

GENERAL TERMS AND CONDITIONS OF SALE

1. Definition

- (a) "The Goods" - any equipment or software sold or licensed by Goldthorn Services Limited Limited.
- (b) "The Services" - any services supplied by Goldthorn Services Limited
- (c) "The Company" - Goldthorn Services Limited
- (d) "The Customer" - any purchaser of The Goods or The Services or the holder of any licence to use The Goods.
- (e) "These Conditions" - these terms and conditions.
- (f) "Intermip" and "Intermip.net" are trading styles of Goldthorn Services Limited.

2. Application

Unless specifically agreed in writing and authorised by a Director of The Company These Conditions shall supersede all terms and conditions of The Customer. These Conditions shall constitute the entire understanding between the parties and (for the avoidance of doubt) acceptance of deliveries of The Goods or the supply of The Services hereunder shall constitute acceptance by The Customer of These Conditions.

3. Price

Unless a written quotation has been given (whereupon the price quoted will be fixed for a period of thirty (30) days or such other period as is specified therein) the prices for The Goods and Services are subject to alteration without notice and the price charged to The Customer will be that applicable at the date of The Company's acceptance of the order or (at The Company's option) the date of delivery if this is more than six months later. All prices are exclusive of Value Added Tax (and any similar tax) packing, carriage, insurance and installation.

4. Cancellation or Variation

The Company is not obliged to accept the cancellation or variation of any accepted orders and The Customer may only cancel or vary accepted orders subject to such conditions payments and penalties as The Company thinks fit.

5. Payment

Unless otherwise notified to The Customer in writing by The Company, The Customer shall pay the full price of all invoices (including additional charges) on delivery. The Company reserves the right to charge interest at a rate of eight per cent above the Bank of England base rate per month compound on any payment or part payment overdue and to suspend delivery performance or any warranty under any Agreement with The Customer or (at The Company's option) forthwith to determine the same.

6. Delivery and Installation

- (a) Dates for the delivery of The Goods or the supply of The Services ("delivery") are estimates only and unless The Company expressly agrees in writing to be bound by a delivery date The Company's liability in respect of any loss or damage suffered by The Customer which is directly attributable to such part or late or non-delivery shall be limited to the value of The Goods not delivered.
- (b) Delivery shall be made between 0900 and 1700 hours ("working hours") Monday to Friday inclusive (excluding Bank Holidays and Public Holidays) ("working day"). If The Customer requires delivery to be made outside such times an additional charge shall be payable. The Company reserves the right to deliver in more than one delivery.

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7. Damages Shortages or Loss in Transit

The Customer shall inspect the goods immediately on delivery and The Company will accept responsibility for damages, shortage or loss in transit only if:

- (a) Such loss or damage is noted on the consignment note or delivery document upon receipt and copies provided by The Company within 2 working days of receipt of The Goods by The Customer or:
- (b) The same is notified in writing by The Company to arrive within five working days of receipt of The Goods by The Customer in cases of outwardly non-visible loss or damage to unchecked goods.
- (c) Outer packaging is retained for inspection in cases of suspected damage in transit.
- (d) The Goods have been handled by The Customer in accordance with The Company or the carrier's conditions of carriage or handling stipulations. Where The Company accepts responsibility under this Clause, it shall, at its sole option, replace or repair (as the case may be) any such equipment proved to The Company satisfaction to have been lost or damaged in transit.

8. Title to Goods

- (a) Notwithstanding delivery, installation and acceptance, title to The Goods shall not pass to The Customer but shall be retained by The Company until full payment for The Goods has been received by The Company from The Customer.
- (b) Until such time as title in The Goods has passed to The Customer, The Company:
 - i. shall have absolute authority to retake, sell or otherwise deal with or dispose of any or part of The Goods in which title remains vested in The Company.
 - ii. for the purpose specified in (b) (i) the above, The Company or any of its agents or authorised representatives shall with reasonable cause be entitled at any time and without notice to enter upon any premises in which The Goods or any part thereof is installed, stored or kept, or is reasonably believed so to be.
 - iii. shall be entitled to seek a Court injunction to prevent The Customer from selling, transferring or otherwise disposing of The Goods.

9. Passing of Risk

Notwithstanding Clause 8 hereof The Company shall not be liable for any loss or damage to any Goods from time to time delivered by The Company for its carriers to The Customer or its agent.

10. Hardware Warranty

- (a) Unless advised beforehand to The Customer The Company warrants to The Customer that The Goods marketed by The Company are believed to be free from defects of workmanship and materials and The Company undertakes subject to paragraphs (c) and (d) below, to replace or, at its option, to repair The Goods purchased hereunder found to be defective. within twelve (12) months of the date of original delivery and installation but only where such defects are a result of faulty materials or workmanship.
- (b) Each claim of The Customer under its warranty shall be sent in writing to The Company specifying the type of Goods and nature of the defects. Upon receipt of such written notice, The Company or its agents or representatives shall have the option of testing or inspecting The Goods at its location or of having The Goods returned to The Company or such other address as may be notified to The Customer, freight pre-paid. Replacement parts, items or Goods shall be sent by The Company to The Customer ordinary freight pre-paid, subject always to (c) and (d) below.

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- (c) In the event of any claim presented under warranty being found on investigation by The Company either to be outside the scope or duration of this warranty or the fault being confirmed, then the costs of such investigation and repair shall be borne by The Customer.
- (d) The Company shall not be liable at any time for damage or defects in The Goods or parts caused by improper uses, abuse or by using The Goods outside the specifications detailed in the manuals and documentation relating to The Goods or outside the specific application of The Goods.
- (e) This warranty shall not be assigned without the prior written consent of The Company.

11. Limited Liability

- (a) The Company shall not be liable to The Customer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Agreement, The Goods, The Services their respective use or otherwise other than an imposed by law.
- (b) Notwithstanding the generality of 11 (a) above The Company expressly excludes liability for consequential loss or damage, including but not limited to loss or damage to data or to other equipment or property, (whether or not the same may be in The Company's custody or control) or, for loss of profit, business, revenue, goodwill or anticipated savings.
- (c) In the event that any limitation or provision contained in These Conditions is held to be invalid for any reason and The Company becomes liable for loss or damage that would otherwise have been excluded under this Agreement or capable of being excluded in law, such liability shall be subject to other provisions limited 's liability to the price of The Goods or The Services.
- (d) The Company does not exclude liability for death or personal injury to the extent that the same arises directly from the negligence of The Company or its employees.
- (e) The Customer acknowledges that it has relied solely on its own judgement and not on that of The Company in assessing whether The Goods or The Services are fit for any particular purpose for which they may be required by The Customer.

12. Intellectual Property Rights

- (a) The Customer acknowledges that any and all of the trade and service marks, trade and service names, copyrights, patents and other intellectual property rights ("the intellectual property rights") used or embodied in or in connection with The Goods and The Services including software, hardware and other parts thereof in which The Company or the respective manufacturer, developer or third party has an interest is and shall remain the sole property of The Company or such manufacturer, developer or third party. The Customer shall not during or at anytime after the completion, expiry or termination of this Agreement in any way question or dispute the ownership of any such rights.
- (b) The Company shall have no liability for any infringement of intellectual property rights resulting from compliance with The Customer's designs, specifications or instructions: from use of The Goods other than as specified in relevant The Company publications or from use with any Goods or Services not supplied by The Company.
- (c) The foregoing states the entire liability of The Company for infringement of intellectual property rights by Goods or Services furnished hereunder. Unless otherwise agreed in writing, copyrighted materials (software and printed documentation) may not be copies except for archive purposes, to replace a defective copy and for programme error verification by The Customer.

13. Licensed Goods and Services

- (a) This Agreement is conditional upon the consent or licence (as applicable) of any relevant developer supplier of Government Controlling Body being granted which The Company will endeavour to obtain within such time as The Company shall consider reasonable with The

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Customer supplying all due information and co-operation failing with this Agreement shall be void.

- (b) If The Customer shall desire to transfer the licence above mentioned it shall notify The Company and provide such information as may be necessary to enable The Company to confirm or obtain applicable licences from the developer supplier or to meet such Government Controlling Bodies' requirements as may be from time to time in force.

14. Export Control

- (a) Under regulations governing United Kingdom Trade and by virtue of its agreement with suppliers The Company requires to be pre-notified of shipment outside the United Kingdom. Buyer is required to obtain necessary licences prior to export, The Company will provide guidance and required data or at its option, seek to obtain the relevant licence(s) on behalf of the end user.

15. Miscellaneous

- (a) The Company shall be under no liability to The Customer in respect of anything which, apart from this provision, may constitute a breach of this Agreement arising by reason of Force Majeure, namely circumstances beyond the control of The Company which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority: shortage and supplies, equipment, materials, breakdown or shortage of equipment and labour disputes of whatever nature and for whatever cause arising including but without prejudice to the generality of the foregoing, work to rule, overtime bans, strikes and lockouts and whether between either of the parties hereto and any or all of its employees and/or any other employer any of all of its employees and/or between any two or more groups of employees (and whether either of the parties hereto or any employer).
- (b) Failure or neglect by The Company to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of The Company's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice The Company's rights to take subsequent action.
- (c) The headings of These Conditions are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of These Conditions.
- (d) In the event that any of These Conditions shall be determined invalid, unlawful or unenforceable to any extent such term, condition or provision shall be severed from the remaining terms and conditions which shall continue to be valid and enforceable to the fullest extent permitted by law.
- (e) This Agreement shall not be assigned by The Customer without the prior written consent of The Company.
- (f) The parties hereby agree that the Agreement concluded between them and constituted on these and Conditions shall be construed in accordance with the Law of England and Wales.
- (g) Any notice to be given by one party to the other shall be given in writing and shall be properly served if sent by a pre-paid first class post or fax to the registered office or last known business address of the party to be served and if such notice is sent by post it shall be deemed to have been received on the second business day after posting and if sent by fax shall be deemed to have been received at the time of despatch.
- (h) Where The Customer comprises two or more persons their liabilities and obligations to The Company shall be joint and several.