

## iNTALECT Ltd – Terms and Conditions for Support Services

These Terms and Conditions are the standard terms that apply to all ongoing support Services provided by us, iNTALECT Ltd, a company registered in England and Wales under number 05218564, of Unit 22 Greenfields Business Park, Wheatfield Way, Hinckley, Leics, LE10 1BB (“the Company”).

These Terms and Conditions apply to business Customers only – we do not provide our Services to consumers (as defined in the Consumer Rights Act 2015).

### 1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“**Contract**” means the legally binding agreement formed as detailed in clause 2, which will incorporate and be subject to these Terms and Conditions;

“**Customer**” means the business detailed in our Quotation to which the Services are to be supplied. Where any individual enters into the Contract on behalf of a business, that person confirms they have the authority to contractually bind and enter into the Contract on behalf of that business and the business will be the Customer in the context of the Contract;

“**Equipment**” means the computer hardware, devices and software listed in the Quotation which we have agreed to support as part of the Services, together with any new equipment you wish to purchase from us;

“**Quotation**” means the written quotation we will supply setting out the Services we will provide and our fees. Due to fluctuating Equipment costs and other costs outside of our control, our Quotation will remain open for acceptance for a period of 1 day, unless otherwise specified;

“**Services**” means the IT support and any other services to be provided by us to you as set out in our Quotation; and

“**Term**” means the term of the Contract as defined in clauses 2 and 12.

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.2.1 “we”, “us” and “our” is a reference to the Company and includes our employees, subcontractors and agents;

1.2.2 “you” and “your” is a reference to the Customer and includes your employees, subcontractors and agents;

1.2.3 “writing” and “written” includes emails and similar communications;

1.2.4 a statute or a provision of a statute is a reference to that statute or provision as may be amended or re-enacted at the relevant time;

1.2.5 “these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time;

1.2.6 a clause is a reference to a clause of these Terms and Conditions;

1.2.7 a “Party” or the “Parties” refer to the parties to this Contract.

1.3 The headings used in these Terms and Conditions are for convenience only and will have no effect on their interpretation.

1.4 Words imparting the singular number will include the plural and vice versa. References to any gender will include the other gender. References to persons will include corporations.

### 2. The Contract

2.1 The acceptance of our Quotation, electronically or otherwise, or the placement of an order, creates a legally binding Contract between you and us and includes the acceptance of these Terms and Conditions, which will apply between us.

2.2 The Contract will commence on the start date specified and will continue in force for the minimum Term set out in our Quotation. This is often 12 months but may be longer. The Contract will then be automatically renewed on the same terms and conditions as set out in the Contract (with the exception of the price) on a rolling basis for the same Term as the initial Term, unless a written notice to terminate is given by either party in accordance with clause 12.

2.3 No terms or conditions stipulated or referred to by you in any form whatsoever will in any respect vary or add to these Terms and Conditions unless otherwise agreed by us in writing.

2.4 You are responsible for the accuracy of any information you submit to us and for ensuring that the Contract reflects your requirements. Our Quotation is based on the information provided to us at the time we prepare it. If any errors or discrepancies become evident, we reserve the right to make adjustments to it.

2.5 Our Quotation will set out our entire scope of works but will be subject to

amendment as detailed below.

2.6 Unless specified in the Quotation, the following Services are excluded from the Contract and if required, they will be chargeable. If we agree to provide these Services (at our discretion), we will provide a separate quotation and obtain your written approval before carrying out the work:

2.6.1 the provision of any new Equipment;

2.6.2 the installation, moving, re-configuration or modification of any Equipment;

2.6.3 the installation of VOIP or other telecoms infrastructure;

2.6.4 major changes to the IT infrastructure at your premises;

2.6.5 consumables such as batteries, toner and ink.

### 3. Our Services

3.1 All Services will be carried out during our normal business hours of 8:30am – 5:30pm, Monday to Friday excluding bank holidays in England, unless otherwise stated in the Quotation. Any works required outside of our normal business hours will incur additional costs.

3.2 We include for unlimited remote support (subject to reasonable use, to be decided at our discretion). On-site visits are only included if we have specifically stated this in the Quotation. Unless included, all on-site visits will be at our discretion and will be chargeable.

3.3 We will make all reasonable efforts to respond to support requests as quickly as possible. However, time will not be of the essence in the performance of our Services.

3.4 We may provide you with information and advice in connection with the Services. However, we accept no responsibility for any actions taken as a result of such advice or recommendations and we cannot be held liable for any consequences if our professional advice is not taken

3.5 Where we are providing you with anti-virus and anti-spam protection under the Contract, we will use all reasonable endeavours to ensure it is kept up-to-date. However, we cannot guarantee that such protection will block all viruses or spam and you are required to remain vigilant at all times and to follow any guidance we and/or the software manufacturer may provide in relation to internet best practice.

3.6 If we are providing disaster recovery Services, we will use all reasonable endeavours to restore your system within 24 working hours of receiving notice of the issue from you. However, we cannot guarantee that this will be possible.

### 4. Equipment

4.1 We cannot guarantee that all Equipment can be fixed. We will continue to attempt to repair the Equipment for a reasonable length of time, to be decided at our discretion.

4.2 If we deem any Equipment to be beyond economical repair, we will provide you with a quotation to replace it. You can replace it with a suitable alternative from another supplier but please keep us informed in this event. If you purchase the Equipment from us, we can install this for you at a discounted price. If you purchase the Equipment from another supplier, the installation will be chargeable and not discounted.

4.3 Please note that we may not be able to support Equipment obtained from another supplier if we deem it is not suitable. In that event, we reserve the right to terminate the Contract or exclude the affected Equipment from the scope of the Services.

4.4 If you send any Equipment to us for us to work on, it is your responsibility to safely transport it to us and to back up any data held on it.

### 5. Equipment Delivery

5.1 If you purchase new Equipment from us and wish for it to be delivered to you, we will charge for the delivery costs.

5.2 Delivery will be deemed to have taken place when the Equipment has been delivered to your chosen delivery address or once you have collected it from our premises.

5.3 If for any reason we are unable to deliver the Equipment at your chosen delivery address, we will leave a note informing you that the Equipment have been returned to our premises, requesting that you contact us to arrange re-delivery. The re-delivery and storage will be chargeable. We may also, at our discretion, charge for restocking and administration costs.

5.4 We may use third party couriers to deliver the Equipment. You are required to inspect the Equipment on delivery or if this is not possible, the delivery note or such other note as appropriate must be marked “not examined”. Should the Equipment received be in poor condition on

delivery, or simply incorrect, you are required to take photographs of the alleged damage or error and forward these to us within 24 hours of receipt. In this event, we will investigate and will arrange redelivery as soon as reasonably possible. We will be under no liability for any damage or shortages that would be apparent on reasonable careful inspection if the provisions of this clause 5.4 are not complied with.

- 5.5 We may, at our discretion, decline to deliver the Equipment to your chosen delivery address if we deem it to be unsuitable for any reason. In this event, we will contact you and request you collect the Equipment from our premises and the provisions of clause 5.3 above will apply.

## **6. Numbers of Users, Licences and/or Devices**

- 6.1 Our Quotation will specify whether we have included for a set number of users, licences or devices.
- 6.2 If we have specified a set number, and this number changes, you must notify us immediately.
- 6.3 If the number increases, we will adjust our pricing within your next monthly invoice, commencing from the date we receive this notification.
- 6.4 If we discover the number has increased and you have not notified us of this, we will estimate the number of months to which this increase applies and will adjust our invoice accordingly.
- 6.5 If the number decreases and you do not notify us in writing, we will continue to charge for the original agreed number until we receive your notification and no refunds will be offered.
- 6.6 Please give us a minimum of 3 working days' notice before a new user is due to start so we can set up their IT access in time. If new Equipment is required, we will need additional time to purchase and install it.
- 6.7 Please also inform us immediately if a user leaves so we can disable their access. Failure to do so may result in a risk to data, for which we cannot be held liable.

## **7. Third Party Software**

- 7.1 If we are providing you with licences to use third party software, this will be subject to the third party's separate terms and conditions, which may be revised from time to time. If this happens, we will make you aware of the change as soon as is reasonably possible and your licence terms to use the third party software will also change.
- 7.2 We will provide you with the number of licences you state you require. We cannot be held responsible if the third party carries out an audit and discovers you do not have enough licences. We are also not responsible for notifying you of licence expiry or renewal dates.

## **8. Customer's Obligations**

- 8.1 You agree, where applicable, to:
- 8.1.1 report faults promptly to us, in any event within 24 hours of discovering the fault;
- 8.1.2 immediately stop the use of any faulty Equipment;
- 8.1.3 provide us with such information and assistance in connection with the Services as we may reasonably require, within sufficient time to enable us to perform the Services in accordance with the Contract;
- 8.1.4 perform your obligations under this Contract in a reasonable and timely manner;
- 8.1.5 not sub-licence our Services to any third party;
- 8.1.6 act in accordance with any and all reasonable instructions issued by us in relation to the Services;
- 8.1.7 consult with us in advance with respect to any new computer hardware, devices and/or software which you intend to procure where these are to be added to the Contract;
- 8.1.8 allow us access to the site if we require it at reasonable times for the purpose of providing the Services;
- 8.1.9 ensure that site conditions are maintained in accordance with all Equipment manufacturers' specifications;
- 8.1.10 ensure operators and other staff using the Equipment are properly trained, operate the Equipment within the standards as laid down by us and the manufacturer, and comply with our advice in connection with the use and operation of the Equipment;
- 8.1.11 not allow any person other than us (or a person acting under our instruction) to interfere with, install, modify, repair, relocate or service the Equipment;
- 8.1.12 inform us of any change in your address or contact details;
- 8.1.13 comply at all times with the manufacturers' specifications, including where replacement consumables are required;
- 8.1.14 virus-check all data and material supplied to us;
- 8.1.15 keep secure from third parties any passwords issued by us to you;
- 8.1.16 ensure you follow current cyber-security best practice in accordance with government guidelines, particularly in relation to passwords you use;
- 8.1.17 obtain and maintain all necessary licences, permissions and consents in connection with the Services.
- 8.2 If you fail to comply with the above obligations, we reserve the right to terminate the Contract, exclude any affected Equipment from the scope

of the Services and/or charge for costs incurred by us as a result of your failure, at our discretion.

## **9. Fees and Payment**

- 9.1 Payment must be made by direct debit monthly in advance throughout the Term of the Contract. We will issue invoices at the start of each month relating to that month's support. Where we are providing third party software or services, we may invoice for these separately in accordance with their payment terms.
- 9.2 In addition, you will be required to reimburse us for any additional Services we may provide at your request together with mileage and reasonable travel expenses to attend site at your request.
- 9.3 All invoices are payable strictly within 30 days from the date of invoice, in pounds sterling, without set-off, withholding or deduction.
- 9.4 We reserve the right to increase our support fees annually under the Contract and in this event, will give you not less than 30 days' prior written notice.
- 9.5 All prices quoted are expressed exclusive of VAT.
- 9.6 Time for payment is of the essence of the Contract. If you fail to make any payment to us in full by the due date then, without prejudice to any other rights which we may have, we will have the right to suspend the Services (including any third party software included in the Contract) and charge interest from the due date until payment is made in full, both before and after judgment, at the rate of 8% per annum above the Bank of England base rate from time to time in force, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

## **10. Variation and Amendments**

- 10.1 If you wish to vary the Services to be provided, please notify us as soon as possible. We will endeavour to make any required changes and any additional costs incurred as a result will be chargeable.
- 10.2 If, due to circumstances beyond our control, we have to make any change in the arrangements relating to the provision of the Services, we will notify you immediately. We will endeavour to keep such changes to a minimum and will seek to offer you arrangements as close to the original as is reasonably possible in the circumstances.
- 10.3 Any agreed variation or amendment will be carried out in accordance with this Contract and any price increase necessitated as a result of an agreed variation or amendment will be payable in accordance with the terms for payment above.

## **11. Risk and Retention of Title**

- 11.1 Risk of damage to or loss of Equipment you have ordered will pass to you at the time it is delivered to you or collected by you or, if you wrongfully fail to take delivery of the Equipment, at the time when we attempted to deliver it.
- 11.2 Notwithstanding clause 11.1, legal and beneficial title of the Equipment will not pass to you until we have received payment in full for the total price of the Equipment, in cleared funds.
- 11.3 Until payment has been made to us in accordance with clause 9, and title in the Equipment has passed to you, you will be in possession of the Equipment as bailee for us and you must store it separately and in an appropriate environment, ensuring that it is identifiable as being supplied by us, and you will insure it against all reasonable risks.
- 11.4 We shall be entitled at any time to require you to deliver up to us any Equipment in which we retain title and, if you fail to do so forthwith, to enter upon any premises of yours or any third party's during normal business hours where the Equipment is stored to repossess it.
- 11.5 Your right to possession of the Equipment in which we maintain legal and beneficial title will terminate if any of the events listed in clause 12 occur.

## **12. Termination**

- 12.1 The Contract will continue on a rolling basis for the minimum agreed Term as set out in accordance with clause 2.2 unless it is terminated by either Party giving the other not less than 3 months' written notice before the end of the then-current Term, which will be effective only at the end of that Term. During this notice period, we can provide reasonable assistance in handing over your support services to another provider but we cannot be held responsible for the other provider's actions or lack of actions.
- 12.2 We may terminate the Contract without liability to you by giving written notice if:
- 12.2.1 any sum owing to us by you under any of the provisions of the Contract is not paid within 14 days of the due date for payment;
- 12.2.2 you demand services which do not form part of the Services and which are not covered by the Contract; or
- 12.2.3 any of our employees suffer harassment or abuse from you or your employees during the Term of the Contract.
- 12.3 Either Party may terminate the Contract without liability by giving written notice to the other, if the other Party:

- 12.3.1 commits any other breach of any of the provisions of the Contract and, if the breach is capable of remedy, fails to remedy it within 30 days after being given written notice of the breach and requiring it to be remedied;
- 12.3.2 goes into bankruptcy, liquidation or administration either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation), if a receiver is appointed in respect of the whole or any part of its assets, or if the other party ceases, or threatens to cease, to carry on business.
- 12.4 For the purposes of clause 12.3.1, a breach will be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 12.5 Upon termination of the Contract for any reason, any sum owing by either Party to the other under any of the provisions of the Contract will become immediately due and payable.
- 12.6 Termination of the Contract, howsoever arising, will not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.

### 13. Liability and Indemnity

- 13.1 Nothing in the Contract or these Terms and Conditions seeks to limit or exclude our liability in respect of death or personal injury caused by our negligence; fraud or fraudulent misrepresentation; or any other liability which cannot lawfully be excluded or limited.
- 13.2 Except as provided in clause 13.1 above, we will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our servants or agents or otherwise) in connection with the performance of our obligations under the Contract.
- 13.3 All warranties or conditions whether express or implied by law are expressly excluded to the extent permitted by law.
- 13.4 In the event of a breach by us of our express obligations under the Contract, your remedies will be limited to damages, which in any event, will not exceed the total fees paid by you under the Contract in the preceding 6 month period.
- 13.5 You will indemnify and hold us harmless from and against any and all claims, costs and liabilities howsoever arising and of whatsoever nature (including any consequential or indirect costs or losses) and whether in contract or in tort, including injury to or death of any person or persons or loss of or damage to any property arising out of or in respect of the performance by you of your obligations under the Contract if and to the extent that such losses, costs, damages and expenses are caused or contributed to by your negligent acts or omissions or those of any persons for which you are otherwise legally liable.

### 14. Intellectual Property

- 14.1 Subject to a written agreement to the contrary, we reserve all intellectual property rights which may subsist in the provision of the Services. We reserve the right to take such actions as may be appropriate to restrain or prevent infringement of such intellectual property rights.
- 14.2 Where third party software is provided, unless otherwise agreed in writing by the parties and provided payment is received by us in accordance with the terms of payment above, we will grant you a non-transferable, non-sub-licensable licence to use the software, subject to the third party's terms and conditions. You acknowledge that you obtain no ownership of any intellectual property rights in respect of any such software and that your use of any such intellectual property rights is conditional on us obtaining permission from the relevant licensor entitling us to licence such rights to you.
- 14.3 You must immediately bring to our attention any infringement or suspected infringement of any of the intellectual property rights licensed to you of which you are aware and will at our request take such action or assist us in taking such action as we may deem appropriate to protect the intellectual property rights.
- 14.4 You warrant that any document or instruction furnished or given by you will not cause us to infringe any letter patent, registered design or trade mark in the execution of our Services and you will indemnify us against all loss, damages, costs and expenses awarded against or incurred by us in settlement of any claim for infringement of any patent, copyright, design, licence, trademark or any intellectual property rights which results from our use of your information.

### 15. Confidentiality

- 15.1 Each Party undertakes that throughout the duration of the Contract, the Parties may disclose certain confidential information to each other. Both parties agree that they will not use the confidential information provided by the other, other than to perform their obligations under the Contract.

Each Party will maintain the confidential information's confidentiality and will not disseminate it to any third party, unless required by law or unless so authorised by the other Party in writing.

- 15.2 You acknowledge and agree that in order to provide our Services, we will require access to your Equipment and may need to log in remotely. Any personal data will be kept confidential and will only be used in accordance with clause 17.

### 16. Relationship of the Parties

- 16.1 Nothing in the Contract will render or be deemed to render us an employee or agent of yours or you an employee or agent of ours.
- 16.2 Nothing in the Contract will constitute or be deemed to constitute a partnership, joint venture, agency or other relationship between the Parties other than the contractual relationship expressly provided for in the Contract.

### 17. Data Protection

- 17.1 Both parties agree to comply with the provisions of the General Data Protection Regulation 2016, and any subsequent amendments to it.
- 17.2 If you provide us with or allow us access to the personal data of any other person, it is your responsibility to obtain the consent of those persons to pass their data to us, as a third party. We will only process and, if necessary, store such data to perform our obligations under the Contract. We will not use it for any other purpose.
- 17.3 For further information, please refer to our Privacy Notice, available on request.

18. **Force Majeure:** Neither Party to the Contract will be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

### 19. Assignment and Sub-Contracting

- 19.1 You may not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under the Contract.
- 19.2 We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under the Contract, without obtaining your prior consent.

20. **Non-Solicitation:** Neither Party shall, throughout the Term of the Contract and for a period of 6 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to the Contract, without the express written consent of that Party.

21. **Waiver:** No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

22. **Entire Agreement:** The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter. Each Party acknowledges that, in entering into the Contract, it does not rely on any representation, warranty or other provision except as expressly provided in the Contract.

23. **Third Party Rights:** No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.

24. **Notices:** Notices will be deemed to have been duly received and properly served 24 hours after an email is sent or three working days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that it was properly addressed to the address provided, stamped and placed in the post and in the case of an email, that it was sent to the specified email address of the addressee.

25. **Severance:** In the event that one or more of the provisions of the Contract is found to be unlawful, invalid or otherwise unenforceable, that/those provision(s) shall be deemed severed from the remainder of the Contract. The remainder of the Contract shall be valid and enforceable.

### 26. Law and Jurisdiction

- 26.1 These Terms and Conditions and the Contract between you and us

(whether contractual or otherwise) will be governed by, and construed in accordance with, the laws of England and Wales.

- 26.2 Any dispute, controversy, proceedings or claim between you and us relating to the Contract or these Terms and Conditions (whether contractual or otherwise) will be subject to the jurisdiction of the courts of England and Wales.