

INNOVATED IT

Terms and conditions upon which Innovated IT agrees to supply the Products and Services Described in this Quote. Document to Customer.

1. GENERAL PROVISIONS

1.1 In this Agreement, the following words shall have the following meanings: 1) 'Agreement' means agreement that Supplier shall supply the Services to Customer upon these Terms and Conditions, or where referenced further publicly accessible Terms and Conditions 2) 'Customer' shall mean the organisation or individual described in the section entitled 'Prepared For' of this document, 3) 'Goods' shall mean the products described below the 'Prepared For' section of this document, 4) 'Services' shall mean the services and monthly agreements described directly below the 'Prepared For' section of this document, 5) 'Price' shall be the price payable for the Services by Customer, as specified in the sections entitled 'Extended' and 'Recap' of this document, 6) 'Supplier' is Innovated IT Ltd, a company registered in England No. 11278739, Registered Office at 52 Hillgate Place, Balham, Wandsworth, London, SW12 9ES, 7) 'Electronic signature' means data in electronic form which are attached to or logically associated with other electronic data and which serve as method of authentication, 8) 'Managed Service Customer' shall mean a Customer who has signed a Service Level Agreement (SLA) to receive ongoing Support Services from Supplier, 9) 'Order Portal' shall mean the Supplier's web based order acceptance facility where the customer can accept and place the order for the Services, 10) 'TaaS' is a leasing option where the Customer leases goods through a third party leasing company. 1.2 Headings are inserted for convenience only and shall not affect the construction of this Agreement.

1.3 These terms and conditions shall prevail over any printed or conflicting terms contained in Customer's Purchase Order and may be modified or waived only by a written agreement signed by Supplier.

1.4 Supplier shall not be bound by any error or omission made in the document.

2. SERVICES

2.1 Supplier shall supply the Services specified in the attached quote to Customer. Any times quoted in relation to the performance of the Services are estimates. Time shall not be of the essence in relation to the performance of the Services.

2.2 Any Services specified are offered subject to availability. Supplier reserves the right to substitute equivalent hardware and to sub-contract any services at its discretion.

3. WARRANTY

3.1 Supplier shall not be liable for warranty claims relating to Goods supplied to Customer, except where Goods are dead on arrival. Except as stated in the preceding sentence, all warranties, statutory rights or conditions in relation to the Goods, whether express or implied (by statute or otherwise) shall be excluded to the fullest extent permitted by law.

3.2 Supplier shall supply Services to Customer with reasonable care. Except as stated in the preceding sentence, all warranties or conditions in relation to the Services, whether express or implied (by statute or otherwise), shall be excluded to the fullest extent permitted by law.

3.3 Any labour carried out on products under warranty will be chargeable at Innovated IT's standard hourly rate.

4. INTELLECTUAL PROPERTY

4.1 Copyright and all other intellectual property rights created by Supplier in performing the Services shall belong to Supplier. However, Supplier grants Customer a license to use such rights created by Supplier on a non-exclusive basis to the extent necessary for the purpose of using the Services or any products or materials created by Supplier as a result of the Services which are provided to Customer, subject to receiving all the sums payable by Customer to the Seller under this Agreement.

4.2 All such copyright material information and "know-how" whenever supplied shall at all times be treated by Customer as confidential and shall not without Supplier's consent be used by Customer except for purposes of: 1) evaluating the Quote, or 2) as required during supply of the Services, or 3) as required to operate supplied system.

4.3 No disclosure to any third party of Supplier's Intellectual Property shall be made without Supplier's prior written consent.

5. PRICE AND PAYMENT

5.1 Prices quoted are firm for period of 10 days from the Quote date, subject to and not limited to: 1) errors and omissions being corrected, and 2) labour times are estimates based on our current knowledge of your requirements and may be varied, 3) unavoidable increases in the cost to Supplier of bought in items, services, materials or changes in exchange rates between contract date and date of dispatch which will be passed on to Customer and 4) your existing computer network, IT infrastructure and other technology being fully 'Installation-ready'.

5.2 Customer shall pay the Price for the Services together with the current rate of VAT.

5.3 Unless otherwise stated on the Quote, Payment Terms are and not limited to: 1) any projects under £5,000, the balance becomes payable on the subsequent direct debit run on the 5th of the month. If you do not have a DD in place a BACS transfer will be payable on the same day. 2) Any projects over £5,000, a deposit for all hardware and software will be required 2 weeks prior to the start date. If it is not paid, this could delay your project from being started and it will need to be rescheduled. The balance of the invoice is payable once the project is complete. 3) Projects over £50,000, a deposit of all hardware and software will be required 4 weeks prior to the start date. The balance will be due at stages at the end of each month if the project spans over one month. This will be determined by the percentage of the project being complete which will be determined by the scope of the project. 4) Projects on Finance over £35,000, a deposit of all hardware and software will be required 4 weeks prior to the start date. This will be refunded once we have received the cash from the finance company. If you do not wish to pay a deposit, we will need to receive payment from the finance company before the project starts. 5) Where the Services include ongoing support of Customer equipment or Managed Services, this will be the subject of a separate contract and payment terms. Fees relating to Monthly Agreements will be paid monthly in advance; the required method of payment is Direct Debit. Payment will be taken every month on the 5th of the month (or within 3 days of the 5th). If no query is raised on an invoice and this invoice remains unpaid after 2 days Innovated IT has the right to suspend delivery of the service until payment is made.

5.4 Title to all goods and services remains with Supplier until paid in full.

5.5 Unless agreed in writing, all preliminary work carried out at Customer's request will be charged. Written proposals requested by Customer, which do not result in further work, will be charged at our standard hourly rate, unless alternative terms are agreed in writing. These hourly rates are available upon request.

5.6 Services are based on an 8-hour working day with services provided outside of the UK being subject to any surcharges at cost. Any additional hours requested by Customer will be charged in addition to those quoted. These hourly rates are available upon request.

5.7 Supplier shall have the right to charge interest on overdue invoices at the rate of 4% per year above the base rate of Lloyds TSB PLC, calculated from date when payment of invoice becomes due for payment up to and including date of actual payment, whether before or after judgment.

6. DELIVERY

6.1 Whilst every reasonable effort will be made to meet any stipulated delivery date, delivery will not form part of the contract. In no event shall Supplier be liable for loss of profits, injury to goodwill or any special or consequential damage for any delay or non-performance. If Customer shall fail to accept goods or services at the appointed time, then he shall be responsible for all storage charges, the cost of further delivery and additional installation charges.

7. SOFTWARE LICENSING TERMS
7.1 Customer's use of third party software supplied under this Agreement is governed by license terms of that software and Customer warrants to Supplier that Customer will adhere to said license terms.

7.2 Customer's use of software for which Supplier holds Intellectual Property Rights is governed by and not limited to the following license terms: 1) the software is licensed not sold. 2) Customer is granted a limited, nonexclusive license to use the software during the period of Customer's software support contract with Supplier. 3) Customer may not: a) Reverse engineer, decompile or disassemble the software, except and only to any extent that applicable law expressly permits it, despite this limitation, or b) Make more copies of the software than specified in this agreement or allowed, by applicable law, despite this rights at a later date.

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7.3 Customer is responsible for maintaining and purchasing additional software licenses if required. This includes Client Access Licences (CAL's) and other necessary licenses as per manufacture requirements. In no event shall Supplier be liable for legal action against Customer or third party in any way connected to software licencing.

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8. MONTHLY & YEARLY AGREEMENTS

8.1 Monthly Agreements shall commence on the agreed date of service. Despite the Agreement start date the first month will be billed in full and shall continue for a period of 36 months (the "Initial Period").

8.2 If the Customer wishes to terminate this Agreement at the end of the Initial Period it must give at least 90 days notice of its intention to terminate such notice expiring on the last day of the Initial Period.

8.3 If the customer does not give notice in accordance with Clause 8.2 this Agreement shall continue for further periods which are equivalent in length to the Initial Period (the "Extended Periods").

8.4 If the Customer wishes to terminate this Agreement on the anniversary of an Extended Period, it must give at least 90 days' notice of its intention to terminate such notice expiring on the last day of that Period.

8.5 Monthly Agreements including 'Managed Service Additional Workstation', 'Managed Service Additional Server', 'Managed Service Additional Hardware', and 'Managed Service Additional Software' are subject to additional terms and conditions contained within the Managed Service Customer's Service Level Agreement (SLA).

8.6 For Innovated IT Remote Vault Agreements – Innovated IT does not warrant that all or any data will be recoverable in the event of data loss. Innovated IT shall use its best reasonable endeavours to recover data. Estimated recovery times are between 1-48 Hours however, this can significantly increase for larger datasets.

8.7 In no event will Supplier be liable for any damages resulting from any Monthly Agreements including but not limited to: loss of data or use, loss of profits, loss of anticipated savings, nor for any damages that are an indirect or secondary consequence of any act or omission of Supplier, whether such damages were reasonably foreseeable or unforeseen.

8.8 Monthly Agreements billable on a User, Gigabyte, Licence, Module or Account basis will be re-calculated on 1st of each month and paid in a manner specified in Clause 5.3.

8.9 Yearly Agreements and renewals will be invoiced automatically on a yearly basis.

8.9 Yearly Agreements shall commence on the agreed date of service and shall continue for a period of 3 years (the "Initial Period").

8.10 If the Customer wishes to terminate this Agreement at the end of the Initial Period it must give at least 90 days notice of its intention to terminate such notice expiring on the last day of the Initial Period.

8.11 If the customer does not give notice in accordance with Clause 8.10 this Agreement shall continue for further periods which are equivalent in length to the Initial Period (the "Extended Periods").

8.12 If the Customer wishes to terminate this Agreement on the anniversary of an Extended Period, it must give at least 90 days' notice of its intention to terminate such notice expiring on the last day of that Period.

8.13 Any fees incurred by Innovated IT when cancelling monthly or yearly agreements will be payable by the customer

9. ZERO RISK IT SUPPORT GUARANTEE

9.1 Supplier's Zero Risk IT Support Guarantee only applies to Managed Service Customers who have agreed with additional terms and conditions contained within the Customer's Service Level Agreement (SLA).

10. LIABILITIES

10.1 Subject to Clause 10.3, Supplier's liability for any losses claims, damages or expenses arising out of or in connection with this Agreement, howsoever caused, including by negligence, breach of duty (statutory or otherwise), breach of contract or otherwise shall not exceed £500.

10.2 Subject to Clause 10.3, Supplier shall not be liable to Customer for any loss of profit, anticipated savings, business interruption, data loss or for any indirect or consequential loss incurred by Customer, howsoever caused, including by negligence, breach of duty (statutory or otherwise), breach of contract or otherwise and whether or not such losses were foreseeable at the time of entering into this Agreement.

10.3 Nothing in this Agreement shall exclude or restrict Supplier's liability for fraud, death or personal injury due to Supplier's negligence.

11. FORCE MAJEURE

11.1 Supplier shall not be made liable for delays in performing or failure to perform any of their obligations under this Agreement due to any event outside of their reasonable control (including, without limitation, war, floods, acts of terrorism, official strike) which delays or prevents them from performing any of their obligations under this Agreement. The supplier shall inform the customer in writing, as soon as practicably possible, when such event occurs.

12. POSTPONEMENT AND TERMINATION

12.1 All sales are final. Supplier does not accept product returns, refunds or exchanges. By accepting this order in accordance with Clause 13 you acknowledge that all Services are to be paid for in full. This does not affect the Customer's statutory rights.

12.2 Supplier may Terminate this Agreement: 1) with immediate effect by written notice to the customer if the customer is in material breach of any of its obligations under this Agreement, or 2) with immediate effect by written notice to the customer if the customer goes into liquidation, becomes bankrupt, makes a voluntary arrangement with its creditors, or a receiver or an administrator is appointed in respect of its business, or 3) in accordance with Clause 11.

12.3 Customer acknowledges and agrees that no installations of services can be postponed.

13. ORDER ACCEPTANCE

13.1 Your electronic signature, as per The Electronic Signatures Regulations 2002, is considered equivalent to your signed and faxed signature, and allows you to accept and place your order online on the Order Portal. Customer shall accept the estimate to accept these terms and conditions. By Accepting the estimate, you are agreeing that you would like to proceed with the order.

13.2 Customer agrees that the Order Portal order acceptance will only be completed by an authorised signatory.

14. TAA5 - 14.1 Supplier will provide three options at the end of the TaaS agreement: 1) carry out a full network review and replace systems and where possible keeping the monthly instalment the same. This option will be dependent on the financial soundness of the company at the time of the TaaS request, or 2) continue the agreement reducing the monthly instalment to 20%, or 3) provide the Customer with the option to purchase the systems by paying the equivalent of three normal monthly payments.

14.2 Supplier reserve the right to withdraw the credit acceptance at any time if we become aware of any adverse information that affects the financial soundness of the Customer.

14.3 All TaaS approvals are valid for 14 days.

15. NOTICES - 15.1 Any notices which need to be given under this Agreement shall be sent in writing to either party's registered office address or principal place of business, unless otherwise notified.

16. ASSIGNMENT - 16.1 Neither party can assign its rights under this Agreement without the consent of the other party, which shall not be unreasonably withheld. Nothing in this Agreement shall prevent Supplier sub-contracting any part of the Services at Supplier's absolute discretion.

17. WAIVER - 17.1 No failure by either party to exercise any of its rights under this Agreement shall be deemed to be a waiver of such rights or prevent the exercise of such rights at a later date.

18. THIRD-PARTY RIGHTS - 18.1 No-one who is not a party to this Agreement has any benefit or any right to enforce any term of this Agreement for the purposes of the Contracts (Rights of Third Parties) Act 1999.

19. APPLICABLE LAW AND DISPUTE RESOLUTION - 19.1 This Agreement, and any disputes which may arise in connection with it, shall be governed by and construed in accordance with English and Welsh law and the parties shall submit to the exclusive jurisdiction of the English and Welsh courts.

20. ENTIRE AGREEMENT - 20.1 This Agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement and understanding between the parties relating to the supply of the Services by Supplier to Customer, excluding any support agreements such as a Service Level Agreement (SLA) made between Supplier and Customer in relation to ongoing Managed Services.

20.2 Customer acknowledges and agrees that in entering into this Agreement, it does not rely on any statement, representation or warranty of Supplier (other than which are expressly set out in this Agreement). Nothing in this clause shall operate to limit or exclude any liability for fraud.

20.3 Variations to this Agreement may only be made in writing by the agreement of the parties and signed by their authorised representatives.