

IMBERCAL LIMITED – PROVISION OF ONLINE ACCOUNTING SERVICE TERMS & CONDITIONS

These terms and conditions relate to your accessing and using the Imbercal website.

General

The terms and conditions set out in this agreement shall apply between The Company and The User in respect of the installation and provision of an online accounting function.

The User agrees that in entering into this agreement The User shall not rely on any representation or understanding (whether oral or in writing) that is not included in this agreement.

Imbercal may change these terms from time to time at its absolute discretion without prior notice to The User and The User acknowledges that such changes will be binding.

If any provision set out in this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of other provisions and remainder of the provisions held invalid shall not be affected.

Service Provided

Imbercal agrees to the best of its ability that the service will be provided 24 hours per day, seven days per week, and 365 days per year.

The User is responsible for providing and maintaining a suitable internet connection.

Imbercal recommends a broadband / ADSL connection.

The User undertakes to comply with any and all instructions provided and not to use the system for any immoral or illegal purpose.

Security and Data Protection

The User must not disclose any passwords to a third party.

The User must advise Imbercal if they have any concerns that the privacy or integrity of their passwords may have been breached.

Each party shall ensure that it complies with the Data Protection Act.

Imbercal will undertake all reasonable security measures to ensure the integrity and security of all data stored on the System.

Imbercal offers to provide a secure (SSL) connection, if The User chooses not to use this connection they do so in the full knowledge that their data is being transmitted in an unencrypted form.

Payment Terms

On receipt of payment Imbercal will grant access to the System.

A monthly or yearly fee is payable for the provision of use of the System.

The fees are payable in advance.

Imbercal reserves the right to amend its charges.

All charges and fees quoted are inclusive of VAT unless otherwise stated.

Imbercal reserves the right to withdraw The User's access to the System if payments are not made on time.

Upgrade/downgrade: The User can upgrade or downgrade their account at any time.

Term and Termination

The agreement shall take effect when The User first subscribes to use the System.

The agreement shall be terminated by The User if they cancel their subscription or fail to pay their relevant subscription.

Imbercal can terminate this agreement with immediate effect if there is a serious breach of the terms and conditions by The User or by giving not less than 90 days prior notice.

On termination of the agreement Imbercal shall cease to make the System available to The User and reserves the right to restrict access to any information of The User.

Imbercal reserves the right to delete all information held for a ceased User after 24 months following receipt of the last paid subscription.

Liability

Imbercal shall not be liable for any loss of data.

Imbercal shall not be liable for any failure in The User's equipment.

The total liability of Imbercal howsoever arising, whether singly or in multiple, in relation to this agreement shall be restricted to the total fees payable by The User in a calendar year.

Neither The User or Imbercal shall be deemed to be in breach of their respective obligations if the cause or reason is beyond either party's control.

Warranties

In so far as is permitted by law, Imbercal gives no warranty about the System.

Imbercal does not warrant that the System will meet The User's requirements or that it will be suitable for The User's purposes.

Imbercal does not warrant that access to the System will be uninterrupted or error free.

Qualifications

In this agreement Imbercal shall include its successors and assigns.

This agreement is exclusive to The User and is not transferable without written consent of Imbercal.

This agreement and all conditions therein are subject to and governed by English Law.

The User shall assume full responsibility for the information and results obtained from the System.

Future Developments

The system will continue to evolve with new features being added and refined and Imbercal reserves the right to replace or remove certain features and facilities altogether. All improvements will be automatically incorporated to existing Users' records.

Confidentiality

Both parties agree that they shall at all times (both during the term of this agreement and after its termination) keep confidential, and shall not use (other than strictly for the purposes of this agreement) and shall not, without the prior written consent of the other, disclose to any third party any Confidential Information, unless the information:

- (a) was public knowledge or already known to the party at the time of disclosure; or
- (b) subsequently becomes public knowledge other than by breach of this agreement;
or
- (c) subsequently comes lawfully into the possession of the party from a third party.

All documents and other records (in whatever form) containing Confidential Information supplied to or acquired by either party to the other shall be returned promptly on termination of this agreement, and no copies shall be kept.

Force Majeure

The obligations of each party under this agreement shall be suspended during the period and to the extent that that party is prevented or hindered from complying with them by any cause beyond its reasonable control, including (insofar as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock-outs, labour disputes, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workmen, materials, goods or raw materials in connection with the performance of this agreement.

In the event of either party being so hindered or prevented, the party concerned shall give notice of suspension to the other party as soon as reasonably possible, stating the date and extent of the suspension and its cause, and the omission to give such notice shall forfeit the rights of that party to claim suspension. Any party whose obligations have been suspended as aforesaid shall resume the performance of those obligations as soon as reasonably possible after the removal of the cause and shall so notify the other party. In the event that the cause continues for more than six months, either party may terminate this agreement by giving the other party 30 days' notice.

Severability

If any part of this agreement becomes invalid, illegal or unenforceable, the parties shall in such an event negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the invalid, illegal or unenforceable provision which as nearly as possible gives effect to their intentions as expressed in this agreement. Failure to agree on such a provision within six months of commencement of those negotiations shall result in automatic termination of this agreement. The obligations of the parties under any invalid, illegal or unenforceable provision of the agreement shall be suspended during such a negotiation.

Rights of Third Parties

No term of this agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

Notwithstanding that any term of this agreement may be or become enforceable by a person who is not a party to it, the terms of this agreement or any of them may be varied, amended or

modified or this agreement may be suspended, cancelled or terminated by agreement in writing between the parties, or this agreement may be rescinded (in each case) without the consent of any such third party.

Notices

Any notice required to be given pursuant to this agreement shall be in writing and shall be given by delivering the notice by hand at, or by sending the same by prepaid first class post (airmail if to an address outside the country of posting) to the address of the relevant party set out in this agreement, or such other address as either party notifies to the other from time to time. Any notice given according to the above procedure shall be deemed to have been given at the time of delivery (if delivered by hand) and when received (if sent by post).