

# TenScope Limited – Arithmetic of Computers

## Terms and Conditions

### 1. Definitions

- (a) “The **Agreement**” means these terms and conditions and the appended privacy policy.
- (b) “The **Company**” is TenScope Limited, a company registered in England, company number 06656008, with its registered office at Suite F3 Sunley House, Olds Approach, Watford, England, WD18 9TB or its successors in title under the Agreement.
- (c) “The **User**” is any person who Uses the Web Sites.
- (d) Where the User is an individual person, a User’s “**Household**” comprises those individual persons who normally reside at the same address as the User.
- (e) Where the User is a business or other organisation (such as a club, charity, trade union or government organisation), however such business or organisation is established and whether incorporated or not, the User’s “**Employees**” are those individual persons who carry out work directly for the User. For the avoidance of doubt, this does not include individuals employed by contractors or sub-contractors engaged by the User where there is no direct legal, contractual relationship between those individuals and the User.
- (f) Where appropriate, “**Use**” of the Web Sites means use of all or any part or parts of the Web Sites that are capable of such use and use of or access to any pages or material contained in or associated with the Web Sites.
- (g) “The **Web Sites**” are the web site or sites run by the Company using the name Arithmetic of Computers, including all trade marks displayed on them and all text, images and computer code contained in or displayed on them.

### 2. Services

In consideration for the Use by the User and/or by the User’s Household and/or Employees , the Company will provide and the User may Use the Web Sites, provided that such Use is not for any commercial or profit-making purpose, except that the User may not Use the Web Sites for any purpose, even if the Company has been advised of such purpose, where it might reasonably be or have been foreseen that, in the event of any failure or defects, such Use might result in the death of or personal injury to any person. For the avoidance of doubt, such prohibited purposes include any Use of the Web Sites on a computer which is or forms part of any system or network, the function of which is wholly or partly concerned with human safety.

### 3. Modification, Reverse Engineering etc.

- (a) The User must not carry out and must not cause or permit, whether directly or indirectly:
  - (i) Any modification, adaptation or translation of the Web Sites or of any part thereof;
  - (ii) Any reverse engineering, decompilation, disassembly, decryption or other form of examination or analysis of the Web Sites or of any part thereof;
  - (iii) Any creation of derivative works based upon the Web Sites or any part thereof.
- (b) Such prohibitions apply whether such modification, adaptation, translation, reverse engineering, decompilation, disassembly, decryption, examination, analysis or creation is carried out for any specific purpose or for no particular purpose at all.

### 4. Copying the Web Sites

Notwithstanding anything contained elsewhere in the Agreement, unless specifically stated otherwise, the User may not copy the Web Sites or any part of them.

Information on and documents and other software and files referenced in links on the Web Sites may be freely copied, distributed and modified or adapted in whole or in part for any purpose for which Use is permitted under this Agreement (except for commercial or profit-making purposes as set out above) provided that the source of such information, documents, software or files is acknowledged and any recipient is placed under similar obligations regarding permitted purposes, acknowledgements and further copying, distribution, modification or adaptation.

## 5. Restriction, Limitation and Exclusion of Liability

- (a) Except where the Company's liability may not be lawfully limited or excluded under English law, the Company's liability to the User or to any other person, whether arising under contract, statute, tort (including, without limitation, negligence), or otherwise, shall be restricted, limited and excluded as set out below.
- (b) The User accepts that it is the User's responsibility to ensure that regular, reliable backup copies are made of all relevant data, programmes and other information stored on any computer or other similar device and that such backups are made sufficiently frequently to avoid the risk of any material loss or damage to such data, programmes and other information in the event of any failure of any software or computer programme or system. The Company shall therefore have no liability and the User accepts that the Company shall have no liability for any loss or damage caused wholly or partly, whether directly or indirectly, by failure to make such backups or which could have been avoided had such backups been made.
- (c) The User accepts that it is not possible to create software programmes with zero defects. The Company shall therefore have no liability and the User accepts that the Company shall have no liability for any loss or damage caused directly or indirectly by any defect or defects in the Web Sites unless such defect or defects results in a substantial failure in the functionality, as intended by the Company, of the Web Sites.
- (d) Except where stated otherwise, the User accepts that it is the User's responsibility to determine whether the Web Sites are suitable for any purpose for which they are intended to be Used by the User. The Company shall therefore have no liability and the User accepts that the Company shall have no liability for any loss or damage caused directly or indirectly by Use of the Web Sites for a purpose for which they are not suitable.
- (e) The User agrees that the Company will not be liable for lost profits, revenues or data, financial losses or indirect, special, consequential, exemplary or punitive damages.
- (f) The User agrees that the Company will not be liable for any loss or damage that is not reasonably foreseeable.
- (g) Except where stated otherwise, the User accepts that it is the User's responsibility to determine whether the Web Sites are suitable for any purpose for which they are intended to be Used by the User. The Company shall therefore have no liability and the User accepts that the Company shall have no liability for any loss or damage caused directly or indirectly by Use of the Web Sites for a purpose for which they are not suitable.
- (h) The Company shall have no liability, and the User accepts that the Company shall have no liability, for any loss or damage caused directly or indirectly by any defect or defects in any goods, services or software obtained by the Company from any other party and supplied or made available to the User or by any defect or defects in any software obtained by the Company from any other party and used or relied on by the Company in the design, writing, modification or adaptation of the Web Sites and the Company's responsibility in relation to all such defects is limited to using its reasonable endeavours to assist the User to obtain compensation from such other party and the User agrees to reimburse the Company for its reasonable costs of providing such assistance.
- (i) The User acknowledges that the Company's agreement to the Use of the Web Sites without charge has been given on the basis that the Company will restrict, limit and exclude its liability as set out in the Agreement, and that the restrictions, limitations and exclusions of liability in the Agreement are therefore reasonable.
- (j) The User agrees that, in relation to the Web Sites, the employees, officers and agents of the Company have no liability to the User or to any other person, whether arising under contract, statute, tort (including, without limitation, negligence), or otherwise and that the only claim the User or such other person may have in relation to the Web Sites is against the Company. To the maximum extent permitted by law, the User agrees to indemnify the employees, officers and agents of the Company for any costs, expenses or damages payable by them arising from or incurred in defending any claims against them by the User or any other person.
- (k) The User agrees that the Company may, from time to time, at its sole discretion, add to, amend or discontinue part or all of the Web Sites, including removing functionality or features and that in that event the sole remedy of the User against the Company will be a refund of the part of any purchase

price paid relating to the period after such event and provided that the User then makes no further Use of the Web Sites.

- (l) The User agrees that in relation to any business Use of the Web Sites, the User will hold harmless and indemnify the Company and its affiliates, officers, agents and employees from any claim, action or proceedings arising from or related to the Use of the Web Sites or violation of these terms, including any liability or expense arising from claims, losses, damages, judgements, litigation costs and legal fees.

## **6. Security and Confidentiality**

- (a) Except as stated below, the Company will use reasonable endeavours to ensure that all electronic communication of personal information is secure by using encryption or electronic signature or authentication systems.
- (b) Details sent by e-mail are, by their nature, not secure and the Company accepts no responsibility for the consequences of any other person being able to gain access by any means to e-mails sent to the User.

## **7. Assignment of Rights**

- (a) The rights of the User under the Agreement are personal and may not be assigned, sold, leased, rented, sub-licensed or otherwise transferred to any other person.
- (b) The Company may, at its absolute discretion, assign its rights and obligations under the Agreement to a third party without notice of its intention to do so to the User.

## **8. Ownership of Web Sites**

Except as specifically set out below or noted on the Web Sites, the Web Sites are owned by the Company, subject to any rights of third parties who have provided or made available to the Company software or services which the Company has used or relied on to provide the Web Sites, and are protected by copyright laws, international treaty provisions, and other national laws. The User agrees that the User has no right, title or interest in the Web Sites, except as set out in the Agreement.

## **9. Rights of Third Parties**

Except as specifically set out in the Agreement, the Company and the User do not intend any third party to have any benefit under the Agreement and except as specifically set out in the Agreement no third party shall be entitled to rely on or to enforce any term or terms of the Agreement either under the Contract (Rights of Third Parties) Act 1999 or any re-enactment or modification thereof or otherwise.

## **10. Exports and Imports**

- (a) The Web Sites, including any related technology, may be subject to import or export control laws or regulations in the User's country and may be subject to import or export laws or regulations in other countries, whether in relation to elements of the Web Sites that use or implement strong encryption or otherwise. The User agrees to comply strictly with all such laws and regulations and acknowledges that the User has the responsibility to obtain all appropriate permissions, licenses or other documents and to comply with all such laws and regulations and applicable procedures in relation to any export, re-export or import of the Web Sites or any part or parts thereof and that, to the maximum extent permitted by law, the Company has no responsibility either for such compliance or to ascertain or verify in any way whether the User has so complied.
- (b) Further, the User agrees that the Company cannot be held responsible for any Use of the Web Sites which may be illegal in the User's country or any other country in which the User or any member of the User's Household or any of the User's Employees Uses the Web Sites, and the User also agrees that the User has no intention to Use the Web Sites for any such purpose.

## **11. Offer and Acceptance**

Unless explicitly stated otherwise, these terms and conditions and the appended privacy policy are together merely an offer by the Company to the User which may only be accepted or deemed to be accepted in whole and shall be accepted or deemed to be accepted only when a communication from the User by any common method (including oral communication) confirming such acceptance in whole is received by the Company.

Clicking on any link (other than a link to the terms and conditions or privacy policy) or on any tab in the navigation bar or any button on any page on the Web Sites will be deemed to be communication by the User

of such acceptance of the terms and conditions and privacy policy then published on the Web Sites and any prior Agreement between the User and the Company is then modified accordingly.

## **12. Communication and Notices**

- (a) Any communication or notice from the Company to the User in relation to the Agreement shall be valid if sent by e-mail to the last known e-mail address of the User and shall be deemed to be received 72 hours after such e-mail was sent (or, if earlier, the time of actual receipt) irrespective of whether such e-mail has actually been received by the User or whether that e-mail address is or continues to be a valid e-mail address.
- (b) Publishing an amended privacy policy on the Arithmetic of Computers web site shall be deemed to be notice from the Company to the User of the amendment of such privacy policy and such notice shall be deemed to be received by the User 72 hours after it is so published.
- (c) Any communication or notice from the User to the Company in relation to the Agreement shall be valid if sent to the Company using the then current contact details for the Company on the Arithmetic of Computers web site and shall be deemed to be received 72 hours after such e-mail was sent (or, if earlier, the time of actual receipt) irrespective of whether such communication has actually been received by the User.
- (d) Alternatively, written communications may be sent to the Company by regular post to the Company's business address at 10 Bazile Road, London, N21 1HB, United Kingdom or the e-mail address or business address contained in the most recent notification by the Company to the User of such e-mail address or business address.

## **13. Breach and Enforcement**

- (a) In the event of a breach of any of the terms of the Agreement by the User, the Company shall, in addition to any other remedies available to it, be entitled to require that, the User immediately ceases all Use of the Web Sites.
- (b) In the event of a breach of any of the terms of the Agreement by the User, the Company shall, in addition to any other remedies available to it, be entitled to require that, to the Company's reasonable satisfaction, the User deletes, destroys or otherwise renders inaccessible all copies of the Web Sites, and of any part of them, stored in any format or on any media, including but not limited to any physical media on which the Web Sites or any part of them were provided, and including but not limited to any copies made for backup or archival purposes.
- (c) The Company's failure to enforce the strict performance of any term of the Agreement will not constitute a waiver of the Company's right subsequently to enforce such term or any other terms of the Agreement.

## **14. Force Majeure**

If the Company is prevented from complying with its obligations under the Agreement due to any event beyond its reasonable control, the Company shall not be in breach of the Agreement or otherwise liable to the User or any other person by reason of any delay in performance or non-performance of any of its obligations due to such events.

## **15. Privacy Policy**

The User agrees that the Company may use any and all of the personal and other data that has been or may in the future be collected from or concerning the User, members of the User's Household and the User's Employees or any other person in accordance with the appended privacy policy.

## **16. Severability**

If any term of the Agreement shall be deemed unlawful, void, or for any reason unenforceable, then that term shall be deemed severable from the Agreement and shall not affect the validity and enforceability of any remaining terms of the Agreement.

## **17. Entire Agreement**

- (a) The Agreement constitutes the whole legal agreement between the User and the Company and governs the User's and the Company's rights and responsibilities in relation to the Web Sites and completely replaces any prior written or oral agreement between the User and the Company in relation to the Web Sites.

- (b) The express terms, conditions and warranties in the Agreement are in lieu of all warranties, conditions, terms, representations, statements, undertakings and obligations whether express or implied by statute, common law, custom, usage or otherwise all of which are hereby excluded to the fullest extent permitted by law.
- (c) The User and the Company hereby confirm that they have not relied upon any representations, communications or other matters which have not been expressly stated in the Agreement.
- (d) Notwithstanding any provision to the contrary, nothing in the Agreement limits or excludes the User's and the Company's liability for fraudulent misrepresentations.
- (e) Notwithstanding any provision to the contrary, where the User is treated as a consumer under the law nothing in the Agreement limits or excludes the Company's liability for any consumers' legal rights which may not be waived by contract.
- (f) The Company may make alterations to the Web Sites provided, including but not limited to additions, improvements and remedying any defects, or terminate any or all of the Web Sites without notice to the User.

#### **18. Interpretation and Headings**

- (a) Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing the masculine include the feminine.
- (b) Headings are inserted for convenience only and do not affect the construction of the Agreement.

#### **19. Jurisdiction and Law**

- (a) The Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the England.
- (b) The Company and the User agree to submit irrevocably to the exclusive jurisdiction of the courts of England.
- (c) The governing language of the Agreement is English.
- (d) Any dispute or claim arising in connection with the Agreement shall be conducted, and all documents, submissions and arguments made by either party in respect of such claim or dispute shall be made, exclusively in the English language.

Version 2.0  
12<sup>th</sup> July 2018

TenScope Limited  
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