates a trade secret, and Licensee shall pay all damages and costs (including attorneys' fees) awarded or agreed to in settlement by Licensee in respect of such claim; provided that Licensee is given notice in writing of such claim within fifteen (15) calendar days of the date IAdapt knows of such a claim. Licensee shall control the defence in any such action and, at its discretion, may enter into a stipulation of discontinuance and settlement thereof. IAdapt shall co-operate with Licensee in any such defence and shall make available to Licensee all those persons, documents and things required by Licensee in the defence of any such action. Reasonable out-of-pocket expenses incurred by IAdapt in providing such assistance will be reimbursed by Licensee. IAdapt may, at its expense, assist in such defence.

17   Term and Termination

17.1   The licenses granted under this Agreement shall commence upon the installation of the Software and shall continue perpetually unless terminated in accordance with the provisions of this Agreement.

17.2   Licensee may terminate this Agreement by returning the Software and Documentation and all copies thereof and removing said software and/or documentation from all servers. IAdapt may terminate this Agreement if Licensee fails to pay any license fees owing and which are more than fifteen (15) days past due. IAdapt may also terminate this Agreement if Licensee breaches any material representation, warranty, agreement, or obligation in this Agreement and fails to remedy such material breach or demonstrate a good faith effort to remedy such material breach within thirty (30) days after receiving notice of such material breach from IAdapt. Upon termination, Licensee shall promptly return to IAdapt all copies of the Software and Documentation in Licensee's possession, and certify in writing that all such copies have been removed from all servers.

The Licensee also grants IAdapt the right to verify the removal of the software on all of its systems. This may include, but not be limited to, and audit at any registered or unregistered site where the software was utilised.

18   Governing Law

IAdapt shall at its election, be entitled to bring any action or proceedings to enforce its rights arising out of this Agreement in any Magistrates Court notwithstanding that any such action or proceeding may otherwise have been beyond the jurisdiction of such Court for which purpose this clause shall constitute the consent contemplated in Section 45 of the Magistrate's Court Act 32 of 1944, or any statutory modification or re-enactment thereof for the time being in force. This Agreement shall be governed by the laws of Gauteng, and shall inure to the benefit of IAdapt, its successors, administrators, heirs, and assigns.

19   Choice of Forum

The parties agree that Johannesburg, in the Province of Gauteng shall be the proper forum for any action, including arbitration, brought under this Agreement.

20   Attorney's Fees

In the event an action, including arbitration, is brought to enforce any provision of or declare a breach of this Agreement, IAdapt shall be entitled to recover, in addition to any other amounts awarded, reasonable legal costs including attorneys' fees incurred thereby.

At no time will IAdapt be required to supply any type of security for any legal action contemplated in terms of this agreement.

21   Severability

If any term, provision or part of the Agreement is to any extent held invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be impaired or affected thereby, and each term, provision and part shall continue in full force and effect.

22   Survival

The terms, conditions, and warranties contained in the Agreement that by their sense and context are intended to survive the termination thereof by the parties hereunder shall so survive the termination of the Agreement.

23   Enforcement of Compliance

If requested by either party at any time, the other party will certify under oath that the party has fully and faithfully observed all of the terms and conditions of this Agreement. IAdapt may at reasonable times inspect Licensee's premises and equipment to verify that all of the terms and conditions of this Agreement are being observed.

24   Breach and Termination

24.1   Should either IAdapt or the Licensee breach any term of this Agreement and fail to remedy such breach within 30 (thirty) days of receipt of written notice requiring it to remedy such breach, the non-defaulting party shall be entitled to terminate this Agreement and to pursue all its rights hereunder or at law.

24.2   IAdapt shall not under any circumstances be liable for any incidental, special, indirect or consequential damages, loss of business, loss of profits, loss of goodwill or derelictual conduct provided that IAdapt shall not have been in breach of any of its obligations in terms of this agreement. Any damages that IAdapt is required to pay for any and all causes, whether for negligence, breach of contact, or otherwise, and regardless of the form of the action, in the aggregate shall be limited in amount equal to the amount received from the Licensee.

25   Assignment

Either party may only with the prior written consent of the other party, which consent shall not be unreasonably withheld, assign or transfer this Agreement to any entity which acquires all or substantially all of the operating assets or into which the assets are merged or reorganised pursuant to any plan or merger or reorganisation.

26   Domicilia and Notices

26.1   Each party chooses the address set out below as the address at which all notices and other communications must be delivered for the purposes of this Agreement -

26.1.1   IAdapt at:

IAdapt House, 40 Harry Street, Robertsham, Gauteng, South Africa.

26.1.3   The Licensee at:

The registered address of the Licensee

26.2   Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing.

26.3   Any notice to a party contained in a correctly addressed envelope and -

26.3.1   sent by prepaid courier to it at its chosen address; or

26.3.2   delivered by hand to a responsible person during ordinary business hours at its chosen address;

	shall be deemed to have been received on the day of delivery.
26.4	Each party chooses the physical address set out opposite its name as detailed in this Clause as the address at which all legal process must be delivered for the purpose of this Agreement.
26.5	The parties shall be entitled at any time to change their addresses for the purpose of this Clause to any other address by giving written notice to that effect to the other.

27   Force Majeure

27.1	Neither party to this agreement shall be liable for the consequence of any failure to perform or default on performing its obligations hereunder if that failure or default is caused by "force majeure".
27.2	For the purpose of this clause "force majeure" includes Acts of God, blockade, revolution, invasion, insurrection, sabotage, embargo, boycott or military or usurped power or any other events which neither party could reasonably expect to prevent or control unless due to the negligence and wilful act or omission of either party, his agents or personnel.
27.2	A party cannot plead force majeure if that party does not inform the other party in writing within 14 (fourteen) days of the beginning of or of its becoming aware of the force majeure circumstances. Should the force majeure circumstances exceed three months continuous duration, either party shall have the right thereafter by notice in writing to terminate this agreement upon giving 3 (three) months' prior written notice.
27.3	Force majeure circumstances must be proved by the party which pleads them.

28   Proprietary Rights

All title and rights of ownership in the Software and Documentation remain with IAdapt and/or its suppliers and are protected by copyright, patent, and/or trade secret laws. Licensee agrees to take all steps necessary to protect IAdapt's and its suppliers' proprietary rights in the Software and Documentation including, but not limited to, the proper display of copyright, trademark, trade secret, and other proprietary notices on any copies of the Software. Licensee must reproduce and include any copyright, trade secret, trademark, or proprietary data notices, and other legends and logos on the backup copies, modified or created run-time instances. Licensee will, at Licensee's own cost and expense, protect and defend IAdapt and its suppliers' ownership of the Software and Documentation against all claims, liens, and legal processes of creditors of Licensee and keep the Software and Documentation free and clear of all such claims, liens, and processes.

The Licensee agrees that they have no rights to the software on refusal to agree to this Master Software Licence agreement. All conditions herein applicable shall still apply on opening and installation of the Software.

29   Confidentiality

Licensee will not disclose or publish to others, and will keep confidential, the Software and the terms and conditions of this Agreement, provided Licensee may disclose the Software to consultants and other third parties retained to work with the Software.

30   Settlement of Disputes

iAdapt may opt, at its sole discretion, to allow any disputes arising from or in connection with this agreement to be resolved in accordance with the rules of arbitration or in a court of law.

Where court of law is elected, this agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa and the parties agree to the jurisdiction of the Witwatersrand Local Division of the High Court of the Republic of South Africa.

Where arbitration is elected, any disputes arising from or in connection with this agreement shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation, and to be held in Gauteng, South Africa.

The parties agree that Johannesburg, in the Province of Gauteng shall be the proper forum for any action, including arbitration, brought under this Agreement.

31   General

31.1	The terms and conditions set out herein constitute the entire Agreement between the parties with regards to this subject matter. No amendment or variation of whatsoever nature of the terms hereof and no consensual cancellation of this Agreement shall be binding unless reduced to writing and signed by both parties.
31.2	No indulgence, latitude or extension of time which either party may allow or grant to the other shall constitute a novation of waiver or shall prejudice any of its rights in terms hereof.
31.3	If either party is prevented from or delayed in performing any requirements or obligation under this Agreement as a result of circumstances beyond its reasonable control such requirements or obligation shall be suspended for as long and to such extent as may be justified in the circumstances and notice must be made immediately in writing by one party to the other.

32   Acknowledgement

Licensee acknowledges that Licensee has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Licensee also agrees that this Agreement is the complete and exclusive statement of agreement between the parties and supersedes all proposals or prior agreements, oral or written, and any other communications between the parties relating to the subject matter of this Agreement.

SCHEDULE "A"

1   System

The designated server computer must be certified to run the IAdapt application as per the Authorised Port List as available from time to time.

2   Prices

All the prices referred to in this schedule and the agreement -

2.1   shall be payable in the currency indicated on the invoice;
2.2   subject to exchange rate fluctuations, unless prior arrangements are specifically agreed to in writing;
2.3   exclude Value-Added Tax unless otherwise indicated;
2.4   shall be calculated (where a percentage is indicated) on the then current ruling prices of IAdapt.

3   Third party software

Any software for which IAdapt are not the owners, but rather distributors or resellers of, support, maintenance and pricing will be as per the approved price list and subject to conditions ruling at that time from the owners of the software.

4   Support and Maintenance Fees

4.1   IAdapt Product Suite

Support and Maintenance Fees. The current annual Support and Maintenance Fees is eighteen percent (18%) of the then-current license fees for IAdapt Product Software.

4.2   Third Party Software

Third Party Support and Maintenance fees will be as per the then current pricing structure.

5   Payment Terms

5.1   Licence Fees

All license fees and first year maintenance fees are to be paid on installation in the currency as indicated on the invoice.

5.2   Support and Maintenance Fees

Support and Maintenance Fees are due upon the licensing of the Software, and upon the anniversaries of the licensing date if Licensee elects to continue the Support and Maintenance Services and are due on invoice date.

5.3   Customisation, installation and implementation Services

Terms are within 7 days (seven) days of presentation of invoice.

5.4   Other Services

Terms are within 7 days (seven) days of presentation of invoice.