

TERMS AND CONDITIONS

13 DEFINITIONS AND INTERPRETATION

13.1 In these terms and conditions

"Activation Code" means the code required to activate or re-activate the software at any time

"Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes Our Licence and any other special terms and conditions agreed in writing between you and us

"Contract" means the contract for the supply of Services and the sale and purchase of Goods

"Delivery Date" means the date(s) and time(s) given by us to you for the supply of Services and/or the delivery of Goods

"Force Majeure" means fire explosion flood lightning act of God act of terrorism war rebellion or riot sabotage or official or unofficial strike or similar official or unofficial labour dispute or events or circumstances outside our reasonable control

"Goods" means the physical goods such as the instruction manuals CD ROMs packaging etc which we agree to supply in accordance with these conditions but does not include the Software or any intellectual property rights therein

"Our Licence" means a licence to use Our Software a copy of which is available for inspection at our registered office

"Our Software" means the software that we produce (or have produced) and agree to supply to you and includes both software which acts as a modification to the Third Party Software and also software which is designed to operate without forming part of or being integrated into any the Third Party Software

"Price" means the price for the Services and/or Goods excluding carriage packing insurance and VAT

"Services" means the installation of the Software on your computer system in accordance with these terms

"Software" means where the context requires both the Third party Software and Our Software

"Third Party Software" means the software products produced by a third party (not at our request) which we agree to supply to you and in which we have no proprietary rights

"we" "us" and "our" means Computerised Accounting The Solution Limited (Company No 04296754) registered office: Silver Street, Lincoln

"you" and "your" means the person firm or company who accepts a quotation from us for the supply of Services and/or Goods or whose order for the supply of Services and/or Goods is accepted by us

13.2 The headings in these Conditions are for convenience only and shall not affect their interpretation

13.3 Nothing in this Contract affects your statutory rights if you are dealing with us as a consumer

13.4 In these Conditions references to any statute or statutory provision shall unless the otherwise requires be construed as a reference to that statute or statutory provision as from time to time amended consolidated modified re-enacted or replaced

13.5 In these Conditions references to the masculine shall include the feminine and the neuter and the singular shall include the plural and vice versa as the context admits or requires

14 BASIS OF SUPPLY AND SALE

14.1 We shall supply the Services and/or the Goods and you shall purchase the Services and/or the Goods in accordance with any written quotation from us which you accept or any written order from you which we accept subject in either case to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any such order is made or purported to be made by you

14.2 No variation to these Conditions shall be binding unless agreed in writing between our and your authorised representative

14.3 Our employees or agents are not authorised to make any representations concerning the Services and/or Goods unless confirmed by us in writing In entering into the Contract you acknowledge that you do not rely on and waive any claim for breach of such representations which have not been confirmed by us in writing

15 ORDERS

15.1 The Services to be supplied and the quantity quality and description of the Goods (if ordered) shall be those set out in our quotation (if accepted by you) or your order (if accepted by us)

15.2 You cannot cancel any order which has been accepted by us except with our agreement in writing and on terms that you shall indemnify us in full against all losses (including loss of profit) and damages charges and expenses incurred by us as a result of cancellation

16 DELIVERY DATE

16.1 The Delivery Date given by us to you is not of the essence of the Contract and is an estimate only and not a contractual obligation on us We will use reasonable endeavours to perform or deliver on or by the Delivery Date we give to you You cannot cancel the Contract as a result of any delay by us in performing the Contract

16.2 If it is necessary for you to supply any particulars or other specification in relation to the Services and/or the Goods or to do any other act in connection with the Services and/or the Goods before the Delivery Date this Contract shall not be binding on us unless and until we have accepted and agreed to such particulars specification or act as notified to us in writing

16.3 Subject to acceptance and agreement as in clause 16.2 above such particulars or specification shall be specified and such acts shall be done in sufficient time to allow us to adhere to the Delivery Date

16.4 If as a result of your failure to comply with clause 16.2 we are unable to adhere to the Delivery Date we shall be entitled at our discretion to either

16.4.1 notify you of a new Delivery Date or

16.4.2 treat the Contract as repudiated by you and claim damages

17 PRICE

17.1 We reserve the right by giving notice to you at any time after you have placed an order with us but before supply of the Services and/or the Goods to withdraw the Price stated or to increase the Price stated to reflect any increase in the cost to us which is due to any factor beyond our control (including without limitation any foreign exchange fluctuation currency regulation alteration of duty significant increases in the cost for supply of the Services and/or the Goods any delay caused by any instructions from you or your failure to give us adequate information or instructions or any change in the Delivery Date or quantities for the Goods requested by you) Prices are subject to correction for any typographical or clerical errors]

17.2 Except as otherwise stated all Prices exclude all duties taxes (including VAT) and delivery charges and travel expenses in relation to any services provided by us and any such charge shall be payable by you

17.3 Where any additional charges as referred to in clause 17 are required by law to be paid by us the amount of such additional charges shall be recoverable by us from you as part of the Price and the Price shall be increased accordingly

17.4 Any freight or transportation charges quoted by us to you are based on rates current at the date of quotation and any prices stated therein shall be increased in proportion to any increase in such rates occurring between the date of quotation and the Delivery Date Such quotations are based on routing at our option but your routing will be adopted if the same does not cause an increase in freight or other transportation charges or if any such increase is guaranteed by you

18 PAYMENT

18.1 Subject to any special terms agreed in writing between you and us we shall be entitled to invoice you for the Price of the Services and/or Goods on or at any time after commencement of the provision of the Services and/or the despatch of the Goods from us to you unless the Goods are to be collected by you or you wrongfully fail to take delivery of the Goods in which event we shall be entitled to invoice you for the Price at any time after we have notified you that the Goods are ready for collection (or as the case may be) we have tendered delivery of the Goods

18.2 You must notify us in writing of any complaint or query regarding our invoice within 7 days of the date of our invoice of which time shall be of the essence

18.3 You shall pay the Price for the Services and/or Goods within 30 days of the date of our invoice notwithstanding that the provision of Services and/or the delivery of any Goods may not have taken place and that property in the Goods has not passed to you The time for payment of the Price shall be of the essence of the Contract Receipt for payment will be issued only upon request

18.4 If you fail to make any payment on the due date then without prejudice to any other right or remedy available to us including the provisions of clause 18.5 we shall be entitled to

18.4.1 cancel the Contract or suspend any further deliveries or provision of Services to you;

18.4.2 charge you interest (both before and after any Judgment) on the amount unpaid at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998 from time to time until payment in full is made (a part of a month being treated as a full month for the purposes of calculating interest); and

18.4.3 charge you all costs for recovering monies due to us

18.5 IF YOU HAVE FAILED TO MAKE ANY OF THE PAYMENTS DUE TO US BY THE DUE DATE FOR PAYMENT WE MAY IN OUR ABSOLUTE DISCRETION IN ADDITION TO ANY OTHER RIGHT OR REMEDY THAT WE HAVE REFUSE TO GIVE YOU THE ACTIVATION CODE WITH THE RESULT THAT THE SOFTWARE WILL CEASE TO FUNCTION

18.6 IF WE EXERCISE THE RIGHT THE RIGHT REFERRED TO IN CLAUSE 18.5 WE SHALL NOT BE LIABLE TO YOU FOR ANY LOSS OR DAMAGE OR OTHER LIABILITIES THAT YOU CLAIM ARISES DIRECTLY OR INDIRECTLY OUT OF THE DEACTIVATION OF THE SOFTWARE

19 LICENSING OF THE SOFTWARE

19.1 Upon placing any order with us for the supply of Software you shall be deemed to warrant that:

19.1.1 if any of our employees in fulfilling our obligations to provide the Services to you click on or break any click or shrink-wrap licence or in any other way enters into any licence to use the Third Party Product they do so on your behalf and acting as your agent and you will consider yourself fully bound by the terms of any licence applicable to the Third Party Software; and

19.1.2 that you shall consider yourself bound by the terms of Our Licence and will if requested sign a copy of Our Licence at any time we request after the Services have been provided

19.2 You shall indemnify us for any loss howsoever arising out of any breach of your obligations contained in clause 19.1 above

20 RISK AND PROPERTY

20.1 Risk of damage to or loss of the Goods shall pass to you

20.1.1 on delivery to the premises to which delivery is to be made as specified in our quotation to you or your order to us unless you have notified us in writing that you have effected your own goods in transit insurance in which case risk will pass upon despatch or

20.1.2 on collection of the goods by you whichever occurs first

20.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions the property in the Goods shall not pass to you until we have received in cash or cleared funds payment in full for the Price of the Goods and all other Goods agreed to be sold by us to you for which payment is then due

20.3 Until such time as the property in the Goods passes to you you shall hold the goods as our fiduciary agent and bailee and shall keep the Goods separate from your own and those of third parties and properly store protect insure and identify them as our property

20.4 Until such time as the property in the Goods passes to you and provided the Goods are still in existence and have not been resold we shall be entitled at any time to require you to deliver up the Goods to us and if you fail to do so forthwith to enter upon any premises of yours or any third party where the Goods are stored and repossess the Goods

21 CLAIMS FOR DEFECTS OR NON-DELIVERY

21.1 You shall inspect the Services and/or the Goods within 60 days of the date on which all the Services and/or the Goods have been provided or delivered to the address to which we are instructed to provide or make delivery of which time shall be of the essence and shall notify us in writing within such period of any alleged defects shortage in quantity damage or failure to comply with description or sample with the Services and/or the Goods If you fail to comply with these provisions the Services and/or the Goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Services and/or the Goods and you shall be deemed to have accepted the Services and/or the Goods

21.2 You must notify us in writing of any non-delivery within 60 days of the date on which all of the Services and/or the Goods have been provided or delivered to the address to which we are instructed to make delivery of which time shall be of the essence

21.3 We shall not be under any liability for any failure to perform any of our obligations under the Contract due to Force Majeure We shall be allowed a reasonable extension of time for the performance of our obligations under the Contract following notification to you of a Force Majeure event

22 LIMITATION OF LIABILITY

22.1 The following provisions set out our entire liability (including any liability for the acts and omissions of our employees agents and sub-contractors) to you in respect of:

22.1.1 any breach of our obligations arising under this Contract; and

22.1.2 any representation statement or cautious act or omission including negligence (but excluding any of the same made fraudulently) arising under or in connection with this Contract

AND YOUR ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF THIS CLAUSE 22

22.2 Any act or omission on our part or the part of our employees agents or sub-contractors falling within clause 22.1 shall for the purposes of this clause 22 be known as an "Event of Default"

22.3 Our liability to you for:

22.3.1 death or injury resulting from our own negligence or that of our employees agents or sub-contractors; and

22.3.2 damage suffered by you as a result of any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 section 2 of the Supply of Goods and Services Act 1982 or section 8 of the Supply of Goods Act 1973 shall not be limited

22.4 Subject to the limit set out in clause 22.5.1 below we shall accept liability to you in excess of the Price in respect of damage to your tangible property resulting from our negligence or the negligence of our employees agents or sub-contractors

22.5 Subject to the provisions of clause 22.3 above our entire liability in respect of any Event of Default shall be limited to damages of an amount equal to:

22.5.1 the maximum that we can recover from our insurers for the time being in the case of an Event of Default falling within clause 22.4 above; and

22.5.2 in the case of any other Event of Default (included breach of any of the warranties contained in Our Licence) the Price paid

22.6 Subject to clause 22.3 above we shall not be liable to you in respect of any Event of Default for loss or profits goodwill or any type of special indirect or consequential loss (including loss or damage suffered by you as a result of an action brought by a third party) even if such loss was reasonably foreseeable or we had been advised of the possibility of you incurring the same

22.7 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under this Contract

22.8 You agree to allow us not less than 28 days (following written notification by you) in which to remedy an Event of Default

22.9 Nothing in this clause 22 shall confer any right or remedy upon you which you would not otherwise be legally entitled

23 TERMINATION AND SUSPENSION

Where

23.1 you make any voluntary arrangement with your creditors or become subject to an administration order or if you are an individual you become bankrupt or if you are a firm you are wound up under an insolvent partnerships order or any of your partners is made bankrupt or if you are a company you go into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction);

23.2 an encumbrancer takes possession or a receiver is appointed of any of your property or assets;

23.3 you cease or threaten to cease to carry on business; or

23.4 we reasonably apprehend that any of the events mentioned above are about to occur in relation to you and notify you accordingly

then without prejudice to any other right or remedy available to us we shall be entitled to cancel the Contract or suspend any further supplies or deliveries under the Contract without any liability to you and if the Goods have been delivered or the Services supplied but not paid for the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary

24 GENERAL

24.1 Any notice required or permitted to be given by us to you or vice versa under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice

24.2 No waiver by us of any breach of the Contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision

24.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby

24.4 You shall not assign the benefit of this Contract without our prior written consent

24.5 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract

24.6 This Contract shall be governed by the laws of England