

# Cassapps / Compliapps – Software Provision – Terms and Conditions

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Compliapps / cassapps is a trading name of adminapps ltd

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Please read these Terms and Conditions carefully. Contracts that the Provider may enter into from time to time for the provision of the Hosted Services shall be governed by these Terms and Conditions

## 1. Definitions

Except to the extent expressly provided otherwise, in these Terms and Conditions:

**"Account"** means an account enabling a person to access and use the Hosted Services, including both administrator accounts and user accounts;

**"Agreement"** means the Customer's use of the Hosted Services provided by Adminapps subject to these Terms and Conditions, and any amendments from time to time;

**"Business Hours"** means the hours of [09:00 to 17:00 GMT/BST] on a Business Day;

**"Charges"** means the following amounts:

- (a) Such amounts as may be agreed in writing by the parties from time to time and
- (b) Amounts calculated by multiplying the Provider's standard time-based charging rates (as notified by the Provider to the Customer before the date of the Agreement) by the time spent by the Provider's personnel performing customization or support.
- (c) the amounts specified in the pricing fee schedule.

**"Customer"** means the person or entity identified as such in a fee schedule, a Services Order Form and the contracting person or entity identified in an Agreement

**"Customer Confidential Information"** means:

- (a) any information disclosed by or on behalf of the Customer to the Provider during the Term OR at any time before the termination of the Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure:
- (b) was marked or described as "confidential"; or
- (c) should have been reasonably understood by the Provider to be confidential; and
- (d) the Customer Data;

**"Customer Data"** means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Hosted Services by the Customer (but excluding analytics data relating to the use of the Platform and server log files);

**"Customer Personal Data"** means any Personal Data that is processed by the Provider on behalf of the Customer in relation to the Agreement, but excluding *personal data* with respect to which the Provider is a data controller;

**"Data Protection Laws"** means all applicable laws relating to the processing of Personal Data including, while it is in force and applicable to Customer Personal Data, the General Data Protection Regulation (Regulation (EU) 2016/679);

**"Documentation"** means the documentation for the Hosted Services produced by the Provider and delivered or made available by the Provider to the Customer;

"**Effective Date**" means the date upon which the Provider sends to the Customer an installed confirmation sign off;

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"**Hosted Services**" means *Compliapps* as specified in the Hosted Services Specification which will be made available by the Provider to the Customer as a service via the internet in accordance with these Terms and Conditions;

"**Hosted Services Defect**" means a defect, error or bug in the Platform having an adverse effect OR a material adverse effect on the appearance, operation, functionality or performance of the Hosted Services, but excluding any defect, error or bug caused by or arising as a result of:

- (a) any act or omission of the Customer or any person authorised by the Customer to use the Platform or Hosted Services;
- (b) any use of the Platform or Hosted Services contrary to the Documentation, whether by the Customer or by any person authorised by the Customer;
- (c) a failure of the Customer to perform or observe any of its obligations in the Agreement; and/or
- (d) an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information,

"**Maintenance Services**" means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades;

"**Minimum Term**" means, in respect of the Agreement, the period of 3 months beginning on the Effective Date;

"**Parties**" The Customer and Adminapps London Limited;

"**Personal Data**" has the meaning given to it in the Data Protection Laws applicable in the United Kingdom from time to time;

"**Platform**" means the platform managed by the Provider and used by the Provider to provide the Hosted Services, including the application and database software for the Hosted Services, the system and server software.

"**Provider**" means Adminapps London Ltd a company incorporated in England and Wales 10139985 having its registered office at Taxassist Accountants, 3 Holmesdale Rd, Reigate, Surrey RH2 0BA

"**Services**" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions and under an Agreement;

"**Services Order Form**" means an online order form published by the Provider and completed and submitted by the Customer, or a hard-copy order form signed or otherwise agreed by or on behalf of each party, in each case incorporating these Terms and Conditions by reference;

"**Set Up Services**" means the configuration, implementation and integration of the Hosted Services in accordance with Section 2 of the Services Order Form or under an Agreement;

"**Support Services**" means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services

"**Supported Web Browser**" means the current release from time to time of Microsoft Edge, Mozilla Firefox, Google Chrome or Apple Safari, or any other web browser that the Provider agrees in writing shall be supported;

"**Term**" means the term of the Agreement, commencing in accordance with Clause

2.1 and ending in accordance with Clause 2.2;

"**Terms and Conditions**" means all the documentation containing the provisions of the Agreement, namely the Services Order Form, the main body of these Terms and Conditions and the Schedules, including any amendments to that documentation from time to time;

"**Update**" means a hot fix, patch or minor version update to any Platform software; and

"**Upgrade**" means a major version upgrade of any Platform software.

## 2. Term

- 2.1 The Agreement shall come into force upon the Effective Date.
- 2.2 The Agreement shall continue in force indefinitely as a rolling quarterly contract subject to termination in accordance with Clause 17.
- 2.3 Unless the parties expressly agree otherwise in writing, each Services Order Form shall create a distinct contract under these Terms and Conditions.

## 3. Set Up Services

- 3.1 The Provider shall provide the Set Up Services to the Customer. As detailed in the separate Statement of Work.

## 4. Hosted Services

- 4.1 The provider will install the software on a server owned by the Customer.
- 4.2 The Provider hereby grants to the Customer a **UK** non-exclusive license to use the Hosted Services by means of a Supported Web Browser for the internal business purposes of the Customer in accordance with the Documentation during the Term.
- 4.3 The license granted by the Provider to the Customer under Clause 4.2 is subject to the

following limitations:

- (a) the Hosted Services may only be used by the officers, employees, agents and subcontractors of either the Customer, an Affiliate of the Customer.
- 4.4 Except to the extent expressly permitted in these Terms and Conditions or required by law on a non-excludable basis, the license granted by the Provider to the Customer under Clause 4.2 is subject to the following prohibitions:
- (a) the Customer must not sub-license its right to access and use the Hosted Services;
  - (b) the Customer must not permit any unauthorised person to access or use the Hosted Services;
  - (c) the Customer must not use the Hosted Services to provide services to third parties- unless expressly permitted;
  - (d) the Customer must not conduct or request that any other person conduct any load testing or penetration testing on the Platform or Hosted Services without the prior written consent of the Provider.
- 4.5 The parties acknowledge and agree that Schedule 2 (Availability SLA) shall govern the availability of the Hosted Services.
- 4.6 The Customer must comply with Schedule 1 (Acceptable Use Policy), and must ensure that all persons using the Hosted Services with the authority of the Customer or by means of an administrator Account comply with Schedule 1 (Acceptable Use Policy).

## 5. Maintenance Services

- 5.1 The Provider shall provide the Maintenance Services to the Customer during the Term.
- 5.2 The Provider shall provide the Maintenance Services in accordance with Schedule 3 (Maintenance SLA).

## 6. Support Services

- 6.1 The Provider shall provide the Support Services to the Customer during the Term.
- 6.2 The Provider shall provide the Support Services in accordance with Schedule 4 (Support SLA).
- 6.3 The Provider shall have no liability for any Claim resulting from the combination of the Product with other products which were neither supplied nor combined with the Product by the Provider.

## 7. Customer Data

***A full "Data Processing Agreement" is available upon request.***

- 7.1 The Customer hereby grants to the Provider a non-exclusive licence to copy, reproduce, store, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under the Agreement.
- 7.2 The Provider shall create a back-up copy of the Customer Data daily, shall ensure that each such copy is sufficient to enable the Provider to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.

- 7.3 Within the period of 1 Business Day following receipt of a written request from the Customer, the Provider shall use all reasonable endeavours to restore to the Platform the Customer Data stored in any back-up copy created and stored by the Provider in accordance with Clause 7.2 The Customer acknowledges that this process will overwrite the Customer Data stored on the Platform prior to the restoration.
- 7.4 Data is backed up on our cloud on a periodic basis as outlined above. Database extracts can be made available to Customers upon request.
- 7.5 **Export of Customer Data.** At termination and upon written request of Customer, adminapps shall perform a data export and provide Customer with a copy of Customer Data in an industry standard HTML format at cost of £350. For the avoidance of doubt, Customer's Data as referenced in this subsection shall include all available data points in the Software, including
- (a) all of the information recorded in the database (b) electronic signature data, as applicable; (c) audit trail information which shows the user name, date, and particular action taken when any new electronic form generated by the Software was created and completed, as well as any time an electronic or migrated form was updated, modified, altered, or corrected; (d) supporting embedded / uploaded documents, as applicable.

## 8. Intellectual Property Rights

- 8.1 Should the software code or application known as: "Compliapps" or "Cassapps" cease to be supported by the business "Adminapps" or any affiliated business we assign and transfer any Intellectual Property Rights from the Provider to the Customer under a Freeware MIT license:

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## 9. Charges

- 9.1 The Customer shall pay the Charges to the Provider in accordance with these Terms and Conditions.
- 9.2 If the Charges are based in whole or part upon the time spent by the Provider performing the Services, the Provider must obtain the Customer's written consent before performing Services that result in any estimate of time-based Charges given to the Customer being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Customer agrees otherwise in writing, the Customer shall not be liable to pay to

the Provider any Charges in respect of Services performed in breach of this Clause 9.2.

- 9.3 The Provider may elect to vary any element of the Charges by giving to the Customer not less than 30 days' written notice of the variation expiring on any anniversary of the date of execution of the Agreement, providing that no such variation shall constitute a percentage increase in the relevant element of the Charges that exceeds 2% over the percentage increase, since the date of the most recent variation of the relevant element of the Charges under this Clause 9.3 (or, if no such variation has occurred, since the date of execution of the Agreement), in the Retail Prices Index (all items) published by the UK Office for National Statistics.

## 10. Payments

- 10.1 The Provider shall issue invoices for the Charges to the Customer generally on a quarterly basis.
- 10.2 The Customer must pay the Charges to the Provider within the period of 30 days following the issue of an invoice in accordance with Clause 10.1
- 10.3 The Customer must pay the Charges by, direct debit, bank transfer or cheque (using such payment details as are notified by the Provider to the Customer from time to time).
- 10.4 If the Customer does not pay any amount properly due to the Provider under these Terms and Conditions, the Provider may:
- (a) charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month; or
  - (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

## 11. Provider's confidentiality obligations

The Provider must:

- 11.1 keep the Customer Confidential Information strictly confidential;
- 11.2 not disclose the Customer Confidential Information to any person without the Customer's prior written consent
- 11.3 use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;

## 12. Data protection

- 12.1 Should any personal data be stored within the system each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.
- 12.2 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Agreement.
- 12.3 Please refer to the separate Data Processing Agreement (if requested) or our standard privacy policy document for detailed policy.

**13. Warranties**

The Provider warrants to the Customer that:

- 13.1 the Platform and Hosted Services will conform in all material respects with the Hosted Services Specification;
- 13.2 the Hosted Services will be free from Hosted Services Defects;
- 13.3 the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs];and
- 13.4 the Platform will incorporate security features reflecting the requirements of good industry practice.

**14. Acknowledgements and warranty limitations**

- 14.1 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.
- 14.2 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be entirely secure.

**15. Limitations and exclusions of liability**

- 15.1 Nothing in these Terms and Conditions will:
  - (a) limit or exclude any liability for death or personal injury resulting from negligence;
  - (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
  - (c) limit any liabilities in any way that is not permitted under applicable law; or
  - (d) exclude any liabilities that may not be excluded under applicable law.
- 15.2 The limitations and exclusions of liability set out in this Clause 15 and elsewhere in these Terms and Conditions:
  - (a) are subject to Clause 15.1; and
  - (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.
- 15.3 The Provider shall not be liable to the Customer in respect of any losses arising out of a Force Majeure Event.
- 15.4 The Provider shall not be liable to the Customer in respect of any loss of profits or anticipated savings.
- 15.5 The Provider shall not be liable to the Customer in respect of any loss of revenue or income.



- 15.6 The Provider shall not be liable to the Customer in respect of any loss of use or production except for the refund of service credits as laid out on the Availability SLA.
- 15.7 The Provider shall not be liable to the Customer in respect of any loss of business, contracts or opportunities.
- 15.8 The Provider shall not be liable to the Customer in respect of any loss or corruption of any data, database or software; providing that this Clause 15.8 shall not protect the Provider unless the Provider has fully complied with its obligations under Clause 7.3 and Clause 7.4. in relation to data backups.
- 15.9 The Provider shall not be liable to the Customer in respect of any special, indirect or consequential loss or damage.
- 15.10 The liability of the Provider to the Customer under the Agreement in respect of any event or series of related events shall not exceed
- (a) the total amount paid and payable by the Customer to the Provider under the Agreement in the 12 month period preceding the commencement of the event or events.
- 15.11 The aggregate liability of the Provider to the Customer under the Agreement shall not exceed the greater of:
- (a) the total amount paid and payable by the Customer to the Provider under the Agreement.

## 16. Force Majeure Event

- 16.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Agreement[ (other than any obligation to make a payment)], that obligation will be suspended for the duration of the Force Majeure Event.
- 16.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Agreement, must:
- (a) promptly notify the other; and
  - (b) inform the other of the period for which it is estimated that such failure or delay will continue.
- 16.3 A party whose performance of its obligations under the Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

## 17. Termination

- 17.1 Either party may terminate the provision or the use of the software immediately by giving written notice of such termination to the other party if the other party commits any breach OR material breach of these Terms and Conditions and the breach is not remediable;
- 17.2 Either party may terminate the provision or the use of the software immediately by giving written notice of termination to the other party if the other party:
- (a) Is dissolved;
  - (b) ceases to conduct all (or substantially all) of its business;
  - (c) is or becomes unable to pay its debts as they fall due;

- (d) is or becomes insolvent or is declared insolvent; or
  - (e) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- 17.3 The Provider may cease to provide the software immediately by giving written notice to the Customer if:
- (a) any Charges due to be paid by the Customer to the Provider are unpaid by the due date and remain unpaid upon the date that that written notice of termination is given; and
  - (b) the Provider has given to the Customer at least 30 days' written notice, following the failure to pay, of its intention to cease to provide the Hosted Services in accordance with this Clause 17.

## **18. Law and jurisdiction**

- 18.1 These Terms and Conditions shall be governed by and construed in accordance with **English law**.
- 18.2 Any disputes relating to the Agreement shall be subject to the exclusive jurisdiction of the courts of **England UK**.