



Not technology. Outcomes



## LEGAL INFORMATION

### Trademarks

THERAPYAUDIT and its logo (shown above) are registered marks of THERAPYAUDIT Ltd. All other registered marks referred to on this website are acknowledged

### Copyright

Copyright of all material referred to, unless otherwise advised, is the property of THERAPYAUDIT Limited 2006 through 2013.

### Legal Status

THERAPYAUDIT Limited is a company registered in England with the registration number 5531057

Our VAT registration number is GB 896 2552 79

## CONDITIONS OF BUSINESS

### 1. GENERAL

(a) Quotations by THERAPYAUDIT Limited (“the Company”) are not offers, may be withdrawn without notice, and as noted are time-limited. Any order arising from a quotation or otherwise is not binding on the company unless and until an invoice for the initial or annual payment has been raised by the Company

(b) Any contract made between the Company and the Customer shall incorporate and be subject to the following conditions. All other terms and conditions whatsoever are excluded from the contract until expressly accepted by the Company in writing

### 2. PRICES

(a) All prices shall be payable in the currency quoted exclusive of VAT and

any other equivalent taxes

(b) All prices quoted for the Software, licences and/or services are subject to fluctuations in the cost of labour materials and overheads and taxation whether new or existing, and any increase in such costs after the time-limit in the quotation shall be added to the contract price. In the absence of agreement a Certificate of the Company's Auditors certifying the amount of such increase shall be conclusive and binding on the Customer and the Company on all matters of fact and opinion

(c) Annual charges increase at the rate of 5% or the rate of inflation for the 12 months preceeding the licence expiry, whichever is greater. This increase allows for inevitable increases in operating costs

### **3. SOFTWARE IMPLEMENTATION**

(a) Dates given by the Company for implementation of its Software are statements of expectation and shall not be binding. Failure by the Company to meet any such dates shall not entitle the Customer to any damages for loss of profits or of production or any other consequential loss or damage (including but not restricted to loss of contracts, goodwill or market share) which he may sustain or to treat the contract as repudiated or to rescind it or any related contract.

(b) The raising of an order for the Software implies that the Customer has reviewed and accepted the Technical Specification supplied by the Company, and that the Customer can and will provide and pay for any internal or external resources that may have been identified by the Technical Specification

### **4. PAYMENT TERMS**

(a) Unless otherwise agreed by the Company in writing, all accounts shall be paid within 28 days of the date of the Company invoice

(b) Time for payment shall be of the essence of the contract and the Company shall be entitled to charge interest at the rate of 2 per cent per annum above the base lending rate for the time being of Barclays Bank PLC on all overdue accounts and in addition may suspend work and postpone the fulfillment of its obligations until such overdue payment is made

(c) No disputes as to quality or performance of the goods or services shall entitle the Customer to delay payment unless the Company shall agree liability thereon in an agreed sum or shall have been found liable by a Court of competent jurisdiction

(d) (i) The Customer shall pay one-third of any sales order value (including

any VAT due thereon) to the Company ("the advance payment")

(ii) If the advance payment is not paid on time it shall bear interest under Clause 4(a) and (b) above as if the Company had rendered an invoice to the Customer 28 days before the date of the Company's receipt of the Customer's order documentation

(iii) Without prejudice to Clause 9 below in the event that the Customer wrongfully terminates or purports to cancel the contract without the consent of the Company before the Company has commenced work on the contract, the Company shall be entitled to retain the advance payment as liquidated damages and the parties hereto confirm that such sum and interest as aforesaid is a reasonable pre-estimate of the Company's likely losses in that event

(iv) Where the Company has commenced work the advance payment shall be deemed to be the minimum loss sustained by the Company

(v) The provisions of this Clause 4(d) may be waived wholly or in part at the Company's absolute discretion without affecting the Company's rights in respect of any other past or future contract with the Customer

(vi) No total or partial waiver of this Clause 4(d) shall be of any effect unless in writing and signed by a Director of the Company

(vii) Where the contract is part of a series of contracts this Clause 4(d) shall operate if the aggregate sales order value exceeds the sum or sums referred to at (i) above

## **5. SOFTWARE WARRANTY**

(a) The Company undertakes to make good any software deficiency according to the terms of the Customer's Service Level Agreement (SLA)

(b) The Customer irrevocably waives any right it might otherwise have to rescind or avoid the annual contract once confirmation of its renewal has been received

(c) Unless agreed with a Director of the Company in writing the Company accepts no liability for any third party costs associated with the provision of the Software

## **6. LIABILITY**

(a) The Customer shall operate and use the Software as an adjunct to their own best professional practice

(b) The Software is provided in good faith and is to be used by the Customer in the way in which the Customer sees fit (provided that use is legal). The

Company accepts no liability for the outcome of any clinical decisions that are made by the Customer, whether as a result of information from the Software or otherwise

(c) Save as set out herein in no circumstances shall the Company be liable for any indirect, consequential, incidental or special injury loss or damage suffered by the Customer by reason of breach of contract or negligence on the Company's part

(d) Save as set out herein the Company's entire liability to the Customer in respect of any breach of this or any other contract including a fundamental breach or any default, act or omission in respect of which the Company is legally liable to the Customer shall be as set out in these Conditions.

(e) Save where the contrary is expressly stated by the Company in writing no representation or warranty is given as to suitability or the fitness of the Software for any particular purpose and the Customer shall satisfy itself in this respect and shall be totally responsible therefore and the Customer expressly acknowledges that for all purposes the ability and expertise of the Customer in respect of evaluating any description of or information as to the Software is no less than that of the Company and the Customer has not relied on the skill and judgment of the Company in selecting goods for any particular purpose.

## **7. COPYRIGHT**

(a) Copyright in all original work executed by the Company shall remain the sole property of the Company unless otherwise agreed in writing

(b) The Customer shall indemnify the Company in respect of any claims costs and expenses arising out of any infringement of patent copyright design or other exclusive right by the Company as a result of software or services supplied to the Customer's specifications

(c) The Company acknowledges the Company's Registered Mark show at the beginning of this document

## **8. CANCELLATION**

(a) The Customer shall not be entitled to cancel any contract

(b) Without prejudice to the generality of Clause 4 the Company may in its absolute discretion agree to accept cancellation of a particular contract on condition that all costs and expenses and loss of profits and other loss or damage sustained by the Company shall be reimbursed by the Customer to the Company forthwith insofar as such exceed any advance payment actually made.

(c) Such acceptance of cancellation shall be of no effect unless in writing and signed by a Director of the Company

(d) In the absence of agreement a certificate of the Company's Auditors certified the amount of all such costs, expenses, loss of profits and other loss or damage shall be conclusive and binding upon the Customer and the Company upon all matters of fact and opinion

## **9. FORCE MAJEURE**

The Company shall be under no liability for any delay loss or damage caused wholly or in part by reason beyond the reasonable control of the Company. If the circumstances preventing delivery or other performance of the contract are still continuing 3 months after the said circumstances have arisen, then either party may give written notice to the other terminating the contract except that the Customer shall be liable to pay the contract price less a reasonable allowance for whatever work has not before such notice been performed by the Company

## **10. LAW AND JURISDICTION**

(a) This contract shall be governed by and construed in all respects in accordance with the Laws of England

(b) All disputes under or otherwise arising from this contract shall be subject only to the jurisdiction of the English Courts.

(c) Nothing in sub-clause (b) above shall prevent the Company from pursuing any claims rights or relief under or arising out of this Contract in any Court or Tribunal where the Company would have been entitled so to do but for such sub-clause

## **11. SEVERANCE**

If any provision or condition herein shall be deemed void for any reason whatsoever, but would be valid if part of the wording herein were deleted such condition or provision shall apply with such modification as shall make it valid and effective

## **12. NOTICE**

Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its address specified overleaf or such other address as the party may from time to time notify in writing and shall be deemed to have been served, if sent by post, 48 hours after posting to the Accounts address cited on the Company's website

## **13. WAIVER**

The rights and remedies of the Company shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by the Company nor by any failure or delay by the Company in asserting or exercising any such rights or remedies

## **14. HEADINGS**

The headings of these Conditions are for convenience only and shall have no effect on their interpretation

## **15. INDEMNITY**

The Customer hereby agrees fully and completely to indemnify the Company in respect of all claims (and any related damages, losses, costs or expenses or like matters) made by any person or body whatsoever (other than the Customer itself) for injury to person or property or any other loss or damage caused by or in connection with or arising out of the use of the Software, the subject matter of this contract

## **16. IMPORTANT NOTICE TO CUSTOMER**

Certain of the provisions of these Conditions of Business may in certain circumstances reduce, control or exclude obligations and liabilities between the Company and the Customer. Without giving any warranty, representation or assurance the Company proposes to arrange its affairs (including but not restricted to not seeking greater insurance cover or greater charges from the Customer) on the basis that these Conditions of Business are fully effective between the Company and the Customer. If the Customer is not content to be bound fully by these Conditions of Business it should, before entering into the contract in question, discuss with the Company whether any different terms can be agreed and if they are more favourable to the Customer the amount of any increase in the price to be charged to the Customer. Any variations from these Conditions of Business will only take effect if in writing and signed by a Director of the Company. The Customer should, in any event, obtain and maintain adequate insurance in respect of any loss that might arise to it from any negligence, delay or failure to perform on the part of the Company its servants or agents.