

Terms and Conditions of Sale of Single Site License for CASCOT

The University of Warwick ("Warwick", "we", "us" or "our" in these terms) is the supplier and licensors of the Digital Content. Our administrative offices are located at University House, Kirby Corner Road, Coventry CV4 8UW, England. The terms "you" and "your", when used in these Terms, refer to your organisation as the customer.

1. DEFINITIONS AND INTERPRETATION

1.1 When the following words with capital letters are used in these terms, this is what they will mean:

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for business in London (other than solely for trading and settlement in Euros).

"**Digital Content**" means the resources available via the internet or mobile device from the CASCOT website <http://www2.warwick.ac.uk/fac/soc/ier/software/cascot/> including but not restricted to documents, presentations and software downloads.

"**Intellectual Property Rights**" means patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, 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.

"**Licence Administrator**" is the nominated person within the customer organisation who is responsible for arranging the purchase of Digital Content and managing the individual user(s) covered by their single or multi-user license.

"**Licence Fee**" means the applicable price at the time of placing your order which is dependent on the number of licences ordered.

"**Licence Term**" means the term of one calendar year commencing on the Start Date.

"**Our Website**" means <http://www2.warwick.ac.uk/fac/soc/ier/software/cascot/>.

"**Permitted Purpose**" means specifically for learning, teaching and professional development

"**Start Date**" means the date that access to the Digital Content is actually granted as per clause 3.4.

1.2 Clause, schedule and paragraph headings will not affect the interpretation of these terms and conditions

2. ELIGIBILITY AND AVAILABILITY

2.1 By purchasing a licence under these terms you warrant that you are:

- (a) Ordering a single site licence; and
- (b) Legally capable of entering into binding contracts.

3. OUR CONTRACT WITH YOU

3.1 These are the terms and conditions upon which we supply access to the Digital Content to you.

3.2 Orders through our Website

You may place an order through Our Website by requesting an invoice (an “**Invoice Order**”) via the Purchase Order Form. Registration and user details will only be distributed when payment has cleared and once the Purchase Order Form has been submitted by the Licence Administrator to us. The Purchase Order Form can be found at <http://www2.warwick.ac.uk/fac/soc/ier/software/cascot/purchase-new>

3.2.1 For Invoice Orders invoices are generated in pdf format and sent via email. All University of Warwick payment details and company details may be found within the invoice.

3.3 Acknowledgement Email

3.3.1 Once you have submitted your Invoice Order you will receive an email acknowledgement of receipt. This does not mean that we have accepted your order. Submission of your Invoice Order to us constitutes an offer to us to purchase licenses to gain access to the Digital Content. All orders are subject to our acceptance.

3.4 Acceptance of Your Order

3.4.1 Acceptance of your order will only take place when Warwick grant access to the Digital Content and send an email to the Licence Administrator with the licence key number for the individual users to access the Digital Content.

4. LICENCE

4.1 Once we have accepted your order for a single site licence we will grant you a non-exclusive, non-transferable, worldwide licence to use the Digital Content for the Permitted Purpose for the duration of the Licence Term.

5. LICENCE RESTRICTIONS

5.1 We require that each user accessing the Digital Content has accepted online the “User Terms of Use”. This acceptance will acknowledge that his or her rights to access the Digital Content are governed by this Licence and agreeing to cease using the Digital Content if this Agreement is terminated under clause 10. Details of the “User Terms of Use” can be found online at:

http://www2.warwick.ac.uk/fac/soc/ier/software/cascot/purchase-new/creditcard_payment/user_terms_of_use_for_cascot_final.pdf

5.2 Renewals subject to a fee, or otherwise, may be arranged subject to further agreement. Please email l.marston@warwick.ac.uk for more details.

6. DESCRIPTION

6.1 The description of the Digital Content you order will be as shown on Our Website at the time that you submit your order, save in cases of obvious error.

6.2 We try to ensure that all descriptions of the Digital Content are accurate. On the rare occasion that there is an error we will advise you about it as soon as reasonably possible and will offer you the option of reconfirming your order or cancelling your order. If you

cancel under this clause, we will refund or credit you for any sum which has been paid by you for the Digital Content.

- 6.3 Digital Content will be made available for you to stream only and you are not permitted to download any of the Digital Content. However, your web browser may incidentally create a transient copy of Digital Content from your viewing session which is permitted, except that you may not keep the transient copy, or copy, post, modify, distribute, reproduce or publish it in any way.

7. ACCESS TO DIGITAL CONTENT

7.1 System Requirements

7.1.1 Web browser:

- 7.1.1.1 For the best possible experience, we strongly recommend that you use the latest available version of your chosen web browser. The following browsers are recommended:

- (a) Firefox 11+;
- (b) Internet Explorer 9+;
- (c) Safari 5+; or
- (d) Google Chrome 18+.

7.1.2 Adobe Flash Player:

Your browser may also require the Adobe Flash Player (10.0.22+ required, 11.2+ recommended) in order to display video.

7.2 Other requirements:

The Website requires that JavaScript and cookies be enabled in order to provide some functionality and that pop up blockers are switched off

In order to reduce the potential for you to experience difficulties when accessing and using the Digital Content, we strongly recommend but do not oblige you to:

- (a) use a strong broadband connection; and
- (b) if you have firewall software protection operating on your machines, ensure that firewall protection allows the possibility of video streaming.

7.3 Software Requirements

- 7.3.1 You may be required to download third party software in order to be able to use the Digital Content including Adobe Flash Player.

- 7.3.2 Your use of any third party software is at your own risk. Subject to clause 13 we accept no liability for the availability of such software or for any problems that may arise as a result of your downloading or installing any third party software.

7.4 Temporary Suspension of Access

Access to the Digital Content may be suspended temporarily without notice in the case of system failure, maintenance or repairs for reasons beyond our control.

8. DELIVERY

8.1 The Digital Material shall be delivered by the granting of online access to CASCOT via unique passwords for all individuals user(s) of the single site licence. These details will be emailed to the Licence Administrator for distribution to the individual users.

9. INTELLECTUAL PROPERTY

9.1 The University of Warwick owns all the Intellectual Property Rights in the Digital Content. These terms will not transfer any ownership in our or our licensors' technology or Intellectual Property Rights. You will inform us immediately if you become aware of any infringement of the University of Warwick's Intellectual Property Rights and provide such assistance as we may reasonably request. If any Digital Content becomes, or in our opinion is likely to become subject to an infringement claim, we may (at our option and expense):

- (a) obtain the right for you to continue using the Digital Content;
- (b) modify or replace the Digital Content to avoid the infringement claim; or
- (c) if in our opinion neither (a) or (b) is commercially reasonable, terminate our agreement with you and provide a partial refund of the Licence Fee on a pro rata basis.

9.2 Subject to clause 6.2.3 you will not copy the Digital Content, issue any copies to or rent or lend the Digital Content to the public, perform or present any of the Digital Content or communicate it to the public or make an adaptation of the Digital Content.

10. TERMINATION

10.1 This Agreement is for the Licence Term.

10.2 We may (by written notice to you) terminate our agreement with you immediately if:

- (a) if your payment is subject to a chargeback from the credit or debit card company
- (b) you commit any material breach of your obligations under these terms which is incapable of remedy, or if capable of remedy, is not remedied within 10 Business Days of us giving written notice requiring the breach to be remedied; or
- (c) you challenge or dispute our or our licensor's ownership of, or rights in, the Digital Content, or the validity of those rights; or

10.3 On any expiry or termination of this agreement:

- (a) all rights and authorisations granted by us to you under this agreement shall automatically terminate and immediately revert to us; and
- (b) we will terminate your access to the Digital Content and you shall immediately cease all use of the Digital Content.

11. WARRANTY

We warrant to you that the Digital Content purchased from us will, on delivery and for the Licence Term, conform in all material respects with its description, be of satisfactory

quality, and be reasonably fit for the Permitted Purpose.

12. DATA PROTECTION AND PRIVACY

12.1 We will use the personal information that you provide to us to:

- (a) provide access to the Digital Content;
- (b) process your payment; and
- (c) inform you about similar products or services that we provide, but you may stop receiving these at any time by contacting us.

12.2 Any personal data we collect about you will be treated and used only in accordance with the applicable Privacy Policy available on Our Website.

13. LIABILITY

13.1 Save where expressly provided, all conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded to the maximum extent permitted by law.

13.2 Nothing in this licence shall operate to exclude or limit our liability for:

- (a) death or personal injury caused by its negligence;
- (b) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (c) fraud; or any other liability which cannot be excluded or limited under applicable law

13.3 Save as provided in clauses 13.1 and 13.2 we shall have no liability for any losses or damages which may be suffered by you (or any other person claiming under or through you) for any loss of profit, loss of business, loss of goodwill, loss of savings, claims by third parties, loss of anticipated savings, indirect loss or consequential loss whatsoever and howsoever caused, suffered indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever.

13.4 Subject to clause 13.1 and 13.2 our liability, whether in contract, tort (including negligence), or otherwise and whether in connection with this licence or any collateral contract, shall not exceed the value of the Licence Fee.

14. GENERAL

14.1 Written Communications

Applicable laws require that some of the information or communications we sent to you should be in writing. When using our site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on Our Website. For contractual purposes you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing. This condition does not affect your statutory rights.

14.2 Transfer of Obligations

14.2.1 We may transfer our rights and obligations under these terms and conditions to another organisation, but that will not affect your rights or our obligations under this Agreement.

14.2.2 You may not transfer your rights and obligations under this Agreement.

14.3 **Events Outside Our Control**

14.3.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by an event outside our control (an "**Event Outside Our Control**").

14.3.2 An Event Outside Our Control means any act or event beyond Our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.

14.3.3 If an Event Outside Our Control takes place that affects the performance of Our obligations under these terms:

- (a) We will contact you as soon as reasonably possible to notify you; and
- (b) Our obligations under these terms will be suspended and the time for performance of Our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects availability of Digital Content to you, We will make the Digital Content available as soon as reasonably possible after the Event Outside Our Control is over.

14.3.4 You may cancel the contract if an Event Outside Our Control takes place and you no longer wish us to provide access to the Digital Content. We will only cancel the contract if the Event Outside Our Control continues for longer than 4 weeks.

14.4 **Severability**

If any court or competent authority decides that any of the provisions of these terms or any provisions of our Agreement is invalid, unlawful or unenforceable to any extent, the term will, to that extent only, be severed from the remaining terms, which will continue to be valid to the fullest extent permitted by law.

14.5 **Entire Agreement**

14.5.1 These terms and any document referred to in them constitute the whole agreement between us and supersede all previous discussions, correspondence, negotiations, previous arrangement, understanding or agreement between us relating to the subject matter of this Agreement.

14.6 **Law and Jurisdiction**

Contracts for the purchase of Digital Content through Our Website and any dispute or claim arising out of or in connection with them or their subject matter of formation (including non-contractual disputes or claims) will be governed by English law. Any dispute or claim arising out of or in connection with such contracts or their formation (including non-contractual disputes or claims) will be subject to the non-exclusive jurisdiction of the courts of England and Wales.

14.7 Third Party Rights

A person who is not party to these terms and conditions shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.

14.8 Modification

14.8.1 We reserve the right to revise and amend these terms and conditions from time to time.

14.8.2 You will be subject to the policies terms and conditions in force at the time that you purchase access to the Digital Content, unless any change to those policies or these terms and conditions is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you), or if we notify you of the change to those policies or these terms and conditions by posting the revised terms on Our Website.

14.9 No Waiver

Should we fail to enforce your compliance with these terms this shall not constitute a waiver of any of our rights under these terms or otherwise.

15. CONTACTING US

You may contact us by email at l.marston@warwick.ac.uk.