



Terms and Conditions of Sale

1. DEFINITIONS

1. “Customer” means the person, firm, company or other organisation purchasing the product.
2. “Confidential Information” means all information confidential to the Customer whether relating to the Customer’s business, customers, clients, suppliers or otherwise but excluding information now or at any time hereafter becoming generally known or accessible to the general public (unless due to the default of the Company hereunder) and information obtained by the Company from a third party free of restrictions on use or disclosure.
3. “Contract” means the agreement between the Customer and the Company covering the products provided.
4. “Intellectual Property Rights” means all and any of the following, namely patents, designs, registered designs (and applications for any of the same) copyright, design right, inventions, improvements, discoveries, techniques, know-how and any other intellectual property rights.
5. “Products” means the products and/or services to be delivered under this Contract.
6. “Company” means Thomson Software Solutions.

2. COMPANY’S OBLIGATIONS

1. The Company will provide the Product to the Customer in accordance with the Contract. For the avoidance of doubt nothing in this Contract shall be construed as restricting or prohibiting the Contractor from at any time providing Products (whether or not similar to those provided under this contract) to any third party.
2. Without prejudice to any other obligation of confidentiality from time to time subsisting between the Customer and the Company, the Company hereby undertakes (subject to the Customer’s written consent) not at any time hereafter to disclose any Confidential Information to any third party nor to use any Confidential Information save (in either case) as may be reasonably necessary for the purposes of providing the Products hereunder or as may be required under a court order or lawful order of a government authority.
3. The Company will use all reasonable endeavours to provide the Products to the Customer within the estimated timings provided but all timings agreed to by the Contractor are business estimates only (but given in good faith) and the Company will not be liable for any loss, injury, damage or expenses arising directly or indirectly from any delay and time will not and cannot ever be of the essence in respect of the Contractor’s performance of its obligations hereunder.

3. INVOICING & PAYMENT

1. Payment is due in advance of any supply except in circumstances covered by Clause 3.2.
2. All invoices raised under a trade account must be settled by the Customer within 30 days of the date in invoice. Any disputed item must be notified to the Contractor by the Customer within 14 days.
3. Without prejudice to any other contractual right, the Contractor reserves the right to charge interest on overdue invoices at a rate of 3% above Bank of England Base Rate, compounded monthly until settlement.
4. Prices quoted on Renewal Quotations are based on the Euro/£ exchange as at the date shown on the quotation. We reserve the right the right to amend the final invoice should the exchange rate changes by more than 2% up or down before payment received.
5. If payment for a licence renewal is not received by the due date stated on the renewal quotation, then we reserve the right to deem the licence expired and for any renewal to be invoiced a full list price.

4. FORCE MAJEURE

1. Neither party shall be liable to the other under this Agreement, nor deemed in breach of this Agreement, for failure to carry out its provisions to the extent that such failure is caused by any cause beyond the parties' respective reasonable control, including without limitation fire, war, riot, sabotage, sickness or industrial action.

5. INTELLECTUAL PROPERTY RIGHTS

1. Each party acknowledges the existence of the other's intellectual property at the commencement of this Contract and neither party obtains any right to the other's intellectual property by entering into this contract.
2. The owner of the Product shall retain ownership of and all intellectual property rights in the Core Code and any additions or improvements to it.
3. Subject to the Customer first paying to the Company all sums payable to the Company hereunder, the Customer shall obtain a Run Time Licence for its use of the whole system, including Third Party Components, subject to all the terms and conditions attaching to these items.
4. The Company shall not infringe the Intellectual Property Rights of any third party and shall indemnify the Customer against all claims, costs and expenses that the Customer may suffer as a result of any such infringement.

6. WARRANTY

1. The Company warrants that it has good title to, or licence to, supply all Products to the Customer.
2. If any part of the Products should prove defective in materials or workmanship under normal operation or service, such Products will be repaired or replaced only in accordance with any warranty cover and terms provided by the

manufacturer of the Product PROVIDED THAT no unauthorised modifications to the product have taken place. The Company is not responsible for the cost of labour or other expenses incurred in repairing or replace defective or non-conforming parts.

3. All software Products supplied hereunder are supplied “as is” and the sole obligation of The Company in connection with the supply of software Products is to use all reasonable endeavours to obtain and supply a corrected version from the manufacturer concerned in the event that any such software Product should fail to conform to its product description PROVIDED ALWAYS THAT the Customer notifies the Company of any such non – conformity within 90 days of the date of delivery of the applicable software product.
4. If the Products are rejected by the Customer as not being in accordance with the Customer’s order pursuant to clause 7.2 or 7.3, The Company will only accept the return of such Products provided that it receives notification thereof giving detailed reasons for the rejection. The Company will not consider any claim for compensation Indemnity or refund until liability, if any, has been established or agreed with the manufacturer and where applicable the insurance company. Under no circumstances shall the Invoiced Products be deducted or set off by the Customer until the Company has passed a corresponding credit note.
5. The Company’s maximum aggregate liability for any and all losses, claims, demands, damages, costs and/or expenses of any kind whatsoever arising out of or in connection with any order confirmation and/or these Terms and Conditions (whether in contract, tort, by statute or otherwise) shall not, in total, exceed the amount actually paid by the Customer to the Company for the Products which are the subject of the order confirmation in question.

7. PROPRIETARY RIGHTS IN SOFTWARE

1. The Customer hereby acknowledges that any proprietary rights in any Product supplied hereunder including but not limited to any title or ownership rights, patent rights, copyrights and trade secret rights shall at all times and for all purposes rest and remain vested in the Product owner.
2. The Customer hereby acknowledges that it is its sole responsibility to comply with any terms and conditions of licence attaching to Products supplied and delivered by the Company (including if so required the execution and return of a Product licence). The Customer is hereby notified that failure to comply with such terms and conditions could result in the Customer being refused a software licence or having the same revoked by the Product owner. The Customer further agrees to indemnify the Company in respect of any costs, charges or expenses incurred by the Company at the suit of a Product owner as a result of any breach by the Customer of such conditions.
3. No title or ownership of software products or products of any software products or any third party software licenced under this agreement is transferred to the customer under any circumstance.

8. DATA PROTECTION

1. By entering into this Contract, the Customer agrees that any “personal data”, as defined by the Data Protection Act 1998 provided to the Company pursuant to this Contract may be processed by the Company for the following purposes:
 - Administration and provisioning of the Products, including support and billing of the Products.
 - To identify and inform the Customer, whether by mail, facsimile, electronic mail or other means of communication of additional services and products available from the Company that may be of interest.
2. By entering into this Contract, the Customer represents and warrants that it has drawn the attention of its employees and agents to this clause and has obtained informed and express consent from them to the processing of their data as outlined in clause 9.1.
3. If the Customer, its employees or agents do not wish to receive further information from the Company, then a request to this effect should be sent to the Company’s Commercial Director.

9. MISCELLANEOUS

2. Neither party shall be deemed by virtue of this Contract to be an agent or the partner of the other and each party will make clear in all dealings with third parties that it has no authority to make representations on behalf of the other or to bind the other contractually with any third party.
3. If any of the terms of this Contract are held to be void or unenforceable by any reason of law they shall be void or unenforceable to that extent only and no further and all other terms shall remain valid and fully enforceable.
4. The Customer shall not have any right of set off.
5. No indulgence granted by either party to the other in relation to any term hereof shall be deemed a waiver of such term or prejudice the later enforcement of that or any other term hereof.
6. The headings in this Contract are for convenience only and shall not affect its interpretation.
7. The contract shall be governed by and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the English courts.