

## **TERMS AND CONDITIONS**

### **1. DEFINITIONS**

"the Licensor" means Finant no 24(Pty) Ltd T/A Mexcom 2005/006790/07 with full rights of ownership, usage, development and licensing regarding the Ecko Package;

"the Licensee" shall mean the Applicant of this agreement to acquire a license to use the Ecko Package;

"agreement" means the agreement set out in this document together with any appendices hereto and referred to as the Ecko Licensing Agreement;

"activation date" shall mean the date of acceptance of this agreement by the Licensor;

"Confidential Information" shall mean: information of whatever nature, which has been or may be obtained by either of the Parties from the other, whether in writing or in electronic form or pursuant to discussions between the Parties, or which can be obtained by examination, testing, visual inspection or analysis, including, without limitation, scientific, business or financial data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specifications, sample reports, models, licensee lists, price lists, studies, findings, computer software, inventions or ideas; analyses, concepts, compilations, studies and other material prepared by or in possession or control of the recipient which contain or otherwise reflect or are generated from any such information as is specified in this definition; any dispute between the Parties resulting from this Agreement;

"Copyright" shall mean all rights of Copyright whether existing now or in the future in and to the Ecko package including initial drawings, sketches, flow charts and designs relating thereto;

"Ecko package" shall mean the extension loggers and software used one in conjunction with the other to perform telephone call recording functions on the licensee's computer or network, and includes the Realtime plug-in if applicable;

"Documentation" shall mean the written document/s containing detailed instructions pertaining to the use of the Ecko package and setting out the operation of the Ecko package;

"Extension logger" shall mean a digital device in a box connected between a computer workstation and a telephone handset for that computer workstation. An extension logger may only record calls from the telephone handset to which it is attached. Each extension logger is attached to a telephone handset motherboard during installation.

"Intellectual Property Rights" shall mean all present and future rights in the Ecko package and other rights which may in the future be based thereon, including but not limited to Copyright;

"License" shall mean a non-transferable and non-exclusive right granted to the Licensee to use the Ecko Software and Realtime plug-in.

"License Fee" shall mean as per the prices and services specified on the application form;

"Notice" shall mean a written document;

"Realtime plug-in" means a software plug-in to the Ecko Software called Realtime: (owned and copyrighted by the licensor) that monitors information from the Licensee's PABX.

"Software" shall mean Ecko workstation and back-office software developed to manage the recorded telephone calls made through the extension loggers/s.

"Use" shall mean that the Licensee is entitled to allow the Ecko package to operate at its designated premises

"the territory" means South Africa, Lesotho and Swaziland;

"initial registration" means the registration of the Ecko package by the licensee with the licensor, whereupon, if successful, an activation code shall be supplied by the licensor to the licensee to commence usage of the Ecko Package;

"monthly fee" means the monthly charge as set out in the schedule of services to this agreement;

"documentation" means the user manual and any other related paperwork supplied by the Licensor or its authorised dealer, which may or may not be related to the Ecko package;

"working hours" means the hours of 08h00 to 17h00 on a Monday to Thursday and 08h00 to 16h00 on a Friday in South Africa, excluding official public holidays;

This agreement shall be construed and interpreted in accordance with the laws of South Africa and phrases and words defined here shall apply in the remainder of this agreement. When the Licensee subscribes to Ecko Licensing Agreement, the Licensor will issue an activation code for the Licensee's server to allow as many concurrent users to operate the package, as have user-licenses been acquired. By using the username and pin-number to access the service offered by Ecko Licensing Agreement, the licensee will be signifying their acceptance of these terms and conditions of use, which is a binding agreement between the Licensor and the Licensee.

### **2. LICENCE**

2.1 The Licensee hereby agrees to comply with the License Agreement pertaining to the Ecko Software and documentation. The Licensee is granted a non-exclusive, non-transferable license to use the Ecko Software and documentation, which shall expire on completion of the initial term. All calls stored within the Ecko Software until license expiration are retrievable should the license expire, but no further calls shall be recorded thereafter.

2.2 The Licensee shall not have the right to sub-license or transfer the Ecko package in any way, either in whole or in part, to any third party.

2.3 The Licensee shall not copy nor permit any party to copy the Ecko package, except to make sufficient copies solely for backup or archival purposes.

2.4 The Licensee shall not modify, de-compile, disassemble or otherwise reverse-engineer the Ecko package, or attempt to do any of these provided that this stipulation shall not be applicable where de-compilation is permitted by law.

2.5 The Licensee shall allow the Licensor, upon reasonable notice, access to its premises to audit the Licensee's compliance with the Agreement.

### **3. FEES AND PAYMENT**

3.1 The Licensee shall pay to the Licensor all amounts due, in full, including but not limited to:

3.1.1 the purchase price of the extension loggers, installation fees and sundry charges if applicable,

3.1.2 pro-rata license fees for the first month of usage, for monthly subscription;

3.1.3 yearly license fee in advance, for yearly subscription; prior to the issue of activation codes and the commencement of this agreement;

3.2 All license fees payable by the Licensee are due in advance by means of debit order or direct transfer, as specified on application form:

3.3 Should the payment method be by direct transfer:

3.3.1 The monthly fee (if applicable) shall be due by no later than the 5th of every month.

3.3.2 The yearly fee, (if applicable) shall be due before the renewal activation codes are released by the licensor to the licensee.

3.3.3 Licensor Banking Details: Standard Bank, Germiston, Code: 011642, Acc No: 020451377

3.4 The Licensee, by virtue of their signature to this agreement, agrees to not cancel the debit order / debit transfer for the duration of the agreement.

3.5 The Licensor shall be entitled to increase the Monthly Fee / Yearly Fee from time to time. Details of such increases will be published on the Licensor's website.

3.6 Failure to pay any amount due in terms of the Agreement on the due date, shall entitle the Licensor, without prejudice to any other remedies, to charge interest on a daily basis at 2.5% (two comma five per centum) per month from the due date of payment to the actual date of payment.

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3.7 Failure to pay any amount due in terms of the Agreement on the due date, shall further entitle the Licensor, without prejudice to any other remedies, to claim all professional and legal fees incurred in the pursuance of collecting the amount due.

3.8 The Licensor shall be entitled to increase the debit order or claim from time to time for any sundry fees chargeable as contemplated in the Agreement.

### **4. TERM, ESCALATION AND UPGRADE**

4.1 This agreement shall commence on the activation date and shall continue until end of the initial term. If notice of termination is not given at least 90 days prior to the end of the initial term, this agreement shall automatically be renewed for a further period of twelve months.

4.2 The renewal period shall be subject to escalation with regards to monthly fees and payment equivalent to such increase as apportioned in terms of the Consumer Price Index rate at the time and further that the provisions above shall, mutatis mutandis, apply in respect of such further 12 (twelve) month period.

4.3 The Licensee, subject to the terms and conditions as contained herein, shall be entitled to an Upgrade / update free of charge (if such upgrade exists at the time) of the software applicable herein in the event that the initial term is to be extended.

4.4 The Licensee, subject to the terms and conditions as contained herein, shall be entitled to an upgrade / update free of charge (if such upgrade exists at the time) of the extension logger/s subject to:

4.4.1 the extension logger/s being rented from the licensor by the licensee (rent to own and purchased loggers do not apply);

4.4.2 such upgrade / update proven to be necessary to the improvement of service to the licensee;

4.4.3 such upgrade / update being available

4.4.4 stock availability

### **5. LICENSOR OBLIGATIONS**

It is noted that only extension loggers that are rented, not purchased, are subject to the licensor obligations as specified in 5 below. Extension loggers that are purchased are subject only to standard carry-in warranty conditions offered by the licensor, who reserves the right to charge for labour, travel and equipment, should there be a necessity.

The Licensor therefore undertakes that -

5.1 The Licensor shall use reasonable endeavors to support the Ecko package during the term of this agreement by providing telephonic and e-mail support during working hours;

5.2 The Licensor shall only be responsible to provide support for the Ecko package on the current versions of the Ecko package and the most recent version of the Ecko package in existence prior to the current version of the Ecko package;

5.3 The Licensor, at its sole discretion, reserves the right to issue new versions of the Ecko package and documentation;

5.4 The Licensor shall endeavour to provide corrections, updates and releases to the Ecko package at such times as it in its sole discretion shall determine. The Licensee shall be responsible for the installation of corrections, updates and releases to the Ecko package and for ensuring that its staff has the capability of carrying out such installations. Should the Licensee fail to install such systems correctly or at all in accordance with the Licensor's instructions, the Licensor or Ecko Approved Partner shall have the right to charge for services rendered in this regard. Corrections, updates and releases to the Ecko package arising as a result of a change in database used by the Ecko package are specifically excluded from this agreement;

5.5 If the Licensor cannot effect any correction telephonically, the Licensor or an Ecko Approved Partner upon receipt of authorization from the Licensee, may in its sole discretion attend at the Licensee's premises to effect the correction, in which event such attendance together with traveling time and expenses shall be charged to the Licensee by the Licensor or an Ecko Approved Partner;

5.6 The Licensor shall not be responsible for and shall not be obliged to correct errors which result -

5.6.1 From failure of computer or telephony equipment or other equipment, including, but not limited to machine/s operating the Ecko package, Switchboard P(A)BX's, telephone hand units, sound card failures or incompatibilities, wires that have been removed accidentally or purposefully by licensee personnel or any other tampering by licensee personnel or other related parties; as well as failure of third party applications not developed by the Licensor and which are not covered by this agreement including faults in electrical supply and operator error from whatever cause or caused by cable or connector malfunction or breaks;

5.6.2 From environmental conditions including, but not limited to, conditions associated with humidity and air-conditioning;

5.6.3 From accident, negligence, misuse or default by the Licensee or any third party or due to a force majeure;

5.6.4 From failure of fixed or removable storage media;

5.6.5 From any version of the Ecko packages other than the current version of the Ecko package;

5.6.6 From incompatibilities with handheld phone units or P(A)BX's.

5.6.7 From direct or indirect damage as a result of lightning or other severe climatic conditions.

5.7 Any time spent by the Licensor investigating an error caused by any of the above shall be charged at an additional cost at the Licensor's then current rates of service and traveling on a time and material basis.

### **6. INTELLECTUAL PROPERTY**

The Licensor retains the right, title and interest in respect of the copyright and all other intellectual property rights in the Ecko package and the documentation. The Licensee acknowledges that nothing contained in this agreement shall give the Licensee any right, title, or interest in the intellectual property. At all relevant times the parties acknowledge the ownership rights of the copyright holder namely Finant no 24 (PTY) Ltd.

### **7. LIMITATION OF LIABILITY**

7.1 The liability of the Licensor for faulty execution of the Ecko package as well as all damages suffered by the Licensee, whether direct or indirect, as a result of the malfunctioning of such Ecko package, will be limited to the Licensor rectifying the malfunction, within a reasonable time and free of charge, provided that the Licensor is notified immediately of the damage or faulty execution of the Ecko package.

7.2 This liability is completely excluded if the Licensee attempts to correct or allows third parties to correct or attempt to correct the Ecko package without the prior written approval of the Licensor.

7.3 This liability is further completely excluded should the extension loggers have been purchased and are out of their 12 month warranty period.

7.4 Any other liability on the part of the Licensor arising from any cause whatsoever is specifically excluded. Without limiting the generality of the foregoing, the licensor shall not be liable for any delay, failure, breakdown, damage or injury caused by:

7.4.1 Ecko package, programs and support services supplied by or obtained by the Licensee without the consent or knowledge of the Licensor; or

7.4.2 Ecko package or programs modified by the Licensee or any third party not authorised to do so in terms of the Agreement; or

7.4.3 the actions or requirements of any telecommunications authority or a supplier of telecommunications services;

7.4.4 Computer viruses, spam or denial of service (DOS) attacks;

7.5 In no event shall the Licensor be liable to the Licensee for loss of profits or for incidental, special or consequential damages arising out of or in connection with the Ecko package or the delivery, installation, servicing, performance or use of it in combination with other computer software or hardware.

7.6 In no event shall the Licensor be liable to the Licensee for loss of profits, legal claims, loss of business, special or consequential damages arising out of missing or damaged recorded files within or in connection with, the Ecko Package.

7.7 The Licensor shall further not be held liable for any tampering with regards the Ecko package which is beyond the control of the Licensor. It is specifically stated that the Ecko package and the calls that are stored are not tamper proof.

7.8 In conclusion the liability of the Licensor is limited as what is stated herein if any and under no other circumstances shall the Licensor be held liable for any damages in favour of the Licensee or any other third parties. The Licensee accordingly specifically hereby indemnifies the Licensor against any liability as a result of the operation of this agreement or otherwise.

### **8. THE LICENSEE'S OBLIGATIONS**

The Licensee undertakes

8.1. to keep master copies of the software and documentation in a safe place at it's principle place of business;

8.2. to assign a contact person to deal with all correspondence and communication with the Licensor in respect of this

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agreement;

8.3. to select only suitably trained staff for operation of the Ecko package;

8.4. to institute any new releases or error fixes and versions of software in line with the Licensor's recommendations and to keep machine/s operating Ecko package up to date and to pay all costs associated therewith;

8.5. not to reverse engineer, disassemble, or translate, decode or modify the Ecko package;

8.6. not to loan, rent, assign, sub-lease or in any other manner or form, transfer the Ecko package to any unauthorised third party;

8.7. to comply with the registration requirements, including the initial registration, of the software, which requirements the Licensor will determine from time to time and in its absolute and sole discretion;

8.8. to notify the Licensor of any changes to the bank account details listed in the Debit Order Details contained in this agreement;

8.9. to pay to the Licensor an administration fee of R100 for each and every instance that a debit order payment is rejected by the Licensees bankers;

8.10. to ensure that the Ecko package is suitable for the purpose intended;

8.11. to keep a minimum of one separate backup of your current data of a standard and frequency to allow the Licensee to recover information without any undue loss of staff time;

8.12. to notify the Licensor of any alleged defect within a period not exceeding 5 (five) days from the date the alleged defect becomes apparent;

8.13. to use their activation codes for their own business use only;

8.14. not to disclose their activation codes to any other person for any reason whatsoever and will maintain the confidentiality thereof.

8.15. All equipment supplied on rental remains the property of the Licensor and the Licensee undertakes to allow the Licensor to retrieve the equipment on termination of the agreement.

8.16. To unconditionally consent to the Licensor to obtain or submit information of the Licensee's business status and payment performance to or from Trans Union Credit Bureau or any other credit bureau of its choice.

8.17. The Licensee further undertakes to provide sufficient information on application in order to comply with FICA and FAIS requirements in terms of law in concluding this agreement.

8.18. Furthermore the Licensee shall comply with any reasonable request by the Licensor in terms of any obligations in the event that legislation in terms of law requires same.

8.19. The Licensee undertakes to provide the minimum computer hardware and software required as specified on the [www.ecko.co.za](http://www.ecko.co.za) website in order to ensure correct installation and running of the Ecko package.

**9. NOTICES**

9.1 The parties choose as their domicilium citandi et executandi the address set out on the application form of this agreement for the purpose of serving any documents or legal process in regard hereto.

9.2 Any notice given and any payment made by a party to the other ("the addressee") which:

9.2.1 is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the time of delivery; provided that if the delivery is effected by or on behalf of the Licensee at the Licensor's domicilium, the presumption shall only apply as regards to the Licensor if proof of receipt is obtained by the party effecting such delivery and duly produced as may be required to prove such delivery;

9.2.2 is posted by pre-paid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium for the time being, it shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee on the seventh day after the date of posting.

**10. GENERAL**

10.1 This agreement constitutes the whole agreement between the parties. No variation, addition or cancellation of this agreement or any waiver of any rights shall be of any force unless reduced to writing and signed by the parties.

10.2 No indulgence, leniency or extension of time which the Licensor may show to the Licensee shall in any way prejudice the Licensor or preclude the Licensor from exercising its rights in the future.

10.3 This agreement and all matters or disputes arising there from or incidental thereto shall be governed and construed in accordance with the laws of the Republic of South Africa.

10.4 The Licensor's preferred medium of correspondence and communication with the Licensee will be by means of email. The Licensee is responsible for supplying the Licensor with a valid email address and notifying the Licensor of any changes in this email address from time to time.

**11. JURISDICTION**

11.1 The Licensee, by its signature hereto and in terms of the provisions of Section 45 of the Magistrate's Court Act No 32 of 1944, as amended, consents to the jurisdiction of the Magistrate's Court in relation to any action or proceeding instituted against the Licensee in terms of, or arising out of provisions of this agreement, provided that the Licensor, in its sole and absolute discretion, shall be entitled to institute any such actions or proceedings, in any division of the High Court of South Africa possessed of the requisite jurisdiction.

11.2 In the event of the Licensor instituting legal proceedings against the Licensee to recover amounts due to the Licensor or take any other legal steps arising out of this agreement, the Licensee shall be liable for legal costs on the scale as between attorney and own Licensee and/or any collection costs.

**12. BREACH AND TERMINATION**

12.1 Should either of the Parties breach any stipulation contained in the Agreement, and that breach is not due to force majeure, then the suffering party may notwithstanding the provisions of clause 4 above:

12.1.1 terminate the Agreement; provided that the party to the Agreement who breached its obligations in terms thereof fails to remedy such breach within 1 (one) calendar month after receiving a Notice from the other party to the Agreement, on expiry of this period;

12.2 The Licensor shall be entitled to summarily cancel the agreement in the event that the Licensee commits an act of insolvency as defined in the Insolvency Act.

12.2 Notwithstanding the above the Licensor upon termination is entitled to immediate repossession of any extension loggers, software, documentation and/or any other property in the possession of the Licensor. In the event of the Licensee failing to hand over possession of any extension loggers the Licensor shall be entitled to claim from the licensee in respect of such amounting to R3500 per unit excluding vat.

12.3 Further In the event that this agreement is terminated for any of the reasons mentioned in paragraph 12, the Licensee shall not be entitled to a refund of any amount paid in terms of this agreement. In the event that this agreement is terminated and the Licensee wishes to enter into a new agreement, the Licensee will be charged such amounts as would be applicable to a new agreement.

12.4 In the event of the premature termination of this agreement, other than in terms of breach by the Licensor, the Licensee shall be held liable for the remainder of monthly fees due in one installment for the rest of the initial term or any subsequent renewal terms as per this agreement due.

**13. INTERPRETATION**

13.1 The clause headings in this Agreement have been inserted for convenience only and will not be taken into consideration in the interpretation of this Agreement.

13.2 Any reference in this Agreement to the singular includes the plural and vice versa.

13.2 Any reference in this Agreement to natural persons includes legal persons and references to any gender include references to the other genders and vice versa.

**14. VALIDITY**

If any provision of this Agreement is found or held to be invalid or unenforceable, the validity and enforceability of all the other provisions of this Agreement will not be affected thereby.

**15. CONFIDENTIALITY**

15.1 The Parties shall hold in confidence all Confidential Information received from each other and not divulge the Confidential Information to any person, including any of its employees, save for employees directly involved with the execution of this Agreement.

15.2 The Parties shall prevent disclosure of the Confidential Information, except as may be required by law.

15.3 Within six (6) months after the termination of this Agreement, for whatever reason, the recipient of Confidential Information shall return same or at the discretion of the original owner thereof, destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.

15.4 It is recorded that the following information will, for the purpose of this Agreement, not be considered to be Confidential Information:

15.4.1 information known to either of the Parties prior to the date that it was received from the other party; or

15.4.2 information known to the public or generally available to the public prior to the date that it was disclosed by either of the Parties to the other; or

15.4.3 information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the Parties to the other, through no act or failure to act on the part of the recipient of such Information; or

15.4.4 information which either of the Parties, in writing, authorises the other to disclose.

**16. RELATIONSHIP**

This Agreement does not constitute either of the Parties an agent or legal representative of the other for any purposes whatsoever and neither of the Parties shall be entitled to act on behalf of, or to represent the other unless duly authorised thereto in writing.

**17. DISPUTE RESOLUTION**

17.1 If the Parties are unable to resolve any dispute resulting from this Agreement by means of joint co-operation or discussion between the individuals directly involved with the execution of this Agreement, within one week after a dispute arises or such extended time period as the Parties may in writing allow, then such a dispute shall be submitted to the most senior executives of the Parties who shall endeavour to resolve this dispute, within five (5) calendar days after it having been referred to them.

17.2 Should the dispute not be resolved in the aforesaid manner, then it shall by agreement in writing between the parties be resolved by way of arbitration, in accordance with the provisions contained in this Agreement.

**18. ARBITRATION**

18.1 dispute between the Parties relating to any matter arising out of this Agreement or the interpretation thereof shall by agreement between the parties in writing be referred to arbitration, by either of the Parties, by way of a Notice to the other party, in which Notice particulars of the dispute are set out.

18.2 arbitration proceedings shall be held in Johannesburg and/or its surrounding suburbs and shall be held in a summary manner, which shall mean that it shall not be necessary to observe or carry out:

18.2.1 usual formalities of procedure (e.g. there shall not be any pleadings or discovery);

18.2.2 strict rules of evidence;

18.2.3 and with a view to its being completed within 14 (fourteen) calendar days after it is demanded.

18.3 arbitrator for such arbitration proceedings shall:

18.3.1 the matter in issue is primarily an accounting matter, be an independent auditor with at least 10 (ten) years experience; or

18.3.2 the matter in issue is primarily a technical matter, be a suitably qualified person agreed upon by the Parties; or

18.3.3 any other matter, be a practicing advocate or attorney, admitted as such in accordance with the legislation of the law governing this Agreement, with at least 10 (ten) years experience, agreed upon by the Parties and, failing agreement, nominated by the chairperson for the time being of the law Society of Gauteng; or in the event where the Parties are unable to agree whether the nature of a dispute is primarily of an accounting nature, technical nature or any other nature, then the nature of that dispute shall be decided by a practicing advocate or attorney, admitted as such in accordance with the legislation of the law governing this Agreement, with at least 10 (ten) years experience, agreed upon by the Parties and, failing agreement, nominated by the chairperson for the time being of the law Society of Gauteng.

18.4 decision of the arbitrator shall be final and binding on the Parties, who shall summarily carry out that decision and either of the Parties shall be entitled to have the decision made an order of any court with competent jurisdiction.

18.5 "arbitration" clause in this Agreement shall be severable from the rest of this Agreement and therefore shall remain effective between the Parties after this Agreement has been terminated.

18.6 clause in this Agreement which refers to arbitration shall mean or be deemed to mean or interpreted to mean that either of the Parties shall be precluded from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

**19. RESTRAINT OF TRADE**

Neither of the Parties shall, at any stage after the commencement of this Agreement, and for a period of two (2) years after this Agreement has terminated, make any offers of employment to any staff member, who is or has been employed by the other and has been involved in the execution of this Agreement. The aforementioned restraint shall not be applicable in the event where the prior written approval to make such an offer has been obtained from the party who is or has been the employer of such staff member. For the purpose of this clause "staff member" shall include but not be limited to permanent employees, part-time employees and independent contractors.

**20. FORCE MAJEURE**

20.1 Neither of the Parties shall be liable for a failure to perform any of its obligations insofar as it proves:

20.1.1 the failure was due to an impediment beyond its control;

20.1.2 that it could not reasonably be expected to have taken the impediment and its effects upon the party's ability to perform into account at the time of the conclusion of this Agreement; and

20.1.3 it could not reasonably have avoided or overcome the impediment or at least its effects.

20.2 An impediment, as aforesaid, may result from events such as the following, this enumeration not being exhaustive:

20.2.1 whether declared or not, civil war, civil violence, riots and revolutions, acts of sabotage;

20.2.2 natural disasters such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightning;

20.2.3 fires, destruction of machines, factories and any kind of installations;

20.2.4 boycotts, strikes and lock-outs of all kinds, go-slows, occupation of factories and premises and work stoppages;

20.2.5 acts of authority, whether lawful or unlawful, apart from acts from which the party seeking relief has assumed the risk by virtue of any other provisions of this Agreement.

20.3 For the purposes of this clause "impediment" does not include lack of authorisations, licenses, permits or approvals necessary for the performance of this Agreement and to be issued by the appropriate public authority.

20.4 Relief from liability for non-performance by reason of the provisions of this clause shall commence on the date upon which the party seeking relief gives Notice of the impediment relied upon and shall terminate upon the date upon which such impediment ceases to exist; provided that if such impediment continues for a period of more than sixty (60) days either of the Parties shall be entitled to terminate this Agreement.

**21. ASSIGNMENT, CESSATION AND DELEGATION**

The licensee shall not be able to assign, cede, delegate or transfer any rights, obligations, share or interest acquired in terms of this Agreement, in whole or in part, to any other party or person without the prior written consent of the Licensor, which consent shall not unreasonably be withheld or delayed. The said mentioned provision does not apply with regards the Licensor who retains such rights of assignment, cession and delegation without the consent of permission of the Licensee.

**22. WARRANTY**

The Licensor provides the following limited warranty:

22.1 No warranty is provided in respect of software whether installed or the data thereof.

22.2 In respect of extension loggers supplied to the licensee, the licensor will cover any defective workmanship repair for the duration of the license. The licensor retains the right to either repair or replace the hardware accordingly. This warranty is implied for carry-in purposes only.

22.3 The licensor shall further cover any repair at it's own cost with regards any handheld telephone set, to which the defective extension logger is connected for use, and no further (Licensor will not be held liable in any way with regards the switchboard, PABX or otherwise) and only in respect of such telephone handset set being brought in to Licensor for repair. Once again Licensor reserves the right to replace such telephone set should same not be able to be repaired.