

These Terms will apply to the provision of any Software and Services under this Agreement. Terms that are capitalised have special meanings, as set out at the end of these Terms.

1. Provision of Software, Services and Deliverables

- 1.1. Unless otherwise agreed, Customer may use the Software on a single computer and only one person at a time may use the Software on that computer.
- 1.2. Customer will: (a) only use the Software for its internal business purposes; (b) not copy or reproduce the Software or any part of the Software in any form or medium except to the limited extent strictly permitted by these Terms; (c) immediately notify Cadcorp of any unauthorised use or reproduction of the Software of which it becomes aware; (d) not decompile, reverse-engineer or otherwise disassemble the Software except to the limited extent permitted by mandatory law; and (e) not remove any copyright or other proprietary notices from the Software.
- 1.3. Cadcorp will provide the Services and any Deliverables in accordance with this Agreement.
- 1.4. Cadcorp will deliver the Software and any Deliverables on an agreed media, and will use its reasonable efforts to deliver the Software and any Deliverables by any agreed delivery date. If no delivery date has been agreed, Cadcorp will deliver the Software or Deliverables within a reasonable time of Customer's acceptance of the relevant Quote.

2. Intellectual Property Rights

- 2.1. The Intellectual Property Rights in any content and material supplied by Customer to Cadcorp to enable Cadcorp to provide the Services and Deliverables (the "Content") will be owned by Customer or its licensors. Cadcorp will have a non-exclusive licence to use, copy, modify, adapt, and translate the Content and any other material supplied by Customer for the purpose of providing the Services and Deliverables under this Agreement.
- 2.2. The Intellectual Property Rights in the Software and any pre-existing or generic material (including any software) used or created by Cadcorp in providing the Services will be owned by Cadcorp or its licensors.
- 2.3. Unless otherwise agreed, the Intellectual Property Rights in any Deliverables will be owned by Cadcorp or its licensors, and Customer will have a non-exclusive licence to use such material or Deliverables as specified in the relevant Quote.
- 2.4. Subject to clause 2.6, Cadcorp will indemnify Customer against any loss or damage suffered or incurred by Customer as a result of any claim that the use of or possession by Customer in accordance with this Agreement of the Software or any Deliverable supplied by Cadcorp infringes the Intellectual Property Rights of any third party. This indemnity will not apply to the extent that the relevant infringement results from: (a) Customer modifying the Software or Deliverable without the consent of Cadcorp; or (b) that arises in relation to any changes to the Software or Deliverable which have not been made by Cadcorp, or any combination or use of the Software or Deliverable with anything else where that combination or use has not been approved by Cadcorp.
- 2.5. Subject to clause 2.6, Customer will indemnify Cadcorp against any loss or damage suffered or incurred by Cadcorp as a result of any claim that the use or possession by Cadcorp in accordance with this Agreement of any Content infringes the Intellectual Property Rights of any third party.
- 2.6. In relation to any third party claim to which any of the indemnities in this clause 2 relate, the party claiming the benefit of the indemnity shall: (a) allow the other party on request to conduct the defence of the claim (including settlement); (b) make no admission to the claim without the prior consent of the other party; (c) notify the other party as soon as is reasonably practicable of the claim; and (d) at the expense of the other party, co-operate and assist to a reasonable extent with the other party's defence of the claim.

3. Charges

- 3.1. Customer shall pay the Charges set out in the Quote. If no Charges are specified, Customer shall pay Cadcorp's standard rates for the Software and Services (on a time and materials basis in relation to any Services).
- 3.2. The Charges shall be due on the delivery of the Software or Services. Cadcorp will invoice Customer for the Charges as soon as they become due. Customer must pay all invoices within 30 days of the date of the invoice.
- 3.3. If Customer is late in paying any invoices then Cadcorp may (a) suspend the provision of the Services and/or the licence set out in clause 1 until such invoices have been settled in full by Customer; and/or (b) charge interest on all unpaid amounts. Interest will be payable from the date of the invoice until the date of payment. The rate of interest will be 1% per month.
- 3.4. The amounts specified in the Quote do not include VAT or any other taxes on supplies unless expressly stated otherwise, and Customer must pay these to Cadcorp as well as the amounts concerned.

4. Warranties

- 4.1. Cadcorp warrants that any Services will be provided: (a) with reasonable care and skill; and (b) by means of appropriately qualified and skilled personnel.
- 4.2. Cadcorp warrants that any Deliverables (except software Deliverables) will be free from any material inaccuracy of which Cadcorp should have reasonably have been aware at the time the relevant Deliverable was supplied.
- 4.3. Cadcorp warrants that, in relation to the Software or any software Deliverable: (a) where there is no specification for the Software or Deliverable, the Software or Deliverable will for a period of 90 days from delivery be free from any defect which has a materially adverse effect on its operation; and (b) where there is a specification for the Software or Deliverable, the Software or Deliverable will perform in substantial conformance with the specification.
- 4.4. If any of the warranties in this clause 4 are breached, Customer must tell Cadcorp as soon as is reasonably possible. Customer must give Cadcorp a reasonable time to fix the problem and (if necessary) to re-perform any relevant Services and provide a new version of the Software or Deliverable. This will be done without any additional charge to Customer and will be Customer's sole and exclusive remedy in respect of the breach in question. If Cadcorp is unable or unwilling to do this within a reasonable time then Customer may by notice to Cadcorp terminate immediately this Agreement. In the event of such termination, Cadcorp will refund to Customer the charges actually paid by Customer in relation to the Software or Services to which the breach of warranty relates and this will be Customer's sole and exclusive remedy in relation to the breach in question.
- 4.5. Apart from the terms set out above, no conditions, warranties or other terms apply to the Software, Services, Deliverables or to anything else supplied under this Agreement. In particular, no implied conditions, warranties or other terms relating to satisfactory quality or fitness for any particular purpose will apply to anything supplied under this Agreement.

5. Exclusions and limitations of liability

- 5.1. Neither party's liability: (a) for death or personal injury caused by its negligence or the negligence of its employees or agents; (b) under Part I of the Consumer Protection Act 1987; (c) to pay any sums properly due under this Agreement; or (d) for fraudulent misrepresentation, is excluded or limited by this Agreement, even if any other term of this Agreement would otherwise suggest that this might be the case.
- 5.2. Other than as set out in clause 5.1, Cadcorp shall not be liable (whether for breach of contract, negligence or for any other reason) for any indirect, consequential or special loss or loss of: (a) profits; (b) sales; (c) revenue; (d) any software or data; (e) use of hardware, software or data; (f) or loss of or damage to property; (g) or waste of management or staff time.
- 5.3. Subject to clauses 5.1 and 5.2, Cadcorp's total aggregate liability under this Agreement and in relation to anything which it may have done or not done in connection with this Agreement (and whether the liability arises because of breach of contract, negligence or for any other reason) shall be limited to an amount equal to 125% of the total amounts paid and payable by Customer under this Agreement.

6. Term and termination

- 6.1. This Agreement will commence on: (a) the date Customer accepts the Quote; or (b) the date when Cadcorp first performs the Services for Customer or delivers the Software, whichever is the earlier. This Agreement will expire on the completion of the parties' obligations, unless otherwise terminated in accordance with its terms.
- 6.2. Cadcorp or Customer may terminate this Agreement if: (a) the other materially breaches any term of this Agreement and it is not possible to remedy that breach; or (b) the other materially breaches any term of this Agreement and it is possible to remedy that breach, but the other fails to do so within 30 days of being asked to do so.
- 6.3. Upon the termination or expiry of this Agreement, the licence set out in clause 1 will automatically terminate. Termination of this Agreement will not affect any accrued rights or liabilities which either Cadcorp or Customer may have by the time termination takes effect.

7. Confidentiality

- 7.1. Cadcorp will keep confidential any confidential information which Customer supplies to Cadcorp in connection with this Agreement and Customer must do the same in relation to any confidential information which Cadcorp supplies to Customer. Confidential information will include all information marked as being confidential and any other information which might reasonably be assumed to be confidential. The obligations as to confidentiality in these Terms will not apply to any information which: (a) is available to the public other than because of any breach of this Agreement; (b) is, when it is supplied, already known to whomever it is disclosed to in circumstances in which they are not prevented from disclosing it to others; or (c) is independently obtained by whomever it is disclosed to in circumstances in which they are not prevented from disclosing it to others.

8. General

- 8.1. Customer may not assign any of its rights or obligations under this Agreement without Cadcorp's consent. Cadcorp may: (a) sub-contract the performance of any of its obligations under this Agreement; and (b) assign any of its rights or obligations under this Agreement; Cadcorp will remain liable to Customer for any breach of this Agreement if it sub-contracts or assigns. Neither party will be liable to the other for any breach of this Agreement which arises because of any circumstances which that party cannot reasonably be expected to control. All variations to this Agreement must be agreed, set out in writing and signed on behalf of both Cadcorp and Customer before they take effect. This Agreement (including the Quote) sets out all of the terms that have been agreed between Cadcorp and Customer in relation to the subjects covered by it. Subject to clause 5.1, no other representations or terms shall apply or form part of this Agreement. No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement. This Agreement is governed by English law. Both parties submit to the exclusive jurisdiction of the English courts in relation to any dispute concerning this Agreement.

9. Definitions and interpretation

- 9.1. In these Terms, unless the context otherwise requires:
- "Agreement" means the Terms and the Quote and any other documents attached to the Quote or incorporated by reference into it (all as amended or added to from time to time);
 - "Cadcorp" means Computer Aided Development Corporation Limited, CRN 01955756;
 - "Charges" means the charges for the Services and/or Software;
 - "Content" has the meaning given to it in clause 2.1;
 - "Customer" means the person or entity identified on the Quote;
 - "Deliverables" means any reports, specifications, designs, software and any other items or materials provided by Cadcorp as part of the Services;
 - "Intellectual Property Rights" means all copyright, patent rights, trade or service marks, design rights, rights in or relating to databases, rights in or relating to confidential information, and any other intellectual property rights (registered or unregistered) throughout the world, including all rights of reversion and rights to any applications and pending registrations and the right to sue for and recover damages for past infringements, which are existing anywhere in the world now or in future;
 - "Services" means any and all Services set out in the Quote;
 - "Software" means any software set out in the Quote;
 - "Terms" means these standard terms and conditions;
 - "Quote" means any quotation, statement of work or invoice that Cadcorp provide in relation to the Software and/or Services.
- 9.2. In these Terms, unless it says otherwise: (a) reference to a person includes a legal person (such as a limited company) as well as a natural person; (b) reference to "**including**" shall be treated as being by way of example and shall not limit the general applicability of any preceding words; (c) reference to any legislation shall be to that legislation as amended, extended or re-enacted from time to time and to any subordinate provision made under that legislation; and (d) references to clause numbers shall be to those in these Terms.