

C.B.Software – Terms & Conditions of Sale

(Last updated 24 January 2021)

- (1)** In this Agreement “The Supplier” means C.B.Software and “The Customer”, “The Location”, “Equipment”, and “Price” are as specified in the Quotation or Invoice (“The Invoice”) to which these Terms and Conditions apply. For the avoidance of doubt “Price” means the total of all those amounts specified in the Invoice.
- (2)** The Supplier hereby agrees to **(a)** Sell the Equipment to the Customer. **(b)** Install the Equipment at the Location if agreed. **(c)** Provide the other services (if any) hereinafter described. Upon the terms and conditions hereinafter contained.
- (3)** **(a)** The Customer hereby agrees to pay the price in the manner specified under the heading “Terms” in the Invoice, or, if none, within 7 days of the date upon which the Supplier is ready willing and able to install the equipment at the location. **(b)** Any VAT specified in the Invoice, or for international sales any VAT or Customs charges required by international treaty, shall be paid by the Customer at the rate and in the manner for the time being prescribed by law. **(c)** Any international trade tariffs incurred by the sale will be paid by the Customer. **(d)** Any bank charges involved in paying the Invoice will be paid by the Customer.
- (4)** **(a)** Title to the equipment shall pass to the Customer only upon payment in full of the price and any other sums due under this agreement and not otherwise. **(b)** The Supplier may withhold support services for the period during which any amount due to the Supplier by the Customer is outstanding beyond the terms specified on the Suppliers invoice. The Supplier may use a timed software lock which will prevent the software from working after a specified date if full payment is not received in advance of the installation. **(c)** Risk in the equipment shall pass to the Customer forthwith upon delivery of the equipment to the Customer.
- (5)** **(a)** The Customer shall at his own expense provide all accommodation and facilities for installation of the equipment including proper environmental and operating conditions and any expenses incurred by the Supplier as a result of the Customers failure to do so shall immediately be repaid to the Supplier as an extra charge. **(b)** The Customer shall be responsible for the provision of all operating supplies which are not supplied as part of the equipment.
- (6)** The Supplier will use its best endeavours to deliver the equipment to the Customer and install the same at the location on quoted delivery and installation dates or as soon as possible thereafter, but time shall not be of the essence of any specific such dates.
- (7)** **(a)** After installation of the equipment the Supplier will provide such training (if any) as is specified in the Invoice in the manner hereinafter appearing. **(b)** The object of the training shall be to instruct the Customer in the proper and efficient use of the equipment and shall include a demonstration of the same by the Supplier together with a reasonable opportunity for the Customer to use the equipment under the Supplier’s supervision. **(c)** The Supplier will use its best endeavours to provide initial training within 7 days of the date of completion of the installation of the equipment, and to provide further training to the extent of its obligations hereunder within 14 days of a request to that effect by the Customer. **(d)** Periods of training shall be a minimum of one half day’s duration, and if the Supplier is prevented through no fault of its own from providing training at a previously arranged time, any re-arranged period of training shall be paid for by the Customer at the Supplier’s rates for the time being.
- (8)** **(a)** The Supplier warrants that for the period of time (if any) specified in the Invoice after the date of completion of the installation of the equipment the same shall be free from defects in materials, workmanship and installation. If this period of time is not specified in the invoice, it will be taken as 30 days after the completion of the installation. **(b)** If any breach of the foregoing warranty is notified to the Supplier within 14 days of the date of its discovery by the Customer (and if the Customer fails to so notify the Supplier he shall be deemed to have waived such breach) the Supplier shall within a reasonable time thereafter at its opinion either repair or replace the system or such parts of it as are defective without charge. **(c)** The foregoing warranty shall be in lieu of all warranties conditions and representations whether express statutory or otherwise.
- (9)** **(a)** The Supplier shall be under no liability for any failure to perform any or all of its obligations hereunder if such failure shall be due to any circumstance beyond its reasonable control including (without limitation) Acts of God war fire flood strike or labour dispute civil commotion sabotage statute order or any regulation of any government public or local authority. **(b)** All software is sold “as is” and without warranty and the Supplier shall have no liability, whether under any warranty or otherwise, in any event in respect of consequential loss of business or profits or indirect loss or otherwise arising out of or in connection with the use, non-use, performance or non-performance of the equipment. **(c)** The Customer agrees to thoroughly test the equipment before using it for any business purpose to mitigate any possible loss or damage of any kind whatsoever that might be suffered by the Customer. **(d)** Nothing herein shall take effect so as to limit or exclude liability for death or personal injury. **(e)** The Customer agrees that in the event of any defects or problems with any equipment supplied by the Supplier, any liability of the Supplier under

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this Agreement shall, subject to Clause 9 (d) not exceed the amounts paid by the Customer to the Supplier for the equipment as shown in the associated Invoice under this Agreement in {in the calendar year in which such liability arose}. **(f)** The Customer can request a refund of the software price from the Supplier within 30 days of the sale. The Supplier may withhold a portion to cover any reasonable costs incurred supplying the software and attempting any agreed remedy. Any refund will be dependent on the return of all associated security keys.

(10) Either party may terminate the agreement without prejudice to its other rights or remedies whatsoever on giving written notice to the other if: The other party, being a company, shall have a receiver or liquidator appointed or shall pass a resolution for winding up (otherwise than for amalgamation or reconstruction) or a Court shall make an order to that effect or being a partnership shall be dissolved or being an individual shall commit any act of bankruptcy or shall die or if the other party shall enter into any composition or arrangement with its creditors or shall cease to carry on business.

(11) (a) The Customer warrants that he has not relied on any oral representation made by the Supplier or upon any descriptions illustrations or specifications contained in any catalogues and publicity material produced by the Supplier which are intended only to convey a general idea of the products and services mentioned therein. **(b)** The Supplier does not give any warranty that the equipment is fit for any particular purpose unless that purpose is specifically advised to the Supplier in writing by the Customer and the Supplier confirms in writing that the equipment can fulfil that particular purpose. **(c)** This Agreement supersedes all previous agreements undertakings and arrangements between the parties and constitutes the entire agreement between them relating to the subject matter hereof. **(d)** No addition to nor modification of this agreement shall be binding unless in writing and signed by authorised representatives of each party. **(e)** This Agreement shall be governed by and construed in accordance with the Laws of England.

(12) From time to time, the Supplier may record telephone calls.

(13) All software products are sold subject to a non-transferrable licence. The Supplier may use hardware keys (dongles) or a software key to control the number of users to that which the user has purchased, the Customer should insure these, as the licence is vested in the dongle. The dongles(s) remain the property of the Supplier. A fee will be charged for replacing/exchanging dongles.

(14) If the Invoice includes a charge for Annual Maintenance, then the Supplier agrees to keep the Customer informed of new releases of packages in use at the installation(s) and to provide the Customer the latest releases of those packages at the price recommended by the software author.

(15) The Supplier may, from time to time, notify the Customer of upgrades and/or new releases of versions of any items supported under this Agreement. The Supplier will have no liability or responsibility to fix any defects in such terms which the Customer suffers if such defects would have been remedied had the Customer accepted such update, new release or new version.

(16) The Customer shall provide for the Supplier all such information and give the Supplier access to all such records and other documents as may be necessary to enable the Supplier to carry out the terms of this contract in a regular and expeditious manner. If, and to the extent that the Supplier shall be delayed in the execution of the contract by the failure of the Customer to provide such information and/or access as aforesaid, then the Supplier shall be entitled to recover from the Customer any additional costs that the Supplier may incur by reason of such delay.

(17) If the Customer fails to pay in full within thirty days of date of invoice any sum due to the Supplier, the Supplier shall be entitled to charge and the Customer shall be obliged to pay interest on any such amounts outstanding for as long as such amount remains unpaid, at a rate of interest that is two per cent above the basic rate then published by Barclays Bank PLC. The Supplier may also withhold support services described herein for the period during which any amount due to the Supplier by the Customer is outstanding beyond the terms specified on the Supplier's Invoice.

(18). In the case of any dispute, the Customer shall not be entitled to set off in extinction or diminution of sums otherwise due from him to the Supplier any claim against the Supplier that he may allege, howsoever arising.

(19) The Supplier shall be relieved from all liability, under any contract to the extent that it shall be unable to carry out all or any of the obligations thereunder by reason of wars, strikes, lockouts, governmental controls, restrictions, non-availability of goods or personnel or any cause whatsoever beyond the control of the Supplier.

(20) The agreement to which these conditions apply shall be subject to and construed in accordance with English Law.

(21) The Supplier may by notice in writing to the Customer assign to any third party its rights and obligations under this agreement.