

Terms and Conditions of Sale for Compssoft (UK) Ltd ("Compssoft") and the party or parties contracting to purchase Goods and/or Services.

All orders are accepted subject to the terms and conditions of sale laid out below. These terms and conditions shall only be varied or special terms and conditions agreed in exceptional circumstances and any such variations or special terms and conditions will only apply with the written agreement of a Director of Compssoft.

## 1. Definitions

In these conditions:

"Client" means the person who accepts a quotation of Compssoft and whose order is acted by Compssoft.

"Client Input Material" means any documents or other materials and any other data, software, source code, Intellectual Property rights or other information whatsoever provided by the Client prior to or during the term of this Agreement

"Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any variation or special terms and conditions agreed in writing between a Director of Compssoft and the Client.

"Contract" means the contract for the purchase and sale of the Goods or Services subject to these Conditions.

"Fixed Cost/Fixed Specification" means Services where the Client engages Compssoft to deliver a piece of work to an agreed Specification for a pre-agreed price.

"Goods" means computer software and hardware, including Output Material, details of which are set out in the order which Compssoft is to supply in accordance with these Conditions.

"Intellectual Property" means all patents, trade marks, rights pursuant to passing off, trade or business names, registered designs, utility models, applications for the rights to apply for any of the foregoing, design rights, copyright (including rights in software), database rights, domain names, any rights in any invention, discovery or process, know-how and rights in secret or confidential information (including technical and commercial trade secrets) and all other intellectual property rights of any description, in each case whether registered or not and including any application for registration and renewals or extensions or revivals of such rights which may subsist in any part of the world.

"Licence" means the terms and conditions provided with each piece of software supplied or delivered by Compssoft or, if no terms and conditions are provided, the standard terms and conditions for that piece of software in effect at that time.

"Licensed Software" means a computer program and any related documents created by Compssoft for general sale and licensed to the Client.

"Output Material" means any documents or other materials and any data, software, source code, Intellectual Property rights or other information developed or created by Compssoft specifically for the purpose of fulfilling the Contract.

"SaaS Service Provider" means the third party responsible for operation of a Software as a Service solution.

"Services" means the provision of consultancy, design, development, testing or support services by Compssoft's employees and agents.

"Third Party Service Provider" means any person or organization to whom Compssoft has sub-contracted any aspect of the Services.

"Third Party Software" means any software in which the Intellectual Property is owned by a third party which is supplied by Compssoft to the Client under this Agreement.

"Time and Materials" means Services where the Client engages Compssoft to provide suitably skilled personnel working either at Compssoft or the Client's offices in return for payment of an agreed hourly or daily rate.

## 2. Interpretation

a) All references to any statute or statutory or other legislative provision shall be interpreted as a reference 1) to any statute or provision in force at the date of the Contract as it may have been amended, consolidated or re-enacted and 2) to any statute or provision that amends, extends, consolidates or replaces the same and in either case includes all instruments, regulations, other subordinate legislation or orders made under the relevant statute or statutory or other legislative provision.

b) A reference to any gender shall include the other and neuter gender and a reference to a "person" includes a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, association or partnership (whether or not having separate legal personality).

c) References to "indemnify" and "indemnifying" any person in relation to any circumstance include indemnifying and keeping him indemnified from and against all liabilities, losses, claims, demands, damages, costs, expenses and interest which he may actually suffer or incur directly arising out of such circumstance after the date of the Contract.

d) Words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of act, matter or thing; or by reason of the fact that they are followed by particular examples intended to be embraced by those general words.

e) The headings are inserted for convenience only and shall not affect the construction of these terms and conditions.

## 3. Quotations and Acceptance

(a) Quotations given by Compssoft are valid for 30 days (except where otherwise stated). A binding contract shall arise on receipt by Compssoft of the Client's order which matches the Compssoft quotation and subject to the provisions of clause 4 (d) below.

(b) Compssoft will not accept any variation or modification of these terms or conditions or any other quoted terms or conditions unless the same are specifically agreed by a Compssoft Director in writing. The placement of any order by a Client shall be deemed to constitute acceptance of these terms.

## 4. Basis of the Sale

(a) Compssoft shall sell and the Client shall purchase the Goods and Services in accordance with the written quotation of Compssoft and these Conditions shall govern the Contract to the exclusion of any other terms and conditions specified by the Client, unless agreed by Compssoft in writing.

(b) Compssoft its employees and agents are not authorised to make any representation concerning the Goods and Services unless confirmed by Compssoft in writing. In entering into the contract, the Client acknowledges that it does not rely on, and waives any claim for breach of any such representations which are not so confirmed.

(c) Any advice or recommendations given by Compssoft its employees or agents to the Client's employees or agents as to the application or use of the Goods which is not confirmed in writing by

Compssoft is followed or acted upon entirely at the Client's own risk and accordingly Compssoft shall not be liable for any such advice or recommendation which is not so confirmed.

(d) Any typographical clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by Compssoft shall be subject to correction without any liability on the part of Compssoft.

## 5. Orders and Specifications

(a) The Client shall be responsible to Compssoft for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Client, and for giving Compssoft any necessary information relating to the Goods or Services within a sufficient time to enable Compssoft to perform the Contract in accordance with the terms, and time shall not be deemed to be of the essence of the Contract.

(b) The quantity quality and description of and any specification for the Goods or Service shall be those set out in Compssoft's quotation with such amendments as are accepted by Compssoft in writing

(c) Compssoft reserves the right to make any changes in the specification of the Goods or Services which are required to conform with any applicable safety or other statutory requirements or, where the Goods or Services are to be supplied to Compssoft's specification, which do not materially affect their quality or performance.

(d) No order may be cancelled by the Client except with the agreement in writing of Compssoft and on terms that the Client shall indemnify Compssoft in full against all loss (including loss of profit), damages, charges and expenses incurred by Compssoft as a result of cancellation.

## 6. Price

(a) The price of the Goods and Services does not include VAT unless specifically stated and the Client shall be additionally liable to pay the VAT to Compssoft at the rate applicable at the time of delivery.

(b) The price of the Goods and Services shall be Compssoft's quoted price or where no price has been quoted (or a quoted price is no longer valid), the price listed in Compssoft's published price list current at the date of acceptance of the order by Compssoft. Unless otherwise stated in writing all prices quoted are valid for 30 days only or until earlier acceptance by the Client, after which time they may be altered by Compssoft without giving notice to the Client.

(c) Compssoft reserves the right to suspend or cancel any unfulfilled Contract where payment for any previous Contract remains outstanding after due date of payment or where in the reasonable opinion of Compssoft the Client is unlikely to be able to or willing to pay his debts as they fall due.

(d) Any delivery period quoted is an estimate only so that time will not be of the essence provided Compssoft takes all reasonable steps to deliver the Goods or Services at the time stated. Compssoft shall be under no liability whatsoever for failure to deliver within any stated delivery period.

## 7. Contract Parameters and Variation Charges

The contract relates only to the Goods and Services detailed in Compssoft's quotation and shall not include accessories, optional extras or Services other than those detailed therein. Installation or the provision of Services shall be limited to the description laid out in Compssoft's quotation. If Compssoft incurs extra expense through variations in the original Contract under the instructions of the Client or the Client's authorised representative or through incomplete or incorrect information provided by the Client or the Client's representative or through errors in work which are not under Compssoft's control or through delays, then the Client shall be charged labour at Compssoft's current labour rate, vehicle mileage at the Compssoft current rate, travel by air, train or similar means at cost and materials or accessories at Compssoft's current list price.

## 8. Payment

(a) Payment by the Client shall be due within the payment period set out in Compssoft's quotation. Any discount specified by Compssoft shall apply only where the payment is made and received within the aforesaid period. If no payment period is set out in these documents, payment shall be due immediately. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

(b) If the Client fails to make any payment on the due date then, without prejudice to any other right or remedy available to Compssoft, Compssoft shall be entitled to:

(i) cancel the Contract or suspend any further deliveries to the Client;

(ii) appropriate any payment made by the Client to such of the Goods or Services (or the Goods or Services supplied under any other contract between the Client and Compssoft) as Compssoft may think fit (notwithstanding any purported appropriation by the Client); and

(iii) charge the Client interest (both before and after any judgement) on the amount unpaid, at the rate of 2 per cent per month until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

## 9. Patent Rights

The sale of the Goods and the publication or any information or technical data relating thereto does not imply freedom from patent, registered design or other industrial property rights in respect of any particular application of the Goods.

## 10. Insolvency of the Client

(a) This clause applies if: -

(i) the client makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

(ii) an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Client; or

(iii) the Client ceases, or threatens to cease, to carry on business; or

(iv) Compssoft reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.

(b) If this clause applies then, without prejudice to any other right or remedy available to Compssoft, Compssoft shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Client and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement to the contrary.

## 11. Law

Any question relating to any quotation or any contract subject to these Conditions or agreed amendment of these Conditions shall be determined in all respects by the laws of England and the parties agree to submit to the exclusive jurisdiction of the English Courts.

## 12. Waiver

Compssoft's rights under these Conditions shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time nor by any failure of or delay by Compssoft in ascertaining or exercising any such rights or remedies. The rights and remedies in these Conditions are cumulative and exclusive of any rights and/or remedies provided by law.

## 13. Assignment

The Client shall not assign, transfer or charge its rights and responsibilities under these terms and conditions or any of them, without the prior written consent of Compssoft

## 14. Severance

The provisions of these terms and conditions are severable and distinct from one another, and, if at any time

any of the provisions of these Conditions is or becomes invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions shall not in any way be affected or impaired.

#### **15. Force Majeure**

Compsoft shall not be liable to the Client or be deemed to be in breach of the contract by reason of any delay in performing or where any failure was due to any cause beyond Compsoft's control, without prejudice to the generality of the foregoing the following shall be regarded as causes beyond Compsoft's reasonable control:

- (i) act of god, explosion, flood, tempest, fire or accident;
- (ii) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- (iii) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- (iv) import or export regulations or embargoes;
- (v) strikes, lockouts or other industrial actions or trade disputes (whether involving employees or Compsoft or a third party);
- (vi) difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- (vii) power failure or breakdown in machinery;
- (viii) subject as expressly provided in these conditions, all warranties, conditions or other terms in respect of the Goods or the installation implied by statute

#### **16. Limitation of Liability**

(a) Except in respect of death or personal injury caused by Compsoft's negligence, Compsoft shall not be liable to the Client by reason of any representation or any implied warranty, condition or other term, or any duty at common law or under the express terms of the contract, for any consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims for consequential compensation whatsoever and whether caused by the negligence of Compsoft, its employees or Agents or otherwise which arise out of or in connection with the supply of the Goods or Services or their use or resale by the Client, except as expressly provided in these Conditions.

(b) Where any valid claim in respect of any of the Goods or Services which is based on any defect in the quality or condition of the Goods or Services or their failure to meet specification is notified to Compsoft in accordance with these conditions Compsoft shall be entitled to replace the Services or Goods (or the part in question) free of charge or at Compsoft's sole discretion, refund to the Client the price of the Goods or Services (or a proportionate part of the price), but Compsoft shall have no further liability to the Client. Compsoft's liability in respect of any loss incurred by the Client shall be limited to the difference if any of the cost to the Client of replacement Goods and Services.

#### **17. Services and Output Material**

##### **17.1 Skill and Care**

The Supplier shall exercise reasonable skill and care in the provision of the Services using suitably qualified and supervised personnel.

##### **17.2 Third-Party Service Providers**

Compsoft may, in its sole discretion from time to time engage, or cause a Supplier Third-Party Service Provider to perform, any Service on its behalf. Compsoft remains responsible for the provision of all and any Services that it outsources to a Third-Party Service Provider.

##### **17.3 Access to Client Resources**

The Client shall provide to Compsoft such information and access to its own equipment, systems, networks and personnel as is reasonably required to enable Compsoft or any Supplier Third-Party Service Provider to provide the Services. The Supplier shall use all reasonable endeavours to ensure that such access doesn't in any way disrupt the business of the Client, and further that wherever possible access will be during the Client's usual working hours.

##### **17.4 Notification of Failure/Delay**

Compsoft shall use reasonable endeavours to promptly notify the Client of any failure or delay in the provision of any services under this Agreement and the nature and (to the extent known) the reasons for such delay or failure.

##### **17.5 Intellectual Property Rights – Output Material**

For all Output Material Compsoft shall retain the Intellectual Property Rights, excluding any Client Input Material, and shall issue the Client with an irrevocable, royalty free, worldwide, non-exclusive and unrestricted licence (including the rights to modify and to sub-licence) to the Output Material. Source code to the application shall be provided on final payment.

##### **17.6 Fixed Cost/Agreed Specification**

For Services delivered on a Fixed Cost/Agreed Specification basis Compsoft shall provide and the Client shall accept the Services in accordance with the agreed Specification.

##### **17.7 Time and Materials**

For Services delivered on a Time and Materials basis subject to paragraph 17.1 the Client shall be liable to pay without exception for all time spent. Compsoft makes no warranty as to the accuracy of any estimates provided.

#### **18. Licensed Software**

By agreeing to purchase Goods comprising software the Client agrees to comply with the terms of the licence supplied with Compsoft's software products. For Licensed Software, property in the Goods shall not pass to the client and the terms of the Licence related to that software shall always take precedent over these Terms and Conditions of Sale.

#### **19. Resold Goods and Services**

##### **19.1 Price of Resold Goods**

Compsoft reserves the right by giving notice to the Client at any time before delivery, to increase the price of Goods or Services to reflect any increase in the cost to Compsoft which is due to any factor beyond its control (such as, without limitations any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase to cost of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Client, or any delay caused by instruction of the Client or failure of the Client to give Compsoft adequate information or instructions.

##### **19.2 Warranty**

In respect of Goods of which Compsoft is not the original manufacturer Compsoft warrants that the Goods will correspond with their specification at the time of delivery and the Client shall only be entitled to the benefits of any such warranty or guarantee by the manufacturer to Compsoft and Compsoft agrees to assign to the Client (insofar as it is able) the benefit of any warranty granted to Compsoft by the manufacturer of the Goods. A refund for non-compliant Goods shall only be provided if an equivalent refund has been received by Compsoft from the supplier. Compsoft

accepts no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Compsoft's instruction (whether oral or in writing), misuse or alteration or repair of the Goods without Compsoft's prior written approval.

##### **19.3 Software as a Service (SaaS)**

In respect of any third party Software as a Service (SaaS) solution of which Compsoft is not the Service Provider Compsoft warrants that the solution will correspond with its specification at the time of implementation and the Client shall only be entitled to the benefits of any such warranty or guarantee by the service provider to Compsoft and Compsoft agrees to assign to the Client (insofar as it is able) the benefit of any warranty granted to Compsoft by the provider of the SaaS solution. A refund for non-compliance shall only be provided if an equivalent refund has been received by Compsoft from the SaaS Service Provider. The Client shall be responsible for complying with all terms and conditions of use of the service as published by the service provider and amended from time to time.