

Standard Terms and Conditions of Sale

1. Interpretation

1.1 Definitions

Ballpark Estimate is as defined in Clause 3.4.

Business Day means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Call-Off Estimate is as defined in Clause 3.3.

Call-Off Project is as defined in Clause 3.3.

Company means Cobwebb Communications Ltd, a company incorporated in England and Wales with company registration number 02029183 and registered address 134 High Street, Tonbridge, Kent, TN9 1NS.

Company Materials means materials, equipment, documents and other property of the Company.

Conditions means these business to business terms and conditions for the supply of goods and services and any special terms and conditions agreed in writing by the Company and the Customer.

Confidential Information is as defined in Clause 14.

Customer means the person who buys or agrees to buy the Goods/and or Services from the Company.

Customer Default is as defined in Clause 13.2.

Data Protection Laws means all applicable data protection and privacy legislation in force from time to time in the United Kingdom including the Data Protection Act 2018 and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Expenses means costs related to transportation, lodging, meals and other incidentals incurred by the Company's employees when attending the Customers premises.

Fixed Price Basis is as defined in Clause 3.2.

Force Majeure Event: events, circumstances or causes beyond a party's reasonable control.

Goods means the equipment, software or any other items supplied by the Company, as set out in any Order, including any Third Party Materials.

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, where accepted in writing by the Company, or the Customer's written acceptance of a Quotation, as the case may be.

Price means the price for the Goods and/or Services, excluding VAT, any carriage, packaging and insurance costs and any Expenses.

Services means the professional services supplied by the Company to the Customer as set out in the respective Order.

Services Estimate is as defined in Clause 3.2.

Software Maintenance and Support is as defined in Clause 11.

T&M Basis is as defined in Clause 3.2.

Third Party Materials means goods or services provided separately or incorporated in Goods and/or Services provided by the Company.

Third Party Terms and Conditions means any licence agreements, terms of use, terms of service, privacy policies, cookie policies, end user agreements, subscription terms and any other conditions established by third parties governing access to, or use of, Third Party Materials.

Quotation means the Company's written quotation (which may be in the form of a Services Estimate), sales order, proposal, change request or statement of work.

UAT is as defined in Clause 5.5.

VAT means value added tax in the United Kingdom.

Warranty Period is as defined in Clause 7.1.

1.2 Interpretation:

- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (b) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (c) any phrase introduced by the terms **including**, **include**, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms; and
- (d) a reference to **writing** or **written** includes emails.

2. Conditions

- 2.1 These Conditions shall form the basis of the contract between the Company and the Customer in relation to the sale of Goods and/or Services, together with any applicable Third Party Terms and Conditions. Specifically, where a product or service of Tungsten Automotion is purchased, the Customer acknowledges and agrees that Tungsten Automotion's End User License Agreement (EULA) and Tungsten Automotion's Subscription Terms of Service shall also apply.

EULA:

<https://www.tungstenautomation.com/-/media/files/legal/end-user-licencing-agreement.pdf>

Subscription Terms of Service:

<https://www.tungstenautomation.com/-/media/files/legal/subscription-terms-of-service.pdf>

- 2.2 All other terms and conditions, including the Customer's standard conditions of purchase or any other conditions which the Customer may purport to apply under any purchase order or confirmation of order or any other document, are excluded.
- 2.3 All orders for Goods and/or Services shall be deemed to be an offer by the Customer to purchase such Goods and/or Services from the Company pursuant to these Conditions.
- 2.4 Acceptance by the Customer of an Order or acceptance of delivery by the Customer of the Goods or commencement of the Services shall be deemed to be conclusive evidence of the Customer's acceptance of these Conditions.
- 2.5 These Conditions may not be varied except with the written agreement of the Company and the Customer.

3. Quotations; Services Estimates; Call-Off Estimates; Ballpark Estimates

- 3.1 Each Quotation, Services Estimate, Call-Off Estimate and Ballpark Estimate shall remain valid for 30 days.

3.2 Services Estimates

- (a) Services Estimates include (where appropriate) development services, project management, technical control / coordination, technical system testing, support for Customer system testing, delivery of solution and Customer support.
- (b) Services Estimates will be provided on a 'time and materials' basis (**T&M Basis**) or a 'fixed price' basis (**Fixed Price Basis**) unless otherwise identified on the Quotation.
 - (i) Where a Services Estimate is provided on a T&M Basis, the respective Services will be invoiced based on the number of actual hours worked.
 - (ii) Where a Services Estimate is provided on a Fixed Price Basis, the respective Services will be invoiced at the quoted fixed price, regardless of the actual number of hours worked.
- (c) A breakdown of the Services to be provide will be included in the Quotation.

3.3 Call-Off Estimates

- (a) Each individual task to be undertaken under a call-off project (a **Call-Off Project**) will be estimated and will require written Customer approval by email in advance. If required, a delivery date will be agreed in writing between the Company and the Customer.
- (b) Call-off Projects will be closed after 12 months.

- (c) A detailed breakdown of all time used can be provided on request.

3.4 *Ballpark Estimates*

- (a) Ballpark Estimates are provided purely as a guide and can be subject to as much as a +/- 30% variation. For a more accurate estimate a full (chargeable) technical analysis would need to be carried out and a Services Estimate provided.

4. **Price**

4.1 The Price shall be the price quoted on the Order.

4.2 Expenses will be charged separately:

- (a) travel and accommodation expenses will be charged at cost;
- (b) mileage will be charged in accordance with HM Revenue and Customs published rates; and
- (c) travel time will be charged @ 50% of the hourly rate. For United Kingdom site visits, a minimum of 4 hours will be charged for on-site services.

5. **Payment and Interest**

5.1 Perpetual software licences and support will be invoiced at 100% on receipt of the Order.

5.2 Subscription licences will be invoiced according to the respective term:

- (a) 1 year fixed term subscription licences will be invoiced at 100% on receipt of the Order and, if renewed, will be invoiced annually in advance of the renewal date.
- (b) For multi-year subscription licences, the first year will be invoiced at 100% on receipt of the Order and subsequent years will be invoiced annually in advance of the renewal date.

5.3 Call-off Projects will be invoiced at 100% on receipt of the Order.

5.4 Services provided on a T&M Basis will be invoiced monthly for the work carried out in each respective month.

5.5 Services provided on a Fixed Price Basis up to £10,000 will be invoiced at 50% on receipt of the Order and 50% on delivery of the respective project subject to any applicable User Acceptance Testing (**UAT**). The Company standard UAT period is fifteen (15) days.

- 5.6 Services provided on a Fixed Price Basis over £10,000 will be invoiced at 40% at the respective project start, 40% on delivery subject to any applicable UAT and 20% at the project completion date or end of any applicable Warranty Period, whichever is sooner.
- 5.7 Additional Services will be managed as a change request agreed in writing between the Company and the Customer and will be invoiced separately. Change requests will be invoiced in accordance with the terms of the initial project or as otherwise agreed in writing at such time between the Company and the Customer.
- 5.8 Payment of Goods and/or Services, together with VAT and any Expenses, shall be due within 30 days of the date of the Company's invoice.
- 5.9 Should any undisputed invoice not be paid, for whatever reason, by the due date, then without limiting the Company's remedies under Clause 17:
- (a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 5.9 will accrue each day at 4% a month above the Bank of England's base rate from time to time, but at 4% a month for any period when that base rate is at or below 0%;
 - (b) the Company may suspend all Services until payment has been made in full; and
 - (c) the Customer agrees to allow the Company access to its premises to remove any supplied Goods as further set out in Clause 10 below and to allow the Company to render any supplied software inoperative.
- 5.10 The Customer shall pay all undisputed and unpaid invoices in full and not exercise any rights of set-off or counterclaim against invoices submitted by the Company.
- 5.11 If the Company is obliged to consult its solicitors or other advisers over non-payment of any invoice, then such professional fees shall be payable by the Customer.

6. Goods

- 6.1 Goods are as described in the respective Quotation.
- 6.2 Any samples, drawings, descriptive matter, or advertising produced by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of these Conditions or have any contractual force.

- 6.3 The Company reserves the right to amend or change the specification of the Goods if required by any applicable statutory or regulatory requirements.
- 6.4 The initial term for software subscriptions or term licences commences on the date on which the applicable software is electronically made available by the Company or the respective third party provider, whichever is earlier, for a period of 1 year, unless otherwise stated in the Order. Where a subscription or term licence is agreed for a multi-year period, the Customer agrees to pay for the initial 1 year and any subsequent years' invoices. Should the Customer elect not to renew the license at the end of the agreed term, the Customer's licence and right to use the Software will cease. The Customer shall not be entitled to a refund of any pre-paid licence or subscription fees upon termination or non-renewal of a licence for any reason and regardless of the effective date of termination or non-renewal.

7. Warranties

- 7.1 The Company warrants that for a period of 15 days commencing from the start of any applicable UAT and 30 days commencing from the project go-live date, or as otherwise specified by the company in writing in the respective Quotation (**Warranty Period**), the Goods shall:

- (a) conform in all material respects with their description;
- (b) be free from material defects in design, material and workmanship; and
- (c) be fit for any purpose held out by the Company.

- 7.2 Subject to Clause 7.3, if:

- (a) the Customer gives notice in writing to the Company during the Warranty Period that some or all of the Goods do not comply with the warranties set out in Clause 7.1;
- (b) the Company is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost,

the Company shall, at its option, repair or replace any Goods that are found to be defective or refund the price of such defective Goods in full.

- 7.3 The Company shall not be liable for any failure to comply with the warranties set out in Clause 7.1 if:

- (a) the Customer makes any further use of such Goods after giving notice of defects in accordance with Clause 7.2;

- (b) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - (c) the Customer alters or repairs such Goods without the written consent of the Company;
 - (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - (e) the Goods differ as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 7.4 The Company's only liability to the Customer if any Goods fail to comply with the warranties set out in Clause 7.1 is as set out in this Clause 7.
- 7.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from these Conditions.
- 7.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Company.
- 7.7 Errors reported during the Warranty Period will be corrected promptly. Errors and modifications reported after the Warranty Period has expired can be covered by separate agreement between the Company and the Customer and will be subject to normal lead time considerations.
- 8. Delivery of Goods**
- 8.1 Delivery of the Goods shall be made to the Customer's requested address. The Customer shall make all arrangements necessary to take delivery of the Goods on the day notified by the Company for delivery.
- 8.2 The Company undertakes to use its reasonable endeavours to despatch the Goods on an agreed delivery date but does not guarantee to do so. Time of delivery shall not be of the essence.
- 8.3 The Company shall not be liable to the Customer for any loss or damage whether arising directly or indirectly from the late delivery or short delivery of any Goods. If short delivery does take place, the Customer may not reject the Goods but shall accept the Goods delivered as part performance of the respective contract, and a pro-rata adjustment to the Price shall be made.
- 8.4 If the Customer fails to take delivery of the Goods on the agreed delivery date or, if no specific delivery date has been agreed, when the Goods are ready for despatch, the Company shall be

entitled to store and insure the Goods and to charge the Customer the reasonable costs of doing so.

9. Acceptance of the Goods

- 9.1 The Customer shall be deemed to have accepted the Goods at the end of the Warranty Period.
- 9.2 The Customer shall carry out a thorough inspection of the Goods within the Warranty Period and give notice in writing to the Company if applicable on discovering that some or all of the Goods do not comply with the warranty set out in Clause 7 above, and if so the Customer must return the Goods to the Company at the Customer's cost and the Company shall, at its option, repair or replace any Goods that are defective, or refund the price of such defective Goods, as further set out in Clause 7 above.
- 9.3 Where the Customer has accepted or has been deemed to have accepted the Goods, the Customer shall not be entitled to reject such Goods.

10. Title and Risk

- 10.1 Risk in Goods shall pass to the Customer on completion of unloading the Goods at the requested delivery location.
- 10.2 Title to Goods shall only pass to the Customer once the Company receives payment in full (in cash or cleared funds) for them.
- 10.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) notify the Company immediately if it becomes subject to any of the events listed in 17.1(b); and
 - (e) give the Company such information as the Company may reasonably require from time to time relating to:
 - (i) the Goods; and

(ii) the ongoing financial position of the Customer.

- 10.4 The Company may recover Goods in which title has not passed to the Customer. The Customer irrevocably licenses the Company, its officers, employees and agents, to enter any premises of the Customer (including with vehicles), in order to satisfy itself that the Customer is complying with the obligations in Clause 10.3 above, and to recover any Goods in which property has not passed to the Customer.
- 10.5 The Company may at any time after delivery elect to transfer title in the Goods to the Customer, in which case the Customer shall immediately pay the Price to the Seller.
- 10.6 The title and ownership rights to all software supplied by the Company shall remain with the originator. The Customer is the licensee of any supplied software and acknowledges that such software is protected by copyright and will be subject to Third Party Terms and Conditions that the Customer agrees to abide by.

11. Software Maintenance and Support

11.1 Software developed by the Company

- (a) Where applicable, support will commence from delivery of the licence or delivery of the project subject to any applicable UAT, whichever is sooner.
- (b) Software developed and supplied by the Company is sold with a minimum of 12 months software maintenance and support (**Software Maintenance and Support**) unless specified otherwise in the Quotation. A renewal will be issued at least 1 month prior to the Software Maintenance and Support end date. 100% payment for renewals is required in advance of the renewed Software Maintenance and Support start date. Details of Software Maintenance and Support is set out in Schedule 1.
- (c) The Company Document Support Policy is set out in Schedule 2.
- (d) The Company will have no liability to the Customer arising from or related to the Customers cessation of Software Maintenance and Support, whether from the Customers failure to renew Software Maintenance and Support by the due date or otherwise.
- (e) If the Customer elects to reinstate Software Maintenance and Support following expiration of the Software Maintenance and Support for whatever reason, the Customer will:
 - (i) pay a reinstatement fee equal to the sum of the current annual Software Maintenance and Support fees, any unpaid Software Maintenance and Support

fees from the date of expiration to the date of reinstatement, and an amount equal to 1 additional year of Software Maintenance and Support fees for the new support period, and

- (ii) apply all upgrades, enhancements and new releases to the respective software to bring such software to the latest standard.
- (f) Software Maintenance and Support pricing may increase for renewal terms in the sole discretion of the Company, provided that increases associated with additional software licence purchases, if any, will be incorporated into the base for the purpose of calculation of each annual increase. The Company may waive any renewal increases in its sole discretion.
- (g) The Customer should ensure they are operating a supported version of the provided software in accordance with the Company's Product Support Lifecycle Policy which will be provided on request.

11.2 Subscriptions, Software as a Service (SaaS) and Term Licences

- (a) The initial term for subscription, term or SaaS licences commences on the date on which the respective software is electronically made available by the Company or the respective third party provider, whichever is earlier, for a period of 1 year, unless otherwise stated in writing at such time.
- (b) Where a subscription, term or SaaS licence is agreed for a multi-year period, the Customer agrees to provide a purchase order for the full term of the support period. Payment will be made on an annual basis, in advance, in accordance with the Company's payment terms. Should a customer elect not to renew the licence at the end of the agreed term, the Customer's licence and right to use the Software will cease.
- (c) The Customer shall not be entitled to a refund of any prepaid licence or subscription fees upon termination or non-renewal of a licence for any reason and regardless of the effective date of termination or non-renewal.
- (d) If the Customer terminates the licence before the end of the agreed term all outstanding payments will still be due in accordance with the Company's payment terms.

11.3 Third Party Software

- (a) Software Maintenance and Support for third party software sold by the Company is governed by the software vendors respective End User Licensing Agreement (EULA) which are available upon request.

- (b) Subscriptions for third party software sold by the Company are governed by the software vendors Third Party Terms and Conditions which are available upon request.

11.4 Investigation of Customer Issues

- (a) The Company will investigate any issues reported by the Customer. Where an issue is found to be out of the scope of warranty or support or the result of a Customer's fault or issue under the Customers responsibility (such as ERP or VMS settings), the Company will be reimbursed for the time spent investigating at its standard Services rate.

12. Supply of Services

12.1 The Company agrees:

- (a) to provide the Services in accordance with any brief and deadline agreed with the Customer;
- (b) to manage and carry out the Services in an expert and diligent manner and to provide the Services to the best of its technical and creative skill and to be solely responsible for how the services are provided;
- (c) to the best of its ability, promptly and faithfully to meet any deliverables and deadlines agreed with the Customer;
- (d) to use such suitably qualified and experienced personnel as it may from time to time deem appropriate;
- (e) to keep the Customer informed of progress on any Services and to produce written reports on the same from time to time when so requested by the Customer. While the Company's method of working is entirely its own and it is not subject to the control of the Customer, it shall nevertheless comply with this and any other reasonable requests of the Customer; and
- (f) in performing its obligations under these conditions, the Company shall comply with all applicable laws, statutes, regulations and codes from time to time in force provided that the Company shall not be liable under these Conditions if, as a result of such compliance, it is in breach of any of its obligations under these Conditions.

12.2 The Company is free to undertake and accept other engagements, except those which lead or might lead to any conflict of interest between the Company and the Customer but only where the Company is currently providing Goods and/or Services to the Customer.

13. Customer's obligations

13.1 The Customer shall:

- (a) ensure that the terms of each Order are complete and accurate;
- (b) co-operate with the Company in all matters relating to the Services;
- (c) provide the Company, its employees, agents, consultants and subcontractors, with access to the Customer's premises or systems as reasonably required by the Company to provide the Services;
- (d) provide the Company with such information and materials as the Company may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
- (f) keep and maintain all Company Materials at the Customer's premises in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation.

13.2 If the Company's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation under these Conditions (**Customer Default**):

- (a) the Company shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Company's performance of any of its obligations to the Customer;
- (b) the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this Clause 13.2; and
- (c) the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from any Customer Default.

14. Confidentiality

- 14.1 The Company hereby agrees that during the course of its engagement under these Conditions, it is likely to obtain knowledge of trade secrets and also other confidential information with regard to the business and financial affairs of the Customer which are not in the public domain (**Confidential Information**), and accordingly the Company hereby undertakes to and covenants with the Customer that except as permitted by Clause 14.2 below, it shall not use the Confidential Information other than during the continuance of these Conditions and in connection with the sale of Goods and/or the provision of the Services.
- 14.2 The Company may disclose Confidential Information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising its rights or carrying out its obligations under or in connection with these Conditions but only where the Company shall ensure that its employees, officers, representatives or advisers to whom it discloses confidential information comply with this Clause 14; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3 The restrictions set out in Clause 14 shall cease to apply to information or knowledge which comes into the public domain otherwise than by reason of the default of the Company.

15. Intellectual Property Rights

- 15.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Company.
- 15.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Company obtaining a written licence from the relevant licensor on such terms as will entitle the Company to license such rights to the Customer.
- 15.3 All Company Materials are the exclusive property of the Company.

16. Limitation of Liability

The customer's attention is particularly drawn to this Clause 16.

- 16.1 Neither the Company nor the Customer may benefit from the limitations and exclusions set out in this Clause 16 in respect of any liability arising from its deliberate default.

- 16.2 Nothing in this Clause 16 shall limit the Customer's payment obligations under these Conditions.
- 16.3 Nothing in these Conditions shall limit or exclude the Company's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) defective products under the Consumer Protection Act 1987; or
 - (d) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.
- 16.4 Subject to Clause 16.2:
- (a) the Company shall not be liable to the Customer, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with these Conditions; and
 - (b) the Company's total liability to the Customer for all other losses arising under or in connection with these Conditions, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise, shall not exceed the total sums paid and/or payable by the Customer for the Goods and/or Services under these Conditions.
- 16.5 Subject to Clause 16.1, Clause 16.3 and Clause 16.4, this Clause 16.5 sets out the types of loss that are wholly excluded:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use or corruption of software, data or information;
 - (f) loss of or damage to goodwill; and
 - (g) indirect or consequential loss.
- 16.6 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Conditions.

17. Termination

17.1 Without limiting its other rights or remedies, either party may terminate these Conditions with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of these Conditions and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.

17.2 Without limiting its other rights or remedies, the Company may terminate these Conditions with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under these Conditions on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.

18. Consequences of Termination

18.1 Upon the expiration or termination of any contract under these Conditions for any reason, the Company shall deliver to the Customer or its authorised representative all its property, including all equipment, materials, tools, keys, swipe cards, computer hardware and/or software, books, documents, account records and any other papers which may be in its possession, custody or control and which are the property of the Customer or which otherwise relate in any way to the business or affairs of the Customer and no copies of the same or any part thereof shall be retained by the Company. The Company shall (if required by the Customer) make a declaration that the whole of the provisions of this Clause 18 have been complied with.

18.2 The Customer shall immediately pay to the Company all of the Company's outstanding undisputed and unpaid invoices and interest and, in respect of the Goods and/or Services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt.

- 18.3 The Customer shall, within 7 days, return all of the Company Materials. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of the Company Materials. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping.
- 18.4 Termination or expiry of these Conditions shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of these Conditions which existed at or before the date of termination or expiry.
- 18.5 The termination of these Conditions howsoever occurring shall not affect the rights and liabilities of the parties already accrued at such time nor affect the continuance in force of such of its provisions as are expressed as or capable of having effect after such termination.

19. Insurance

The Company warrants to the Customer that they it will take out and maintain throughout the term of these Conditions, adequate public liability insurance coverage with a minimum £10,000,000 cover to protect itself against any liabilities arising out of these Conditions in respect of all and any contractors/employees it utilises to carry out the Services and shall produce, at the request of the Customer, a copy of the insurance policy or policies and relevant renewal receipts for inspection by the Customer.

20. Data Protection and Data Processing

- 20.1 The Company will only use personal information in accordance with Data Protection Laws and its privacy policy which can be viewed here: https://www.cobwebb.co.uk/support_welcome/guarding-your-privacy/
- 20.2 While the Company will take necessary precautions, no data transmission over the internet can be guaranteed as 100% secure.

21. General

- 21.1 **No Employment or Partnership:** The Company is an independent contractor and nothing in these Conditions shall render or be deemed to render the Company as an employee, worker or agent of the Customer and the Company shall not hold itself out as such. This Agreement does not create any mutuality of obligation between the Company and the Customer and neither party seeks to create or imply any mutuality of obligation between the parties during the

performance of any engagement or during any notice period. The Customer is not obliged to offer work to the Company, nor is the Customer obliged to accept any work where it is offered.

21.2 **Sub-contractors:** The Company may choose to delegate performance of the Services to such suitably qualified and experienced personnel as it may from time to time deem appropriate. The Customer has the right to refuse the replacement if, in the reasonable view of the Customer, the replacement is not sufficiently qualified to undertake the work. The Company must provide details of the name of the substitute. The Company will be responsible for remunerating the substitute, such that there will be no further payments outside of the agreed terms to pay for any handover period between the Company and the substitute.

21.3 **Notices/Communication.** Any notice or other communication given to either party under or in connection with these Conditions shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail.

A notice or other communication shall be deemed to have been received as follows: if delivered personally, when left at the address stated in these Conditions or to such other address (being in the United Kingdom as the addressee may from time to time have notified for the purpose of this Clause 21.3); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.

The provisions of this Clause 21.3 shall not apply to the service of any proceedings or other documents in any legal action.

21.4 **Entire Agreement.** These Conditions constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

21.5 **Force Majeure.** Neither party shall be in breach of these Conditions nor liable for delay in performing, or failure to perform, any of its obligations under these Conditions if such delay or failure result from a Force Majeure Event.

- 21.6 **Assignment and Other Dealings.** The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent. The Customer shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Conditions.
- 21.7 **Survival of Causes of Action.** The termination of these Conditions howsoever occurring shall not affect the rights and liabilities of the parties already accrued at such time nor affect the continuance in force of such of its provisions as are expressed as or capable of having effect after such termination.
- 21.8 **Severability:** If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Conditions.
- 21.9 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under these Conditions by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 21.10 **Variation.** No variation of these Conditions shall be effective unless it is in writing and signed by both parties (or their authorised representatives). The Contracts (Rights of Third Parties) Act 1999 shall not apply to these Conditions.
- 21.11 **Non-disparagement & Reputational Risk.** The Customer irrevocably agrees for the duration of these Conditions and thereafter, not to disparage or denigrate the Company in any manner that might be harmful to the Company's reputation or business interests. This includes, but is not limited to, any form of public statement, whether made orally or in writing, on any social media platforms, or to any third-party, that could be construed as negative, defamatory, or disparaging. The parties further acknowledge that this Clause 21.11 is made in consideration of the Defamation Act 2013 of the United Kingdom and any subsequent amendments or re-enactments thereof. The Customer irrevocably agrees that the determination as to what is and/or amounts to a disparagement or denigration of the Company and/or what is harmful to the Company's reputation or business interests is to be made by the Company exclusively and shall be final and

binding upon the parties. The parties acknowledge that this Clause 21.11 is a fundamental part of these Conditions, intended to protect the integrity, reputation, and business interests of the Company. Any breach of this Clause 21.11 shall entitle the non-breaching party to seek appropriate legal remedies, including but not limited to injunctive relief and damages, under applicable laws and regulations.

- 21.12 **Law and Jurisdiction.** These Conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 – Software Maintenance and Support

Our standard support hours are Monday to Friday 9am-5.30pm GMT. If you require out of hours support, please speak to a member of our team for further information.

The service levels detailed apply to Cobwebb Standard Maintenance, Cobwebb Document Support and Cobwebb Batch Class Support.

Service	Response Target	Notes
Initial Response	1 hour response time for Severity 1 Incidents. 2 hour response time for Severity 2 - Severity 4 Incidents. - No target for Severity 5 Incidents	The customer will receive a manual response from Customer Support.
Subsequent Response	Within 1 working day	The customer will receive a response to any subsequent request, usually from the Customer support representative who initially responded.
Last Activity	Within 3 working days	Customer Support will comment on any ticket with a 'Last Activity' time greater than 3 working days, prompting for client action or updating the client.
Operational Fix	Within 1 calendar week	A workaround will be in place so that business can continue.
Permanent Fix	next release	A solution will be provided that resolves the issue.

Response Target(s) are calculated as the difference between the time an incident is appropriately logged into the [Incident Management Portal](#) and the time of our first value-added communication. Value-added communication may include, without limitation, requests for additional information, the collection of error logs, findings from initial issue triage, timeline for the next step, or providing existing information from the documentation.

Incident Report Line

The Incident Report Line (+44 (0) 1732 447900) provides a means of reporting an incident to the Company.

Please also see our [contact details](#).

Incident Management Portal

The [Cobwebb Incident Management Portal](#) is the organisational hub of Cobwebb Incident Management. All incidents are reported, managed and resolved here, irrespective of how they are reported, ensuring an organised, co-ordinated response.

Contact Details

Incident Report Line: +44 (0) 1732 447900

Incident Management Portal: <https://www.cobwebb.co.uk/about/contact/>

User Guide: <https://www.cobwebb.co.uk/support/guide/index.html>

APPENDIX

Definitions

Term	Meaning
Support	Give assistance to Bear the weight of Be actively interested in and concerned for the success of The overall term for our relationship with our customers. Encompasses all our interactions with our customers
Maintenance	Keeping things going (maintain) Encompasses: ● Incident Support ● Upgrade assurance ● Bug Fixes/ PTFs ● Licence Migration ● Temporary DR Licence ● User guide
Incident	A specific maintenance issue Logged in the Incident Management Portal
Education	Training, instruction, Cobwebb College
Professional Services	Solutions development Using tools to implement bespoke solutions for our customers
Consulting	Providing expert advice Leveraging the knowledge and experience of Company experts to enhance our customer's business

Security Levels

Severity Level	Description	Examples
1	Production System Down	Our customer's production system is inoperable, or a critical application failure has occurred and business processes are halted. There are no workarounds available.
2	High	A critical business process is impaired, causing a serious disruption of a major business function and is causing a serious impact on daily functions or processing, and there is no acceptable workaround.
3	Medium	A non-critical issue occurs with the system. Our customer is able to run the Component System, and there is an acceptable workaround for the issue.
4	Low	An inquiry or low impact issue that does not require immediate attention. This includes cosmetic issues on screens, errors in documentation, or a request regarding use of the Component System.
5	Suggestion for Enhancement	A suggestion is made for enhancing the system by adding new features or improving existing features.

Escalation / Complaints

If at any time you are unsatisfied with the service you are receiving it is essential you contact Customer Care (+44 (0)1732 447900) who can escalate an Incident or assign resources, as required.

Limits

Cobwebb is committed to supporting you and helping you to realise your potential.

Incident Support is focused exclusively on maintaining the stable operation of our customer's systems. Reported issues outside of this scope will be forwarded to Cobwebb College or Cobwebb Professional

Services, as appropriate, although the Incident Support Manager may, at their sole discretion, spend up to fifteen (15) minutes investigating.

Without limitation, out of scope applies to the following areas:

- Implementation setup – any implementation issue such as business flow processes, configurations or installation of 3rd party components such as databases and operating system (OS), benchmarking, training of users, etc.
- Application optimisation – assistance in analysing, testing, or improving the performance of the System.
- Hardware/operating system – any incident regarding assistance with the hardware configuration, operating system tuning, or database administration tasks.
- Modified objects (custom software) – incident support is for the standard code set. However, this does not include analysing the code of module customisations. Customisation support services are generally available through Professional Services.
- Data correction – incidents related to data corrections or corruptions that are not caused by the malfunction of the unmodified standard software.
- Test or Development Server – troubleshooting issues regarding software functionality when conducting a test on a test server or development server.
- Training – training and education are provided through Cobwebb College.

If it is unclear whether the issue is a maintenance issue or whether it requires education or professional services, please follow the incident submission process. The Incident Support Manager will work with you to determine the appropriate course of action.

Schedule 2 – Document Support Policy

Document Support

The Company provides the Customer with cover (**Document Support**) in the event of a document reformatting and distribution failure or error relating to the Cobwebb Document Management system. Cobwebb Document Support - Complete Document Services Outsource includes Template (.PPD File) Management and unlimited document modifications that may be required during the term of the Document Support (including exit programs, overlay modifications, layout changes, additional output devices, etc.) Document Support will be provided for the documents specified in the provided document support schedule at such time (**Document Support Schedule**).

Software

Applicable software is provided in accordance with the software maintenance schedule that exists between the Company and the Customer. Document Support is restricted to existing licensed modules.

Documents

In the event that a document specified in the Document Support Schedule fails to be output as per the submitted document designs, the Customer will inform the Company of the problem via the 'Incident Report Line' or 'Incident Management Portal' with the following information:

- details of the location of the associated spooled file data;
- name of the associated PPD file; and
- emailed example of the problem.

Should the Company find fault with the PPD file and are able to rectify the fault using means within these Document Support terms, the Company will correct the problem (within the bounds of the software capabilities) in accordance with the 'Incident Support Response Targets' and 'Severity Levels' detailed in the [Cobwebb Standard Maintenance Plan](#). Upon rectification of the fault, the Company will upload the corrected PPD file to the Customer's IBM i server for testing by the Customer. Once the PPD file has been tested and acceptance has been provided by the Customer, the Company will put live the test PPD file.

Should a sample document be missing data, which could reasonably be expected to have appeared as part of the original sample document, the Company will endeavour to add the data to the printed document.

Exclusions

The following changes are excluded from Document Support. These services can be provided under Professional Services and will be subject to additional charges:

- Creation of new document templates
- Creation of advance reformat documents
- Creation of new Exit Programs
- Creation of a new docstore (doctype)
- Additional output devices as a result of purchasing new Cobwebb modules
- Implementation of new logic that would compromise the functionality of the working document
- Change of document format/layout (eg. conversion from Landscape to Portrait)
- Addition of dynamic elements (eg. "smart HTML message bodies")
- Configuring of physical Output Devices (eg. Printers)
- Configuring/troubleshooting email sending (eg. Office 365)

Support Period

Any incidents raised during the support period will be supported until resolution, if beyond the expiry date and Document Support is not renewed. No new incidents will be supported if raised outside of a Document Support contract.