

## CompassCom Terms and Conditions of Sale

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1. **SCOPE.** All products are offered for sale and sold by CompassCom Software Corporation. ("CompassCom") subject to the terms stated herein. This offer expressly limits acceptance to these terms and any additional, different or inconsistent terms proposed by Customer, whether in writing or otherwise, are hereby rejected. CompassCom shall not be bound by any other terms unless expressly agreed in a writing signed by CompassCom stating that such terms shall supersede those stated herein. Acceptance by Customer of these terms may be made either by written acceptance or by receipt by Customer of delivery of product or service from CompassCom. If there is a separate formal written agreement executed by the parties, these terms shall supplement and bind the parties where not in conflict with that written agreement. In the event of any conflict, that separate written agreement controls.
2. **PRICES.** All prices are subject to adjustment by CompassCom on account of specifications, quantities, shipment arrangements or other conditions, which are not part of the original price quotation. Customer acknowledges pricing is likely to increase from time to time.
3. **PAYMENT.** All payments must be in U.S. funds. Unless otherwise stated in the order acknowledgement, terms are cash on delivery. If satisfactory open account credit is established, then until withdrawn: (a) terms of sale for a delivery in the United States are net thirty (30) days from invoice date up to available credit limit; and (b) payment for a delivery outside the United States shall be by payment in advance and/or by irrevocable letter of credit issued by a bank satisfactory to CompassCom, advised/confirmed by a U.S. bank, payable to CompassCom in U.S. funds, payable at sight. CompassCom may elect to separately invoice any partial delivery. Customer shall pay each invoice without regard to other deliveries. Customer shall pay all amounts indicated on each invoice without setoff for any amount Customer may claim due from CompassCom and regardless of any controversy that may exist. Customer acknowledges that time is of the essence. CompassCom may at any time limit or cancel credit and demand cash on delivery or payment in advance
4. **PAST DUE.** Past due balances are subject to a monthly interest charge computed at a periodic rate of one-and-one-half percent (1.5%) per month, but not to exceed the highest rate allowed by law. Customer acknowledges that the late payment of any invoice will cause CompassCom to lose the use of that money and incur administrative costs and processing and accounting expenses, the exact amount of which is extremely difficult to ascertain. Therefore, CompassCom may impose a late charge equal to six percent (6%) of such past due balance. Customer and CompassCom agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to CompassCom for the loss suffered from such non-payment by Customer. In addition, Customer is liable for all reasonable fees associated with the collection of Customer's delinquent account including, without limitation, reasonable legal and court fees, to the extent not prohibited by applicable law.
5. **TAXES.** Prices quoted or accepted are exclusive of federal, state, municipal or other government sales, excise, use, occupational or like taxes, tariffs, customs, and all export duties and other fees and export costs. These taxes, fees and charges are Customer's sole responsibility. Prices are subject to increase by the amount of any of these taxes, fees or charges which CompassCom pays or is required to pay or collect on sale or delivery of a product. Any tax exemption certificate or similar document or proceeding required to exempt the sale of products from any tax, tariff, duty, fee or the like, shall be obtained by Customer and provided to CompassCom before delivery, all at Customer's expense.
6. **CANCELLATION.** Customer may not cancel, reschedule or modify an order unless Customer makes a request in writing and such request is approved in writing by an authorized CompassCom representative.

CompassCom has sole discretion to accept or decline such a request. CompassCom shall reject any request to cancel, reschedule or modify any order concerning a firm order, non-standard product, product made to Customer specifications made within thirty (30) days of scheduled shipment. CompassCom's acceptance of a Customer request made pursuant to this paragraph may be subject to reasonable conditions, including, without limitation, Customer paying: (a) for the goods; (b) cancellation, rescheduling or modification charges; (c) CompassCom overhead; (d) unearned discounts (billback); (e) reasonable profit; and (f) other amounts CompassCom requires. For any order that is cancelled or modified, Customer shall have no rights in or to partially completed products.

7. RETURN. Customer has no right to return a product except as expressly set forth in the limited warranty provided herein. CompassCom is not required to accept any return unless Customer requests in writing and CompassCom consents in writing to the return and provides a Return Material Authorization (RMA) number.

8. BILLBACK. If Customer receives a lower price on a product through quantity ordering but fails during the scheduled delivery period to purchase the total quantity ordered/required for the lower price, then in addition to CompassCom's right to enforce the purchase agreement and any other rights, Customer shall pay CompassCom an amount equal to the difference between the higher unit price for the quantity actually purchased (at the higher of the price in effect at time order was accepted or the price in effect at time of determination of additional amount to be paid) and the lower unit price quoted for the quantity ordered.

9. SHIPMENT. Shipment to a continental U.S. destination will be FOB CompassCom's facility. Shipment to a destination outside continental U.S. will be per Incoterms 2000 EXW CompassCom's facility. In the event customer has not provided shipping accounts, CompassCom may elect to ship by any method CompassCom deems most economical or convenient.

10. RISK OF LOSS. Title to product and risk of loss or damage in transit or after passes to Customer on CompassCom's delivery of product to a common carrier for shipment Accordingly, Customer must obtain insurance against damage in shipment or after. Product held or stored by CompassCom for Customer shall be at the sole risk of Customer. Customer shall pay all expenses CompassCom incurs to hold or store product at Customer's request

11. DATES. Shipping dates are approximate. CompassCom is not obligated to ship or deliver by a particular date. CompassCom will schedule products for shipment according to CompassCom's applicable shipment sequence. CompassCom reserves the right to make partial deliveries, deliver in installments, delay or allocate deliveries. Any applicable purchase contract shall be severable as to each delivery. CompassCom is not liable for delay, from whatever cause, in shipment or delivery.

12. LIMITED WARRANTY. Unless a shorter period is specified in an applicable order acknowledgment or contract; and subject to the procedures specified in Section 14, for a period of one year following the date of shipment of product, CompassCom warrants that product, when delivered: (a) conforms to CompassCom's material written Specifications (as defined below) for the product; and (b) is free from material defects in material and workmanship. Incorrect: (i) storage; (ii) installation; (iii) use; (iv) maintenance; (v) service; or (vi) repair by Customer, or any form of alteration, misuse, neglect, abuse or accident affecting the product voids the foregoing limited warranty. CompassCom shall not be liable under this warranty if Customer knew of any failure of a product to conform to specifications prior to purchase. CompassCom makes no representations or warranties concerning coverage or the distance at which usable radio signals will be transmitted and received by the products supplied hereunder, or that services will be uninterrupted or error free. CompassCom does not warrant that the functions contained in the products will meet Customer's specific requirements.

13. MEANING OF SPECIFICATIONS. "Specifications" in Section 12 means: (a) CompassCom product specifications identified on the face of CompassCom's order acknowledgement, subject to applicable parameters and testing conditions; or (b) if no specifications or only partial specifications are identified, then CompassCom's published product specifications stated in a data sheet or other similar document in effect at CompassCom's choice of (i) time of CompassCom order acknowledgement; (ii) time of product manufacture; or (iii) time of product delivery, in any such case, whether or not provided to or known to Customer. Customer acknowledges that CompassCom product specifications may change without notice. No modification to any specification made before or after a warranty period shall have the effect of extending the warranty period regardless of whether CompassCom notified Customer of the modification. Customer assumes all risk for operation of product outside the parameters and testing conditions described in the applicable product specifications. CompassCom reserves the right at any time to discontinue any model in its product line and to make changes in specifications or design in products.

14. WARRANTY CLAIM. Any claim made under the limited warranty described in Section 12 shall be made within the shorter of: (a) actual inspection of product following delivery; (b) a reasonable time to complete inspection of product following delivery; or (c) one year from shipment date. To make a claim Customer must: (a) notify CompassCom in writing within the shorter of the times stated in the preceding sentence, specifying in detail the nature of the warranty claim; and (b) permit CompassCom to inspect and test the product claimed to be defective. Customer shall be responsible for the costs of shipping the allegedly defective product to CompassCom's facility, subject to potential reimbursement for such costs pursuant to Section 15. A CLAIM MADE AFTER THE WARRANTY PERIOD IS NOT COVERED BY ANY WARRANTY.

15. REMEDY. CompassCom's liability under the warranty is limited to CompassCom's choice of replacing, repairing, or issuing credit for product that was the subject of a timely and proper warranty claim and which CompassCom determines is covered by the warranty. CompassCom (a) will credit Customer for reasonable shipping expense for product returned to CompassCom for warranty service in compliance with these terms; but (b) will not bear shipping expense and will return to sender any product returned without obtaining prior authorization and RMA number or otherwise not covered by the warranty.

16. DISCLAIMER. THE WARRANTY DESCRIBED IN SECTION 12 CONSTITUTES COMPASSCOM'S SOLE LIABILITY AND CUSTOMER'S SOLE REMEDY REGARDING ANY CLAIMED NONCONFORMANCE OF OR DEFECT IN PRODUCT AND IS IN LIEU OF ANY OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR OTHER WARRANTY OF QUALITY, FUNCTION, OR PERFORMANCE. COMPASSCOM DISCLAIMS ANY AND ALL OTHER SUCH WARRANTIES, EXPRESS, IMPLIED AND STATUTORY. THERE IS NO WARRANTY THAT EXTENDS BEYOND THE DESCRIPTION OF THE FACE HEREOF. No personnel or representative of CompassCom is authorized to make any warranty about a product. Oral or written statements by any CompassCom personnel or representative, including via email, do not constitute a warranty, do not bind or obligate CompassCom, shall not be relied on by Customer, and are not part of these terms. Customer acknowledges it has not relied on any warranty or representation by any person or entity except for the warranties or representations specifically stated herein. Some jurisdictions do not allow the limitation or exclusion of implied warranties or how long an implied warranty may last, so the above limitations may not apply to Customer. This warranty gives Customer specific legal rights and Customer may have other rights that vary from jurisdiction to jurisdiction.

17. LIMITATION ON LIABILITY. COMPASSCOM'S LIABILITY UNDER, FOR BREACH OF, OR ARISING OUT OF THIS AND ANY OTHER AGREEMENT BETWEEN COMPASSCOM AND CUSTOMER, ON A

CUMULATIVE AGGREGATE BASIS, SHALL BE LIMITED IN AMOUNT TO THE NET PURCHASE PRICE OF THE PRODUCT SOLD TO CUSTOMER BY COMPASSCOM. COMPASSCOM SHALL NOT BE LIABLE FOR COSTS TO COVER OR OBTAIN SUBSTITUTE GOODS. COMPASSCOM SHALL NOT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL INCIDENTAL, ECONOMIC, DIRECT, INDIRECT OR OTHER DAMAGE (INCLUDING WITHOUT LIMITATION LOST PROFIT) WHETHER OR NOT COMPASSCOM HAS BEEN ADVISED OF THE POSSIBILITY OF THAT DAMAGE OR LOSS, HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR OTHERWISE. THIS EXCLUSION ALSO INCLUDES ANY LIABILITY WHICH MAY ARISE OUT OF A THIRD PARTY CLAIM AGAINST CUSTOMER. THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT COMPASSCOM'S POTENTIAL LIABILITY. THE LIMITED WARRANTY, LIMITED REMEDIES, WARRANTY DISCLAIMER AND LIMITED LIABILITY ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN COMPASSCOM AND CUSTOMER, CUSTOMER ACKNOWLEDGES CUSTOMER HAS RECEIVED VALUABLE CONSIDERATION FOR THIS LIMITATION ON LIABILITY IN THE FORM OF ABILITY OF COMPASSCOM TO OPERATE AT LOWER COST, GENERATING PRODUCT INNOVATION, PRODUCT AVAILABILITY, LOWER PRODUCT PRICING, WILLINGNESS TO CONTRACT OR A COMBINATION OF THESE, WHETHER GENERALLY OR SPECIFICALLY.

18. INTELLECTUAL PROPERTY. No representation is made that a product or its manufacture, distribution, sale or use is free from infringement or misappropriation of any patent, trademark, trade name, copyright, trade secret or other claimed rights of any person or entity. Customer releases CompassCom from and in respect of any and all claims by, against or through Customer, for any such alleged or actual infringement or misappropriation. Unless CompassCom has agreed otherwise in writing, Customer has no right to use any of CompassCom's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features. Customer agrees that Customer shall not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be contained within the products.

19. SALE CONVEYS NO LICENSE. A product sale does not purport to convey any license concerning any intellectual property rights of CompassCom regarding any invention of CompassCom or others. CompassCom reserves all rights to all intellectual property used or embodied in a product. No manufacture to Customer's specifications entails ownership by or conveyance to Customer of any property right in any invention or product. CompassCom is deemed to own all tools, dies and other equipment whether provided by Customer or made by CompassCom for the purpose of manufacturing any product for the benefit of Customer.

20. CONFIDENTIAL INFORMATION. Information provided by Customer to CompassCom is deemed to be non-confidential, and CompassCom is not obligated to treat as confidential any information that Customer provides to CompassCom, unless there is a separate, express agreement providing for confidentiality.

21. SECURITY INTEREST; COMPASSCOM REMEDIES. CompassCom reserves a purchase money security interest and lien in product sold to Customer and Customer's proceeds there from, in the amount of the purchase price of such products. In a default by Customer of any obligation to CompassCom, CompassCom shall have the right; in addition to all other rights and remedies, to repossess products sold to Customer physically, or, if the functionality exists, to remotely disable or deactivate products sold to Customer for which payment is not timely received. Customer agrees to make the product available to CompassCom for repossession. In addition, upon default by Customer, CompassCom has the right to withhold no-charge support services from Customer, including, without limitation, access to engineering support. The security interest will be satisfied by payment in full. A copy of the invoice and/or these terms may be filed with appropriate authorities at any time as a financing statement; to further perfect

CompassCom's security interest. On CompassCom's request Customer will execute financing statements and other instruments and take other steps CompassCom requests to perfect and/or provide notice of the security interest.

22. DELAY IN DELIVERY AND FORCE MAJEURE. CompassCom shall not be liable to Customer for any delay in shipment; failure to meet quoted delivery date(s) or delay in performance. CompassCom shall have the right to indefinitely postpone delivery due to unforeseen circumstances or a cause beyond CompassCom's control. Examples include act of God, terror, war, riot, embargo, act of civil or military authority, fire; flood, hurricane, accident, strike, transportation delay, shortage or disruption in material or supply, excessive demand for product over available supply, interruption for any reason in manufacture of product by CompassCom's supplier, or other cause not within CompassCom's control, whether of the class described above or not.

23. NO WAIVER. Failure by CompassCom to enforce at any time any provision of these terms, or to exercise any election or option, shall not be a waiver and shall not be construed as a waiver of the provision or option, nor be construed to affect validity of these terms or any part, or CompassCom's right to enforce each and every such provision.

24. ATTORNEYS' FEES. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in litigation involving breach, compliance, enforcement or interpretation of these terms.

25. GOVERNING LAW. The parties acknowledge and agree that any offer and acceptance by the parties shall be a contract made in the County of Arapahoe State of Colorado. All questions pertaining to validity, construction, execution and performance of these terms shall be interpreted, construed and governed in English according to the internal laws of Colorado, without giving effect to principles of (a) comity of nations or (b) conflicts of law. The parties agree the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded in its entirety from these terms.

26. JURISDICTION AND VENUE. Subject to paragraph 27, the parties acknowledge their mutual intent that disputes shall be resolved in Courts applying common law and conducting proceedings in English. Accordingly, Customer agrees the Colorado state courts located in Arapahoe County, Colorado U.S.A and United States District Court for the Central District of Colorado shall have exclusive jurisdiction and venue over any dispute arising out of these terms. Any action shall be commenced only in such courts and, to the extent not otherwise subject to jurisdiction of such courts, Customer agrees to the jurisdiction of those courts and waives and agrees to reconfirm waiver of any objection to jurisdiction and to subject itself to the jurisdiction of those courts.

27. ARBITRATION. Either Customer or CompassCom may require any claim to be arbitrated, except neither party is obligated to arbitrate a claim that is brought and maintained as an individual (as opposed to a class) claim and that involves an amount in dispute or claim for damages of less than \$25,000. Arbitration notice may be given before or after a lawsuit has been started over the claim or with respect to other claims brought later in the lawsuit. The arbitration Administrator shall be the American Arbitration Association. Each party shall bear its own arbitration costs, fees and expenses, unless otherwise ordered by the Administrator. Customer gives up Customer's right to participate in a class action. This means that Customer may not be a representative or member of any class of claimants or act as a private attorney general in court or in arbitration with respect to any claim. Notwithstanding any other part of this Arbitration Provision, the validity and effect of the Class Action Waiver must be determined only by a court and not by an arbitrator. If a court limits or voids the Class Action Waiver, then this entire Arbitration Provision (except for this paragraph) will be null and void. Judgment upon the arbitration award may be entered in any court having jurisdiction. This Arbitration Provision is governed by the Federal Arbitration Act and not by any state arbitration law. The arbitrator is authorized to award all remedies permitted by substantive

law that would apply if the action were pending in court.

28. **ASSIGNMENT.** Customer shall not assign or purport to assign these terms or any interest herein, or any right hereunder, without CompassCom's prior written consent. Any such assignment without CompassCom's prior written consent shall be null and void, and of no effect. This Agreement is fully assignable by CompassCom to any person or entity and shall inure to the benefit of such assignee or successor.

29. **SEVERABILITY** Whenever possible, each provision or portion of any provision of these terms shall be interpreted in such manner as to be effective and valid under applicable law, but if any of these terms is held void or unenforceable, it shall be deemed to be severed, and every other provision shall be enforced as if the void or unenforceable term was never part of these terms.

30. **NO INDEMNIFICATION.** Unless otherwise expressly stated in a writing signed by both parties, CompassCom does not indemnify, nor agree to defend or hold Customer harmless, against any liability, loss, damage or expense (including attorney's fees) relating to any claim whatsoever, including without limitation, a claim for personal injury, death or property damage.

31. **IMPORT AND EXPORT.** Customer shall, at its own expense, pay for all import and export licenses and permits, customs charges and duty fees, and take all other actions required to lawfully accomplish the export and import of products purchased by Customer. Customer warrants it will comply in all respects with the export and re-export restrictions set forth in the export license for every product shipped to Customer.

32. **COMPLIANCE WITH LAW.** Customer is solely responsible for obtaining and complying with any necessary permits and licenses from the Federal Communications Commission (FCC) or any other federal, state or local governmental authority, related to the purchase, installation, erection and operation of any products purchased hereunder. Customer shall be responsible for all FCC application fees and frequency coordination fees.

33. **FOREIGN CORRUPT PRACTICES ACT.** If Customer will be selling or distributing CompassCom products to a government or governmental agency of a foreign country, Customer shall comply with the Foreign Corrupt Practices Act of 1977 or any governmental requirement to a similar effect. Customer represents to CompassCom that it has not made, offered or agreed to offer anything of value to any governmental official, political party or candidate for government office which would cause CompassCom to be in violation of the Foreign Corrupt Practices Act of 1977 or any governmental requirement to a similar effect.

34. **USE OF CUSTOMER'S NAME.** CompassCom may use Customer's name and may disclose that Customer is a purchaser of CompassCom products or services. Such public disclosures shall not indicate that Customer endorses CompassCom products without prior written permission from Customer.