

IT SOLUTIONS SW LIMITED STANDARD TERMS AND CONDITIONS FOR SUPPORT CONTRACTS

Companies House Number: 08435672

Registered Address: 77a Cheap Street, Sherborne, Dorset, DT9 3BA

1 Contract Terms

1.1 We agree to provide the Services to you in respect of the Equipment on and subject to the following terms and conditions. These terms and conditions constitute a contract between us and you and must be read together with any other documents explicitly agreed to be part of this contract including the Schedule.

1.2 No contract will come into existence until we formally accept your purchase order. We only contract on the terms of this Agreement, which will prevail over any terms set out on your purchase order or otherwise, unless we agree to such amended terms in writing.

1.3 In these terms and conditions:

1.3.1 Agreement means these standard terms and conditions;

1.3.2 Equipment means the hardware and peripherals specified in the Schedule, and any other equipment that we agree in writing to provide Services in relation to;

1.3.3 Schedule means the schedule to this agreement;

1.3.4 Services means the services that you have ordered from us, as set out in the Schedule;

1.3.5 Excluded Loss means all special loss (whether or not the possibility of such loss arising on a particular breach of contract or duty has been brought to our attention at the time of making this contract) and loss of profits, turnover, sales, contracts, business or anticipated savings, whether incurred directly or indirectly, or any indirect or consequential damage whatever, either in contract, tort (including negligence) or otherwise.

1.3.6 We and us means IT Solutions SW Limited, a company incorporated in England and Wales under number 08435672, with its registered office at 77a Cheap Street, Sherborne, Dorset, DT9 3BA

1.3.7 You and your means the party to this Agreement other than us, as specified in the Schedule.

2 Payment

2.1 You must pay our charges for the Services as set out in. Payment for each payment period specified in the Schedule must be made in advance.

2.2 Our terms of payment for all charges are as set out in the Schedule. In the event of late payment we reserve the right to suspend the provision of the Services to you and/or to charge interest on the outstanding balance at the rate set by order of the Secretary of State from time to time for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998 and/or to terminate the contract between us.

2.3 Unless otherwise agreed in writing, all our charges are exclusive of any applicable value added or other tax, which will be added to our invoices sent to you.

2.4 ITS reserves the right to increase its maintenance charges at the annual renewal date by an amount not less than the increase in the retail prices index over the previous maintenance period.

3 Your Obligations

3.1 You agree that you will promptly give us such information and documents as we may reasonably request for the proper and efficient provision of the Services.

3.2 You agree that you shall be responsible for taking regular data backups of all data stored from time to time on the Equipment.

4 Confidentiality

4.1 We each agree to keep the other's information confidential, including any material, software, document, idea, data and any other information which relates to the other's research and development, trade secrets or business affairs which either of us states is confidential or which is clearly confidential.

4.2 We may refer to you as a client in our publicity material but will not publicise our work under this Agreement without your consent.

4.3 We agree to abide by the Data Protection Act 1998. We also agree to process your data only in accordance with your instructions and to use all reasonable security measures to protect your data. We take all reasonable steps to avoid sending viruses but we do not accept liability for sending viruses unknowingly.

5 Products and Components

5.1 Where we supply any third party products or components to you in the course of providing the Services, we shall where applicable pass on to you the benefit of the manufacturer or supplier's warranty.

5.2 Where we replace any components of the Equipment in the course of providing the Services, the replacement components may be new or refurbished, but shall be of the same or better quality as those replaced. The replaced components shall belong to us.

6 Term and Termination

6.1 Subject to earlier termination in accordance with this Agreement, the contract between us shall last for the period specified in the Schedule.

6.2 Either party shall be entitled to terminate this Agreement immediately by written notice to the other if the other commits any material breach of this Agreement and, in the case of a breach capable of remedy, fails to remedy it within 28 days of the occurrence of the breach.

6.3 Either party can terminate this Agreement if the other party is the subject of a bankruptcy order (or the equivalent in any other jurisdiction) or the other becomes insolvent or makes any arrangement or composition with, or an assignment for the benefit of, its creditors or if any of its assets are the subject of any form of seizure. If either of us is a company, the other can terminate this contract forthwith if the first party goes into liquidation, either voluntary or compulsory, or if a receiver or administrative receiver or administrator is appointed.

7 Liability

7.1 We warrant to you that we will supply the Services with reasonable skill and care. We accept liability for our own negligence, but only to the extent stated in this clause.

7.2 Nothing in this Agreement shall be construed as restricting or excluding our liability for death or personal injury resulting from our negligence or for fraud or, to the extent that such rights may not be contracted out of, as affecting the statutory rights of any person dealing as a consumer.

7.3 Our liability to you under this Agreement shall not exceed the greater of £5,000 or the amount payable by you for the Services over the contract period specified in the Schedule.

7.4 Subject to clause 7.3, we shall be liable to you in respect of all direct loss or damage caused by our acts or omissions and those of our employees, agents or sub-contractors, other than Excluded Loss.

7.5 Where any data on the Equipment is lost or corrupted as a result of our negligence, the extent of our liability shall be to use all reasonable endeavours to restore such data from the most recent data backup(s) taken by you in accordance with clause 3.2 above.

7.6 Where we install any third party software on the Equipment, we have no liability for the performance of the software, which is a matter for you and the third party licensor.

7.7 We do not have any implied obligation, duty or liability in contract other than those explicitly stated in this Agreement.

7.8 You acknowledge that our charges under this Agreement have been calculated on the basis that we may rely upon the exclusions and limitations of liability set out in this Agreement.

8 Force Majeure

8.1 Neither party are liable for any breach of this Agreement caused by matters beyond their reasonable control, including, but not limited to, Acts of God, fire, lightning, explosion, war, disorder, flood, industrial disputes (whether or not involving our employees), failures or interruptions of electricity supplies, weather of exceptional severity or acts of local or central Government or other authorities.

8.2 Engagement of our staff

During this Agreement and for a period of six months after its termination (for whatever reason), you will not, without our written consent, directly or indirectly (whether as employee, consultant or in any other capacity) employ or engage any individual employed by us or any contractor working for us who has worked on providing the Services to you within the preceding 12 months.

9 General

9.1 You are not entitled to transfer or assign this Agreement without our prior written consent. We may assign or sub-contract this Agreement or any part.

9.2 This Agreement and the Schedule constitute the entire agreement between the parties concerning its subject matter, and supersedes any previous accord, understanding or agreement, express or implied. Each party confirms that it has not relied upon any representation not recorded in this Agreement inducing it to enter into this Agreement.

9.3 Any notice required or permitted to be given by either party to the other under this Agreement shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified under this provision to the party giving the notice.

9.4 No waiver or any amendment to these terms shall be effective unless in writing and signed by both you and us.

9.5 A person who is not a party to these terms may not enforce any of them under the Contracts (Rights of Third Parties) Act 1999.

9.6 If any dispute arises out of these terms we will both attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

9.7 This Agreement shall be governed by the laws of England and we both agree to submit to the non-exclusive jurisdiction of the English Courts.