

**1 GENERAL**

- 1.1 These terms and conditions of trade govern all supplies of products, software and services ("Goods") from Corteq Systems Limited ("CORTEQ", "we", "us", "our") to the Customer ("you", "your", including, where the context permits, your successors and permitted assigns). They will replace any terms and conditions contained in any document used by you and purporting to have contractual effect. Nothing in these terms limits any rights or remedies that a Consumer Customer (as defined in clause 11) may have under the Consumer Guarantees Act 1993 or any other applicable consumer protection law.
- 1.2 Any additional or different terms you stipulate or state in any communication with CORTEQ (including an order) are hereby objected to and will not bind CORTEQ unless CORTEQ agrees in writing. No salesperson, representative or agent is authorised by CORTEQ to give any guarantee, warranty, or representation in addition to, or contrary to these terms.
- 1.3 You agree to be bound by these terms when you place an order with CORTEQ, accept a quotation, or otherwise instruct CORTEQ to supply Goods or Services. Receipt of Goods by you (or another as you direct) upon delivery confirms that agreement.
- 1.4 In these terms, "Software" includes all relevant documentation, manuals, and printed material; "Supplier" means CORTEQ's suppliers; and "Goods" has the meaning given in clause 1.1.

**2 PRICE & PRICE VARIATION**

- 2.1 Prices quoted exclude GST unless otherwise stated. Unless otherwise agreed in writing, the price of the Goods will be the current price on the day of delivery. Prices do not include delivery costs or any delivery surcharges.
- 2.2 We may adjust any price quoted from time to time to reflect increases or decreases in our costs of supply arising from any of the following. For Business Customers, you agree to pay any adjusted price. For Consumer Customers, we will notify you of any price adjustment before supply and you may cancel the affected order before delivery if you do not accept the adjusted price:
  - (a) delays in delivery or installation of the Goods arising from:
    - (i) instructions or lack of instructions from you;
    - (ii) your failure or inability to fulfil your obligations under these terms;
    - (iii) any action or inaction by you; or
    - (iv) other circumstances beyond our control;
  - (b) variations in the cost to us of acquiring the Goods arising from:
    - (i) changes in rates of freight and transport costs;
    - (ii) insurance;
    - (iii) customs duties;
    - (iv) taxes;
    - (v) existing tariff classifications; or
    - (vi) any variation in currency exchange rates;
  - (c) variations in the cost of compliance with any statutory, governmental, local government, or other authority charges or obligations; or
  - (d) any correction of errors or omissions on our part or on the part of any of its representatives.

**3 GST**

- 3.1 All Goods sold by us are subject to Goods and Services Tax.

**4 PAYMENT**

- 4.1 Unless we have agreed to extend credit to you, payment must be made in full before supply (including before dispatch, delivery, or collection). Receipt of any form of bank transfer will not be treated as payment until the funds have cleared.
- 4.2 Where we have agreed to extend credit to you, payment is to be made in full on the credit terms notified by us (and shown on the invoice), which will be either:
  - (a) 7 days from the date of supply; or
  - (b) the 20th of the month following the date of invoice.
- 4.3 In all cases, the invoice will state the applicable due date for payment, and any payment term that refers to the date of invoice is calculated from the date shown on the invoice.
- 4.4 Unless we agree in writing to provide an ongoing credit facility, any credit terms granted for an order apply only to that order (as shown on the invoice) and do not apply to any other order (including future or pending orders). We may allow extended credit on a case-by-case basis.
- 4.5 We may set, vary, or withdraw any credit limit we extend to you at any time, by notice to you.
- 4.6 You agree to pay for the Goods in full without deduction or setoff, except where required by law or agreed by CORTEQ in writing. You must also pay Goods and Services Tax and any other government duties, levies, or taxes in respect of the Goods.
- 4.7 Unless otherwise agreed in writing, payment must be made by cash, direct credit, or direct debit to our nominated trading account, or by any other payment method we accept from time to time.
- 4.8 We may suspend the supply of further Goods and/or performance of Services under any order while any amount owed to us remains overdue or you are otherwise in breach of these terms. Any suspension is without prejudice to CORTEQ's other rights and remedies.
- 4.9 Interest may be charged on overdue accounts from the due date until payment is received, calculated daily at a rate per annum determined by us from time to time.
- 4.10 You must pay all reasonable expenses, costs, or disbursements incurred by us in recovering any overdue or outstanding monies (including debt collection agency fees and solicitor's costs).

**5 RISK & DELIVERY**

- 5.1 For Business Customers, you are responsible for insurance and risk in the Goods from the time the Goods are delivered to you or your nominated agent. Where you have assumed responsibility for carriage, risk passes to you when the Goods are collected by you or your nominated agent.
- 5.2 You agree to pay all delivery costs.
- 5.3 You must inspect the Goods promptly on delivery (or collection) and notify us and the carrier as soon as reasonably practicable of:
  - (a) any apparent shortage; or
  - (b) any transit damage.
    - (i) Any claim against the carrier must be made within the carrier's applicable time limits.
- 5.4 We will make every effort to ensure delivery of Goods or performance of Services is on time. However, to the extent permitted by law, CORTEQ will not be liable for any loss or damage arising from any delay in delivery or performance, and delay will not entitle you to cancel any order.
- 5.5 Where you ask us to deliver Goods directly to another person, that person takes possession of the Goods for you as your agent, but you are still directly responsible to us under these terms.
- 5.6 You must request proof of delivery within 30 days of the date of invoice. After this period, we may be unable to provide proof of delivery and any reasonable costs incurred by CORTEQ in retrieving archived proof of delivery (if available) may be charged to you.

- 5.7 Nothing in this clause 5 limits any rights or remedies a Consumer Customer may have under the Consumer Guarantees Act 1993 ("CGA").

**6 PRIVACY ACT 2020**

- 6.1 You authorise us to collect, hold, use, and disclose personal information about you and (where applicable) your representatives (including information collected in any account application) for the following purposes:
  - (a) assessing your creditworthiness;
  - (b) disclosing details of the account application and any subsequent dealings with us to third parties for the purpose of debt recovery and/or providing credit references;
  - (c) marketing Goods and Services provided by us to you.
- 6.2 An individual Customer has the right to access and correct personal information about that individual held by us. Where the Customer is not an individual, the Customer may request access to and correction of any personal information about its representatives held by us. We may charge reasonable costs for providing access to information.

**7 INTELLECTUAL PROPERTY**

- 7.1 All intellectual property shall remain the property of CORTEQ, or any Supplier entitled to it, and neither CORTEQ nor its Suppliers transfer any right, title, or interest in the intellectual property to you.
- 7.2 You may not register a business name incorporating the word "CORTEQ".
- 7.3 You agree to ensure that all confidential information, including (but not limited to) quotations, reports, written analysis, and specifications given by us to you is made available to your employees only on the basis that those employees always maintain strict confidentiality.
- 7.4 This clause 7 shall survive the termination or expiry of these terms.

**8 SOFTWARE LICENCES**

- 8.1 You agree to abide by all terms and conditions imposed by the licences governing Software and other Goods provided to you, including (but not limited to):
  - (a) you must not install Software on more hardware than the licence permits; and
  - (b) where you engage us to install components and/or Software, it is your responsibility to ensure that you hold sufficient licences for the Software being installed. You indemnify CORTEQ against any liability, loss, or cost arising from any breach of this obligation.
- 8.2 You must take all reasonable measures to ensure that your employees and other persons do not install unlicensed software onto equipment purchased from CORTEQ.

**9 RETURN OF GOODS**

- 9.1 Except as required by the Consumer Guarantees Act 1993 ("CGA") for a Consumer Customer, we will not accept the return of Goods for credit or any other change-of-mind purpose unless we agree to accept the return of the Goods in writing. Where we agree to accept a return for credit, the Goods must be returned within 14 days of delivery, unless due to our error. Return freight will be at our cost only when there has been an error on our part.
- 9.2 Where we agree to accept a return for credit (and subject to any CGA rights and remedies for a Consumer Customer), no returned Goods shall be accepted by us if they have been tampered with by you or any other person, are not as new, or are Goods expressly sold on a non-return basis. Where Goods are returned to us but are not accepted as above, they shall be returned to you at your expense.
- 9.3 Receipt by us or by any of our agents or representatives of any Goods returned other than in accordance with clauses 9.1 and 9.2 does not constitute our acceptance of the return of the Goods for credit or any other purpose and does not limit any rights or remedies a Consumer Customer may have under the CGA.

**10 SECURITY INTEREST**

- 10.1 The Goods supplied to you (and any Services supplied on credit) that are secured by these terms are described on each of our invoices.
- 10.2 You agree that you will do all acts necessary and provide to us on request all information required by us to register a financing statement over the Goods or their proceeds, and that you will advise us of any changes to that information.
- 10.3 You agree that you will supply CORTEQ, within 2 business days of its written request, with copies of all security interests registered over your personal property, and you authorise CORTEQ as your agent to request information from any secured party relating to any security interest which is held in any personal property which is or has been in your possession or control.
- 10.4 Until you have paid all money owing to us, you must ensure that:
  - (a) the Goods supplied by us, while in your possession, can be readily identified and distinguished; and/or
  - (b) all Proceeds (in whatever form) that you receive from the sale of the Goods are readily identifiable and traceable.

**11 WARRANTIES**

- 11.1 For the purposes of this clause 11:
  - (a) "Consumer Customer" means a Customer who acquires Goods or Services of a kind ordinarily acquired for personal, domestic, or household use or consumption, and who does not acquire (or hold themselves out as acquiring) those Goods or Services for the purpose of resupplying them in trade, consuming them in the course of a process of production or manufacture, or (in the case of Goods) repairing or treating in trade other goods or fixtures on land, and for whom the Consumer Guarantees Act 1993 ("CGA") applies to the relevant supply.
  - (b) "Business Customer" means a Customer who acquires Goods or Services for the purposes of a business. If you are a Business Customer, the parties intend to contract out of the CGA in respect of that supply to the extent permitted by section 43 of the CGA (including the requirement that the supply and acquisition are in trade). The Business Customer acknowledges that it is acquiring the Goods or Services for business purposes.
  - (c) for a Consumer Customer, if the Goods fail to comply with a guarantee under the CGA, CORTEQ will provide the remedies required by the CGA.
  - (d) without limiting any rights that a Consumer Customer may have under the CGA, CORTEQ does not provide any express guarantees (as defined in the CGA) other than those expressly confirmed by us in writing.
  - (e) if the Customer supplies the Goods to any other person (whether a Consumer Customer or a Business Customer), the Customer must not give or make any undertaking, assertion, or representation in relation to the Goods without CORTEQ's prior written approval. The Customer must provide the person buying the Goods with such product information relating to the Goods as CORTEQ requires. The Customer agrees to indemnify CORTEQ against any liability or cost incurred by CORTEQ under the CGA arising from any breach by the Customer of these obligations.

- 11.2 The following terms apply for Business Customers and for any supply to which the CGA does not apply (or to the extent the following terms are not inconsistent with the CGA):
  - (a) defective Goods or Goods which do not comply with these terms may, at CORTEQ's discretion, be repaired or replaced, or the price refunded.
  - (b) any right you may have (to the extent permitted by law) to reject non-conforming or defective Goods will only be effective if:
    - (i) you notify CORTEQ in writing within fourteen days after delivery and CORTEQ is given the opportunity to inspect the Goods; and
    - (ii) the Goods are returned unused, resaleable and/or in the condition in which they were supplied to you.
  - (c) CORTEQ will not repair, replace, or refund the price of any Goods for so long as you are in default in relation to any amount owing.
  - (d) to the extent permitted by law, CORTEQ accepts no liability for any claim by you or any other person, including any claim relating to or arising from:
    - (i) any conditions, warranties, descriptions, representations, or terms as to fitness or suitability for any purpose, tolerance to any conditions, merchantability or otherwise, whether express or implied by law, trade custom, or otherwise;
    - (ii) any representations, warranties, conditions, or agreement made by any agent or representative which are not expressly confirmed by CORTEQ in writing; or
    - (iii) any Services forming part of the supply of the Goods which have been performed by any third party. You agree to indemnify CORTEQ against any claim arising from those third-party Services.
  - (e) in any event, to the extent permitted by law, CORTEQ's total liability for any claim shall not exceed the price of the Goods. This limitation does not apply to any liability that cannot lawfully be excluded or limited.
- 11.3 Where Goods are subject to a return to base warranty, you are responsible for returning them to CORTEQ or the manufacturer (as provided by the warranty), and you may be responsible for additional costs, including (but not limited to) freight.
- 11.4 Any warranty may be voided by damage to, or misuse of, the system; problems caused by the use or misuse of software; negligent installation or operation; inadequate packaging; cleaning or maintenance (or the lack of it); unauthorised repairs; modifications; or the addition of incompatible hardware.
- 11.5 CORTEQ does not make any warranty regarding the processing, provision, receipt, or exchange of data by any Goods. Subject always to any rights or remedies that cannot lawfully be excluded, CORTEQ shall not be liable to you (and, where applicable, your customers) for any failure of the Goods in connection with dates.
- 11.6 Nothing in these terms is intended to have the effect of contracting out of the provisions of the Consumer Guarantees Act 1993 except to the extent permitted by that Act (including section 43), and these terms are to be modified to the extent necessary to give effect to that intention.

**12 CUSTOMER'S LIABILITY & DEFAULT**

- 12.1 If you:
  - (a) fail to make any payment due under these terms or commit any other breach of your obligations under these terms; or
  - (b) suffer execution under any judgment; or
  - (c) commit an act of bankruptcy (or become insolvent); or
  - (d) make any composition or arrangement with any creditor; or
  - (e) being a company, pass a resolution for winding up, have a receiver appointed over any of its property, or have a winding up petition presented against it, CORTEQ (in addition to any other remedies conferred by these terms or by statute) may treat any order as terminated. In that event, any part of the purchase price then unpaid, together with any other monies owing under these terms (whether or not then due), shall forthwith become due and payable. Any such termination shall be without prejudice to any claim or right CORTEQ may otherwise possess.

**13 VARIATIONS TO TERMS & CONDITIONS OF TRADE**

- 13.1 We may amend, add to, or delete these terms and conditions of trade. For Business Customers, changes take effect immediately and apply to any new orders (including any quotation accepted) after the updated terms are published on our website. Changes may also apply to any Services supplied on credit, to the extent permitted by law. For Consumer Customers, changes will take effect from the date stated on our website (which will be no earlier than 14 days after the updated terms are published on our website) and will apply only to new orders (including any quotation accepted) after that effective date. If you are a Consumer Customer and do not accept the updated terms, you may cancel any affected order that you have placed but that has not yet been supplied, where that order would otherwise be subject to the updated terms. For the avoidance of doubt, changes do not apply retrospectively to Goods or Services already supplied.
- 13.2 We may make these terms and conditions of trade available on our website. By placing an order with us or accepting a quotation, you acknowledge that you have had the opportunity to access and review the current version of these terms and conditions of trade. If these terms and conditions of trade are amended, the updated version will be published on our website and that publication constitutes notice of the updated terms.
- 13.3 If CORTEQ fails to enforce any term or exercise any right under these terms at any time, CORTEQ has not waived that term or right.

**14 GOVERNING LAW**

- 14.1 These terms and conditions of trade are governed by the laws of New Zealand.
- 14.2 CORTEQ and you submit to the non-exclusive jurisdiction of the courts of New Zealand in relation to any dispute or proceeding arising out of, or in connection with, these terms and conditions of trade.