

Conditions of Sale

1. General

These Conditions of Sale ("the Conditions") supplied by Centresoft Limited ("the Company") to the purchaser ("the Buyer") shall be incorporated into each Contract ("the Contract") made by the Company for the sale of the Company's Goods ("the Goods"). The Company Contracts as aforesaid upon such terms as are agreed between the Company and the Buyer and upon the terms of the Conditions alone. No conditions or terms of the Buyer shall apply to this Contract. No variation of any of the Conditions shall be effective unless in writing and signed by a duly authorised representative of the Company.

2. Quotation and Acceptance of Orders

The Contract shall become binding only upon the confirmation of acceptance of any order by the Company in writing or by telex or telegram or by the presentation of an invoice and accordingly all quotations made and price or product lists supplied by the Company shall be treated as invitations to treat only.

3. Packaging

Packaging for the Goods shall be at the discretion of the Company which shall have the right to pack the Goods in such manner and with such materials and in such quantities as it in its absolute discretion thinks fit unless detailed packaging instructions are received from the Buyer prior to agreeing a price for the Goods in which case the costs of any special or spare wrapping shall be borne by the Buyer.

4. Price

- All prices shall be as stated in the most recent price list of the Company.
- All prices stated shall be subject to variation at the sole discretion of the Company at any time without prior notice and the Company shall notify the Buyer of any variation before delivery of the Goods.
- All prices shall be stated exclusive of Value Added Tax transfer insurance and any delivery or transfer fees.

5. Payment

- Liability for payment for the Goods supplied shall arise on delivery without discounts unless otherwise specifically agreed in writing by the Company and payment in cash is due on the fifteenth of the month following the month of invoice, unless the Buyer has been informed that in the Company's view of the Buyer's financial stability has substantially or the Buyer has been in breach of payment provisions in previous Contracts with the Company in which cash payment in cash shall become due upon delivery. Payment shall be due and the Company shall be entitled to sue for the price whether or not property in the Goods has passed by virtue of Clause 9.
- Sums unpaid after the due date shall bear interest until the day payment is received at the rate of 4% per annum above the base rate from time to time of National Westminster Bank PLC (provided always that such rate shall not be less than 7% annum) accruing from day to day from the date of delivery until the date of payment in full.
- In addition to interest pursuant to sub-Clause (b) hereof the Company shall have the right to charge default interest after delivery to the Buyer of written notice at the following marginal rates :-
 - 2% of outstanding amounts up to £5,000.
 - 1.5% of outstanding amounts between £5,000 and £15,000.
 - 1% of outstanding amounts above £15,000.
- Notwithstanding sub-Clause (c) hereof the Buyer retains the right to show that losses incurred by the Company as a result of late payment are less than the default interest requested in which case no such default interest shall be payable.
- If the recovery of sums outstanding from the Buyer is passed to a Debt Collection Agency the Buyer shall pay the Company's costs in instructing the said Debt Collection Agency and all ancillary legal costs.
- Any amount outstanding being equal to or greater than £1,000 shall become due and payable at once if the Company is informed that a bill of exchange or cheque made out by the Buyer has been dishonoured, or if the Buyer is insolvent or if bankruptcy or liquidation procedures or proceedings involving the Buyer have been or are about to be commenced.
- Without prejudice to any other rights or remedies of the Company any default by the Buyer in making payment on the due date shall entitle the Company to suspend deliveries under the Contract or any other Contract so long as the default continues and to treat the Contract as repudiated by the Buyer and determine if the Buyer has not within 14 days of receiving written notice from the Company paid all sums due to the Company.

6. Delivery

- The mode of delivery shall be determined by the Company unless the Buyer has given specific instructions relating thereto prior to entering into the Contract in which case the Buyer shall be liable for the additional costs of insurance any mode of carriage specified.
- Delivery shall take place when the Goods are unloaded at or delivered to the Buyer's premises or other delivery location agreed between the Company and the Buyer except that if the Buyer nominates a carrier for the Goods delivery shall take place when the Goods are loaded on to the collection or carrier's vehicle.
- The Company will use its reasonable commercial endeavours to complete the delivery on or before any delivery dates requested by the Buyer or estimated by the Company. If the Company fails to complete delivery on or before a delivery date to its own fault or if the agreed delivery date is exceeded by a period not customary in the trade and delivery is not completed within a reasonable period after receipt of a request from the Buyer the Buyer may by notice in writing to the Company elect to treat the Contract as repudiated provided always that no such election may be made if the Buyer is in default of its obligations under the Contract or any other Contract with the Company.
- The Buyer shall accept immediate delivery or arrange to collect the Goods or arrange suitable storage, failing which the Company may either:
 - effect delivery by whatever means it thinks most appropriate or
 - arrange storage at the Buyer's risk and expense pending delivery or
 - re-sell or otherwise dispose of the Goods without prejudice to any other rights the Company may have against the buyer for breach of Contract or otherwise.
- Where the agreement provides for delivery by instalments each instalment shall constitute a separate Contract and any failure or defect in any one or more instalments delivered shall not entitle the Buyer to repudiate the agreement nor to cancel any subsequent instalments.
- The Buyer shall not be entitled to reject the Goods by reason only of short delivery.
- The quantity of the Goods delivered under the Contract shall be recorded by the Company upon despatch from the Company's factory or warehouse and the Company's record shall be accepted by the Buyer as conclusive evidence of the quantity delivered.
- It is the Buyer's responsibility to notify the Company if the Goods have not been received by the Buyer within seven days of the date of receipt of the Company's invoice. If no notification is made the Buyer shall be deemed to have received the goods.

7. Examination and Claims

- The Buyer shall upon delivery examine the Goods and shall promptly (but in any event within four working days of delivery) notify in writing the Company and the carrier, where relevant, or any apparent damage or defect or shortage stating the number of the respective bill of lading.
- The Buyer shall comply with the carriers rules regulations and requirements so as, when appropriate, to enable the Company to make a claim against the carrier in respect of any damage or loss in transit.
- Claims in respect of damage defects or shortage not apparent on examination under (a) must be notified in writing to the Company immediately upon discovery but in any event within six weeks of the date of delivery.
- For the purposes of this Clause defects shall only include defects in the material of the physical parts of the Goods, deviation of Goods from their description and insufficient wrapping.
- Notification under (a) and (c) above shall be first made by telephone then by notice in writing delivered by telex or first class recorded delivery mail and addressed to:-

Centresoft Limited
6 Pavilion Drive
Holford
Birmingham
B6 7BB
Telephone No. 0121 625 3388
Fax No. 0121 625 3236

In default of such notification the Company shall, subject to any claim which the Buyer may have under the Guarantee and Warranty referred to in Clause 8, be deemed conclusively to have properly performed its obligations under the Contract.

8. Guarantee and Warranty

- The Goods are subject to the guarantee ("the Guarantee"), if any, submitted by the Company which has been agreed as appropriate and fair.
- Save as referred to in (a) above the Company warrants only ("the Warranty") that the Goods are reasonably free from defects in design (other than a design submitted or specified by the Buyer) in material or workmanship for three months from the date of delivery ("the Warranty Period") provided that the Buyer has given the Company written notice and satisfactory proof of any defect promptly upon discovery of such defect but in no case later than seven days after expiry of the warranty Period.
- The Company's obligations to the Buyer under the Warranty shall not apply:
 - to damage caused by the Buyer's or third party's act, default or misuse of the Goods or by failure to follow any instructions supplied with the Goods.
 - if the Goods have been stored, handled or applied in such a way that damage is likely to occur.
 - if the Goods are altered, modified or repaired in any place other than the Company's factory or by persons expressly nominated or approved in writing by the Company.
 - if the Buyer fails to comply with a request by the Company to promptly return the Goods in question.
- Subject to (c) above the Company shall at its sole option replace or refund the purchase price for the goods found to be defective in design material or workmanship. Upon request by the Company the Buyer shall return all

defective Goods in the original inlay or cartridge properly wrapped after removal of any foreign tags and accompanied by a return approval form which shall have been supplied by the Buyer upon request in the case of replacement the Company shall bear the costs of shipment to the Buyer.

(e) Save for liability for death or personal injury arising from the Company's negligence (which if proved is not excluded) the Company's obligation to refund or replace as aforesaid shall constitute the full extent of the Company's liability in respect of any loss or damage sustained by the Buyer and the Company will not be liable for loss or damage caused by late delivery or non-performance or other breach of Contract or in tort unless such loss or damage is the result of gross negligence or deliberate act on the part of the Company or of the Company's non-compliance of an express warranty.

(f) The cost to the Company of and incidental to the return by the Buyer to the Company of any of the Goods delivered hereunder shall, except to the extent that the Company has accepted responsibility hereunder, be the responsibility of the Buyer who shall indemnify the Company against any such costs including but without limitation to the general of the foregoing, costs of transport and testing or any other cost or loss to the Company arising therefrom.

9. Property and Risk

(a) Risk shall pass to the Buyer immediately upon the goods leaving the warehouse of the Company. All shipments travel at the Buyer's risk and the Goods shall be insured by the Buyer accordingly or by the Company at the request and expense of the Buyer.

(b) (i) Property (both legal and beneficial) in the Goods shall remain in the Company until all sums owing to the Company whether under the Contract or any other Contract made at any time between the Company and the Buyer ("the Indebtedness") shall have been paid in full. Until such time, and subject to the provisions hereof, the Buyer shall hold the Goods as bailee for the Company.

(ii) The Buyer until otherwise notified by the Company or on the happening of any of the events specified in (ix) ("the Events") may in the ordinary course of its business offer for sale and sell the Goods or any New Products created by the Goods being admitted or converted into new Goods ("the New Products") at the best obtainable price as a principle vis a vis sub-Buyers and not as the agent of the Company. Prior to any such sub-sale of the Goods or the New Product the Buyer shall first notify the Company of its intention to sell the Goods or the New Products.

(iii) The entire proceeds of such sub-sale of the Goods or the New Products shall belong legally and beneficially to the Company subject to the provisions hereinafter set out and unless the Company demands payment of such proceeds of sale to be made directly to it, the Buyer shall pay the entire proceeds of sale into a separate interest bearing bank account in the name of the Company or if the Company gives its prior written consent the Buyer shall be entitled to place and maintain the proceeds of sale otherwise than by depositing the same in a designated bank account and shall ensure that all such proceeds are kept by or on behalf of the Company in a separate identifiable form.

(iv) In particular, but without prejudice to the generality of the foregoing the Buyer shall not pay the proceeds of sale into any bank account which is overdrawn.

(v) Forthwith upon receipt of the proceeds of sale the Buyer shall be liable to pay on demand to the Company the whole of the proceeds of sale subject to the Company undertaking to repay or set-off any balance remaining after payment in full of the Indebtedness and shall not use or deal with the proceeds of sale in any way whatsoever until the Indebtedness has been paid in full.

(vi) If so required by the Company, the Buyer shall upon receipt of written notice from the Company, assign to the Company the benefit of all Contracts made with third parties in respect of sub-sales of the Goods or the New Products.

(vii) If the Goods are not readily identifiable and removable from the products and materials of the Buyer forming the New Products, the legal and beneficial ownership of the New Products and the property therein shall rest in the Company subject to the following provisions.

(viii) Upon any sale of the New Products by the Company, if the proceeds of sale exceed the price or the balance of the price or the value of the Goods owing to the Company by the Buyer, the Company shall apply the balance of the proceeds of sale as follows:-

(a) First in re-imbursement the Company all costs and expenses incurred in the taking of possession and sale of the New Products;

(b) Secondly, in paying any amount due and owing to other creditors of the Buyer in respect of other products or materials incorporated in the manufacture of the New Products but only where the ownership of such products or materials has been successfully reserved by such creditors and the claims of such creditors have been notified to the Buyer or the Liquidator, administrator or administrative receiver of the Buyer;

(c) Thirdly, in paying any balancing amount remaining in respect of products or materials provided by the Buyer which were incorporated into the New Products.

(ix) The Events are :-

(A) the giving of any notice to the Buyer that a receiver, manager, administrative receiver, supervisor, nominee or administrator is to be or has been appointed over any of the property or assets of the Buyer or that a petition to wind up the Buyer is to be or has been presented or that an application for an administration order is to be or has been made or of any notice of a resolution to wind up the Buyer (save for the purposes of a bona fide reconstruction or amalgamation);

(B) a decision by the Buyer that the Buyer intends to make any arrangement or composition with its creditors generally;

(C) where the Buyer pursuant to Section 123 or 268 of the Insolvency Act 1986 appears to be unable to pay a debt or appears to have no reasonable prospect of being able to pay a debt;

(D) any distress or execution levied or threatened to be levied on any property or assets of the Buyer;

(E) the inability of the Buyer to pay its debts as they fall due.

(x) on receipt of notification from the Company under (ii) or on the happening of any of the events, the power of sale of the Buyer in respect of the Goods or the New Products shall cease and the Buyer shall immediately deliver the Goods and/or the New Products to such address as the Company shall specify in default of which, or in the alternative, the Company shall have the right to enter on any premises or land in the ownership control or possession of the Buyer who shall indemnify the Company on a full indemnity basis against all loss, damage, costs or expenses so arising including loss, damage, costs or expenses in respect of third party claims. For the avoidance of doubt the Buyer hereby unconditionally and irrevocably authorises the Company or its nominated agents or representatives to enter into or upon premises or land in the ownership possession or control of the Buyer for the purpose of the re-possession of the Goods or the New Products.

10. If the Buyer shall not comply with any of its obligations to the Company or upon the occurrence of any of the Events referred to in Clause 9(b), the Company shall have the right forthwith to terminate the Contract but without affecting any other claim, right or remedy of the Company against the Buyer.

11. Cancellation, Suspension and Termination

(a) If the Buyer shall purport to cancel the whole or any part of the Contract the Company may by notice in writing to the Buyer elect to treat the Contract as repudiated and the Buyer shall thereupon be liable to pay to the Company by way of liquidation damages a sum equal to all the expenses incurred by the Company in connection with the Contract including an appropriate amount in respect of administrative overheads, costs and losses of profit. The Company's reasonable estimate of the expenses incurred shall be final and binding on the parties.

(b) If for any cause whatsoever beyond its control the Company is unable to make any delivery on the applicable delivery date or perform any of its other obligations under the Contract the Company may by notice in writing to the Buyer terminate the Contract or suspend the Contract without liability for any loss or damage thereby incurred by the Buyer.

12. Force Majeure

(a) In so far as the performance of the Contract by the Company may be affected by any strike, any lack of available shipping or transport materials, any restriction regulation or decree by any local or municipal authority or government department or by any Clause beyond the Company's reasonable control (which shall be construed) without reference to the preceding causes) the Company may elect at its absolute discretion either:-

(i) to terminate the Contract, or

(ii) to proceed to perform or continue performance under the Contract within a reasonable time after the termination of such events or circumstances.

(b) In the event that the Company makes an election under Clause 12(a) the Buyer shall accept the Goods or such part of them as are delivered to it notwithstanding any delay.

13. Licences and Confidentiality

(a) (i) the Company grants to the Buyer the right to resell the Goods to private customers and to grant a non-exclusive licence to copy the computer programs incorporated therein by way of loading the programs into computers and replaying the same.

(ii) the Company grants to the Buyer the right to use the computer programs incorporated in the Goods for the purposes of testing their usability and compliance with description and warranties and for demonstration purposes.

(b) hereof and in particular no right to transfer the computer programs incorporated in the Goods to other data carriers or to change or modify the programs.

(iv) the Buyer shall notify the Company without delay of any attempt by the third party to prevent the Buyer from exercising the rights herein or to claim damages for the exercise thereof.

(b) the Buyer shall not without prior written authorisation of the Company divulge any processes or know-how that becomes known to it in connection with the Goods and it shall instruct its employees accordingly and shall be liable for any breach of this Clause by its employees.

14. Export Sales

In the case of orders for delivery outside the United Kingdom the Buyer shall be liable for all charges, levies, taxes and other costs in respect of or associated with the delivery of Goods to the place of delivery.

15. Proper Law

The Contract is and shall be deemed to have been made in England and shall in all respects be governed by English Law and shall be subject to the jurisdiction of the English Courts.