

Parties

Buyer [insert Buyer name][company number]whose registered office is at []; and

Website Owner Idapt Planning (trading as Construction Management Systems Limited) company number 2918627 whose registered office is at The Byre, Luckington Road, Acton Turville GL9 1HG.

THIS AGREEMENT is dated

1. Interpretation

1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (**Conditions**).

Advertisement: the Buyer's advertisement to be displayed on the Website

Advertising Copy: any documents or other materials and any data or other information provided by the Buyer to the Website Owner to enable the production of the Advertisement

Artwork: a photograph, plan, design, drawing, picture or other image, or any other record of any information in the format of high resolution camera ready artwork and includes files in high resolution digital format such as gif, tif, pdf, jpg, with embedded elements

Charges: the charges payable for the Advertisement and/or Product Database and the scaling of icons as specified in Schedule 2

Commencement Date: the date that the Advertisement and/or Product Database is published on the Website

Content: the content of the Website

Product Database: the products manufactured, supplied and/or owned by the Buyer

Term: the period during which this agreement continues in force as set out in clause 5

Website: the Website Owner's interactive website more particularly described in

Schedule 1

1.2 Headings in these conditions shall not affect their interpretation.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 The schedules form part of this agreement.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.6 Any obligation in this agreement on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.

1.7 References to conditions and schedules are to the conditions and schedules of this agreement.

2. Application of conditions

2.1 These Conditions shall:

(a) apply to and be incorporated into this agreement; and

(b) prevail over any inconsistent terms or conditions contained, or referred to, in any document supplied by the Buyer, or implied by law, trade custom, practice or course of dealing.

3. advertising

3.1 Where the Buyer wishes to place an Advertisement on the Website, the Buyer shall supply all necessary Artwork, Advertising Copy, images, data and other necessary materials in the format specified by the Website Owner. The Buyer shall ensure the accuracy of all such materials.

3.2 The Website Owner shall have no liability for any loss or damage to all or any of the materials provided under clause 3.1 howsoever caused and the Buyer shall at its own expense retain duplicate copies thereof.

3.3 The Website Owner shall submit a proof of each Advertisement to the Buyer within 14 days of receiving the materials stated in clause 3.1. The Buyer undertakes to check each proof and to inform the Website Owner in writing of any alterations or additions required by the Buyer before the time and/or date stipulated by the Website Owner in writing. If no changes are notified to the Website Owner, the Website Owner shall regard the Advertisement as approved by the Buyer for publishing on the Website.

3.4 Notwithstanding clause 3.3, the Website Owner may correct any typographical or other errors or omissions in any Advertising Copy or Artwork without any liability to the Buyer.

3.5 The Website Owner may, without notifying the Buyer, make any changes to the Advertisement which in the opinion of the Website Owner are necessary to comply with any applicable statutory requirements, or which do not materially affect the nature of quality of the Advertisement.

3.6 The Website Owner reserves the right not to publish the Advertisement if the Website Owner believes that to do so would be illegal, immoral or in bad taste.

3.7 The Website Owner may sub-contract any part of this agreement to third parties who shall include but who are not limited to printers, photographers, typesetters and illustrators.

3.8 The Buyer is responsible for keeping all material in the Advertisement up to date.

4. database

4.1 Where the Buyer wishes to exhibit its Product Database on the Website, the Buyer shall on request by the Website Owner and at the Buyer's expense supply to the Website Owner all necessary Artwork, Advertising Copy, images, data and other necessary materials in the format specified by the Website Owner. The Buyer shall ensure the accuracy of all such materials.

4.2 The Website Owner shall have no liability for any loss or damage to all or any of the materials provided under clause 4.1 howsoever caused and the Buyer shall at its own expense retain duplicate copies thereof.

4.3 Upon receipt of the materials specified in clause 4.1, the Website Owner shall prepare a scaled icon of each product in the Buyer's Product Database. The first 30 icons will be scaled free of charge. For each additional icon, the charges are as listed in Schedule 2.

The Buyer is responsible for keeping all material displayed on the Product Database up to date.

5. Application of clauses 3 and 4

5.1 Where the Buyer wishes to place an Advertisement on the Website, clause 3 shall apply.

5.2 Where the Buyer wishes to exhibit its Product Database on the Website, clause 4 shall apply.

5.3 Where the Buyer wishes to place an Advertisement on the Website and exhibit its Product Database on the Website, both clauses 3 and 4 shall apply.

6. term

6.1 The Term will begin on the Commencement Date and will continue for a period of 12 months.

6.2 An invoice will be issued three months prior to the end of the Term, unless this agreement is terminated prior to the end of the Term in accordance with clause 10.

6.3 Where the invoice is paid in full before the end of the Term the Term will be extended for a further period of 12 months.

6.4 Where an invoice remains unpaid at the end of the Term the Advertisement and/or the Product Database will be automatically removed forthwith from the Website without prejudice to the obligation of the Buyer to pay all outstanding invoices.

Where Charges are paid after the end of the Term and the Buyer wishes to continue to publish its Advertisement and/or Product Database on the Website, the Website Owner shall be entitled to charge a reconnection fee.

7. charges

7.1 The Buyer shall pay to the Website Owner the Charges as specified in Schedule 2. Charges shall be paid in advance of publication of the Advertisement and/or Product Database on the Website and within 30 days of the date of the invoice.

7.2 All charges quoted to the Buyer are exclusive of any Value Added Tax or other taxes, for which the Buyer shall be additionally liable at the applicable rate from time to time.

7.3 The Website Owner shall not be obliged to publish the Advertisement or Product Database on the Website if and for so long as any Charges remain owing and unpaid by the Buyer.

7.4 Payment of the Charges is due in pounds sterling.

7.5 No payment shall be deemed to have been received until the Website Owner has received cleared funds.

7.6 The Website Owner may amend the Charges, such amendment to take effect on an anniversary of the Launch Date on giving to the Buyer not less than 120 days' prior notice of such amendment.

8. intellectual property rights

8.1 The property and any copyright or other intellectual property rights in any Advertisement or Product Database produced by the Website Owner shall belong to the Website Owner.

8.1 The Website Owner will retain all copyright, database right and all other right, title and interest in and to the Website worldwide.

8.2 All information provided by the Website Owner to the Buyer shall be kept confidential by the Buyer.

8.3 The Buyer warrants that any Advertising Copy (including Artwork) and its use by the Website Owner for the purpose of publishing the Advertisement and/or the Product Database will not infringe the copyright or other rights of any third party, and the Buyer shall indemnify and keep indemnified the Website Owner against any loss, damages, costs, expenses or other claims arising from any such infringement.

9. warranties and liability

9.1 The Website Owner shall have no liability to the Buyer for any loss, damage, costs, expenses or other claims for compensation arising from any Advertising Copy (including Artwork) or the Buyer's Product Database or instructions supplied by the Buyer which are incomplete, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Buyer.

9.2 Save as otherwise provided in these terms the Website Owner excludes all liability

for any loss or damage, costs, expenses or other claims howsoever arising to the fullest extent permitted by law.

9.3 Nothing in these conditions limits or excludes the liability of the Website Owner:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by the Buyer as a result of fraud or fraudulent misrepresentation by the Website Owner; or
- (c) for any matter which it would be illegal for the Website Owner to exclude or attempt to exclude its liability.

9.4 The Website Owner shall not be liable to the Buyer or be deemed to be in breach of this agreement by reason of any delay in performing, or any failure to perform, any of the Website Owner's obligations in relation to this agreement, if the delay or failure was due to any cause beyond the Website Owner's reasonable control.

9.5 The Buyer warrants that any information supplied in connection with the Advertisement or Product Database is accurate, complete and true.

9.6 The Buyer warrants that it shall comply with the Website's usage policies, which can be found on the Website.

9.7 The Buyer warrants that the Advertisement and/or Product Database comply with the requirements of all relevant legislation (including subordinate legislation, the rules of statutorily recognised regulatory authorities and the law of the European Union) for the time being in force or applicable in the United Kingdom.

9.8 The Buyer warrants that all Advertising Copy submitted to the Website Owner is legal, decent, honest and truthful and complies with the British Code of Advertising Practice and all other relevant codes under the general supervision of the Advertising Standards Authority.

9.9 The Buyer shall indemnify and keep indemnified the Website Owner against any claim made by any third party for any loss, damages, costs, expenses or other claims arising from any breach of the warranties contained at clauses 8.4 to 8.7 or otherwise arising from the publication of the Advertisement and/or Product Database.

10. accuracy of information

10.1 It is the Buyer's responsibility to ensure that the information displayed in the Advertisement and/or Product Database is accurate.

10.2 Where the Buyer becomes aware of any inaccuracy, the Buyer shall inform the Website Owner of the inaccuracy without delay. The Buyer shall also take the necessary action to remedy the inaccuracy.

10.3 Where the Website Owner becomes aware of any inaccuracy it shall notify the Buyer without delay.

11. data protection

11.1 The Buyer consents to the Website Owner processing data relating to the Buyer for legal, personnel, administrative and management purposes and in particular to the processing of any **sensitive personal data** (as defined in the Data Protection Act 1998) relating to the Buyer.

11.2 The Website Owner may make such information available to those who provide products or services to the Website Owner (such as advisers), regulatory authorities, and governmental or quasi-governmental organisations.

11.3 The Buyer consents to the transfer of such information to the Website Owner's business contacts outside the European Economic Area in order to further its business interests even where the country or territory in question does not maintain adequate data protection standards.

12. Termination

12.1 If the Buyer wishes to terminate this agreement at the end of the Term, the Buyer must give the Website Owner written notice to terminate three months prior to the end of the Term and upon expiry of such notice the Buyer's Advertisement and/or Product Database may be removed from the Website.

12.2 Without prejudice to any other rights or remedies which the parties may have, the Website Owner may terminate this agreement without liability with immediate effect:

10.2.1 the Buyer commits a material breach of any of the terms of this agreement and (if such a breach is remediable) fails to remedy that breach within 10 days of that party being notified in writing of the breach;

10.2.2 any Charges are unpaid beyond the date by which payment is due;

10.2.3 a meeting of creditors is convened to pass a resolution for winding up or a petition for winding up is presented or an administrative receiver, administrator or receiver is appointed over the whole or part of its assets or being an individual a bankruptcy order is presented against him or he compounds with or comes to any arrangement with his creditors.

12.3 The expiry or termination of this agreement for any reason shall not affect any rights and/or obligations:

12.3.1 accrued before the date of termination or expiry; or

12.3.2 expressed or intended to continue in force after and despite expiry or termination.

12.4 The Buyer shall not following the termination of this agreement represent itself as being connected with the Website Owner or any member of the Website Owner's Group; or

12.5 On termination of this agreement (however arising), the following clauses shall survive and continue in full force and effect:

(a) clause 8;

(b) clause 9;

(c) clause 11;

(d) clause 12; and

(e) clause 16..

13. property rights in scaled items

13.1 The scaled icons which the Website Owner prepares for the Buyer's use in relation to the Product Database shall belong to the Website Owner who shall have the sole right to use them.

14. Force majeure

The Website Owner shall have no liability to the Buyer under this agreement if it is prevented from, or delayed in performing, its obligations under this agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) industrial disputes (whether involving the workforce of the Website Owner or any other party), failure of a utility service, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors. The Website Owner shall have no liability to the Buyer under this agreement in respect of any lost data or information, such loss being beyond its reasonable control, including (without limitation) the abovementioned occurrences.

15. Variation

15.1 The Website Owner may, from time to time, change or alter the Website, provided that such changes do not materially affect the nature, scope of, or the charges in connection with the Website..

15.2 The Buyer will be provided with 7 days written notice of any planned change to the

Website.

15.3 Subject to condition 13.1, no variation of this agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

16. Notices

16.1 Any notice or other communication required to be given under this agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified in Schedule 3, or as otherwise specified by the relevant party by notice in writing to the other party.

16.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address and for the contact referred to in Schedule 3 or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

16.3 A notice or other communication required to be given under or in connection with this agreement shall not be validly served if sent by e-mail.

17. Governing law and jurisdiction

17.1 This agreement, and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

17.2 The parties irrevocably agree that the courts of England and Wales shall have jurisdiction to settle any dispute or claim that arises out of, or in connection with, this agreement or its subject matter.

Schedule 1

- The Buyer will be able to advertise in banner form/advertise with a link to the Buyer's website/create a product database to include full details of the products, photographs, and scaled icons of the products (*delete as appropriate*) on the Website. The Website is an interactive web-based system at www.Idapt-planning.co.uk which is specifically designed to enable occupational therapists and other health professionals to select the Buyer's specialist equipment and furniture for the disabled in order to create scaled floor and room plans, which the user can then share, save, print or email from the system.

- When publishing an Advertisement and/or a Product Database on the Website, the Buyer will also be granted access to the site to enable them to manage their products and site area.
- Access to the system is by personal login and password. Upon receipt of the booking fee and the first instalment, the Buyer will be issued with an activation code in order to allow them access to their user area of the site.
- The system will be backed up every week.
- An email support service is included within the Charges. The guaranteed response time is 48 hours.
- Telephone support may be available but is the subject of separate agreement.
- Training is not included within the Charges but may be available as the subject of a separate agreement.

Schedule 2 Charges

Booking fee of £X to cover email support system

Monthly instalments of £X, payable as follows:

Charge for each scaled icon in excess of an initial 30:

Schedule 3 Notice for the purpose of clause 14

For the Website Owner

Mrs Philippa Burton
Idapt Planning Limited
The Byre
Luckington Road
Acton Turville
GL9 1HG

Telephone: 01454 219 115

Fax: 01454 219 043

For the Buyer

Name
Address

Telephone:

Fax: