

BACKBASE END-USER LICENSE AGREEMENT

This Backbase End User License Agreement ("Agreement") sets forth the terms and conditions of your use of the Backbase software product(s) listed on the Product Order Form (the "Software"). Any third party software that is provided with the Software with such third party's license agreement (in either electronic or printed form) is included for use at your option. If you choose to use such software, then such use shall be governed by such third party's license agreement and not by this Agreement. As used in this Agreement, for residents of North or South America, "Backbase" shall mean Backbase USA Inc., whose place of business is at 635 Mariners Island Blvd, Ste. 200, San Mateo, CA 94404 USA.; for residents of all other countries, "Backbase" shall mean Backbase Europe BV, whose place of business is at Stephensonstraat 19, 1097 BA Amsterdam, The Netherlands.

1.0 Definitions.

1.1 "CPU" means the number of (web) server CPUs that deliver presentation logic (including Backbase) to a web browser. In order to calculate the number of CPUs, you can count the number of central developer servers, test & acceptance servers, fail-over servers and production servers. Backbase doesn't charge for developer workstations.

1.2 "Developer Seat" means a named user of Licensee's development and/or quality assurance staff.

1.3 "Documentation" means allonline help files or written instruction manuals regarding the use of the Software.

1.4 "Effective Date" means the date this Agreement comes into effect.

1.5 "Functional Application" means a self-contained software program that uses a server or group of servers to perform a specific business function or group of related functions directly for a group of end users (e.g., allowing an end user to shop for a product and enter an order for that product). In most circumstances a Functional Application will be tied to one domain. Examples of Functional Applications include but are not limited to: E-commerce transactions, customer support, sales force automation and customer relations management systems. The Functional Application is identified in the Product Order Form.

1.6 "Licensee" means the entity or individual identified in the Product Order Form.

1.7 "Maintenance" means the provision of Minor and Major Versions and Releases by Backbase under this Agreement. A "Minor Version" means a set of the Software in which detected shortcomings are being remedied, i.e. 3.1.1 > 3.1.2. A "Major Version" means a set of the Software in which in addition to possible corrections of detected shortcomings, small functional enhancements have been included, i.e. 3.1 > 3.2. A "Release" means a set of the Software in which substantial new –but successor- functionalities or other substantial changes are introduced, i.e. 3.0 > 4.0.

1.8 "Product Order Form" means the BackBase document executed by the parties and incorporated herein by reference, which sets forth and identifies the Licensee, the Software, the fees, the Functional Application, the Term and other specifics and terms of this Agreement not set forth or identified in the body of this Agreement.

1.9 "Purpose" means use of the Software by Licensee to build and maintain rich internet applications ("RIA") for use in and/or with the Functional Application.

1.10 "Software" means the object code of the computer program(s) Licensee has downloaded and/or specified in the applicable Product Order Form.

1.11 "Term" means the duration of this Agreement as specified in the Product Order Form.

1.11 "Territory" means the geographic region(s) specified in the Product Order Form.

2.0 Grant of Rights and Restrictions.

2.1 License Grant. Subject to the terms and conditions herein, Backbase grants to Licensee a limited, non-exclusive, non-transferable right and license during the Term and in the Territory to: (a) install and/or use the Software for the Purpose on one or more computers, provided, however, that the total number of CPUs and Developer Seats from all of the computers in which the Software is installed does not exceed the total number of CPU licenses and Developer Seats purchased for such installation and use; (b) copy the Software solely as necessary for backup or archival purposes; and (c) reproduce the Documentation in connection with Licensee's use for the Purpose. Except for the express license granted in this Section 2.1, no other licenses are granted by implication, estoppel or otherwise.

2.2 Restrictions. Licensee will not and will not permit third parties to: (a) modify, adapt, translate, copy, create derivative works from, disassemble, decode, reverse engineer, decompile or otherwise attempt to gain access to the source code, structure or proprietary algorithms of the Software, except as permitted by the inherent capabilities of the Software, and then only as necessary for the Purpose; (b) lease, loan, rent, resell, sublicense or distribute the Software to any third party, or use the Software for the benefit of any third party or otherwise use the Software on a service bureau basis; (c) exceed the number and type of licenses purchased under the Product Order Form (including without limitation, the number of CPUs and Developer Seats); or (d) modify or delete any copyright or proprietary notices or legends on or in the Software or Documentation. Licensee hereby waives any right it may have under any jurisdiction to reverse engineer the Software provided, however, if European Community law is applicable, the restrictions in this Section are limited so that they prohibit such activity only to the maximum extent such activity may be prohibited without violating the EC Directive on the Legal Protection of Computer Programs. Notwithstanding the foregoing, prior to any such legally excused decompiling, disassembly or reverse engineering of the Software, Licensee must first issue a written request to Backbase for information or assistance and Licensee shall refrain from decompiling, disassembling, or otherwise reverse engineering any of the Software unless Backbase cannot, or fails, to comply with such request within a commercially reasonable period of time.

2.3 U.S. Government End Users. The Software and Documentation qualify as "commercial items," as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R.12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, Licensee will provide to Government End Users the Software and software documentation with only those rights set forth herein that apply to non-governmental customers. Use of this Software and software documentation constitutes agreement by the government entity that the computer software and computer software documentation is commercial, and constitutes acceptance of the rights and restrictions herein.

3.0 Title. Backbase or its licensors own and retain all right, title and interest in the Documentation and Software, and any and all Major and Minor Versions, Releases, corrections, bug fixes, enhancements, derivative works, updates or other modifications thereto, including but not limited to all patents, trademarks, copyrights, trade secrets and other intellectual property rights therein ("Backbase Property"). Licensee shall keep the Software and Documentation free and clear of all claims, liens and encumbrances. Licensee agrees not to, directly or indirectly, challenge the right, title and interest of Backbase or its licensors in and to

the Backbase Property, or to register, apply for registration or attempt to acquire any legal protection for any of the Backbase Property. The Backbase Property shall under no circumstances be deemed to be “joint works of authorship,” “works made for hire,” or any other designation tending to imply that Licensee has or retains ownership or authorship rights thereto. To the extent that any such rights vest with Licensee by operation of law or for any other reason, Licensee hereby perpetually and irrevocably assigns all such rights to Backbase. At Backbase’s request and expense, Licensee shall execute all documents and perform all acts that Backbase may reasonably require in order to protect and perfect Backbase’s rights in the Backbase Property.

4.0 Warranty Disclaimer and Limited Warranty.

4.1 Disclaimer of Warranty. Sample application code of the Software, trial and evaluation versions of the Software and the Community Edition of the Software are provided on an “AS IS”, “WHERE IS” basis, without warranty of any kind, including without limitation any warranties that the sample application code, trial or evaluation versions, or Community Edition of the Software are free of defects, merchantable, fit for a particular purpose or non-infringing. The entire risk as to the quality and performance of the Sample application code of the Software, trial and evaluation versions of the Software and the Community Edition of the Software is borne by Licensee. Should the sample application code of the Software, trial or evaluation versions of the Software and the Community Edition of the Software prove defective in any respect, Licensee and not Backbase or its suppliers assume the entire cost of any service and repair. This disclaimer of warranty constitutes an essential part of this Agreement. No use of the sample application code of the Software, trial and evaluation versions of the Software and the Community Edition of the Software are authorized hereunder except under this disclaimer.

4.2 Limited Warranty for Software. If license fees have been paid for the Software, Backbase warrants that for a period of ninety (90) days from the date of first delivery (“Warranty Period”), the Software, if operated as directed, will substantially achieve the functionality described in the Documentation. Backbase does not warrant, however, that Licensee’s use of the Software will be uninterrupted or that the operation of the Software will be error-free or that all errors will be corrected. Licensee acknowledges and agrees that Licensee is solely responsible for determining that the Software sufficiently meets Licensee’s requirements. Backbase also warrants that if the Software is provided on physical media, that the media containing the Software will be free from defects in material and workmanship during the Warranty Period. Backbase’s sole liability and Licensee’s sole and exclusive remedy for any breach of this warranty shall be, in Backbase’s sole discretion: (a) to replace any defective media or Software; or (b) to advise Licensee how to achieve substantially the same functionality with the Software as described in the Documentation; or (c) if the above remedies are impracticable, to refund the license fee Licensee paid for the Software. Only if Licensee informs Backbase of a nonconformity with this warranty during the Warranty Period and provides evidence of the date Licensee purchased a license to the Software will Backbase be obligated to honor this warranty. Backbase will use reasonable commercial efforts to repair, replace, advise or, refund pursuant to the foregoing warranty within thirty (30) days of being so notified. If any modifications are made to the Software by Licensee; if the media is subjected to accident, abuse, or improper use; or if Licensee violate the terms of this Agreement, then this warranty shall immediately terminate. This warranty shall not apply if the Software is used on or in conjunction with hardware or software other than the unmodified version of hardware and software with which the Software was intended to be used as described in the Documentation. THIS IS A LIMITED WARRANTY, AND IT IS THE ONLY WARRANTY MADE BY BACKBASE OR ITS SUPPLIERS. BACKBASE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT OF THIRD PARTIES’ RIGHTS. LICENSEE MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE ABOVE LIMITED WARRANTY PERIOD. MOREOVER, IN NO EVENT WILL WARRANTIES PROVIDED BY LAW, IF ANY, APPLY UNLESS THEY ARE REQUIRED TO APPLY BY STATUTE NOTWITHSTANDING THEIR EXCLUSION BY CONTRACT. NO DEALER, AGENT, OR EMPLOYEE OF

BACKBASE IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSIONS, OR ADDITIONS TO THIS LIMITED WARRANTY.

5.0 Limitation of Liability. IN NO EVENT SHALL BACKBASE BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, LOSS OF USE, LOSS OF DATA, COMPUTER FAILURE OR MALFUNCTION, HOWEVER CAUSED, AND WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY, EVEN IF BACKBASE HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES. IN NO EVENT SHALL BACKBASE’S CUMULATIVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR LICENSEE’S USE OF THE SOFTWARE EXCEED THE AMOUNT RECEIVED BY BACKBASE FROM LICENSEE PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE DATE THE CAUSE OF ACTION AROSE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE CONSIDERATION EXCHANGED HEREUNDER IS BASED IN PART UPON THE ABOVE LIMITATIONS, AND FURTHER AGREE THAT SUCH LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

6.0 Indemnification.

6.1 Indemnification by Backbase. Backbase will, at its expense, defend or settle and will hold Licensee harmless for any claim, action or allegation (“Claim”) brought against Licensee that the Software, Documentation or any material furnished or provided infringes any US or EU copyright or trade secret (“Claim”) and will pay any final judgments awarded or settlements entered into, provided that Licensee notifies Backbase in writing within thirty (30) days of the discovery of any such Claim, and gives Backbase the authority to proceed as contemplated herein. Backbase will have the exclusive right to control and defend any such Claim and make settlements thereof at its own discretion either in our outside of any court proceeding, and Licensee may not settle or compromise such Claim, except with prior written consent of Backbase. Licensee will give such assistance and information as Backbase may reasonably require to settle or oppose such Claims. In the event any such Claim is brought or threatened, or if in the opinion of Backbase be likely to become, the subject of a Claim, Backbase may, at its sole option and expense: (a) procure for the Licensee the right to continue to use the Software or infringing part thereof; (b) modify or amend the Software or infringing part thereof, or replace the Software or infringing part thereof with other software having substantially the same or better capabilities; or (c) if neither of the foregoing is commercially practicable, Backbase may terminate the license and this Agreement with respect to the infringing part of the Software.

6.2 Exclusions. Backbase will have no obligation or liability under Section 6.1 for any Claim based on: (a) any unauthorized use or reproduction of the Software or Documentation by the Licensee; (b) use of other than the most recent update of the Software if infringement could have been avoided by use of the most current update to the extent that the most recent update has been provided to the Licensee; (c) use of the Software in combination with products, equipment, software (including the Functional Application), or data not provided by Backbase, if such infringement would have been avoided in the absence of such combination; (d) compliance by Backbase with specifications or instructions supplied by Licensee; (e) use or incorporation in the Software of any design, technique or specification supplied by Licensee if the infringement would not have occurred but for such use or incorporation; or (f) modification of the Software by the Licensee or a third party. The provisions of Section 6.1 and 6.2 state Backbase’s entire liability and Licensee’s sole and exclusive remedy for any violation or infringement of intellectual property rights.

6.3 By Licensee. Licensee shall defend, indemnify and hold harmless Backbase and its officers, directors, employees and shareholders from and against any and all loss, damage, settlement, costs or expense (including legal expenses and expenses of other professionals), as incurred, resulting from, or arising out of: (a) any third party claim which alleges that the Functional Application infringes upon, misappropriates or violates any intellectual property rights where such claim is completely independent of the Software; (b) is based upon Licensee’s use of the Software except to

the extent Backbase is responsible under Section 6.1; and (c) breach by Licensee of Section 2.1, 2.2, 2.3 or 7.0.

7.0 Confidential Information. “Confidential Information” shall mean the terms of this Agreement, the Software in object and source code, the Documentation and all technical and other business information of either Backbase or Licensee which is marked as confidential in writing or, if disclosed orally, is identified as confidential at the time of disclosure. Each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except as set forth herein, and shall use reasonable efforts not to disclose such Confidential Information to any third party. Without limiting the foregoing, each party shall use at least the same degree of care which it uses to prevent the disclosure of its own confidential information of like importance to prevent the disclosure of Confidential Information disclosed to it by the other party under this Agreement. Each party agrees that it will make Confidential Information available only on a “need to know” basis and only to its employees and representatives who are bound in writing to protect the confidentiality of such Confidential Information. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of such other party’s Confidential Information, and, upon the request of the other party, shall promptly return to the other party all copies of Confidential Information within its possession or control. Notwithstanding the foregoing, a party shall have no liability to the other party with regard to any Confidential Information of such other party which the receiving party can demonstrate: (a) was in the public domain at the time it was disclosed or has entered the public domain through no fault of the receiving party; (b) was known to the receiving party without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (c) was disclosed with the prior written approval of the disclosing party; (d) was independently developed by the receiving party without any use of the Confidential Information of the other party, as demonstrated by files created at the time of such independent development; or (e) is required to be disclosed by law or pursuant to the order or requirement of a court, administrative agency or other governmental body; provided that the receiving party provides prompt written notice thereof to the disclosing party to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure.

8.0 Fees, Payment, Taxes and Audit.

8.1 Fees. Licensee shall pay the fees and charges set forth in the Product Order Form in accordance with the terms therein (the “Charges”). Unless otherwise set forth in the Product Order Form, Charges shall be due within thirty (30) days of the date of each invoice. Licensee shall make payment to Backbase in [the currency and to the address in the Product Order Form, or at such other address as Backbase designates on the billing statement. Except as may be otherwise expressly set forth herein, all Charges are non cancelable and non-refundable. Backbase may impose service charges not exceeding one and one-half percent (1.5%) per month, or such lesser amounts as may be permitted under applicable law, on past due accounts which are not disputed.

8.2 Taxes. Licensee shall pay all applicable sales, use, value added or other taxes, federal, state or otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement, excluding taxes based on Backbase’s net income.

8.3 Audit. Licensee will keep records of each copy of the Software, its location and usage, and will make such records available for inspection by Backbase upon ten (10) days written notice. Not more than once per calendar year, at Backbase’s expense and upon ten (10) days written notice, Backbase shall have the right to audit Licensee’s use of the Software to ensure compliance with the terms of this Agreement. In the event that Backbase discovers that Licensee is using the Software in a manner inconsistent with this Agreement, and/or beyond the scope of the Purpose, then, in addition to Backbase’s other rights under law or equity, Licensee shall reimburse Backbase for the costs of the audit.

9.0 Maintenance and Support.

9.1 Maintenance. Provided Licensee has paid the applicable fees and is not otherwise in default of this Agreement, Licensee is entitled to receive Maintenance. Maintenance will start upon the Effective Date and remain in

force until a period of one (1) year. Maintenance will automatically renew on each anniversary of the Effective Date unless Licensee has provided Backbase with a written notice of its election not to renew Maintenance at least thirty (30) days prior to the expiration of the then current Maintenance term. No termination on the basis of this provision will entitle Licensee to a refund of any portion of the Maintenance fees paid to Backbase.

9.2 Support. Provided Licensee has paid the applicable fees and is not otherwise in default of this Agreement, Licensee is entitled to receive technical support pursuant to the support level mentioned in the Support Order Form as shown on the website <http://www.backbase.com> and as may be amended from time to time.

10.0 Non-assignment. Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Licensee, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of Backbase. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

11.0 Term and Termination.

11.1 Term. This Agreement shall commence on the Effective Date and shall continue, unless terminated earlier as set forth in Section 11.2 for the duration of the Term, unless terminated earlier as set forth in Section 11.2.

11.2 Termination. Either party may terminate this Agreement: (a) upon written notice in the event the other party materially breaches the terms and conditions of this Agreement and such breach remains uncured for a period of thirty (30) days following written notice thereof; or (b) at any time upon written notice in the event the other party makes a general assignment for the benefit of its creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to or initiates a proceeding under any bankruptcy or insolvency law or has wound up or liquidated its business. Backbase may terminate this Agreement upon written notice: (x) in the event Licensee breaches Sections 2.1, 2.2, 2.3, 3.0 or 7.0 of this Agreement, (y) in the event Licensee fails to pay any Charges when due hereunder and such failure is not cured within five (5) days of written notice thereof from Backbase; or (z) in the event that Licensee is acquired by, acquires, merges with, or sells substantially all of its business or assets to an entity whose business includes the development, marketing or distribution of a product or products that compete with the core functions of the Software.

11.3 Survival. Upon any termination of this Agreement the following sections, and all payment obligations that have accrued prior to such termination, shall survive: 1, 3.0, 5.0, 7.0, 11.3 and 12. Upon termination of this Agreement, Licensee agrees to forthwith discontinue any use of the Software, Documentation, Confidential Information and derivative works or copies thereof. Licensee agrees to supply Backbase with an affidavit signed by an executive officer of Licensee verifying that this provision has been complied with, and immediately return the Software and Documentation and copies thereof to Backbase.

12.0 Miscellaneous

12.1 Force Majeure. Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquakes, fire and explosions, but the inability to meet financial obligations is expressly excluded. In addition, Licensee is aware that the Software is connected with or wholly or partially based on an portfolio of third party technology products, industry standards and/or official standards such as HTML, XHTML, Javascript, CSS/Cascade Style Sheets, XML, XSLT, XPath and e.g. internet related aspects as bandwidth, firewalls, cpu/computer processor units etc. which is ever changing or may be even be succeeded by yet unknown new products or techniques. Therefore performance interruptions due to such cause(s) are excluded from any liability of Backbase to Licensee or any of its affiliates and form a force majeure.

12.2 Waiver. Any waiver of the provisions of this Agreement or any agreement related to this Agreement or of a party's rights or remedies under this Agreement or an agreement related to this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or agreement related to this Agreement, or its rights or remedies at any time will not be construed nor deemed to be a waiver of such party's rights under this Agreement or any agreement related to this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or any agreement related to this Agreement or prejudice such party's right to take subsequent action.

12.3 Applicable Law and Jurisdiction. This agreement will be governed by and interpreted in accordance with: (a) if Licensee is a North or South American legal entity, the laws of the State of California, without giving effect to principles of conflict of laws, and Licensee hereby consents to the exclusive jurisdiction and venue of the state courts sitting in San Francisco County, California or the federal courts in the Northern District of California to resolve any disputes arising under this Agreement;(b) if Licensee is a legal entity anywhere else in the world, the laws of the Netherlands, and any dispute arising out of, or in connection with, this Agreement that is not amicably resolved between the parties will be submitted to the District Court of Amsterdam. In each case this Agreement shall be construed and enforced without regard to the United Nations Convention on the International Sale of Goods.

12.4 Severability. If any term, condition, or provision in this Agreement or Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties will endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

12.5 Independent Parties. The parties will at all times be independent parties and will present themselves to all other parties as such. Regardless of the naming conventions used in this Agreement and the agreements related to this Agreement (i.e. "Licensee" and the like), unless otherwise expressly stated in the Agreement, nothing in this Agreement will be construed to make either party, and each party agrees that it is not an agent, employee, franchisee, joint venture or legal representative of the other party. Each party hereto is an independent contractor. In particular parties did not enter into an agreement regarding the Dutch legal entities such: "maatschap", "vennootschap onder firma" or "agentuur". Except as otherwise provided in this Agreement, neither party will either have or represent itself to have any authority to bind the other party or act on its behalf.

12.6 Export. Licensee hereby acknowledges that the Software supplied by Backbase under the Agreement is subject to export or import controls under the laws and regulations of the United States (U.S.). Licensee shall comply with such laws and regulations, and agrees not to knowingly export, re-export, import or re-import or transfer Software without first obtaining all required U.S. Government authorizations or licenses. Backbase and Licensee each agree to provide the other such information

and assistance as may be reasonably required by the other in connection with securing such authorizations or licenses, and to take timely action to obtain all required support documents.

12.7 Notices. Any notices required or permitted under the terms of this Agreement or required by law will (unless otherwise provided) be in writing and will be delivered in person, or send by registered mail, email or fax to the respective Contact Persons indicated in the Agreement(s) as updated from time to time upon notification by one party to the other party. Any such notice will be considered to have been given at the time of actual delivery in person or, if sent by email or fax, at the time mentioned on the transmission result report, or in any other event within 12 days after it was mailed in the manner specified above. Copy of notices to Backbase will be sent to Backbase at the address mentioned in this Agreement. Backbase will promptly inform Licensee about new address information when needed.

12.8 Equitable Relief. Each party acknowledges that a breach by the other party of any confidentiality or proprietary rights provision of this Agreement (and a breach by Licensee of Section 2.4) will cause the non-breaching party irreparable damage, for which the award of damages would not be adequate compensation and the non-breaching party is therefore entitled to obtain prompt injunctive relief to enjoin the breaching party from any and all acts in violation of those provisions without the necessity of posting a bond or other security. Such injunctive relief remedy shall be cumulative and not exclusive and the non-breaching party is entitled to seek any other relief available to such party at law or in equity.

12.9 High Risk Activities. The Software is not fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). Accordingly, Backbase and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.

12.10 Entire Agreement. This Agreement, including the Product Order Form (and if applicable, the Support Order Form), which is incorporated herein by reference, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior and contemporaneous oral or written communications between the parties relating in any way to the subject matter hereof. This Agreement is intended by the parties to be a complete and wholly integrated expression of their understanding and agreement. No terms or conditions of any purchase order, acknowledgement or other business form that Licensee may use in connection with the acquisition or licensing of the Software and related services will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of Backbase to object to such terms, provisions or conditions. This Agreement may only be modified by a written document executed by the parties hereto. There are no conditions, understandings, agreements, representations, or warranties expressed or implied, that are not specified herein. This Agreement may be executed in two counterparts, each of which shall be an original and together which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by duly authorized representatives.

LICENSEE

By: _____
Signature

Name: _____
Print or Type

Title: _____

Date: _____

BACKBASE

By: _____
Signature

Name: _____
Print or Type

Title: _____

Date: _____