

Network Support Service Contract Terms & Conditions

1. Definitions

In these Terms and Conditions:

“**Business Terms**” describes this agreement for the provision of support services to the client;

“**Service Manager**” is the person appointed by us to manage the delivery of the Support Services;

“**Support Schedule**” is the schedule of the systems, equipment and services to which this support contract relates;

“**Support Services**” are the Support Services described in the Scope of Network Support Services;

“**Fee**” is the fee for the Support Services described in the Contract Details;

“**Party or Parties**” describes us or you, or both you and us, as the context requires;

“**Sites**” your premises where Support Services are to be provided;

“**System**” the systems, equipment, hardware and software to which the support contract relates as defined in the Support Schedule;

“**you, your the Client**” the person, company or organisation named on the Support Contract;

“**we, us, our or AML “Midlands Ltd”** or any of its successors, the Company” employees, agents or assigns;

2. Conditions Applicable

2.1 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

2.2 We accept your order for Support Services exclusively upon these Terms & Conditions. Any purported terms and conditions of the Client shall not apply to this Contract.

2.3 Provision of Support Services by the Company shall be conclusive evidence before any Court or arbiter that these Conditions apply thereto.

2.4 Any advice or recommendation given by us to the Client as to the maintenance, application or use of the Systems, which is not confirmed in writing by the Company, is followed or acted upon entirely at the Client's risk. Accordingly the Company shall not be liable for any such advice or recommendation.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document issued by the Company shall be subject to correction without liability on the part of the Company.

3. Effective Date and Term

These business terms shall be effective from the date that the Support Contract is signed (the "Effective Date") and shall be terminated when the period of the contract has completed or the contract is terminated under Clause 11.

4. Our Responsibilities

4.1 During the continuance of this Contract, the Company shall provide the following Support Services for the systems detailed in the Support Schedule.

4.1.1 On site support as described in the Scope of Network Support Services;

4.1.2 Telephone support as described in the Scope of Network Support Services;

4.1.3 Email support as described in the Scope of Network Support Services;

4.1.4 Additional on-site support as detailed in the Scope of Network Support Services.

4.2 Upon receipt of the Fee we undertake to provide Support Services for the duration of the agreement.

4.3 We shall undertake the Support Services in a reasonable and prudent manner and to the standards that are generally acceptable in our industry by organisations providing similar services.

4.4 We shall ensure that you are made aware of the names of the Service Manager who has responsibility for co-ordinating the delivery of Support Services to you.

4.5 Whilst on your premises our employees shall, at all times, conduct themselves in a professional manner and shall comply with all your reasonable work, security and safety procedures, provided that you have made us aware of such procedures prior to the commencement of the Support Services.

5. Your Responsibilities

5.1 You will provide us promptly with such information as may reasonably be required for the proper performance of the Support Services, including appropriate access to your staff.

5.2 Where the Support Services are to be undertaken at your premises then you shall be responsible for providing uninterrupted access to your premises for our employees as well as with uninterrupted access to appropriate office facilities, operating manuals, power facilities, external telephone facilities and access into your System. You are also responsible for taking all reasonable precautions to ensure the health and safety of our employees.

5.3 As required by these business terms you shall pay all amounts due by their due date.

5.4 In the event that you become aware that the Support Services provided by us may contravene any law, rule or regulation, or any agreement, contract, licence or similar business understanding between you and a third party, then you will inform us of such contravention as soon as is reasonably practicable.

5.5 You must ensure that all software, hardware and equipment listed in the Support Schedule is licensed and is only used in accordance with the licensing and other legitimate requirements of the original equipment manufacturers, vendors and suppliers of the equipment, hardware and software.

5.6 You will endeavour to ensure that proper environmental conditions are maintained for the System and shall maintain in good condition the hardware, cables, fittings and electricity supply associated with the System;

5.7 You will notify us of any significant modification to the System within five working days

5.8 You will promptly notify the Company if the System needs maintenance or is not operating correctly.

5.9 You will keep full and regular back up copies of your programs, databases and computer records and associated electronic information. Provision should be made for the offsite storage of back ups.

6. Exclusions

This Network Support Service Contract only applies to systems, equipment, hardware and software that are specified in the Support Schedule and that have been checked by a suitably qualified AML “Midlands” Ltd Employee prior to the commencement of the agreement. The Network Support Service Contract excludes:

6.1 All systems, equipment, hardware and software not listed in the Support Schedule;

6.2 Any software, hardware or other equipment that is not appropriately licensed and used in accordance with licensing and other legitimate requirements of original equipment manufacturers, vendors and suppliers;

6.3 On-Site Support Services required at sites not listed in the Support Schedule;

6.4 Repair or replacement of any consumable items such as tapes, disks, printing cartridges or the like.

7. Network Support Services

7.1 You agree to indemnify us against any claims by third parties in respect of the undertaking of the Support Services.

7.2 We will use all reasonable endeavours to ensure that the carrying out of Support Services will not adversely affect your System, however we cannot guarantee that our actions will not adversely affect your System. Because of this uncertainty you hereby agree that, prior to us accessing your System that you will make back-up copies of all software and data on your System as you see fit. We will not be responsible for the loss, damage or corruption of any data or software on your System that is due, directly or indirectly, to our actions or the actions of our employees or agents.

7.3 If the full Price, (including any VAT, expenses, etc) of any Services supplied by the Company shall not be paid when due, the Company may, at its own discretion, suspend future Services under the same or any other contract existing between the Company and the Client, until such Price is paid in full, with accrued interest, such interest to be calculated by reference to sub-clause 8.2 below. Such suspension shall not derogate from the right of the Company to terminate the Contract for non-payment of the Price or from any other right available to the Company.

7.4 Where the Company has agreed to provide Support Services on a Client site the Client shall reimburse the Company for travel and accommodation costs.

7.5 If for any reason a Company employee is unable to gain access to premises or equipment essential for the provision of Support Services, and this lack of access is the fault of the Client, then the Client shall be liable for any costs incurred and the Company shall not be liable for any delay as result of such inaccessibility.

8. Payment

8.1 You shall pay the Fee in the manner and on the due dates identified in invoice.

8.2.1 We reserve the right to charge interest on any outstanding balances at 8% over the base rate of the Bank of England from time to time in force. (This rate will also apply after judgement). Interest will accrue on a daily basis.

9. Indemnity

You shall indemnify us against all claims, demands, loss or damage whatsoever, howsoever or whensoever arising out of or in any way connected with any third-party claim, action or allegation brought against us arising out of our use (in accordance with this Agreement) of your premises, computer systems, communication systems or any materials provided to us by you for the purpose of providing the Support Services.

10. Liability and Warranties

10.1 The Company warrants that the Services will be provided with reasonable skill and care, in accordance with usual industry practice and in a timely, workmanlike and effective manner.

10.2 Our total liability to you for all losses, costs, claims or damages incurred by you in relation to all breaches of our contractual obligations under these business terms and all representations, statements and tortuous acts or omissions (including negligence) arising under or in connection with these business terms shall be subject to the following limitations:

- For direct damage to property our liability will be limited to twice the Fee;
- For direct physical injury or death our liability will not be subject to any financial limit;
- For any other event our total liability will be limited to twice the Fee.

10.3 We will not, in any circumstances, be liable to you:

- For any losses, costs, claims or damages incurred by you that are not as a result of our negligence or wilful misconduct, or a breach of these business terms by us;
- In any event for any indirect, incidental, special, exemplary, or consequential losses, costs or damages (including but not limited to loss of revenue, saving goodwill, or anticipated or lost profits);
- For economic loss which shall include loss of profit, business revenue, goodwill and anticipated savings;
- For damages in respect of special, indirect or consequential loss or damage of any kind;
- For any claim made against the Client by any other party or person;
- For any liability for any additional or consequential loss of any kind whatsoever which is hereby excluded. The Client is accordingly advised to take out appropriate insurance.

10.4 We cannot accept any responsibility or liability, of any sort, for any losses, costs or damages, including without limitation any consequential losses, costs or damages (including without limitation any lost, corrupted, stolen or compromised data), that may occur after we have conducted the Support Services.

10.5 The Company accepts no liability for loss of Client data during any stage of provision of the Services. It is the Client's sole responsibility to back up all data prior to any network installation or re-configuration.

10.6 If notwithstanding the above provisions herein, the Company is found liable for any loss or damage suffered by the Client, that liability shall in no event exceed £1 Million.

10.7 The Client acknowledges that the limitations and exclusions set out in those Business Terms are reasonable in all the circumstances.

11. Termination

11.1 If either Party:-

- becomes insolvent;
- commits a breach of these business terms which has a material adverse effect on the other Party;
- Submits in writing termination. Minimum of 3 months notice by either party.
- fails to pay any amount within 30 days of when that amount becomes due; then the non-defaulting Party may serve a notice on the other Party terminating these business terms. These business terms will terminate 10 days after the defaulting Party has received the termination notice, unless the default has been rectified.

11.2 Unless extended by the mutual written consent of both Parties, or terminated earlier as contemplated by clause 11.1, these business terms shall terminate when the agreement has expired.

12. Dispute Resolution

12.1 If you wish to complain with regard to any aspect of the Support Services then you should contact your Service Manager.

12.2.1 In the event that you and the Service Manager cannot mutually agree a resolution to the complaint or a disagreement then both you and us will appoint senior managers with the capacity and authority to settle the matter. The senior managers shall meet at a mutually convenient time to discuss the complaint or disagreement with the intention of resolving such complaint or disagreement.

13. Confidentiality

13.1 Neither Party shall disclose or communicate to any other person (unless such person needs to know the information to undertake any of the activities described in this Agreement or with the permission of the other Party) any confidential information concerning the business affairs of the other that either Party becomes aware of during the course of the relationship between you and us. Both parties will use reasonable endeavours to prevent the unauthorised publication or disclosure of such information.

13.2 The obligations contained in clause 13.1 shall cease under the following circumstances:

- if information is in the public domain or already in the that Party's possession free of any obligation of confidence;
- if either Party is obliged to disclose any information by law, due process of law or the rules of any stock exchange.

13.2 Each party undertakes to the other to use reasonable endeavours to make all relevant employees, agents and sub-contractors aware of the confidentiality of the Confidential Information.

14. Force Majeure

The Network Services Support Contract may be cancelled or suspended in whole or in part by the Company (without liability on its part for any loss or damage arising directly or indirectly from such a cancellation or suspension) if the Company is prevented or hindered from carrying out Support Services as a result of any industrial action, act of God, war, civil commotion, legislation, break down of machinery, inability to obtain supplies, equipment, fuel, power, components or transportation, accidents, government action, or any other cause of Force Majeure over which the Company has no control.

15. General Provisions

15.1 These business terms shall be governed by, construed, interpreted and applied in accordance with the laws of England and the courts of England are to have jurisdiction to settle any dispute arising out of or in connection with these business terms.

15.2 These Business Terms, together with the documents referred to within them constitute the entire agreement between you and us concerning the subject matter hereof. All previous documents, promises, representations undertakings and agreements, whether verbal, written or otherwise, between the Parties concerning the subject matter hereof are hereby cancelled and shall not affect or modify any of the terms or obligations set forth in these Business Terms. This shall not exclude any liability, in respect of any statement made fraudulently by either party prior to the date of the Network Support Service Contract.

15.3 These business terms may only be varied in writing signed by both Parties.

15.4 You may not assign this Agreement without our prior written consent.

15.5 Any notice given under this Agreement shall be in writing and may be delivered personally or by first class post to the other's address. Notices sent by post will be deemed to have been given 2 working days after the date of posting. Either Party can change its address for service to another address within the UK by giving reasonable notice to the other.

15.6 Nothing in these business terms and no action taken by the Parties under these business terms shall constitute a partnership, association, joint venture or other co-operative entity between the Parties.

15.7 The Company's rights and remedies shall not be prejudiced by any indulgence or forbearance to the Client and no waiver by the Company of any breach by the Client shall operate as a waiver of any subsequent breach.

15.8 If any provision of these Terms & Conditions is held by any competent authority to be invalid or unenforceable at law in whole or in part the validity of the other provisions of these Terms and Conditions and the remainder of these provisions in question shall not be affected thereby.

15.9 The Client will have no right of set-off, statutory or otherwise.

15.10 Each party shall during the currency of this Contract and for the period of Twelve (12) months following upon its termination or expiry not directly or by its agents or otherwise and whether for itself or for the benefit of any person induce or endeavour to induce any officer or employee of the other to leave his employment.

15.11 These Business Terms do not create any right enforceable by any person other than a Party, save that a person who is the permitted successor to or assignee of the rights of the Party is deemed to be a Party.

Signed by Client:

Printed:

Date (dd/mm/yy)

Signed by AML:

Printed:

Date (dd/mm/yy)