

TRANSPUTEC LTD – STANDARD TERMS AND CONDITIONS

1. GENERAL

All orders are accepted and Goods or Services supplied subject to the following express terms and conditions (the Company's Standard Terms & Conditions) and save to the extent that the exclusion or restriction of liability may be prohibited by statute, all other conditions, warranties and representations, expressed or implied and statutory or otherwise, except as to title, are hereby excluded. Any order placed by a Client shall constitute an offer to contract upon these express terms and conditions, and no additions thereto or variation therefrom whether contained in the Client's order or otherwise shall apply unless expressly agreed in writing by the Company's authorised representative.

2. DEFINITIONS

"The Company" means Transputec Ltd.

"The Client" means the person to whom the Company may agree to sell Goods or Services in accordance with the Company's Standard Terms & Conditions.

"The Goods" means the articles or things or any of them or any part or parts of them to be provided by the Company in accordance with the Company's Standard Terms & Conditions.

"The Services" means the Services set out in the Commercial Proposal or any of them or any part or parts of them to be provided by the Company in accordance with the Company's Standard Terms & Conditions.

"The Commercial Proposal" means the Company's written offer or quotation defining the scope, costs and timing, as appropriate, of the provision of Goods and Services subject to these Standard Terms and Conditions which was accepted by the Client.

"The Agreement" consist of these Standard Terms and Conditions and the Commercial Proposal.

3. ORDERS

All orders for Goods or Services are subject to availability of the goods or services and to written acceptance by the Company's authorised representative. Any prior confirmation by the Company by telephone shall be deemed to be provisional until such confirmation is received.

4. PRICES

(a) Catalogues, price lists and other advertising literature or material as used by the Company are intended only as an indication as to price and range of Goods offered and no prices, descriptions or other particulars contained therein shall be binding on the Company.

(b) Goods - All quoted or listed prices are based on the cost to the Company of supplying the Goods to the Client and if before delivery of the Goods there occurs any increase in any way of such costs in respect of the Goods which have not yet been delivered the price payable shall be subject to amendment without notice at the Company's discretion.

(c) Services - All prices quoted in the Commercial Proposal are provisional pending full analysis and specification. If before delivery of the Services there occurs any increase in any way in the scope of the Services to be supplied by the Company these additional services will be specified and priced and added to the Commercial Proposal subject to these Standard Terms and Conditions.

5. MANUFACTURER'S SPECIFICATION

Goods - The Company will not be liable in respect of any loss or damage caused by or resulting from any variation for whatever reason in the manufacturer's specification or technical data and will not be responsible for any loss or damage resulting from curtailment or cessation of supply following such variation. The Company will endeavour to advise the Client of any such impending variation as soon as it is aware of its necessity.

6. CARRIAGE AND DELIVERY

Except as in accordance with the Company's catalogue, prices do not include delivery charges to the Client, and the Company

reserves the right to levy a charge for delivery to any destination advised by the Client.

7. PROVISION OF SERVICES AT THE CLIENT'S SITE

Prices do not include the provision of Services at the Client's site unless explicitly stated in the Commercial Proposal and the Company reserves the right to levy a charge and travel and expenses for supply of all or part of the Services at the Client's premises.

8. INTELLECTUAL PROPERTY

Services - Intellectual Property in the Services shall remain with Transputec on completion of the project unless otherwise explicitly stated in the Commercial Proposal.

9. PASSING OF RISK AND PROPERTY

(a) Risk of the Goods shall pass to the Client on delivery.

(b) Property of the Goods shall remain the Company's until payment in full therefore has been made by the Client.

(c) If payment in full is not made in accordance with the Company's Standard Terms & Conditions the Company may require the Client to return the goods forthwith and if the requirement is not immediately complied with the Company shall be entitled at any time and without notice to retake possession of the whole or any part of the Goods (and for that purpose to enter the premises occupied by the Client and sever the Goods from anything they are attached to without being responsible for any damage thereby caused) without prejudice to any other remedy that may be available to the Company.

10. DEFECTS AND USE

Save as herein expressly provided, and save to the extent that the exclusion or restriction of liability may be prohibited by statute, the Company shall not be liable for any loss of whatsoever nature or to whomever or whatsoever caused arising out of the use of Goods. The Client shall indemnify the Company against all claims made against the Company by any third party in respect thereof, unless otherwise agreed.

(a) Where the Goods are rejected by the Client as not being in accordance with the Client's order the Company will only accept the return of such Goods provided that it receives written notice thereof, giving detailed reasons for the rejection, within 14 days of receipt of the Goods by the Client, and if such notice is not received by the Company within the said period of 14 days the Goods shall be deemed to have been accepted by the Client. 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 Company's insurance company and under no circumstances shall the invoiced costs of the Goods, or any part of the cost, be deducted or set off by the Client until the Company has been passed a corresponding credit note and

(b) In the case of defects or faulty workmanship in the Goods or any part thereof the Client shall not be entitled to receive any compensation, credit or refund in excess of that received by the Company under any guarantee or warranty given to it by the manufacturer or the supplier thereof.

11. LIMITATION OF LIABILITY

Services - The Client is solely responsible for any use made of the Services. The Company is not responsible under these Standard Terms and Conditions for any use of, or inability of the Client to use the Services unless arising from a breach of the Company's obligations under these Standard Terms & Conditions. Except in the case of personal injury due to negligence, any liability of any party under the Commercial Proposal shall be limited to 100% of the Price paid under the Commercial Proposal to which these Standard Terms and Conditions apply. The Company shall not be liable in any circumstances for any consequential or indirect loss, damage, injury (other than personal injury or death resulting from negligence), loss of profits, loss of business, internal management time, or third party claim arising from or in connection with the use of, or the inability to use the Services.

12. PAYMENT

Payment as herein expressly provided, unless otherwise specifically negotiated and agreed, shall be 30 Days from the date of the invoice for all accounts.

13. DESPATCH/DELIVERY

Any time quoted for despatch or completion of the Services are to be treated as estimates only and without prejudice, although every reasonable endeavour will be made by the Company to adhere to them. Quotations or offers of Goods ex-stock are subject to the Goods being unsold at the time of receipt of the Client's written order. All despatch/delivery dates are calculated from the date of acceptance of the Client's written order or acceptance of the Commercial Proposal.

14. CLIENT'S DEFAULT AND CANCELLATIONS AND RE- SCHEDULING OF DELIVERIES

(a) If the Client shall make default in or commit any breach of its obligations to the Company or if the Client being an individual (or when the Client is a firm, any partner in that firm) shall at any time become bankrupt or shall have a receiving order or administration order made against him or shall make any composition or arrangement with, or for the benefit of, his creditors or shall purport to do so, if in Scotland, he shall be made insolvent or notour bankrupt or any application shall be made under any Bankruptcy Act, for the time being in force, for sequestration of his estate or a Trust Deed shall be granted by him on behalf of his creditors or the Client being an incorporated body any resolution or petition to wind up its business shall be passed or presented, otherwise than for reconstruction or amalgamation, or if a liquidator or receiver or manager of such corporate body or its undertaking, property or assets or any part thereof shall be appointed or if the Client shall be insolvent or shall be unable or shall admit its inability to meet its commitments promptly as and when due, the Company shall have the right (without prejudice to any further, or other claims, or right, which the Company might have) forthwith to cancel any uncompleted order or to cancel or suspend delivery and notwithstanding any other provisions of the Company's standard Terms and Conditions, payments for any delivery already made shall immediately become due.

(b) Requests by a Client for cancellation of any order or for re-scheduling of deliveries will only be considered by the Company if made in writing, and shall be subject to the written acceptance of the Company in accordance with sub-clause 14 (a) as foresaid, or if cancelled or re-scheduled at the request of a Client as aforesaid, then the Client shall indemnify the Company against all loss, costs (including the cost of labour and materials used and overheads incurred), damages, charges and expenses arising out of the order and the cancellation or re-scheduling thereof.

15. FORCE MAJEURE

The Company shall not be liable for the cancellation by it of any order or any unfulfilled part thereof or for effecting partial delivery or performance, if performance by the Company is prevented or delayed, whether directly or indirectly by any cause whatsoever beyond the reasonable control of the Company, whether such cause existed or was foreseeable at the date of acceptance of the Client's order by the Company or not and without prejudice to the generality of the foregoing any cause shall be deemed to prevent, hinder or delay the Company if the Company is thereby prevented hindered or delayed from fulfilling other commitments whether to the Client or to third parties.

16. NON-STANDARD GOODS

Goods - Unless otherwise agreed the Goods are supplied in accordance with the manufacturer's standard specifications. The Company reserves the right to increase its quoted or listed price or to charge accordingly in respect of any orders accepted for products of non-standard specifications and in no circumstances will it consider cancellation of such orders or the return of the Goods.

17. NON-SOLICITATION

Neither Party shall knowingly solicit for employment, offer employment to or employ including, but not limited to, the other Party's employees during the period that the Company supplies the Goods and Services to the Client. In the event of a breach of this Clause then the Parties agree that the appropriate liquidated damages shall be the payment by the breaching Party of thirty five per cent (35%) of the new annual compensation of the employed individual. This Clause 17 shall survive the termination of these terms and conditions for a period of one year from the last date that the Goods or Services were supplied to the Client.

18. SEVERABILITY

(a) If and to the extent that any provision or any part of the provision of the Company's Standard Terms & Conditions of sale is illegal, void or unenforceable for any reason, then such provision or part thereof (as the case may be) shall be deemed to be severable from the remaining provisions or parts of the relevant provision (as the case may be) all of which remaining provisions shall remain in full force and effect.

19. WAIVER

The waiver by the Company of any breach of any term hereunder shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

20. SOFTWARE

- (a) All software, including related documentation, is supplied under licence of the applicable proprietary owner. TITLE OR OWNERSHIP TO SOFTWARE DOES NOT TRANSFER TO THE CLIENT UNDER ANY CIRCUMSTANCES.
- (b) It is the sole responsibility of the Client to comply with any terms and conditions of licence attaching to software supplied and delivered by the Company.
- (c) All software delivered hereunder is supplied "as is" and the sole obligation of the Company in connection with the supply of software is to obtain and supply a corrected version from the manufacturer concerned in the event if such software fails to conform to its product description or proves in any other way to be defective PROVIDED ALWAYS that the Client notifies the Company of any defect or non-conformance to product description within thirty days of the date of delivery of the applicable software.
- (d) In all cases software licensing is in accordance with the relevant vendor terms and conditions of use.

21. INDEMNITY

- (a) The Company will indemnify the Client for direct physical injury or death caused by defects in the Goods or Services sold to the Client or by the negligence of its employees in connection with the performance of their duties under the Standard Terms & Conditions.
- (b) The Company will indemnify the Client for direct damage to property caused by defects in the Goods or Services sold to the Client or by the negligence of its employees in connection with the performance of their duties under this Agreement. The total liability of the Company under this sub-clause shall be limited to £100,000 for any one event or connected events.
- (c) In no event shall the Company be liable for indirect or consequential damages including but not limited to damages caused by loss of data and except as stated in (a) and (b) above the Company disclaims all liability to the Client for any losses incurred by the Client as a result of any negligence or other tortious act by the Client, its employees or agents.

22. WARRANTIES OF SERVICES

Services - The Company warrants to and undertakes with the Client that: The Company shall carry out the Services in a good and workmanlike fashion and with the care, skill and diligence required in accordance with best industry practice;

The Services, any methods of working recommended by the Company and any systems, programs, hardware and software put in place by the Company shall in all respects comply with the Commercial Proposal (Statement of Work or Implementation Specification Document, if produced) and be suitable for the purposes intended by the Client;

The Company warrants that it possesses the required level of expertise and experience in relation to the Services; the Company will provide unbiased advice to the Client in accordance with best industry practice. The Company will not use any personal data about the Client and employees of the Client for any purpose other than is strictly necessary in order to provide the Services and shall at all times use this data in accordance with the Data Protection Act 1998 and all other relevant data protection legislation.

23. CONFIDENTIALITY

The Company shall not, during the Agreement or at any time after, make use for its own purposes of, or disclose to any person (except as may be required by law), any information relating to the Client or the business of the Client obtained by the Company in the course of performing the obligations under the Goods and Services, which is stated to be confidential or which by its nature is evidently confidential, including (without limitation) any information as to users of the Goods or Services and their usage of it.

The Client shall not, during the Agreement or at any time after, make use for its own purposes, or disclose to any third party any documentation, programming or other material whatsoever used by the Company for the development and operation of the Services

This clause shall not extend to information:

1. which was rightfully in the possession of the other party prior to the commencement of the Agreement (other than where obtained during the course of business between the parties);
2. which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause); or
3. which is trivial or obvious.

The Company will upon completion of all the Services remove all confidential Client materials relating to the Client.

24. ASSIGNMENT

The Client agrees not to assign or transfer this Agreement or any of its rights herein without the prior written consent of the Company.

25. RIGHTS OF THIRD PARTIES

No third parties shall have any rights under this agreement pursuant to the Contract (Rights of Third Parties) Act 1999.

26. CONFLICT OF TERMS

Where there is a conflict of terms between these Standard Terms and Conditions and the Client's standard terms, these terms shall prevail.

Signed _____ Date _____

Print _____ Position _____