



## **Standard terms and conditions**

### **Definitions in this agreement**

“ITS” shall mean IT Services (NW) Ltd. Blackpool Football Club, West Stand, Seaside Way, Blackpool, FY1 6JJ.

“Supplier” means IT Services (NW) Ltd

“Customer” means the company, organisation, person or persons that enter into the agreement for the supply of support services.

“Users” and or “End Users” means the individuals using the products and or Services

“Account” means the confidential file where the details of the customer are held

“Agreement” means a contract for the provision of ITS Support Services signed by both parties (ITS and Customer). Signing the agreement declares the customer accepts ITS Support and Maintenance Contract, Terms and Conditions and agrees to the provision of services as outlined in the support contract.

“SLA” means the Service Level Agreement that dictates the Response Times provided by ITS to the Customer for Incidents and the availability/regularity of services.

“System Audit” means an assessment of the customer systems by an ITS Technician in order to gain the necessary understanding of the system for ITS to be able to supply the required level of support.

“The Initial Period” means the period of 12 months from the commencement of the Support Contract. The services will be provided for a period of one calendar year (or part thereof) from the date of this agreement for the price specified in the schedule.

"Subsequent period(s)" means the subsequent period (s) thereafter unless terminated by not less than 3 months written notice prior to the expiry date at the end of the relevant year.

"Continuity" means the contract is deemed as renewed unless cancellation is received in writing with not less than 3 months' notice prior to the annual renewal date, any variation on this cancellation notice is at ITS discretion.

"Distributor" means any supplier to ITS

"Vendor" and/or “third party software vendor” means the company who has designed or developed the software

"Equipment" means the equipment specified in the Support Schedule “Roaming Computers/ Users” means a workstation, mobile communication device or user that is not permanently located at the Customer’s site when the workstation or mobile communications device in question is owned by the Customer and is part of the Customer’s domain.

"Server Instance" means a network, email or other server, whether physical or virtual.



"System" means the network, software, Server Instances, or any other item being maintained under the Agreement as defined in the support schedule of the Agreement

"Software" refers to the Software Products specified in the Support Schedule. "Software applies to all parts of software, to new releases, updates and modifications of the software.

"Support Hours" means 9.00am to 5:00pm Monday to Friday excluding public and national holidays. ITS reserves the right to reduce these support hours during Christmas and New Year and will publish any change of hours prior to the period via email

"Our representative" means any employee, agent, or subcontractor of ITS or other third party.

"Support Service" means any IT Support services as specified in the support schedule. Support may include both proactive and reactive actions to maintain the System's accepted operational status. There will be times when Changes as opposed to Support are required to maintain the accepted operational status of the System. Such Changes may be deemed as being chargeable.

"Change(s)" mean a modification that is material or otherwise that alters the hardware or software configuration of the System defined in the Agreement.

"Remote support" means any support given to you by us that is not given on site.

"On Site Support" means the provision of support services by ITS at the customer site(s) as specified in the support schedule.

"Customer Site" means the Site or Sites specified in the Support Schedule at which the Customer operates the System defined in the Agreement.

Contract Cover Details. IT Services (NW) Ltd shall provide telephone, online, and onsite support, if necessary, as specified in this agreement.

### **1.0 Response to Support Requests**

ITS will endeavour to respond to support requests within eight working hours of the call being logged, provided the request is made:

- between 09:00 and 17:00;
- Monday to Friday; and
- excluding public holidays.

1.1 Contracts are on a labour only basis. Replacement parts will be subject to an additional charge and will be invoiced separately

1.2 Visits to the "Customer's" premises resulting from a request for support not covered by the agreement will be charged according to ITS current chargeable rates at the time, unless otherwise previously agreed between the "Customer" and an authorised representative of ITS. The customer will be notified of any charges before work commences.



1.3 Support does not include system recovery from vandalism; break in, theft, or misuse of the system. In these instances, services will be charged at the rate prevailing at that time. The customer will be notified of these charges before support work commences.

1.4 Software recovery will only be attempted to the last secure DATA backup available, or if necessary to the reloading of the original software PROGRAM master disks. The provision of these back up devices remains the responsibility of the customer unless cloud backup is in place.

1.5 ITS shall not be liable to provide support should the customer or any other party carry out adjustments or enhancements to the customers system without ITS prior knowledge and written consent.

1.6 ITS shall not be liable for any consequential financial loss or damage however caused as a result of system failure.

1.7 ITS reserves the right to employ subcontractors in order to carry out any service required under this agreement.

1.8 ITS reserves the right to suspend this agreement in the event of environmental conditions at the customer's site contributing to equipment or software failure without refund or liability for any losses of whatsoever nature, suffered by the customer during the said suspension.

1.9 In the event of strikes, Acts of God, War or any other cause of events, which prevent ITS from carrying out this agreement, ITS shall not be liable for any losses or damages suffered by the customer.

1.10 The provision of Antivirus and Firewall software / hardware remains the responsibility of the "Customer". ITS will not be responsible for the maintenance or updates of Antivirus or Firewall software / hardware which have not be provisioned from ITS. ITS will maintain or update Antivirus and Firewalls which have been provisioned from a third party via ITS

1.11 Travel charge as detailed in the contract agreement to be calculated and invoiced using standard Microsoft AutoRoute distances from our Blackpool Office location.

1.12 ITS will not be liable for any loss or damage caused by a distributed denial-of service attack, viruses or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of any Website or to your downloading of any material from Web or own media hardware.

1.13 This agreement will continue for a minimum period of 12 months from the commencement date and thereafter will auto-renew for a further 12-month period until the expiry of three months' notice of termination in writing prior to the contract end date.

## **2.0 Commencement of Support Service**

2.1 Upon commencement of the Support Service Agreement a System Audit will be performed, ITS may at its discretion require the system audit prior to commencement of the Support Service Agreement. This agreement is subject to the Equipment being found in a fault free and serviceable



condition by inspection. Should the Equipment not be fault free or serviceable any work required to make it so will be considered a chargeable service outside of the terms of this agreement.

2.2 The Customer accepts responsibility for the status of their System prior to the involvement of ITS

2.3 Any deficiencies found during the System Audit will be noted in the report produced and can be corrected or improved by ITS for a fixed price or if agreed under the Support Services Contract.

2.4 The Customer is under no obligation to commission ITS to resolve issues discovered during the System Audit.

2.5 If the Customer does not wish to adopt recommendations for improving aspects of the System or resolve deficiencies highlighted or if there are omissions in the information provided by the Customer during the System Audit, ITS retain the right to charge additional fees or impose reasonable limits on the Support provided for certain aspects of the System.

2.6 The fees for ITS Support Service will be calculated based upon the number of sites, Server Instances and workstations within the Customers IT System along with any other relevant factors or specific requirements the Customer may have. A quotation will be provided to the customer confirming costs for the support service.

2.7 The Support Service Agreement will include the Support Schedule. This will be a list of the component parts of the support service and associated SLAs. The Supplier may at its option temporarily provide a substitute for any of those parts constituting the equipment

2.8 The acceptance of this agreement denoted by the signature on the schedule of an authorised signatory of the parties and the notification by the Supplier of a Maintenance Service Agreement Number (MSAN) will create a contract between the Supplier and the Customer and will be construed as confirming the Customer's total acceptance of these terms and conditions subject only as may otherwise be agreed in writing to both parties

2.9 Sign off of the Agreement by the Customer will be deemed as acceptance of the support schedule and therefore acceptance of what will be supported under the terms of the Agreement.

2.10 Support Schedules may require amending from time to time depending upon the Customer's needs and Changes to the System. Any such amendments will be recorded and appended to the Agreement.

2.11 The Support Schedule may include Roaming Computers / Users (usually laptops or mobile communications devices such as iPhones) that are regularly away from the Customer's Site. Such computers must be owned by the Customer and of a configuration that is consistent with the computers at the Customers Site. This configuration requires Roaming Computers to be within the Customer's domain architecture and having appropriate Antivirus software installed.

2.12 The Customer will be required to provide confirmation of all Software Licensing applicable to the System either at the commencement of the Agreement or as required by ITS during the Agreement. CUSTOMER RESPONSIBILITIES The Customer undertakes to:



2.13 ensure that the environmental and electricity supply conditions are suitable for the Equipment and are maintained in accordance with the Manufacturer's recommendations.

2.14 use the cabling services of the Supplier where possible. If the cabling services of the Supplier are not used then the Supplier reserves the right to verify that the cabling and associated components are of a sufficient quality and specification for the contracted system. Where the cabling and computer are not up to specification they will be made good at the Customer's cost.

2.15 allow the Supplier access to the Equipment for maintaining purposes, provide adequate working space and facilities for the Supplier's staff and will cooperate with them in the diagnosis of Equipment malfunction.

2.16 keep and operate the Equipment in a proper and prudent manner and ensure that only competent and authorised persons are allowed to operate it.

2.17 not move the equipment nor make any addition, modification or adjustment to it without prior written consent of the Supplier nor allow anyone other than the Supplier's staff to adjust, repair or maintain it.

2.18 use only media which is a type approved by the manufacturer of the Equipment or is used shall not be unreasonably withheld.

2.19 insure any loan Equipment supplied by ITS hereunder to its full value with a reputable insurance company and shall supply confirmation of this in writing. In the event of damage to the said equipment, the customer shall be liable to pay to ITS the cost of repair or replacement of the said equipment Supply of spares and support from third parties The

Supplier is able to supply the Services under this agreement by the provision of spares and software support from its suppliers. Should the supply of such spares and support be interrupted or curtailed for any reason then the Supplier reserves the right to terminate or amend this agreement. Information The Customer agrees to make available to the Supplier's staff all information concerning its operations as may be necessary for the fulfilment of the Supplier's obligations under this agreement.

### **3.0 Requesting Support**

3.1 All requests for Support from the Customer must be made via e-mail to our centralised support logging system via [support@myits.co.uk](mailto:support@myits.co.uk) or in emergencies telephone 0330 123 9130

3.2 The Customer must inform ITS of any Incidents as soon as is practically possible. If there is a delay informing ITS of obvious warning signs, then the fault may grow and cause additional impact.

3.3 Upon receiving notification regarding an issue with the Customer's System, the issue will be logged as an Incident with an allocated Incident reference number. The Incident reference number along with details of the Incident will be notified to the Customer. The Supplier will use best endeavours to respond to all calls for service within the time specified.



3.4 In the event of the Customer wishing to query the progress of an Incident, the Customer must be able to state the specific Incident reference number to enable ITS to identify the Incident in question.

#### **4.0 Delivery of Support**

4.1 Support will be delivered by ITS to the Customer in accordance with the Support Schedule. The Support Schedule will be stated in the Support Service Agreement.

4.2 ITS retains the right to install 3rd party software on the Customer's System to facilitate the remote connection and delivery of Support to the Customer. In accordance with this right:

4.2.1 If at any stage following the commencement of the Agreement the Customer refuses ITS the right to install / use 3rd party software upon their System for the purposes stated in clause 4.2 above, ITS retains the right to revise any pricing previously agreed for the Agreement or to terminate the Agreement.

4.2.2 ITS warrant to the Customer that all 3rd party software installed upon the Customers System for the purpose stated in clause 4.2 above will be licensed accordingly by ITS

4.2.3 The ownership of 3rd party software installed upon the Customer's System for the purpose stated in clause 4.2 above will remain vested in ITS

4.2.4 The Customer can request that ITS demonstrate and explain what 3rd party software it intends to install on the Customer's System and for what purpose it is intended.

4.3 Whilst working on Incidents, Technicians will keep a record of the time they spend, and the actions taken. This information will be logged in the ITS Support Application under the specific Incident reference number.

4.4 No guarantees or commitments will be given regarding the length of time required for resolving Incidents.

4.5 When providing Support, Technicians may consult colleagues for help and advice on specific issues to resolve Incidents as quickly as possible.

4.6 To ensure that Incidents are resolved as quickly as possible and to reduce the reliance on individual Technicians, ITS retain the right to allocate Technicians to Incidents and actions within Incidents as they see fit, depending on the skills, experience and availability of Technicians.

4.7 The support schedule specified in the Agreement will determine the actual Response Times available under the following categories:

4.7.1 All supports calls will be responded to within an 8 working hour timeframe.

4.7.2 On Site Support (Response Times will vary depending on location of Customer Site)

4.8 ITS retains the right to decide whether Support will be delivered remotely or on site at all times.





4.9 If as a consequence of Support being provided, software, other than that installed by ITS for the purpose of facilitating remote connection and the delivery of Support as stated in clause 4.2. is installed, configured or in any way utilised on the Customer's System the Customer is responsible for having the appropriate license for the intended use of that software.

4.10 The Customer accepts that whilst ITS may advise on software licensing matters the Customer will be legally liable for maintaining, acquiring and proving that appropriate licensing agreements for all software in use on their IT System exists. Consequently, the Customer will be solely legally liable to pay any fees, fines or other costs associated with software licensing except for software installed by ITS as per clause 4.2.

4.11 The customer will provide ITS or its representative with unrestricted access to the system and will provide such further facilities and assistance as the representative may require carrying out the work. ITS will not be liable for where its representative cannot provide support as a result of the Customer failing to provide such facilities or assistance.

4.12 All defective parts permanently removed by the Supplier will become the property of the Supplier and the replacements will become the property of the Customer upon payment by the customer.

4.13 The Supplier reserves the right to make additional charges to cover abnormal use of the Equipment repairs due to other than fair wear and tear and service calls occasioned by other Equipment malfunction including without limitation operator error, accident, interruption of electricity supply and third-party programming errors. (other than authorised by ITS)

## **5.0 Availability of Support**

### **5.1 Standard Working Hours.**

5.1.1 ITS's standard working Hours for the provision of remote Support services are 9.00AM – 5.00 PM Monday to Friday (excluding public holidays) unless expressly stated otherwise in the Agreement.

5.1.2 ITS's standard working Hours for the provision of onsite Support services are 9.00 AM – 5.00 PM Monday to Friday (excluding public holidays) unless expressly stated otherwise in the Agreement (Including 30 minutes for lunch).

5.1.3 Technicians will work on varying shift patterns within the hours stated above. This means that individual Technicians do not necessarily work from 9.00 AM to 5.00 PM on a daily basis.

### **5.2 Out of Hours Periods.**

5.2.1 ITS provide remote helpdesk Support during Out of Hours Periods which are the times beyond ITS standard working hours as outlined in clause 5.1 above, by pre-agreement only.

5.2.2 On Site Support will NOT be available during Out of Hours Periods unless explicitly stated in the Customer's Support Agreement.



5.3 The Customer is responsible for giving ITS the authority to deal with 3rd party suppliers on behalf of the Customer. When such authority has not been provided, the Support that can be offered by ITS may be limited.

5.4 The full breadth and depth of ITS's technical skills and expertise will not be available during Out of Hours Periods. Consequently, there may be instances when the on duty Technicians reaches the boundary of their experience causing Support to be suspended until other technical members of staff are available.

5.5 When other technical expertise and experience is required in relation to an Incident logged during an Out of Hours Period there is no guarantee that this will be available before the start of the next normal working day

5.6 Planned maintenance (e.g. Server reboots) can be scheduled for Out of Hours Periods at no extra cost to customers with a support agreement.

5.7 ITS cannot guarantee that the remote connection to the Customer's System will always be available due to issues with the Customer's System or other external factors beyond the control of ITS (e.g. Internet Service Provider problems).

5.8 When Remote Support cannot resolve the Incident and On-Site Support is required, the On-Site visit will be arranged for the soonest available point in time during ITS's standard onsite Support Hours 09.00 AM – 5.00 PM Monday to Friday.

5.9 When an onsite visit is required, it will take place in accordance with the Response Times available within the Customer's Support Agreement. Consequently, there is no guarantee that an onsite Support visit will commence immediately at the start of the next standard hours period (9.00AM)

5.10 When a Customer has an Incident that is being worked upon during normal business hours that remains unresolved at 5.00PM Support will not continue in the Out of Hours Period by default.

5.11 In order for Support on an Incident that remains unresolved at 5.00PM to continue and be worked on beyond 5.00PM, the Customer will be required to specifically request an immediate Out of Hours task to be logged within the Incident in question.

5.12 The Customer can opt to pay for Support during Out of Hours Periods either by:

5.12.1 Agreeing to a fixed fee as part of the overall contract cost in order to be able to log unlimited Out of Hours Support. The fixed fee will be stated in the Agreement. OR

5.12.2 Agreeing to pay for Out of Hours Support on a pay as you go basis at an agreed hourly rate stated in the Agreement.

5.12.3 Minimum billing periods will apply when Support has been delivered for part thereof the billing period in question. (i.e. Up to 30 minutes of Support provision will result in a minimum charge of 1 Hour of time. Between 60 and 90 minutes of Support will result in a charge of 2 hours of time etc...)





5.12.4 When Out of Hours Support is requested on a pay as you go basis, the fees for Out of Hours Support will be invoiced in arrears as/when applicable as a separate line item in ITS's Support invoices.

5.12.5 All Out of Hours Support Incidents logged will be subject to a minimum billing period of 60 minutes, followed by subsequent billing periods of 60 minutes.

5.13 ITS retains the right to revise the fees for Out of Hours Support from time to time and will notify Customers in advance in accordance with the guidelines stated in the Agreement from time to time.

## **6.0 Scheduled Maintenance**

6.1 Where your support contract provides for, in addition to Telephone, Remote & onsite Support, ITS will provide regular scheduled maintenance visits as set out in the support schedule.

6.2 During the maintenance visit Technicians will attend site for the provision of maintenance services which will include, but not limited to, checking successful operation of backup procedures, disk management and server updating/patching and other general servicing procedures.

6.3 Once the regular checks of the server(s) and systems have been completed any remaining time may be used for other IT associated purposes, i.e. installations or other work as requested by the customer.

## **7.0 Chargeable Services**

7.1 A "Change" may be in the form of urgent repair work deemed as being within the scope of the Support contract in order to maintain the accepted operational status of the System. Alternatively, a Change may be an enhancement for security, stability, scalability or functionality reasons that will not be covered within the scope of the Support Service Agreement unless undertaken at the discretion of ITS as a proactive measure.

7.2 Requests from Customers for Changes to their System not deemed as being implicit within the ongoing Support duties required under the scope of this Agreement will normally be chargeable as separate pieces of work. ITS will however assess each request on a request-by-request basis. If a request can be completed via remote support within a 30minute period there will not normally be a charge, any work requiring longer involvement will be charged in billing periods of 60 minutes at the rate specified in the support agreement.

7.3 For separate pieces of work in the form of "consultancy" or "project work", charges will be at the hourly rate as set out in the support agreement, unless a fixed price has been pre-agreed in the form of supporting quotes and proposals. The Customer will be required to confirm commencement of such work via sign off of a work sheet via email or the support ticketing system.

7.4 ITS will always endeavour to seek the Customer's approval for chargeable Changes in advance, however, ITS retain the right to perform chargeable Changes that fall outside of the Agreement without prior sign off if deemed absolutely necessary for the continued operation of the Customer's System.



7.5 ITS retains the right to revise the fees charged for ongoing Support under the Agreement following the implementation of Changes.

7.6 Any Changes performed by ITS to the System will be Supported under the Agreement, once any warranty periods have expired, and pending agreement being reached on revised fees for ongoing Support (if applicable).

7.7 The Customer retains overall responsibility for their System. Any Changes made to the System by the Customer or a 3rd party instructed by the Customer, may be approved in principle prior to being implemented. However, such changes will only be covered by the Agreement once approved by ITS upon completion of the implementation.

7.8 For such Changes to be approved upon completion, ITS must receive appropriate details from the Customer in a timely fashion in order to assess the impact they will have on the System and if they may cause the need for additional Support.

7.9 If accepted, with or without an increase to the fees charged via the Agreement, the Changes will be noted in Appendix 1 of the Support Service Agreement.

7.10 If Support is required for an unapproved System Change or another System, ITS will endeavour to provide Support under the terms of the Agreement, however ITS retain the right to refuse Support or impose additional charges as necessary.

7.11 If the Customer's System grows in numbers of workstations or Server Instances by 5% over any given period, ITS retains the right to instigate a System review.

7.12 The result of the System review may lead to the fees charged under the Agreement to be revised.

## **8.0 Exclusions/Excluded Work**

8.1 Customers must accept that computers, software and their associated products can be supplied in an imperfect state or can develop faults over time and that ITS's role is to reduce the effects of such imperfections rather than to eliminate them.

8.2 ITS retains the right to exclude 3rd party software from the scope of the Agreement.

8.3 When 3rd party software is included within the scope of the Agreement, Support will only be provided to users that have a reasonable level of competency and once the user has used help files and other resources available from the vendor.

8.4 ITS do not commit to having experts available for all 3rd party software and therefore cannot guarantee being able to resolve all Incidents relating to 3rd party software logged and will not provide training under the terms of the Agreement.

8.5 When 3rd party information or services are provided ITS can make no guarantees about quality or suitability.



8.6 ITS cannot guarantee that any 3rd party software including but not limited to Antivirus, security and firewall software, whether or not recommended by ITS will keep computer(s) free of errors, viruses, worms, Trojans, email spam, spy ware, hacking or any other unauthorised access.

8.7 In certain circumstances when an issue exists with an aspect of the Customer's System, ITS may recommend a solution that will require a capital cost outlay by the Customer. Such costs will not be covered by the Agreement.

8.8 If the Customer chooses not to adopt the solution recommended by ITS and the issues continue, ITS retains the right to refuse or limit Support in respect of the item / issue in question.

8.9 Alternatively a higher charge for continued Support for the item / issue may be introduced to reflect the additional effort that would not have been required if the recommendation were adopted.

8.10 ITS will require Administrator-level access to the System at all times

8.11 ITS cannot be held responsible for being unable to provide Remote Support due to a lack of remote access to the System, when the lack of remote access results from a problem with connectivity that is beyond ITS's control.

8.12 ITS will respond to Incidents in accordance with the Support Schedule that is specified in the Agreement.

8.13 ITS retains the right to decide the appropriate course of action for each Incident and will follow the necessary troubleshooting steps in order to diagnose and then rectify the Incident.

8.14 Depending upon the nature of the Incident, ITS may have to impose a workaround to rectify the Incident as opposed to a fix. Any workaround may be temporary prior to a permanent solution being instigated or permanent if the Customer decides not to proceed with a permanent fix.

8.15 A workaround may be of a technical nature or may involve changing a manual business process performed by the Customer.

8.16 ITS will always aim to return the affected area of the System to an acceptable operational state, however depending on the nature of the problem this may not be possible without Changes to the System being made as in accordance with the Changes as described in section 6.

8.17 ITS retains the right to not install, configure or support any software for which the Customer cannot provide / produce a valid license for.

8.18 Other services not included as standard within the scope of the Agreement include:

8.19.1 Procurement of new or replacement hardware, software of whatever nature.

8.19.2 Installation, physical removal or relocation of hardware.



8.19.3 Provision of Hardware warranty for repairs or replacement of equipment including but not limited to networked printers, photo copiers, fax and scanning machines (The Customer is responsible for keeping records of all 3rd party warranties and licences).

8.19.4 Provision of Antivirus Software (ITS will make recommendations but the Customer will remain responsible for purchasing the appropriate licence either via ITS or a third-party distributor).

8.19.5 Technical or end user training on the Customer's System or 3rd party applications.

8.19.6 Internet connections email and web hosting services and remote file storage services.

8.19.7 Work required as a result of operator error or any other improper use, care of or accident to the system, or any failure of or change in: electricity, air conditioning, humidity control or other environmental or operating conditions not recommended or approved by ITS, or by the system manufacturer

8.19.8 Electrical or other work external to the equipment.

8.19.9 Work on any item of the equipment that has been moved, repaired or tampered with by any person other than one of ITS's representatives.

8.20 Fair Usage Policy ITS Ltd. monitors Fair Usage by recording 'man-hours' spent on calls, dial-ins, site (where applicable) and workshop. Individual months where the figures exceed the fair usage quota are ignored as a good faith gesture unless the usage is considerably over. Labour is recorded over time and if figures are consistently exceeding its FUA, we will ask the customer to purchase additional blocks of support to cover additional support.

## **9.0 Complaints**

9.1 In the event of a complaint in respect of ITS's Support Services in whole or part, the Customer shall notify ITS as soon as possible.

9.2 When a Customer needs to raise a complaint, the complaint should be lodged with a director of ITS either verbally or in writing. The Director will then investigate the complaint to resolve the issue or provide a full explanation of the actions / issues that resulted in the complaint.

9.3 In the event that the Customer is dissatisfied with the quality of performance of a Technician, the Customer must inform ITS immediately, stating the basis for dissatisfaction. If, in the view of ITS, the situation merits it, ITS will withdraw the Technicians immediately and will use its reasonable endeavours to provide a replacement.

## **10.0 Arbitration**

10.1 Arbitration. Any dispute, difference or question between the parties with respect of any matter arising out of or relating to this contract which cannot be resolved by the two parties within a reasonable period (but in any case not exceeding 90 days) shall be referred to the arbitration of a person to be appointed by the President of the Law Society in accordance with the provisions of the Arbitration's Act 1996 or any statutory modification or re-enactment thereof.



## **11.0 Invoicing and Payment**

11.1 Invoicing and Payment All charges in respect of the Services are due for payment on receipt of invoice, no service will be provided whilst a payment is outstanding. If any sum payable under these terms and conditions becomes overdue the Supplier reserves the right to charge interest on a day-to-day basis from the original due date of receipt by the Supplier of the sum due. The rate of such interest shall be eight percent above the base rate of the Royal Bank of Scotland in force at the time.

11.2 ITS pricing for the Services are stated on the Contract Support Schedule. This agreement will commence on the date as specified in the attached schedule. The contract will automatically be renewed on each anniversary upon payment by the Customer of the current charges as quoted by the supplier three months prior to the renewal date.

11.3 The prices quoted for the Service are in respect of a monthly charge (or part thereof in the case of additional equipment added to an existing contract) for the maintenance of the equipment listed in the schedule commencing on the date of this agreement and expiring on the anniversary of this (or in this case of add-on equipment the existing) agreement (the Renewal Date).

11.4 All prices quoted are subject to change by the Supplier on the provision of 30 days' notice to the Customer. Any period of maintenance for which the charges have been pre-paid will be unaffected by a change in prices.

11.5 The Customer will be invoiced for ITS's Support Services in advance and is payable from the date of acceptance of the agreement by both parties and will be subject to the following conditions:

11.6.1 For the initial period of the agreement the customer will not be required to pay any increased support charges. Subsequent period(s) may incur additional charges and be increased at any time on or after the expiration of the initial period, subject to ITS providing written notification no less than 30 days before such increase.

11.6.2 Upon the customer terminating the Support Service Agreement payments or arrears will be proportionate up to the date of termination.

11.7 The Customer may pay monthly in advance via Standing Order i.e. a January Invoice covers the January period and is due for payment no later than 1st February by standing order or BACS.

11.7.1 ITS reserves the right to change the payment frequency to annually in advance, where a customer's payment of monthly invoices is not made promptly by standing order or BACS for a period of 3 months.

11.7.2 The customer will not be eligible to any discount for services if ITS finds it necessary to change the payment frequency to annually in advance.

11.8 If a payment from the Customer is not made for support charges or any part thereof, and remain unpaid for a period of 30 days, ITS may without prejudice to other rights, give notice in writing to the customer requesting payment within seven days, failure to pay within the seven-day



period may result in termination of the support services and ITS's obligations under the agreement. In addition to, if the invoice remains unpaid a claim will be made via the small claims court.

11.9 For work performed on behalf of UK registered organisations all amounts invoiced will be subject to VAT payable at the then prevailing rate, The total support charges for the agreement will be detailed in the support schedule excluding VAT.

## **12.0 Warranty/Guarantees**

12.1 Warranty/Guarantees. All repairs carried out by ITS or our representatives shall be guaranteed for a period of 30 days, unless complete failure occurs and the issue/item requires a complete replacement, this is then at cost to the customer. This guarantee does not affect the Customers statutory rights.

## **13.0 Patents and Copyrights**

13.1 Patents and Copyrights. Copyright subsists in the Supplier's proprietary Software. Software supplied by the Supplier under licence Software supplied to the Customer under licence from other vendors and all documentation relating thereto (where printed or stored magnetically). This agreement does not vary the terms of any licence entered into by the Customer relating to any software product. Under no circumstances does the use, acquisition or maintenance of such Software transfer copyright to the Customer.

## **14.0 Data security/Recovery**

14.1 Data security/Recovery. ITS will not be held responsible for any data corruption or loss, howsoever caused. Should any such data loss occur, ITS will make every effort to recover the data. If 3rd party specialist data recovery services are required, then it is the customer's responsibility to cover the cost for this.

## **15.0 Termination of Agreement**

15.1 The Customer can terminate the Agreement at any time with the provision of 90 days' notice in writing prior to the expiration of the initial period. Once the initial period has lapsed and if notice not been provided in writing, the contract will automatically renew for a further 12-month period. A 90 days' notice will be required to terminate the agreement prior to the expiration of the additional 12 months period.

15.2 ITS can terminate the Agreement or any aspect of it including at any time with 90 days' notice in writing.

15.3 ITS can terminate the Agreement or any aspect of it with immediate effect if the Customer becomes the subject of a receivership, winding up, administration or bankruptcy order (or a petition is presented in respect of any of these). Or, if it otherwise appears to ITS that the Customer is insolvent and unable to pay its debts as they fall due.





15.4 ITS shall be entitled to terminate the Agreement in the event that the Customer commits a material breach of the Agreement and fails to remedy the breach within 90 days of receipt of written notice from ITS

15.5 The customer shall be entitled to terminate the Agreement in the event that ITS commits a material breach of the Agreement and fails to remedy the breach within 90 days of receipt of written notice from the customer.

15.6 Any termination shall be without prejudice to ITS's other rights or to the Customers liability for amounts payable under the Agreement.

15.7 In the event of termination of the Agreement, ITS retains the right to uninstall any 3rd party software from the Customer's System that ITS own the licence for or that ITS have installed on behalf of a 3rd party who own the software licence.

#### **16.0 No Recruitment**

16.1 the Customer agrees that during the term of this agreement and for a period of 12 months after its termination it will not employ or engage or offer to employ or engage any member of the Associated Consultancy Service's or ITS (NW) Ltd.'s staff without the prior written consent of the Supplier. The Customer further agrees that employment or an offer to a person in breach of this clause shall result in the Customer being liable to pay damages to the Supplier equivalent to 120 days' work by the person in question at his or her then current daily fee.

16.2 the Supplier agrees that during the term of this agreement and for a period of 12 months after its termination it will not employ or engaged or offer to employ or engage any member of the Customer's staff without prior written consent of the Customer. The Supplier further agrees that employment of or an offer to a person in breach of this clause shall result in the Supplier being liable to pay damages to the Supplier equivalent to 120 days' work by the person in question at his or her then current daily fee.

#### **17.0 Assignment**

17.1 Assignment. We may assign, subcontract or otherwise dispose of our obligations under the Agreement or any other agreement between the parties to any other party. Specifically, where we procure that a third party (such as the system manufacturer) provides a preventative maintenance routine, telephone, modem or onsite support or other services to the customer, the customer shall be bound by any additional terms which the third party may impose either on ITS or the customer, and if there is any inconsistency between the terms of business of the third party of and the terms of the Support Services Agreement the terms of the third party terms shall prevail. The customer may not assign the Support Services Agreement without prior written consent by a director of ITS

#### **18.0 Confidentiality**



18.1 Confidentiality Neither ITS or any of our representatives or customers will, without the other's written consent, disclose to any third party any information concerning the business or method of working of the other party which may be revealed to it during the period of the agreement or otherwise, except as required by law or to the extent that such information may become public knowledge or may be acquired or generated by either party independently from the other otherwise than by reason of a breach of this clause

## **19.0 Limitation of liability**

19.1 ITS is not responsible for the loss of Customer data. ITS is responsible for ensuring the cloud backup software and related hardware (when applicable) is set up correctly, however, the Customer is ultimately responsible for ensuring the appropriate on-site backups are completed and that tapes are taken off site or otherwise secured appropriately. It will be the Customer's responsibility to change backup tapes.

19.2 The liability of ITS for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed the aggregate price paid for the services under the Agreement up to the date in question.

19.3 In no event shall ITS, its partners or suppliers be liable for costs of substitute goods or services, nor will they be liable for loss of profits, loss of data or any indirect, special, incidental, consequential or punitive damages however caused, whether due to a breach of contract, negligence or otherwise unless such liability is determined by a Court of competent jurisdiction, without further recourse to appeal, that it was caused by gross negligence, wilful misconduct or fraudulent acts, by ITS

19.4 the Customer indemnifies the Supplier in respect of:

19.4.1 direct physical damage to the Supplier's property which is established to be the result of negligence by the Customer or its servants or agents.

19.4.2 direct physical injury to or death of any of the Supplier's servants or agents resulting from the negligence of the Supplier or its servants or agents.

19.4.3 in no event shall the supplier be liable for indirect or consequential damages

## **20.0 Force Majeure**

20.1 Neither party shall be liable for any breach of its obligations resulting from causes beyond its reasonable control including but not limited to fires, terrorist activity, strikes (of its own or other employees), insurrection or riots, embargoes, container shortages, wrecks or delays in transportation, inability to obtain supplies and raw materials, pandemics, requirements or regulations of any civil or military authority (an "Event of Force Majeure").



20.2 If a default due to an Event of Force Majeure shall continue for more than twelve [12] weeks then the party not in default shall be entitled to terminate the Agreement. Neither party shall have any liability to the other in respect of the termination of the Agreement as a result of an event of Force Majeure.

#### **21.0 The Support Services Agreement**

21.1 The Support Services Agreement supersedes all prior Agreements made between ITS and the Customer for the provision of Support services and constitutes the entire Agreement between the parties relating to ITS's Support Services.

21.2 The Agreement does not supersede the General Trading Terms and Conditions of ITS for any other business activities that the parties are or have been engaged in or may be engaged in the future.

21.3 No addition to or modification of any provision of these Terms and Conditions shall be binding upon the parties, except as set out herein, unless made in writing and signed by a duly authorised representative of each of the parties.

21.4 If any term, clause or condition of these Terms and Conditions is in violation of any applicable law, statute or regulation, the term, clause or condition in question shall be deemed as being deleted without effect to the remainder of these Terms and Conditions.

21.5 These Terms and Conditions shall remain in full force as if the deleted term, clause or condition had not been included. ITS and the Customer will negotiate, in good faith, alternative terms, clauses or conditions to those deleted that are mutually acceptable to both parties.

21.6 Headings are included for convenience only and shall not affect the interpretation of the Agreement.

#### **22.0 Sole appointment**

22.1 Sole appointment. The customer shall not allow any persons other than ITS or one of its representatives to support the system.

#### **23.0 Notice**

23.1 Any notice given under the Agreement by the Customer to ITS shall be provided in writing by email or recorded delivery post as set out below:

23.2 Postal address: IT Services (NW) Ltd. Blackpool Football club, West Stand, Seaside Way, Blackpool, FY1 6JJ

23.3 Any notice given under the Agreement by ITS to the Customer shall be provided to the Customer as set out herein and in accordance with the contact details for the Customer stated in the Agreement. The Customer may change its contact details from time to time if required, by the provision of notice to ITS.

#### **24.0 Governing Law**



24.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales to settle any dispute which may arise in connection with this Agreement, save that ITS has the right at its sole discretion to commence and pursue proceedings in alternative jurisdictions. This agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.