

ISL (Computers) Limited
TERMS AND CONDITIONS OF SALE AND SERVICE

1. DEFINITIONS

“**Agreement**” means the agreement between ISL and the Customer for the supply of Products and/or Services in accordance with these Conditions.

“**ISL**” means ISL (Computers) Limited.

“**Conditions**” means these terms and conditions as amended from time to time.

“**Customer**” means the legal entity accepting ISL’s written or oral quotation for the supply of Products or Services or whose order for Products or Services is accepted by ISL or the party otherwise commissioning the Services in each case as named on the Invoice.

“**Maintained Products**” means hardware, software or peripheral products in respect of which Services are either bundled with the Products or required under a Service Offering selected and ordered by the Customer, accepted by ISL and specified on the Invoice, and such additions or changes thereto as may from time to time be agreed in writing between the parties. It does not include data back-ups or recovery, which are the sole responsibility of the Customer.

“**Data**” means the numbers, text, characters, images, sounds or other information other than software programs input into the Customer’s computer and stored and/or processed there.

“**Service Offering(s)**” means the service options offered by ISL for Maintained Products, as published in ISL’s literature.

“**Services**” means the services to be performed by ISL pursuant to the Service Offering selected by the Customer.

“**Price**” means the charge for the Products or Services as specified in the Order or in any subsequent agreed variation of the Order.

“**Products**” means goods sold by ISL pursuant to the Agreement as specified on the Invoice.

“**Order**” the Customer’s order for the supply of Products and/or Services as set out in the Customer’s written acceptance of ISL’s quotation.

“**Third Party Products**” means Products not manufactured or assembled or authored by ISL and supplied to ISL by third parties for re-supply by ISL.

“**Business Day**” means a day other than Saturday, Sunday or a public holiday in England when banks in London are open.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Products and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when ISL issues written acceptance of the Order at which point and on which date the Agreement shall come into existence.

2.3 The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied upon any statement, promise, representation, assurance or warranty made or given on behalf of ISL which is not set out in the Agreement.

2.4 These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 Any quotation given by ISL shall not constitute an offer and is only valid for a period of 5 Business Days from its date of issue.

2.6 All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.

3. DELIVERY, TITLE AND RISK

3.1 The Products are delivered at ISL’s manufacturing facility or other agreed delivery point.

3.2 Manufacturing requirements may cause products to be delivered by instalments. Delivery dates are approximate and time shall not be of the essence for delivery.

3.3 Risk passes on delivery, Title to Products passes to Customer when full payment is made:

3.4 Until title to the Products has passed to the Customer, the Customer shall:

(i) store the Products separately from all other Products held by the Customer so that they remain readily identifiable as ISL’s property;

(ii) not remove, deface or obscure any identifying mark or packaging on or relating to the Products;

(iii) maintain the Products in satisfactory condition and keep them insured against all risks for their full price on ISL’s behalf from the date of delivery;

(iv) notify ISL immediately if it becomes subject to any of the events listed in clause 16.1(ii), and

(v) give ISL such information relating to the Products as the Supplier may require from time to time.

3.5 If before title to the Products passes to the Customer the Customer becomes subject to any of the events listed in clause 16.1(ii) then, without limiting any other right or remedy ISL may have:

(i) the Customer’s right to resell Products or use them in the ordinary course of its business ceases immediately; and

(ii) ISL may at any time:
(a) require the Customer to deliver up all Products in its possession which have not been resold, or irrevocably incorporated into another product; and
(b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

4. ACCEPTANCE OF PRODUCTS

Unless Customer shall, promptly after delivery, inspect the Products and notify ISL, in writing, of any defects found, the Products shall be deemed to have been accepted on delivery

5. THE SERVICE OFFERINGS

5.1 Services are provided in accordance with the provisions contained in the Service Offering selected by the Customer as shown on the Invoice.

5.2 ISL will use reasonable endeavours to meet relevant response times.

5.3 The Customer agrees that ISL shall not be liable for any direct, indirect or consequential losses occurring as a result of ISL’s failure to meet relevant response times except as set out in Clause 11.

5.4 The Customer may purchase extended service coverage in accordance with the current ISL policy.

5.5 ISL warrants to the Customer that the Services will be provided using reasonable care and skill.

6. SOFTWARE LICENCE

All software is sold subject to the software publisher’s end user licence agreement (EULA), the terms of which the Customer agrees to adhere to.

7. EXCEPTIONS

7.1 ISL shall be under no obligation to supply the Services where, in ISL’s reasonable opinion, such Services are required due

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to previous improper or inadequate installation by the Customer or a third party provider, use or maintenance: actions or modifications by unauthorised third parties or the Customer; or accidental or wilful damage.

- 7.2 The Services do not include the correction or avoidance of software defects or errors or the loading or reloading of Customer's applications software or data or any reconfiguration of the Maintained Products beyond reloading the operating system software as carried out before shipment.
- 7.3 ISL cannot accept any responsibility for loss of or damage to the Customer's data however caused.
- 7.4 Any material that, in our judgment, is obscene, threatening, illegal, or violates our terms of service in any manner may be removed from our servers (or otherwise disabled), with or without notice.
- 7.5 The Customer is responsible to ensure that scripts/programs installed as part of their websites are secure and permissions of directories are set properly, regardless of installation method.
- 7.6 ISL reserves the right to require changes or disable as necessary any web site, account, database, or other component that does not comply with its established policies, or to make any such modifications in an emergency at its sole discretion.

8. REPLACEMENT

ISL reserves the right to replace the whole or any part of the Maintained Products. Repairs may be carried out using reconditioned parts or products which, whilst not necessarily identical to the faulty Maintained Products, are equivalent to new in functionality and appearance.

9. CUSTOMER'S OBLIGATIONS

- 9.1 The Customer shall properly use the Maintained Products and shall provide ISL with all reasonable facilities and information to enable ISL to perform its duties.
- 9.2 The Customer shall be responsible for ensuring the security and integrity of their data by maintaining adequate back-up and storage procedures.
- 9.3 The Customer shall be responsible for complying with all Customer applicable regulatory requirements.

10. PRICE AND PAYMENT

- 10.1 Payment shall be made in full on or before supply of Products or Services or, if agreed at the time of order, within 30 days of the date of Invoice.
- 10.2 The Price of the Products and/or Services shall be ISL's quoted price current at the date of the Customer's order and in any case as shown on the Invoice.
- 10.3 All Prices quoted in writing are valid for 30 days except written quotations in respect of Third Party Products which are valid for 10 days only. Oral quotations are valid only to the end of the business day upon which they are given.
- 10.4 All Prices for the sale of Products exclude ISL's charges for transport and insurance.
- 10.5 The Price and any additional charges payable under the Agreement are exclusive of all sales taxes including Value Added Tax.
- 10.6 Time for payment is of the essence. If the Customer fails to make any payment due to ISL under the Agreement by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Lloyd Bank plc base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 10.7 The Customer shall pay all amounts due under the Agreement in full without any set-off, counterclaim, deduction or withholding except as required by law. ISL may, without limiting its other rights to remedies, set-off any amount owing to it by the Customer against any amount payable by the Customer to ISL.

11. WARRANTY

- 11.1 ISL manufactures its hardware Products from parts and components that are new or equivalent to new in accordance with industry standard practices and ISL warrants that the Products (excluding Third Party Products and software) will be free from defects in materials, workmanship and design for a period of 12 months from the date of purchase and that spare parts used in repairing Maintained Products under any Service Offering will be free from defects in materials, workmanship and design for a period of 90 days from installation in the Maintained Products or the remainder of the Warranty Period or Service Offering

appropriate to or purchased by the Customer in respect of the Maintained Products, whichever is the longer.

- 11.2 In respect of Third Party Products, the Customer shall only be entitled to the benefit of any warranty or guarantee given by the Third Party manufacturer.
- 11.3 If, before the expiry of the warranty period or appropriate Service Offering ISL receives written notice from the Customer of any breach of the warranty then ISL shall, within a reasonable time, repair, or, at its option replace Products or spare parts that are defective or otherwise remedy such defects.
- 11.4 This warranty does not apply to defects resulting from improper or inadequate installation, use or maintenance; actions or modifications by unauthorised third parties or the Customer or accidental or wilful damage.
- 11.5 ISL does not give any warranty that the Products are fit for any particular purpose and this warranty is given in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade, usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.

12. LIABILITY

- 12.1 ISL shall not be liable for any loss or damage sustained or incurred by the Customer or any third party (including without limitation any loss of use of the Maintained Products or loss of or spoiling of any of the Customer's programs or data) resulting from any breakdown of or fault in the Maintained Products, unless such breakdown or fault is caused by the negligence or wilful misconduct of ISL, its employees, agents or sub-contractors or to the extent that such loss or damage arises from any negligent delay by ISL in providing the relevant Services and then only to the extent not excluded by the Agreement.
- 12.2 ISL shall indemnify the Customer and keep the Customer fully and effectively indemnified against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or wilful misconduct of ISL, its employees, agents or sub-contractors, or by any breach of its contractual obligations.
- 12.3 The Customer shall indemnify ISL and keep ISL fully and effectively indemnified against any loss of or damage to any property or injury to or death of any

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persons caused by any negligent act or omission or wilful misconduct of the customer, its employees, agents or sub-contractors or by any breach of its contractual obligations.

12.4 Except in respect of injury to or death of any person, for which no limit applies, the respective liability of ISL and the Customer under sub-clauses 11.1, 11.2, and 11.3 in respect of each event or series of connected events shall not exceed £ 250.000 or the Price, whichever is the greater.

12.5 Notwithstanding anything else contained in the Agreement, ISL shall not be liable to the Customer for loss of profits or contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever.

13. FORCE MAJEURE

Neither party shall be liable for any delay in performance caused by circumstances beyond its reasonable control and the party in delay shall be entitled to a reasonable extension of time for performance.

14. INTELLECTUAL PROPERTY RIGHTS

Each party will indemnify the other against all costs, claims, demands, expenses, and liabilities arising out of or in connection with any claim that the normal use or possession of the Products or Third Party Products or products supplied by the Customer for integration purposes (whether used separately or in combination) infringes the intellectual property rights (including without limitation any patent, copyright, registered design, design right or trade mark) of any third party.

15. CONFIDENTIALITY

Each party shall treat as it does its own trade secret information; all information obtained from the other pursuant to the Agreement, which is marked "confidential" or the equivalent or has the necessary quality of confidence about it.

16. TERMINATION

16.1 The Agreement may be terminated forthwith by written notice from either party if:

(i) the other commits any material breach of any of the terms of the Agreement and, if such breach is remediable, fails to do remedy that breach within 30 days after receipt of notice in writing to do so; or

(ii) The other becomes insolvent or bankrupt or is otherwise unable to pay its debts as they fall due.

16.2 Without limiting its other rights or remedies, ISL may terminate the Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any sums due under the Agreement on the due date for payment.

16.3 Without limiting its other rights or remedies, ISL may suspend the supply of Services or all further deliveries of Products under the Agreement or any other contract between the Customer and ISL if the Customer fails to pay any amount due under the Agreement on the due date for payment, the Customer becomes subject to any of the events listed in clause 16.1(ii), or ISL reasonably believes that the Customer is about to become subject to any of them.

17. ENTIRE AGREEMENT

17.1 The Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof.

17.2 The Customer warrants to ISL that it has not been induced to enter into the agreement by any prior oral representation (whether innocently or negligently made) except as specifically contained in the Agreement.

18. CONSUMERS

The statutory rights of a Customer dealing with ISL as a consumer as defined in the Unfair Contract Terms Act 1977 remain unaffected.

19. ASSIGNMENT

ISL may subcontract all or any of its obligations under the Agreement to a competent third party. Except for this, neither party shall assign or otherwise transfer any of its rights or obligations.

20. NOTICES

20.1 All notices must be in writing and sent to the address of the recipient set out in the Agreement or the recipient's registered office or such other address as the recipient may designate.

20.2 Any such notice may be delivered personally or by first class prepaid letter, telex, e-mail or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by telex, e-mail or facsimile transmission when dispatched.

20.3 Any notice concerning the validity or existence of the Agreement must be delivered personally or sent by Recorded Delivery first class letter post

21. SEVERANCE

If any provision of the Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Agreement and the remainder of the provisions in question shall not be affected

22. LAW AND JURISDICTION

The Agreement shall be governed by and construed in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English Courts.