

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT OF AN UNDIVIDED PART OF ASSIGNOR'S INTEREST

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Informative Software International Limited		01/21/2009	COMPANY: UNITED KINGDOM

RECEIVING PARTY DATA

Name:	Informatix Inc.
Street Address:	Muza Kawasaki Central Tower 27F
Internal Address:	1310 Omiyacho, Saiwai-ku
City:	Kawasaki City, Kanagawa
State/Country:	JAPAN
Postal Code:	212-8554
Entity Type:	CORPORATION: JAPAN

PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
Registration Number:	2273349	PIRANESI

CORRESPONDENCE DATA

Fax Number: (212)972-5487
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: 212-687-2770
 Email: docket@cplplaw.com
 Correspondent Name: Thomas Langer
 Address Line 1: 551 Fifth Avenue
 Address Line 2: Suite 1210
 Address Line 4: New York, NEW YORK 10176-1022

ATTORNEY DOCKET NUMBER: 5281-11

DOMESTIC REPRESENTATIVE

Name:

900148037

**TRADEMARK
 REEL: 004099 FRAME: 0223**

CH \$40.00 2273349

Address Line 1:
Address Line 2:
Address Line 3:
Address Line 4:

NAME OF SUBMITTER:	Thomas Langer
Signature:	/Thomas Langer/
Date:	11/19/2009

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COPY

Confidential

DATE 21 January 2009

- (1) INFORMATIX INC.
- (2) INFORMATIX SOFTWARE INTERNATIONAL LIMITED
- (3) SELECTIVE SOFTWARE HOLDINGS LIMITED and STEVEN
MICHAEL DAVID EVANS

LICENCE AND COMMERCIAL AGREEMENT

Hewitsons LLP
Shakespeare House
42 Newmarket Road
Cambridge
CB5 8EP

Ref: BT 56152-22-5

THIS AGREEMENT is made

2009

BETWEEN:

- (1) **INFORMATIX INC.**, a corporation organised under the laws of Japan with registered office at Muza Kawasaki Central Tower 27F, 1310 Omiyacho, Saiwai-ku, Kawasaki City, Kanagawa 212-8554, Japan ("**IFX**")
- (2) **INFORMATIX SOFTWARE INTERNATIONAL LIMITED**, a company registered in England and Wales with company number 0331948 and registered office at 509 Coldham's Lane, Cambridge, Cambridgeshire CB1 3JS, United Kingdom ("**ISI**")
- (3) **SELECTIVE SOFTWARE HOLDINGS LIMITED**, a company registered in England and Wales with company number 06790622 and registered office at Unit 10, Progress Business Centre, Whittle Parkway, Slough, SL1 6DQ, United Kingdom ("**SSH**") and **STEVEN MICHAEL DAVID EVANS** ("**Mr Evans**") (SSH and Mr Evans are sometimes referred to as the "**Guarantor**", which expression includes a reference to each of them singly as well)

BACKGROUND

To give effect to a Memorandum of Understanding dated 17 December 2008 between Letrex Services Limited ("**Letrex**"), IFX and ISI (the "**MOU**"), the Parties have entered into this Agreement and will enter into a Share Purchase Agreement (the "**SPA**"). SSH and Mr Evans have agreed to be a Party to this Agreement instead of Letrex.

IT IS HEREBY AGREED as follows:

1. **DEFINITIONS**

In this Agreement, unless the context otherwise requires:

"**ADK**" means application development kit, which is a mechanism to enable external applications to access Product commands and databases;

"**Agreed Form**" refers to a document in the form agreed between the Parties before execution of this Agreement or, in the case that no such form of document was so agreed by the Parties, in such form as may be required by IFX;

"**API**" means application programmable interface, which is a programmable interface for external applications to access Product commands and databases;

"**Confidential Information**" means any and all business and technical information, in whatever form, which is disclosed by either Party to the other Party in connection with this Agreement, including: (a) Source Code, algorithms, techniques and other technical information in relation to any computer program (which, in relation to the Products, shall be deemed to have been disclosed to ISI and Guarantor by IFX); and (b) the terms of this Agreement (which shall be deemed to have been disclosed by each Party to the other);

"Domain Names" means the domain names identified in Schedule 3;

"Effective Date" means the date of this Agreement;

"Good Industry Practice" means the standards, practices, methods and procedures, and that degree of skill, diligence, prudence and foresight, expected from a Person experienced in carrying out activities the same as or substantially similar to those mentioned in this Agreement to be carried out by ISI;

"Harmful Code" means any code which: (a) is designed to disrupt, disable, harm or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of any software, firmware, computer system or network; (b) is designed to disable any software or impair in any way its operation based on the elapsing of a period of time, the exceeding of an authorised number of copies, or advancement to a particular date or other numeral; (c) is designed to permit any Person to access such software to cause such disablement or impairment; or (d) contains any other similar harmful, malicious or hidden procedures, routines or mechanisms which are designed to cause such software to cease functioning or to damage or corrupt data, storage media, programs, equipment or communications or otherwise interfere with operations. It includes computer programs commonly referred to as viruses, worms or Trojan horses;

"IFX Indemnitees" means IFX and all Persons in any manner connected to IFX through rights of ownership, and the directors, officers, employees and agents of IFX and such Persons;

"IPR" means copyrights (including copyrights in computer programs in any form); rights in inventions, patents and applications for patents; design right and other rights in designs; database rights; rights in confidential technical information (including algorithms); rights in trade marks and names, registered trade marks and domain names; the right to apply to register any intellectual property rights; and all other intellectual property rights wherever in the world arising; and includes all available renewals, extensions and reversions of any of the foregoing;

"MicroGDS" means both the Source Code and Object Code form of the software product of (as at the Effective Date) that name that is and/or has been supplied and/or supported by ISI prior to the Effective Date, including (a) all user or other documentation and all marketing and sales literature and other materials associated with such software product, (b) all past versions, variations and direct or indirect derivatives of any of the foregoing and all versions, variations and direct or indirect derivatives of any of the foregoing that may come into existence after the Effective Date and during the Term and (c) any of the foregoing even if supplied combined with or embedded in any other software and/or with a different pricing structure and/or under a different name;

"Monthly Royalty" has the meaning given it in clause 10.2;

"Object Code" means the machine-only readable or executable form of a computer program, excluding any Source Code;

"Option IPR" has the meaning given it in clause 3.1;

"Party" means on the one hand IFX and on the other hand Guarantor and/or ISI; and **"Parties"** refers to all of IFX, Guarantor and ISI;

"Person" includes any individual, partnership, firm, corporation or other body corporate, corporation sole or aggregate, government state or agency of a state, and any unincorporated association or organization, works council or employee representative body, in each case whether or not having separate legal personality;

"Piranesi" means both the Source Code and Object Code form of the software product of (as at the Effective Date) that name that is and/or has been supplied and/or supported by ISI prior to the Effective Date, including (a) all user or other documentation and all marketing and sales literature and other materials associated with such software product, (b) all past versions, variations and direct or indirect derivatives of any of the foregoing and all versions, variations and direct or indirect derivatives of any of the foregoing that may come into existence after the Effective Date and during the Term and (c) any of the foregoing even if supplied combined with or embedded in any other software and/or with a different pricing structure and/or under a different name;

"Products" means MicroGDS and Piranesi; and **"Product"** refers to one of them;

"Products IPR" means the IPR from time to time subsisting in the Products, including all such IPR as arises during the Term, but excluding: (a) any rights in any localisations of the Products that have been carried out before the Effective Date by third parties who have retained such rights (in particular for the localisation of Piranesi in Italy by Videocom and the localisation of MicroGDS in Germany by Syntron); and (b) any rights in and to the trade marks and names MICROGDS and PIRANESI;

"Products Know How" means all information and techniques, whether or not recorded in tangible form and whether or not in the public domain, which are used or required to be used in or in connection with the business of ISI in relation to the Products, including all information relating to: (a) development environments for the Products developed or used by ISI; (b) file and directory structures and locations for the Products; (c) the software architecture of the Products; (d) ISI-developed and third party software (including product names, version numbers thereof and vendors or suppliers of such software products) required or useful to develop, compile, maintain, enhance, fix bugs, localize, port to platforms, package, deliver, distribute, integrate, test, install and support the Products or either of them; (e) procedures and workflow necessary and related all of the software development actions enumerated in items (a) to (d), inclusive of this definition; (f) the operation of any process related to the composing, compiling, delivery or fixing of the Products or either of them; (g) the manufacture, design or development of the Products or either of them; and (h) production techniques and provision of any service related to the Products or either of them;

"Source Code" means the form of a computer program that is generally preferred for making modifications to it, including the human-readable form of that computer program, plus any associated interface definition files and all scripts used to control compilation and installation of executable code and any and all documentation required by or useful to any competent Person charged with the modification, maintenance, compilation, support, integration or delivery of the computer program;

"Term" means the period from the Effective Date to termination or expiry of this Agreement in accordance with its terms;

"Trade Marks" means the trade marks and names identified in Schedule 3.

2. **ASSIGNMENT TO IFX OF CERTAIN RIGHTS, AND TECHNOLOGY TRANSFER**

2.1 ISI hereby assigns or agrees to assign to IFX rights as follows:

2.1.1 ISI hereby agrees to assign to IFX with full title guarantee all rights in and to the patents mentioned in paragraph (1) of Schedule 1. To give effect to such agreement, ISI shall as soon as it has executed this Agreement execute assignments of such rights in the Agreed Form.

2.1.2 ISI hereby agrees to assign to IFX with full title guarantee all rights in and to the registered trade marks mentioned in paragraph (2) of Schedule 1 and the goodwill of ISI attaching to them. To give effect to such agreement, ISI shall as soon as it has executed this Agreement execute assignments of such rights in the Agreed Form.

2.1.3 ISI hereby assigns to IFX with full title guarantee all rights in and to the domain names mentioned in paragraph (3) of Schedule 1 and the goodwill of ISI attaching to them. To give effect to such assignment, ISI shall, following its execution of this Agreement, promptly and fully cooperate with IFX in completing any formalities required by IFX for such purpose. This may include giving IFX access to the account details that ISI has with the registrar in relation to each of such domain names.

2.1.4 ISI hereby assigns to IFX with full title guarantee all rights in and to the trade marks and names, and the goodwill of ISI attaching to them, as are mentioned in paragraph (4) of Schedule 1.

2.1.5 ISI hereby assigns to IFX with full title guarantee all existing and (as such IPR arises) future rights in and to the Products IPR, except for such of the rights in and to the Products IPR as are elsewhere in this Agreement assigned or agreed to be assigned to IFX.

2.2 The Parties acknowledge that: (a) pursuant to a collaborative agreement for research into computer aided design in the construction industry dated 8 February 1991 and made between IFX (which was then called ARC Yamagiwa Inc) and the Chancellor, Masters and Scholars of the University of Cambridge (the "University"), and agreed extensions to that agreement respectively entered into in May 1993, November 1993, February 1995, February 1996, April 1998, April 2000, June 2001, April 2002 and in 2003 (the precise date of this last extension agreement being illegible) (such original agreement and the extensions together being the "Research Agreement"), certain research and development work was carried out at the Martin Centre for Architectural and Urban Studies (part of the Department of Architecture at the University); (b) such work was wholly or mainly carried out by Professor Paul N Richens ("PNR") and Dr Simon Schofield ("SS"), and was carried out under the direction of PNR; (c) the results of such work ("Results") include the things mentioned in Part I of Schedule 2;

(d) PNR and SS have given to the University certain undertakings to assign to it their rights (including any rights in IPR) in the Results and the University has an obligation under the Research Agreement to assign to IFX the rights (including any rights in IPR) in the Results; (e) the rights mentioned in (d) include the IPR mentioned in Part II of Schedule 2 ("**Resulting IPR**"); but (f) it is possible that such rights will as at the Effective Date not have been assigned to IFX, or will instead have been assigned to ISI, or will instead after the Effective Date be assigned to ISI. Therefore, ISI:

- 2.2.1 hereby assigns to IFX with full title guarantee all such rights (if any) as ISI may have, or may at any time become entitled to (except by reason of an assignment thereof from IFX), in and to the Resulting IPR; and
- 2.2.2 hereby assigns to IFX all such rights (if any) as it may have as against the University, PNR or SS, to require an assignment of the Resulting IPR.
- 2.3 ISI undertakes at the request of IFX at any time, and without delay, to do all acts and execute all documents which may be necessary or desirable to confirm the title of IFX to the IPR hereby assigned or agreed to be assigned (whether in connection with any registration of such title or otherwise). ISI hereby makes an irrevocable and enduring appointment of IFX or any nominee of IFX as ISI's agent for the purposes of giving effect to this clause 2.3.
- 2.4 If and to the extent that this has not been done before the Effective Date, ISI shall within 60 days after the Effective Date provide to IFX, in such form and manner as may be required by IFX, a copy of all Source Code of the Products and all Products Know How that has been reduced to tangible form, and shall upon request by IFX at any time do whatever else may reasonably be required to effect full knowledge transfer to IFX of all Products Know How. ISI shall within 30 days following the issue of any bug fix, maintenance release, new version, alteration or enhancement of either Product repeat, or instead, and if it is acceptable to IFX, update, the above in relation to that Product.

3. **POSSIBLE FUTURE PURCHASE BY ISI OF OPTION IPR**

- 3.1 "**Option IPR**" means all rights throughout the world of IFX (at the time of any future purchase by ISI of such rights) in and to:
 - 3.1.1 the Products IPR, excluding any IPR in any localisation thereof for the Japanese market; and
 - 3.1.2 the trade marks and names MICROGDS and PIRANESI. This includes all rights of IFX at that time in and to any registrations thereof as trade marks and in and to any domain names incorporating such marks and names or either of them.
- 3.2 Subject to and conditional upon fulfilment of all the conditions set out below, ISI shall have the right to acquire the Option IPR from IFX and IFX shall have the obligation to sell the Option IPR to ISI as soon as commercially practicable following receipt by IFX of ISI's written notice of its intention to acquire the Option IPR. If any one or more of such conditions is not fulfilled then such right and obligation shall cease to exist. The conditions are:

- 3.2.1 ISI must have paid the Monthly Royalty to IFX on time on every occasion that the Monthly Royalty has become payable to IFX under this Agreement;
- 3.2.2 ISI must not have committed any material breach of any term of the SPA or this Agreement (whether or not such breach was later remedied) and Guarantor must not have committed any material breach of the SPA (whether or not such breach was later remedied). Without limitation, any breach of any of clauses 5.13, 5.14 or 5.15 of the SPA or clauses 2, 4, 5, 6, 7, 10, 11, 12, 13, 16, 17.1 or 17.2 of this Agreement shall be considered such material breach;
- 3.2.3 ISI shall in consideration of assignment to it of the Option IPR pay IFX a sum equal to £650,000 less one half of the cumulative amount of Monthly Royalties that have been paid by ISI (as at completion of the purchase of the Option IPR) on or after 1 January 2010; and
- 3.2.4 such completion (meaning all contracts, transfers and other documentation effecting the transfer of the Option IPR to ISI having been signed and the full amount of the consideration having been paid in one lump sum, without any deduction or set off whatsoever, and plus any sum due as referred to in clause 10.6) must occur within 36 months of the Effective Date and before the end of the Term.

If IFX receives written notice from ISI of its intention to acquire the Option IPR before the expiry of the Term the Parties shall if requested by ISI extend the Term for such reasonable further period (subject to a limit of 28 days) as may be reasonably necessary to allow completion to take place, provided ISI can demonstrate to the reasonable satisfaction of IFX ISI's ability and willingness to complete the transaction within such extended period.

- 3.3 Except as provided for in clause 3.2, ISI shall not have any right to purchase the Option IPR and IFX shall not have any obligation to sell it to ISI. However, if ISI at any time after expiry of the period of 36 months from the Effective Date in writing to IFX requests that IFX sell to ISI the Option IPR, and IFX is willing to sell it to ISI, IFX and ISI shall in good faith negotiate the terms of such a sale.
- 3.4 IFX shall not during the Term assign its rights in any of the Option IPR to any third party without the prior written consent of ISI. Such consent may be given, withheld or conditioned in ISI's absolute discretion, except that such consent shall be given if IFX secures for ISI rights to purchase the Option IPR from the assignee thereof, which are no less favourable to ISI than the rights of ISI in this clause 3. To avoid doubt, after the end of the Term (and unless ISI has purchased the Option IPR from IFX before then) IFX shall be under no restriction in respect of any assignment or other dealing with the Option IPR.
- 3.5 Should ISI purchase the Option IPR from IFX as contemplated by this clause 3, then the assignment of the Option IPR to ISI shall, if IFX notifies ISI that it so requires, be subject to a licence back to IFX. Such licence:
 - 3.5.1 shall be for such period as IFX may require;

- 3.5.2 shall be non-exclusive and for use of the Option IPR in any manner but in Japan only;
- 3.5.3 shall not be assignable but shall include the right to grant non-exclusive sub-licences; and
- 3.5.4 shall be on such fair and reasonable financial terms as ISI and IFX may in writing agree. However the aggregate of payments to be made per month by IFX for such licence shall not exceed the Monthly Royalty and, accordingly, should ISI and IFX fail to agree other financial terms then IFX may secure such licence by paying to ISI such amount each month during the term of the licence.

4. LICENCE TO ISI IN RELATION TO SOURCE CODE OF PRODUCTS

- 4.1 With effect from the Effective Date and throughout the Term, and subject to the terms and conditions of this Agreement, IFX hereby grants to ISI under the Products IPR an (subject to clause 10.2) exclusive licence outside Japan to use the Source Code of each of the Products for the following limited purposes only:
 - 4.1.1 performing bug fixes and general maintenance (for all markets, including Japan and localised versions of the corresponding Product, including the Japanese version) in relation to the corresponding Product;
 - 4.1.2 making enhancements to the functionality of the corresponding Product, and its usability and delivery mechanism; and
 - 4.1.3 enhancing the marketability of the corresponding Product.
- 4.2 The licence granted to ISI under clause 4.1 does not include the right to grant to any Person a sub-licence to use the Source Code or to exercise those rights, which rights shall be solely exercised by employees of ISI whose contracts of employment with ISI ensure that ISI shall become the absolute owner exclusively entitled to any IPR arising from such employees' use of the Source Code of the Products (but without prejudice to any terms of this Agreement pursuant to which IFX will become the owner of such IPR). Accordingly, ISI shall at all times keep the Source Code of the Products secure and shall not permit or allow any Person other than its employees referred to above access to such Source Code or any part of it, without IFX's prior written consent. Such consent may be given, withheld or conditioned in IFX's absolute discretion. Conditions to such consent may for example include obligations on ISI to share revenue it derives from any sub-licensing consented to, and to secure for IFX ownership of IPR that may result from exercise of rights granted under the sub-licence.
- 4.3 All rights in relation to the Source Code of the Products not granted to ISI in this clause 4 are reserved to IFX. In particular, IFX shall be entitled at any time and without consent from ISI to grant to third parties licences to use such Source Code for any purpose within Japan, and in such case IFX shall not be obliged to share any revenue derived therefrom with ISI, or to make any other payment to ISI, except that if any such licence results in additional maintenance and support work for ISI then IFX shall pay to ISI such fair and reasonable proportion of such maintenance and

support revenue as IFX and ISI may agree through good faith discussions on a case by case basis agree.

5. GRANT TO ISI OF DISTRIBUTION RIGHTS TO PRODUCTS IN OBJECT CODE FORM

5.1 With effect from the Effective Date and throughout the Term, and subject to the terms and conditions of this Agreement, IFX hereby grants to ISI under the Products IPR an (subject to clause 10.2) exclusive licence to distribute the Products (other than any version of them localised for Japan) in Object Code form only, together with the corresponding documentation, outside Japan. This licence:

5.1.1 excludes any rights in respect of the Source Code of the Products (only clause 4 grants such rights); and

5.1.2 includes the right to supply (and so sub-license on a non-exclusive basis) the Products in Object Code form only, and the corresponding documentation: (a) directly to end-users; (b) through distributors (having the right to sub-license the Products and the corresponding Documentation); and (c) through resellers (who do not have the right to sub-license the Products or corresponding Documentation, but only to supply them subject to use under a licence granted to the user by ISI). ISI shall not without IFX's prior written consent (which may be given, withheld or conditioned in its absolute discretion) grant any sub-licences or appoint any distributors or resellers except on a non-exclusive basis.

5.2 All rights in relation to the Products in Object Code form and in relation to the corresponding documentation that are not granted to ISI in clause 5.1 are reserved to IFX. In particular, IFX shall be entitled at any time, and without consent from ISI, to grant to third parties within Japan licences to use the Products and corresponding documentation for any purpose, and to grant to third parties outside Japan licences to use the Products in any form localised for Japan and corresponding documentation for any purpose, and in such case IFX shall not be obliged to share any revenue derived therefrom with ISI or to make any other payment to ISI; and ISI shall not have any sales or distribution rights in Japan for either of the Products, or outside Japan for either of the Products in any version of them localised for Japan, regardless of whether the Products are supplied stand alone or embedded inside other applications. To avoid doubt, for so long as IFX is the owner of the Products IPR:

5.2.1 in Japan, except as specifically provided below in this clause 5.2, IFX shall have the exclusive rights to supply licences to use, and maintenance and support for, all versions of the Products, whether localised for Japan or not;

5.2.2 outside Japan, ISI shall have the exclusive rights to supply licences to use, and maintenance and support for, all versions of the Products except the version localised for the Japanese market. Should ISI wish to supply that version, it must obtain IFX's prior written consent and pay IFX such reasonable fee as the Parties may agree.

Notwithstanding the above, should any Person in Japan wish to order direct from ISI a licence of either Product (other than the version localised for Japan) through ISI's

website home page allowing such purchases, then ISI may fulfil such order without any obligation to obtain prior consent from IFX or to pay any royalty or other sum to IFX, but must in each such case, before fulfilling the order, notify IFX in writing of the identity of the customer and details of the transaction, including Product licences and services sold, quantities thereof, fees charged and delivery schedules. ISI shall not target its website at customers in Japan, or otherwise actively seek, directly or indirectly, orders for Products from Persons in Japan.

- 5.3 Notwithstanding anything else in this Agreement, IFX may decide in its absolute discretion whether or not it shall continue to supply licences to use, or to maintain and support, either or both of the Products in Japan after December 2009, which decision shall depend (amongst other things) on Japanese market conditions, the quality of the Products and technical support for them delivered by ISI during 2009, and ISI's demonstrated ability to deliver in relation to the Products software and services required by IFX according to pre-agreed or promised schedules. However, should IFX at any time cease to supply and support either or both of the Products in Japan, IFX shall grant to ISI, upon terms and conditions to be agreed in good faith by the Parties, the right to supply the relevant Product (or Products, as the case may be) directly to customers in Japan, or to supply them through distributors or resellers to customers in Japan, and to maintain and support users of the relevant Product (or Products, as the case may be) in Japan. IFX's consents in such cases shall not unreasonably be withheld.

6. LICENCE TO ISI OF THE TRADE MARKS

- 6.1 With effect from the Effective Date and throughout the Term, and subject to the terms and conditions of this Agreement, IFX hereby grants to ISI a (subject to clause 10.2) sole licence to use the Trade Marks only outside Japan and only within the field of computer aided design software, facilities management software and related services. Such licence:

6.1.1 in the case only of the mark INFORMATIX includes also the right to use such mark as part of ISI's corporate name;

6.1.2 includes the right to use the Trade Marks as part of the Domain Names; and

6.1.3 excludes the right to grant any sub-licences.

- 6.2 All use of the Trade Marks by ISI shall be for the benefit of IFX and the goodwill accruing to ISI arising from use of the Trade Marks shall accrue to and be held in trust by ISI for IFX. ISI hereby assigns and (insofar as the foregoing assignment may not be effective) agrees to assign to IFX such goodwill at IFX's request at any time, whether during or after the term of this Agreement.

- 6.3 Whenever any of the Trade Marks is used (except in the case of INFORMATIX where used as part of ISI's corporate name) it shall be accompanied by wording to show that it is (as the case may be) a trade mark or a registered trade mark of IFX and used by ISI with the permission of IFX. The terms of such wording and its placing shall be as reasonably required by IFX.

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- 6.4 ISI shall use each of the Trade Marks in the form stipulated by IFX and shall observe any reasonable directions given by IFX as to colour and size of the representations of the Trade Marks and their manner and disposition on or in relation to the Products and their packaging and corresponding documentation and any leaflets, brochures or other marketing or promotional material.
- 6.5 ISI shall submit designs for all of the items mentioned in clause 6.4 to IFX for approval as to the manner and the context of the intended use of the Trade Marks and shall not make use of any such designs until they have been approved by IFX, which approval shall not be unreasonably withheld. ISI shall however be responsible for ensuring that all other requirements relating to labelling, packaging, advertising, marking and other such matters are complied with.
- 6.6 The use of the Trade Marks by ISI shall at all times be in keeping with and seek to maintain their distinctiveness and reputation as determined by IFX, and ISI shall forthwith cease any use not consistent therewith as IFX may reasonably require.
- 6.7 ISI shall not use any mark or name confusingly similar to the Trade Marks or any of them on or in relation to any goods, software or services whatsoever, and shall not use the Trade Marks or any of them on or in relation to any goods, software or services other than the Products and associated maintenance and support services.
- 6.8 ISI shall ensure that the Products and any associated services on or in relation to which it uses any of the Trade Marks shall be of such quality as to enhance the reputation of the Trade Marks. Should any of the Products or such services in IFX's opinion (acting reasonably) at any time not comply with such standards of quality, or should ISI do or omit to do anything else that in IFX's opinion (acting reasonably) will or may be detrimental to the reputation of the Trade Marks or any of them, or to the reputation of IFX, then IFX may by notice in writing to ISI require that ISI cease use of such Trade Marks on or in relation to such Products and services, or (at IFX's option) cease all use of such Trade Marks and of all the other Trade Marks.
- 6.9 ISI shall at any time at the request of IFX provide such assistance as IFX may reasonably require in order to register ISI at any trade mark registry or domain name registration authority as a user of any of the Trade Marks or (as the case may be) Domain Names.
- 6.10 All rights in relation to the Trade Marks that are not granted to ISI in this clause 6 are reserved to IFX.
- 6.11 Notwithstanding this clause 6, ISI may at any time during the Term introduce new branding and packaging for the Products, which branding and packaging need not include the Trade Marks owned by IFX or any of them. However, ISI may only do this if before making public the designs of such new branding and packaging it:
- 6.11.1 provides IFX with an explanation of ISI's plans and the reasons for them;
- 6.11.2 obtains IFX's written consent to such plans, which consent shall not unreasonably be withheld; and

6.11.3 grants to IFX a royalty-free right, upon terms reasonably acceptable to IFX, to use the new branding and packaging, including all trade names and trade marks comprised therein, in Japan in connection with the Products.

7. ENHANCEMENTS TO AND MAINTENANCE AND SUPPORT OF THE PRODUCTS

7.1 ISI shall throughout the Term continue, to the best of its ability and in accordance with Good Industry Practice, to maintain, develop and enhance the Products. In so doing, it shall comply with this clause 7.

7.2 During the period that IFX owns the Products IPR in relation to either Product or the Products, and continues to distribute either Product or the Products and/or to supply maintenance and support for the same in Japan, ISI shall regularly, and at any time upon request, discuss with IFX and seek IFX's consent to ISI's plans for such Product (or the Products, as the case may be), including its plan for bug fixes, new functionality, release schedules, platform support and technology changes. Such consent shall not unreasonably be withheld. During any period that IFX still owns the Products IPR in relation to either Product or the Products, but has ceased to supply such Product or the Products and/or maintenance and support for the same in Japan, ISI shall regularly, and at any time upon request, inform IFX of such plans, but shall not be obliged to obtain IFX's consent for them.

7.3 ISI shall:

7.3.1 before the end of April 2009 issue a maintenance release of MicroGDS which includes functionality and is of a quality acceptable to IFX;

7.3.2 (a) if requested by IFX (which is contingent on IFX reaching such agreement with Fukui Computer, which as at the Effective Date is under negotiation), in accordance with the timetable in Schedule 7 carry out the work described in such Schedule that will (if such agreement is concluded) be needed to enable IFX to meet its obligations to Fukui Computer of Japan under such agreement between IFX and Fukui Computer that is described in outline in such Schedule; and (b) before the end of June 2009 issue a maintenance release of Piranesi which includes functionality and is of a quality acceptable to IFX. However, if IFX requests ISI to perform such obligation, the obligation of ISI in (a) will take precedence over that in (b) and, provided that ISI fully complies with its obligation in (a) (if requested by IFX to perform it), IFX will not unreasonably refuse to grant to ISI a reasonable extension of time to fulfil its obligation in (b) if ISI needs such extension in order to fulfil its obligation in (a); and

7.3.3 before the end of March 2009 present to IFX a plan for the release of version 11 of MicroGDS and in good faith with IFX agree a mutually acceptable date for such release, and the content/functionality of such version.

7.4 ISI shall throughout the Term issue at least one maintenance release of each Product within 12 months of issuing the previous one. ISI shall comply with clause 7.2 in relation to such maintenance releases.

- 7.5 Notwithstanding anything else in this Agreement (and without limiting the scope of IFX's other rights in relation to the Products), IFX as the owner of the Products IPR shall be entitled at any time, and in respect of the versions of the Products localised for Japan, to create, and to have created for it by third parties, bug fixes and enhancements to the Products. If IFX does this and notifies ISI that it requires such integration, then ISI shall integrate such bug fixes and enhancements into the next planned release of the corresponding Product. However in such case ISI shall be entitled to charge, and IFX shall pay, a software integration fee for such work; which fee shall not exceed the amount for such work calculated at ISI's then standard and reasonable time and materials consulting rates.
- 7.6 For the avoidance of doubt, all IPR at any time during the Term subsisting in or obtained to protect any modification or localisation of, enhancement to or addition to the Products is and shall be part of the Products IPR and so belong to IFX as it arises. However, should ISI develop any application software that interfaces with either of the Products solely via an API or ADK, the IPR in the software applications so developed shall belong to ISI, provided that: (a) ISI has not embedded any code from either of the Products or other IFX owned IPR in such application layer; and (b) ISI has to IFX's satisfaction continued to maintain, develop and enhance the Products and issue maintenance and/or new releases for them in accordance with this Agreement. Should either or both of these conditions not be fulfilled, the IPR in the software applications so developed shall instead be part of the Products IPR and so belong to IFX as it arises.
- 7.7 ISI shall throughout the Term provide, to all users of each of the Products outside Japan who require such support, first and second line technical support in relation to the Products. ISI shall throughout the Term provide, in relation to all users of each of the Products to whom IFX is from time to time providing first line technical support, second line technical support in relation to the Products. ISI shall at all time provide technical support in accordance with the service level agreement in Schedule 5 and in accordance with Good Industry Practice.

8. REPORTING

- 8.1 On or before the tenth working day of each month, IFX shall submit to ISI a report listing all Product-related sales, whether sales of licences or maintenance and support contracts, for the immediately preceding month. ISI's invoices to IFX (see clause 10.4) shall be based on such reports.
- 8.2 During the period that IFX owns the Products IPR, ISI shall submit to IFX a quarterly report listing the details of all Product-related revenue obtained by ISI (broken down by country, revenue type, direct or indirect sales, customer/end-user names and by Product). Reports shall be submitted within 10 working days of the end of each ISI fiscal quarter.
- 8.3 During the period that IFX owns the Products IPR, ISI shall notify IFX of any changes in ISI staffing and management immediately as they happen and at the same time provide a statement on the impact of such staffing changes on ISI's obligations under this Agreement.

9. **COOPERATION IN RELATION TO MARKETING AND PROMOTION OF THE PRODUCTS**

- 9.1 IFX and ISI will from time to time discuss with each other, and try to agree, ways in which they may cooperate to market and promote the Products in accordance with their respective interests. For example, they may agree to create customer case studies or coordinate customer visits.
- 9.2 Any such cooperation shall generally be provided free of charge, but in the case that any significant cost may be incurred for the benefit of, or mainly for the benefit of, the other, IFX and ISI may agree appropriate cost sharing or reimbursement.

10. **FINANCIAL**

10.1 In consideration of the assignments in clause 2, and of compliance in full by ISI with its obligations in such clause, IFX hereby waives the debt of £650,000 owed by ISI to IFX and acknowledges that all subsisting indebtedness owed by ISI to IFX prior to the Effective Date (other than normal trading debt and the interest accrued on the £650,000 debt being waived) is discharged in full. Such sum is all-inclusive and no Value Added Tax or other amount shall be payable in addition.

10.2 In consideration of the rights and licences granted to ISI in this Agreement, ISI shall pay to IFX a monthly royalty (the "**Monthly Royalty**") of £15,000. ISI shall make the first such payment 120 days after the Effective Date (which payment shall be the Monthly Royalty in respect of the month in which it falls) and shall thereafter make each such payment no later than the last day of the month in respect of which it is due. For the avoidance of doubt, ISI has no obligation (unless agreed to the contrary pursuant to clause 4.2) to pay royalties to IFX in relation to any sales of licences to use Products or any sales of maintenance and support contracts in relation thereto. Provided however that if ISI fails within 36 months of the Effective Date to acquire from IFX the Option IPR, and ISI wishes thereafter to continue to have exclusive rights under clauses 4 and 5 and sole rights under clause 6, then at the request of IFX the Parties shall in good faith negotiate mutually acceptable royalty arrangements, including annual minimum royalties (payable monthly in any event), in respect of the rights and licences granted under such clauses; and in the event that such arrangements have not been agreed in writing by the Parties before the end of such 36 month period then IFX shall be entitled at any time thereafter (and before such arrangements have been so agreed) to give to ISI a notice in writing rendering the rights granted under such clauses non-exclusive or terminating this Agreement.

10.3 ISI shall promptly when the same become due pay:

10.3.1 all royalties, licence fees and other amounts that may become due to any third party arising out of or in connection with ISI's exercise of the rights and licences granted to it in this Agreement. ISI shall in particular make the payments to third parties as described in Schedule 4; and

10.3.2 notwithstanding the assignment to IFX of the Domain Names and the Trade Marks, all sums required to maintain the registrations thereof and ensure that they do not lapse.

- 10.4 As additional consideration for the assignments in clause 2, and for compliance in full by ISI with its obligations in such clause, until the end of December 2009 IFX shall continue to purchase Products from ISI on the sales of the Products in Japan, if any, at the respective prices set out or determined in accordance with Schedule 8. Thereafter, IFX shall not pay any such additional consideration. However, during that period and thereafter IFX shall pay a maintenance and support fee, at the rates set out or determined in accordance with Schedule 8, for maintenance and support contracts for Products sold in Japan. ISI's invoices for amounts becoming due under this clause 10.4 will be based on the information provided by IFX in reports under clause 8.1. IFX will pay each such correct and itemized invoice received from ISI before the 20th of a month by the end of the immediately following month.
- 10.5 In consideration of ISI performing its obligation under clause 7.3.2(a) in accordance with this Agreement IFX shall pay ISI for that work in accordance with the amounts and payment timings set out or calculated in accordance with Schedule 7.
- 10.6 All sums becoming due to IFX under or in connection with this Agreement:
- 10.6.1 are, unless otherwise expressly stated in this Agreement, net of any Value Added Tax or other sales tax (which ISI shall pay in addition if IFX is obliged to charge it); and
- 10.6.2 shall be paid in full without deduction of bank wire transfer fees, withholding taxes, charges and other duties that may be imposed, except insofar as applicable law requires that such deduction is so made. In any case where applicable law requires that such deduction is so made, ISI shall promptly provide to IFX a certificate of the deduction made, and shall if requested by IFX also provide any reasonable assistance required in order for IFX to obtain repayment of or credit for the deduction. If and to the extent that IFX is unable to obtain repayment of or credit for the deduction, ISI shall pay to IFX upon demand an additional sum such that, after any deduction therefrom required by law, IFX receives in its hands the full amount payable to it under the Agreement.
- 10.7 ISI shall pay all sums becoming due to IFX under or in connection with this Agreement by electronic transfer to the following bank account, or to such other bank account of IFX as IFX may from time to time in writing notify ISI:
- Bank name: Bank of Tokyo-Mitsubishi UFJ, Ltd
Bank Code: 0005
Branch: The Yotsuya-Sanchome Branch
Address: 3-2-1 Yotsuya, Shinjuku-ku, Tokyo 160-0004 Japan
Branch Number: 340
Account Name: Informatix Inc.
Account Number: 290196
Swift Code: BOTKJPJT
- 10.8 ISI shall pay all sums becoming due to IFX under or in connection with this Agreement when such sums become due, and shall pay them without any deduction, withholding or set-off whatsoever except as may expressly be provided to the contrary in this Agreement. If ISI fails to pay to IFX any such sum when it is due then, in

addition to any other right or remedy available to it, IFX may charge (and ISI shall pay) interest on the overdue sum, running both before and after judgement, from the date payment became due until the date payment is made in full together with such interest. Such interest shall be at the rate of 4% over the base rate per annum from time to time of Bank of England and shall accrue daily.

- 10.9 For the avoidance of doubt, except as may from time to time be agreed in writing to the contrary, and except as expressly provided to the contrary in this Agreement, neither Party has any obligation to share with the other any revenue it receives, whether from provision of consulting services or application development services or otherwise.

11. CONFIDENTIALITY AND PUBLICITY

- 11.1 Each Party ("Receiving Party") hereby agrees to ensure that all Confidential Information received by it from the other Party (including such information received before the Effective Date) shall be treated with the same care and discretion to avoid disclosure as the Receiving Party would use in respect of its own information of similar nature, but in any event no less than a reasonable standard of care, and the Receiving Party shall use and/or disclose any such Confidential Information solely for the purposes of and to the extent to which such disclosure or use is:

- 11.1.1 expressly permitted or required under this Agreement; or
- 11.1.2 reasonably necessary in order for the Receiving Party to exercise its rights under any licences granted pursuant to this Agreement;

in which case it shall, to the fullest extent consistent with such permitted, required or licensed use or disclosure, ensure that any disclosure is made on terms that the third party to which the Confidential Information is disclosed is itself made subject to duties of confidentiality in respect thereof which are equivalent to the duties set out in this clause 11.1.

- 11.2 The provisions of clause 11.1 shall not apply to Confidential Information:

- 11.2.1 which, at the time of receipt by the Receiving Party, has already been published or is otherwise in the public domain;
- 11.2.2 which, after receipt by the Receiving Party, is subsequently published or comes into the public domain by means other than an act or omission (including a breach of the terms of this clause 11) on the part of the Receiving Party;
- 11.2.3 which the Receiving Party can demonstrate was known to it prior to receipt from the other Party or was subsequently independently developed by it without reliance on any Confidential Information of the other Party;
- 11.2.4 is lawfully acquired by the Receiving Party from third parties who had a right to disclose it free of obligations of confidentiality; or
- 11.2.5 if and to the extent it is required to be disclosed by applicable law or court order or by a Party's regulatory body which is empowered by law to require

disclosure, provided that the Party required to make the disclosure shall forthwith notify the other Party of the required disclosure, and shall use its reasonable efforts in supporting any lawful attempts to prevent or limit the disclosure.

- 11.3 Neither Party shall without the prior written consent of the other Party issue any press release or publicity concerning this Agreement, and neither Party shall issue any press release or publicity concerning any customer of the other Party without the prior written consent of that Party. In particular, such consent must be obtained before mentioning any such customer on any website or publicising any supply of software and/or services to such customer. Any consent under this clause 11.3 may be given, withheld or conditioned in the absolute discretion of the Party whose consent is sought.
- 11.4 This clause 11 shall continue in force for a period of 5 years after the end of the Term.

12. WARRANTIES

- 12.1 Each of IFX, Guarantor and ISI represents and warrants that:

12.1.1 it is duly incorporated and subsisting; and

12.1.2 it has validly executed this Agreement and this Agreement is binding on it in accordance with its terms.

- 12.2 ISI represents and warrants that:

12.2.1 it shall at all times employ Persons competent to perform ISI's obligations under this Agreement and shall perform all its obligations in relation to development, enhancement, maintenance and support of the Products on time, with all reasonable care and skill and in accordance with Good Industry Practice;

12.2.2 the Products as at the Effective Date, and the Products as from time to time developed, enhanced and supplied by ISI, are and shall at all times be free of Harmful Code;

12.2.3 the Products as at the Effective Date, and the Products as from time to time developed, enhanced and supplied by ISI, and the importation (into any territory), possession and use of such Products, do not and shall not at any time infringe the IPR of any Person.

- 12.3 Guarantor and ISI acknowledge that IFX makes no representation and gives no warranty of any kind:

12.3.1 in relation to the Products. In particular, IFX makes no representation and gives no warranty as to merchantability, quality, fitness for purpose, non-infringement of the IPR or other rights of any Person, or as to the absence of Harmful Code; or

12.3.2 in relation to the Trade Marks or the Domain Names. In particular, IFX makes no representation and gives no warranty that the use of the Trade Marks and Domain Names by ISI in accordance with this Agreement shall

not result in the infringement of the rights of any Person or amount to passing off, unfair competition or the like.

13. INDEMNITIES AND LIABILITY

- 13.1 ISI shall at all times defend, indemnify and hold harmless the IFX Indemnitees from and against the following, and from and against all losses, costs (including legal costs on a full indemnity basis), reasonable expenses and liabilities properly incurred or suffered in connection with any of the following:
- 13.1.1 any breach by ISI of the warranties in clause 12.2, and any claim by any Person that is inconsistent with such warranties;
 - 13.1.2 any breach by ISI of any of clauses 2, 4, 5, 6, 7.1, 7.2, 7.3, 7.4, 10.3 and 11;
 - 13.1.3 any claim by any Person arising out of or in connection with the Products, including any claim based on the use or inability to use any Product or the granting or termination of any rights in relation to any Product; and
 - 13.1.4 any claim by any Person arising out of or in connection with any contract or arrangement or other dealing between ISI and any of its end-users of or distributors or resellers of any Product.
- 13.2 Nothing in this Agreement shall limit or exclude the liability of any Person in negligence for death or personal injury, or for wilful default, or for fraudulent misrepresentation or other fraud, or otherwise in so far as such exclusion or limitation of liability is void, prohibited or unenforceable under applicable law. All other terms of this Agreement are subject to this clause 13.2.
- 13.3 Subject and without prejudice to IFX's obligations to pay to ISI sums becoming contractually due to ISI from IFX under or in connection with this Agreement, IFX shall not be liable to Guarantor or ISI, whether in contract, in tort (including negligence) or on any other theory of liability:
- 13.3.1 in relation to the Products. In particular, IFX shall have no liability in relation to any defects in the quality or fitness for purposes of the Products, or for the infringement of the IPR or other rights of any Person by the Products or any use of them, or for any Harmful Code that may be incorporated in the Products; or
 - 13.3.2 in relation to the Trade Marks or the Domain Names. In particular, IFX shall have no liability in relation to use of the Trade Marks or Domain Names by ISI resulting in the infringement of the rights of any Person or amounting to passing off, unfair competition or the like; or
 - 13.3.3 otherwise for any loss or damage whatsoever arising out of or in connection with this Agreement.

14. TERM AND TERMINATION

14.1 Unless terminated earlier in accordance with its terms, this Agreement shall come into effect on the Effective Date and shall remain in force for a period of 36 months plus the period of any extension in accordance with clause 3.2. It shall then automatically terminate without need for any notice of termination to be given unless extended by agreement in writing between the Parties.

14.2 ISI may terminate this Agreement at any time by giving to IFX at least 12 months written notice.

14.3 Either Party may, without prejudice to any other right or remedy, terminate this Agreement by written notice to the other having immediate effect if that other commits a material breach of this Agreement and fails to remedy such breach within 30 days of being given a written notice identifying the breach, requiring it to be remedied and stating that if they fail to do so then this Agreement may be terminated pursuant to this clause. IFX may also, without prejudice to any other right or remedy, terminate this Agreement by written notice to ISI having immediate effect if ISI or Guarantor commits a material breach of the SPA and fails to remedy such breach within 30 days of being given a written notice identifying the breach, requiring it to be remedied and stating that if ISI or (as the case may be) Guarantor fails to do so then this Agreement may be terminated pursuant to this clause. Without limiting the scope of this clause, any breach by ISI of any obligation under this Agreement or the SPA to make a payment to IFX, or any breach by ISI or Guarantor of any of clauses 2, 4, 5, 6, 7, 10, 11, 12, 13, 16, 17.1 or 17.2 of this Agreement, or any breach by ISI or Guarantor of any of clauses 5.13, 5.14 or 5.15 of the SPA, shall be considered to be a material breach as referred to above.

14.4 IFX may, without prejudice to any other right or remedy, terminate this Agreement by written notice to ISI having immediate effect if:

14.4.1 ISI or SSH ceases to carry on business; or

14.4.2 a court orders that ISI or SSH be wound up, or ISI or SSH adopts a resolution for winding up, or has an administrator, administrative receiver or receiver appointed in respect of all or any of its undertaking or assets, or is unable to pay its debts as they fall due, or attempts to make, or makes, any arrangement or composition with or for the benefit of its creditors; or

14.4.3 ISI or SSH undergoes any change of control; meaning that the Person or Persons who as at the Effective Date or any time thereafter have the power to direct the management and policies of ISI or SSH (as the case may be), whether through the ownership of voting securities, by agreement or otherwise, cease to do so.

15. CONSEQUENCES OF TERMINATION

15.1 Termination of this Agreement for any reason shall be without prejudice to the rights of the Parties accrued prior to termination and shall not bring to an end any provision of this Agreement which needs to survive termination in order to give full effect to its meaning, including clauses 2.3, 6.2, 10.3, 10.6, 10.7, 10.8, 11, 12, 13, 15, 16 and 17.

15.2 Upon any termination of this Agreement:

- 15.2.1 all rights and licences granted to ISI in this Agreement, including those in clauses 3, 4, 5 and 6, shall forthwith and automatically terminate and ISI shall immediately cease to have such rights or to do any of the things permitted under such licences;
- 15.2.2 except in relation to any Product the Product IPR of which ISI has purchased from IFX and paid for in full, ISI shall within 14 days of termination: (a) provide to IFX, in such form and manner as may be required by IFX, a copy of all Source Code of the Products and all Products Know How that has been reduced to tangible form, and shall upon request by IFX at any time do whatever else may reasonably be required to effect full knowledge transfer to IFX of all Products Know How; and (b) shall then forthwith destroy all copies thereof in the possession or under the control of ISI, and shall certify to IFX that it has complied with this clause;
- 15.2.3 all monies that have accrued due to IFX from ISI under or in connection with this Agreement shall become immediately payable;
- 15.2.4 each Party shall forthwith destroy all materials in its possession or under its control that embody any Confidential Information of the other, and shall certify to the other that it has done so; and
- 15.2.5 the Parties shall if required by IFX consult in relation to the handling of customers, resellers and distributors of ISI in relation to the Products and any associated maintenance, support and other services. However, the final decision as to these matters shall be IFX's in its absolute discretion and Guarantor and ISI shall cooperate in implementing it.

16. **GUARANTEE BY GUARANTOR**

16.1 In consideration of IFX agreeing to enter into this Agreement with ISI, Guarantor unconditionally and irrevocably guarantees:

- 16.1.1 the due, punctual and full performance by ISI of all its obligations under this Agreement; and
- 16.1.2 the payment by ISI when due of any amount payable under this Agreement;

as if Guarantor were the principal obligor under this Agreement instead of or as well as ISI and not merely a surety.

16.2 As an independent and primary obligation, without prejudice to clause 16.1 Guarantor hereby unconditionally and irrevocably agrees to indemnify and keep indemnified the IFX Indemnitees against all and any losses, costs, claims, liabilities, damages, demands and expenses suffered or incurred by the IFX Indemnitees arising from failure of ISI to comply with any of its obligations or discharge any of its liabilities under this Agreement or arising from the termination of this Agreement, or by reason of ISI not being at any time, or ceasing to be, liable in respect of the obligations and

liabilities purported to be assumed by it in accordance with the express terms of this Agreement.

- 16.3 The guarantee and indemnity set out in this clause is a continuing guarantee and indemnity and shall remain in full force and effect until all the obligations of ISI guaranteed or indemnified by this clause have been discharged in full. It is in addition to, and shall not prejudice nor be prejudiced by, any other guarantee, indemnity or other security or right against any third party which IFX may have for the due performance of these obligations.
- 16.4 Guarantor acknowledges that its liability under this clause shall not be discharged or affected in any way by time or any other indulgence or concession being granted to ISI or by any other act, omission, dealing, matter or thing whatsoever (including without limitation any amendment to this Agreement, or the liquidation, dissolution, reconstruction or amalgamation of ISI or the illegality or enforceability of this Agreement) which but for this provision might operate to release Guarantor from its obligations under this clause.
- 16.5 The obligations of SSH and Mr Evans as Guarantor under this Agreement are both joint and several.

17. **MISCELLANEOUS**

- 17.1 **Assignment.** IFX may assign any or all of its rights under this Agreement without the consent of ISI. Neither Guarantor (and neither of SSH and Mr Evans) nor ISI shall assign any or all of its rights under this Agreement without the prior written consent of IFX, which shall not unreasonably be withheld. This Agreement shall bind and shall endure for the benefit of the permitted assignees of the respective Parties.
- 17.2 **Sub-Contracting.** ISI shall not sub-contract any of its obligations under this Agreement without the prior written consent of IFX, which shall not unreasonably be withheld. Any sub-contracting shall not relieve ISI of its obligations under this Agreement.
- 17.3 **Entire Agreement.** This Agreement supersedes any arrangements, undertakings, promises or agreements made or existing between the Parties prior to or simultaneously with this Agreement and relating to the subject matter of this Agreement and constitutes the entire understanding between the Parties in relation to the subject-matter of this Agreement. Provided that (a) this clause is without prejudice to the SPA and (b) nothing in this Agreement shall exclude or limit the liability of any Person for fraudulent misrepresentation or other fraud.
- 17.4 **No Partnership etc.** This Agreement shall not constitute the Parties partners or either Party the agent of the other for any purpose. They are and shall at all times remain independent contractors. Neither Party shall have any part in the management of the other, or any right to appoint directors of the other.
- 17.5 **Severability.** If any part of this Agreement is found to be invalid or unenforceable then such part of this Agreement shall be deemed removed from this Agreement, but without affecting the remaining provisions of this Agreement.

- 17.6 **No Waiver.** No delay by a Party in exercising any right or enforcing any term of this Agreement shall be deemed a waiver of such right or term.
- 17.7 **Modifications to Agreement.** No addition to, amendment to or modification of this Agreement shall be effective unless it is in writing and signed by the duly authorised representative of each of the Parties.
- 17.8 **Notices.** All notices and other communications given under or in connection with this Agreement shall be in writing and sent to the address of the recipient Party set out in Schedule 6, or to such other address as that Party may by notice specify, marked for the attention of the representative of the recipient Party specified in Schedule 6, or such other representative as that Party may from time to time by notice specify. The same may be delivered personally, or sent by facsimile; and if sent by facsimile shall be confirmed by international courier delivery. If sent by facsimile confirmed as above, it shall be deemed received when sent. Any notice duly given to either of Guarantor or ISI shall be deemed also duly given to the other of them.
- 17.9 **Interpretation.** The headings in this Agreement are for convenience only and shall not affect its interpretation; all references to clauses and Schedules are references respectively to clauses in and Schedules to this Agreement; all references to a statute shall be deemed to include any statutory modification, extension or re-enactment thereof for the time being in force; references importing the singular shall include the plural and vice versa; and words such as "in particular", "including", "for example", or other words indicating that examples falling within more general wording follow, shall not be construed as limiting in any way the scope of the corresponding more general wording.
- 17.10 **Rights of Third Parties.** This Agreement is not intended to confer rights on any third party, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 17.11 **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement within 30 days by negotiations between senior executives of the Parties who have the authority to settle that dispute or claim. If the matter is not so resolved, the Parties shall attempt in good faith to resolve the matter through a procedure such as mediation, conciliation or executive tribunal or other dispute resolution technique ("**ADR Procedure**") recommended to them by the Centre for Effective Dispute Resolution in England or by such body as may replace it. If the matter remains unresolved 60 days from the initiation of the ADR Procedure, or if either Party shall not participate in the ADR Procedure, the Parties shall then be at liberty to have recourse to the courts as referred to in Clause 17.12. Nothing in this clause shall prevent a Party from seeking injunctive relief in the courts, or from exercising any right or remedy available to it under this Agreement.
- 17.12 **Law and Jurisdiction.** This Agreement shall be governed by and construed in all respects in accordance with the laws of England and, subject to clause 17.11, the Parties hereby submit to the exclusive jurisdiction of the English courts in relation to any dispute or claim arising out of or relating to this Agreement.

- 17.13 **English Language Prevails.** This Agreement is in the English language only, which language shall be controlling in all respects. Any translation or version of this Agreement in any other language shall be for convenience only and shall not be binding on the Parties or have any other legal effect. All communications and notices made or given pursuant to this Agreement, and all documentation, support and any other items to be provided under or in connection with this Agreement shall, unless otherwise expressly agreed in writing by the Parties, be in the English language.
- 17.14 **Costs.** Each Party shall bear its own costs and expenses incurred in connection with the negotiation and implementation of this Agreement unless otherwise expressly stated elsewhere in this Agreement.

SCHEDULE 1
IPR to be assigned to IFX

The following is the IPR referred to in clause 2.1, that is assigned or agreed to be assigned by ISI to IFX in that clause:

(1) All rights in and to the following patents:

Application No	Monopoly No	Country	Status	Title	Renewal Date
96930250.4	0870284	United Kingdom	Active Granted	INTERACTIVE IMAGE EDITING	11/9/2009
08/737383	6226000	United States	Active Granted	INTERACTIVE COMPUTER RENDERING	1/11/2012
511749 1997	3837162	JAPAN	Active Granted	INTERACTIVE IMAGE EDITING	1/8/2009

(2) All rights in and to the following registered trade marks:

Application No	Monopoly No	Country	Status	Mark	Renewal Date
75/302821	2273349	United States	Active Granted	PIRANESI	31/08/2009
75/702411	2417013	United States	Active Granted	MICRODGS	02/01/2011
2134382	2134382	United Kingdom	Active Granted	MICRODGS	30/05/2017
2134378	2134378	United Kingdom	Active Granted	PIRANESI	30/05/2017
2156382	2156382	United Kingdom	Active Granted	PAINTING SPACE	23/01/2018

(3) All rights in and to the following domain names:

Domain Name	Next Renewal Date
informatix.co.uk	30 May 2009
piranesi.co.uk	5 July 2009
microgds.co.uk	30 March 2009
piranesi.info	14 September 2009
microgds.info	14 September 2009
microgds.com	27 April 2009
informatixsoftware.com	5 March 2009
paintingspace.com	5 March 2010
piranesi.net	19 May 2009
piranesi.eu	6 March 2009
microgds.eu	12 April 2009

(4) All rights in and to the following trade marks and names and the goodwill of ISI attaching to them, except for the rights mentioned in paragraphs (2) and (3) above:

INFORMATIX
PIRANESI
MICROGDS
INTERACTIVE IMAGE EDITING
INTERACTIVE COMPUTER RENDERING
PAINTINGSPACE

Any logos associated with any of the above

Any of the above with any modifier

- (5) All other rights in and to the Products IPR, except for (if and to the extent that they are part of the Products IPR) the rights mentioned in paragraphs (1), (2), (3) and (4) above.

SCHEDULE 2
Details Referred to in Clause 2.2

PART I

Non-Exhaustive List of Results

- (1) Report entitled: "Piranesi Technical Specifications". Prepared by PNR, December 1995. Copyright Martin Centre for Architectural and Urban Studies 1995, 96; Revision 1 April 1996 (draft 8).
- (2) Working prototype of a computer program, being a prototype implementation of the Piranesi interactive rendering software for painting a 3D image, written in C/C++ for a Silicon Graphics Indigo computer, and demonstrating the principal claims of the patents referred to below. Can be seen working in the video referred to below.
- (3) Source code of such prototype, machine readable and printed.
- (4) Demonstration of principles of such computer program: 3 minute video.
- (5) Published papers:
 - (a) Richens, P. & Schofield, S. (1995) 'Interactive computer rendering', Architectural Research Quarterly Vol 1 No1. EMAP, London.
 - (b) Schofield S. (1996) 'Piranesi: A 3-D Paint System' Eurographics Annual Proceedings 1996.
 - (c) Schofield, S. & Lansdown, J (1995) 'Expressive rendering: a review of nonphotorealistic techniques', IEEE Computer Graphics and Applications, May 1995.
 - (d) Richens P (1999, June). The Piranesi system for interactive rendering. Computers in building: proc CAAD Futures 99. pp. 381-398. Boston: Kluwer Academic.. ed. Augenbroe G. (0-7923-8536-5).
 - (e) Ashmore JP, Richens PN. (2001, July). Pano painter -sketching in the round. Proc Mathematics and Design 2001. pp. 332-347. Geelong, Australia: Deakin University.. eds. Bury M, Datta S, Dawson A, Rollo J. (0 7300 2526 8).
- (6) SS's PhD thesis (1994) entitled: 'Non-photorealistic Rendering: A Critical Examination and Proposed System'.
- (7) Working notes, images, etc held at the University.
- (8) The inventions the subject of the following patents/patent applications:

GB9518530.2, *Interactive Computer Rendering*, Applied: September 1995
priority application

JP,3837162,B, *Interactive Image Editing*, Applied: September 1996, Awarded: August 2006

US-6226000, *Interactive image rendering*, Applied: March 1997, Awarded: May 2001.

WO/1997/010570, *Mise en Forme d'Image Interactive*, Applied: September 1996, Awarded: March 1997.

PART II

Non-Exhaustive List of Resulting IPR

- (1) All IPR comprised in or revealed by the report mentioned in paragraph (1) of Part I above, including all rights in inventions, confidential information and know how comprised in or revealed by such report.
- (2) All IPR comprised in the prototype of a computer program mentioned in paragraph (2) of Part I above, including all copyright, rights in inventions, confidential information and know how comprised in such computer program.
- (3) All IPR comprised in the source code mentioned in paragraph (3) of Part I above, including all copyright, rights in inventions, confidential information and know how comprised in such source code.
- (4) All IPR comprised in or revealed by the video mentioned in paragraph (4) of Part I above, including all copyright, rights in inventions, confidential information and know how comprised in or revealed by such video.
- (5) The Resulting IPR excludes the copyright in the published papers and the thesis mentioned in paragraphs (5) and (6) respectively of Part I above, but includes all rights in inventions (in so far as there remain any such rights notwithstanding publication) revealed by such papers and thesis.
- (6) All IPR comprised in or revealed by the working notes, images, etc mentioned in paragraph (7) of Part I above, including all rights in inventions, confidential information and know how comprised in or revealed by such working notes, images, etc.
- (7) All rights in and to all inventions claimed in the patents and patent applications mentioned in paragraph (8) of Part I above, including the right in any part of the world to apply for and obtain patent protection for such inventions.

SCHEDULE 3
The Trade Marks and the Domain Names

(1) **The Trade Marks**

INFORMATIX
PIRANESI
PIRANESI + [modifier]
MICROGDS
MICROGDS + [modifier]
PAINTINGSPACE

(2) **The Domain Names**

informatix.co.uk
piranesi.co.uk
microgds.co.uk
piranesi.info
microgds.info
microgds.com
informatixsoftware.com
paintingspace.com
piranesi.net
piranesi.eu
microgds.eu

SCHEDULE 4
Payments to Third Parties

The following is a non-exhaustive list of payment due to third parties from ISI as referred to in clause 10.3:

(1) **MicroGDS**

- (a) Per copy royalty payable to LightWorks, subject to an annual (January to December) minimum of £24,000 plus VAT.
- (b) Annual fee of US\$3,000 payable to OpenDWG for use of their technologies to read and write DWG files.

(2) **Piranesi**

10% of the transfer price of Piranesi to all ISI distributors (excluding those in Japan) and 10% of all other sales revenues of Piranesi (but excluding revenues from sales to persons in Japan) is payable to Cambridge University in perpetuity.

(3) **Other**

An annual fee of €2,250 is payable to Autodesk to be a member of their developer network. This gives ISI access to their SDK's for writing plug-ins for their rendering products; and 4 copies of each of their products for testing purposes. ISI also uses it for copies for testing with Autocad for MicroGDS.

SCHEDULE 5
Service Level Agreement

ISI First Line Support Services to ISI Customers and Non-Japan Distributors

This must be on reasonable commercial terms and in accordance with Good Industry Practice.

ISI Second Line Support Services to IFX

Such second line support must be in accordance with Good Industry Practice and shall incorporate the following functions:

1. Telephone/fax assistance with customer technical problems that cannot be resolved locally by IFX or one of its distributors or resellers. ISI will respond within the following periods after receiving a call (with the category of call being determined by IFX and notified to ISI):
 - critical calls: 3 hours
 - serious calls: 5 hours
 - normal calls: 7 hours
2. Enhancement Request Handling. ISI will log all requests from IFX for enhancements to the Products and maintain a register of same.
3. Release Administration. ISI will manage the shipment of disks containing new versions of the Products, together with associated documentation.
4. Technical Backup and Co-ordination. ISI will act as a central technical advice centre for IFX and other distributors of the Products and help ensure that issues raised by one distributor that are of relevance to others are addressed accordingly.
5. Fault Report Administration. ISI will log all fault reports from IFX in relation to the Products and maintain a register of same.

ISI will normally provide the above services between the hours of 0900 and 1730 (UK local time) from Monday to Friday inclusive with the exception of UK Public Holidays.

SCHEDULE 6
Details of Notices

(1) Notices to IFX

Informatix, Inc.
Muza Kawasaki Central Tower 27F
1310 Omiyacho, Saiwai-ku, Kawasaki City
Kanagawa 212-8554,
Japan
Attention: President
Fax: +81 44 520 0844

(2) Notices to ISI

Informatix Software International Limited
509 Coldhams Lane
Cambridge CB1 3JS
United Kingdom
Attention: Managing Director
Fax: +44 1223 246 778

(3) Notices to Guarantor

Selective Software Holdings Limited
Unit 10, Progress Business Centre
Whittle Parkway
Slough
SL1 6DQ
United Kingdom
Attention: Managing Director
Fax: +44 1628 667 963

SCHEDULE 7

Details of Proposed Agreement with Fukui Computer etc (see clauses 7.3.2 and 10.5)

(1) Outline of Proposed Agreement with Fukui Computer

The agreement between IFX and Fukui is still under negotiation between IFX and Fukui. If the deal closes, then the outline of the deal is expected to be as follows:

- (a) IFX will have to deliver a new version of Piranesi incorporating several enhancements to the current product, namely: which enhancements have been, as of the Effective Date, discussed in considerable detail but not yet agreed to in sufficient detail to enumerate here.
- (b) The software would have to be delivered to Fukui by a certain date, which is still under negotiation.

Both (a) and (b) will only be affirmed in an IFX-Fukui contract ("FC Contract") which will only be signed with ISI's prior consent. (That contract is not yet signed, as at the Effective Date.)

(2) Work that ISI Must Do

IFX will be relying entirely on ISI to carry out the software development/engineering work required by Fukui under the FC Contract, so ISI will be obliged to do this work, as detailed in the FC Contract, and in accordance with the timescale required in the FC Contract.

(3) Payments to ISI

ISI estimates that the software development/engineering work will take 9-man weeks + 2 man-days to be charged to Fukui at a rate of £2,244 per man-week or a total of £21,094. IFX will be entitled to retain a 25% administrative fee from this, so ISI would only receive 75% of this number.

The deal under negotiation with Fukui is estimated to be worth 110,000,000 million Yen over a 3 year period, during which time Fukui may sell as many Piranesi licences as they want so long as these are bundled with the Fukui CAD system. This fee, as received by IFX, will be split 50-50 between ISI and IFX, with sales expected to start in October 2009. This means that (taking into consideration the 5% consumption tax applicable in Japan), there will be a monthly fee payable by Fukui of $110,000,000/1.05/36=2,910,052$ Yen/Month which means that by the end of 2009, (assuming sales start when expected) IFX would pay ISI (Oct-Nov) $3 \times 2,910,052 \times 0.5 = 4,365,079$ Yen. Thereafter (i.e. after the end of 2009) there would be no more revenue sharing.

IFX will make payments to ISI within 45 days of receiving the corresponding payment from Fukui, and against ISI's correct invoice.

Confidential

There is no software maintenance associated with this. If Fukui wanted to get new enhancements or versions, they would have to negotiate a brand new deal on a case by case basis. The enhancements to be put into Piranesi at the request and funding of Fukui will not in any way belong to Fukui; they get no IP rights in anything as a result. (So such enhancements will be part of the Products IPR and belong to IFX according to this Agreement.)

SCHEDULE 8
Fees Referred to in Clause 10.4

MicroGDS PricingAll prices in: **GBP**

Commercial Product Number	Description	Pre V10 Price	V10 Price
MGDS 10001	MicroDGS Pro	720	771
MGDS 10002	MicroDGS Plus	480	492
MGDS 10003	MicroDGS Compact3D	372	414
MGDS 10004	MicroDGS Compact	146	146
MGDS 10005	MicroGDS Pro Education	146	156
MGDS 10006	MicroDGS Compact3D Education	73	81
MGDS 10007	MicroDGS Compact Education	37	38
MicroGDS pro upgrades			
	Three or more version upgrade	612	660
	Two version upgrade	396	439
	Single version upgrade	218	266
	Point upgrade	72	107
MicroGDS Plus upgrades			
	Three or more version upgrade	0	0
	Two version upgrade	0	0
	Single version upgrade	0	0
	Point upgrade	0	0
MicroGDS Compact3D upgrades			
	Three or more version upgrade	316	357
	Two version upgrade	204	242
	Single version upgrade	108	144
	Point upgrade	54	88
MicroDGD Compact upgrades			
	Three or more version upgrade	144	144
	Two version upgrade	72	72
	Single version upgrade	72	72
	Point upgrade	24	24
Educational			
MicroGDS Pro ED upgrades			
	Three or more version upgrade	144	154
	Two version upgrade	72	80
	Single version upgrade	70	78
	Point upgrade	24	31
MGDS Compact3D Edu upgrades			
	Three or more version upgrade	72	80
	Two version upgrade	36	43
	Single version upgrade	36	43
	Point upgrade	12	18
MGDS Compact Edu upgrades			
	Three or more version upgrade	36	37
	Two version upgrade	36	37
	Single version upgrade	18	18
	Point upgrade	6	6
Conversions			
	Compact to Compact3D	226	
	Compact Educational to Compact 3D	36	
Maintenance and Support/year			
	MGDS Pro	218	266
	MGDS Pro Edu	70	78
	MGDS Compact3D	108	144
	MGDS Compact3D Edu	36	43
	MGDS Compact	72	72
	MGDS Compact Edu	18	18
NFRs (Not For Resale) – licence + maintenance/year			
	MGDS Pro	218	266
	MGDS Compact3D	108	144

MGDS Compact
Rental for Students

Compact 3D Education Annual Rental

72

72
20 per annum

Piranesi Pricing

All prices in: **GBP**

Piranesi

For both Windows and Macintosh platforms

1. Full product

Piranesi	173
Piranesi Edu	36
Piranesi Edu x 10	240
Piranesi replica server	1200
Piranesi replica server/year	300

2. Upgrades

Piranesi	Three or more version upgrade	121
	Two version upgrade	86
	Single version upgrade	72
Piranesi Edu	Three or more version upgrade	25
	Two version upgrade	18
	Single version upgrade	14
Piranesi Edu 10 Pack	Three or more version upgrade	168
	Two version upgrade	120
	Single version upgrade	96

3. Maintenance and Support/year

Piranesi	72
Piranesi Edu	14
Piranesi Edu x 10	96
Piranesi replica server	240

4. NFRs (Not For Resale) Licence + maintenance /year


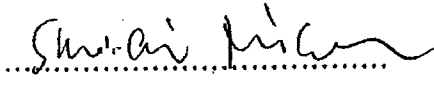
Piranesi	72
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5. Other Piranesi based products

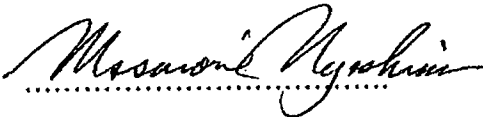
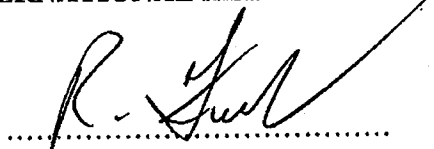
i-paint	80
e-paint	120

SIGNED and DELIVERED by the Parties acting by their duly authorised representatives:

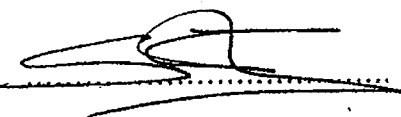
For and on behalf of INFORMATIX INC.

Signed by:		
Name:	Masanori Nagashima	Shoichi Mihara
Position/Title:	President	Director


For and on behalf of INFORMATIX SOFTWARE INTERNATIONAL LIMITED

Signed by:		
Name:	Masanori Nagashima	Ricardo Fuchs
Position/Title:	Chairman	Director

For and on behalf of SELECTIVE SOFTWARE HOLDINGS LIMITED

Signed by:	
Name:	Steven Michael David Evans
Position/Title:	Managing Director

By STEVEN MICHAEL DAVID EVANS

Signed:	
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