

**MICROSYS SOLUTIONS LIMITED (SC185715)**  
**STANDARD TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES**

These Conditions shall (except as otherwise agreed in writing by Microsys) apply to all contracts for the supply of services ("Services") by Microsys Solutions Limited ("Microsys")

**1. Definitions**

- 1.1 "Additional Charges" means charges in addition to the Basic Charge calculated by Microsys at its prevailing rates from time to time
- 1.2 "Basic Charge" means the annual charge for the Services.
- 1.3 "Commencement Date" means the date specified in the Contract.
- 1.4 "Company" means any company, firm or other legal person who shall place an order for the Services with Microsys.
- 1.5 "Contract" means a contract in writing for the supply of Services between the Company and Microsys.
- 1.6 "Equipment" means the computer hardware specified in the Contract, provided by the Company as varied with Microsys's written consent from time to time.
- 1.7 "Intellectual Property Rights" means all rights relating to intellectual property, including but not limited to, patents, rights to inventions, copyright and related rights, trade marks, business names and domain names and goodwill.
- 1.8 "New Equipment" means any computer hardware, software or operating system, provided by Microsys in the provision of the Services.
- 1.9 "Services" means the provision of IT support, and other services as detailed in any proposal, estimate or quotation provided by Microsys and accepted by the Company on the terms and conditions of the Contract.

**2. Period of Supply of Services**

- 2.1 Services under the Contract shall commence on the Commencement Date and shall continue for an initial period of one year continuing thereafter until terminated by either party giving to the other not less than thirty (30) days prior written notice.
- 2.2 The Contract shall be reviewed annually by the parties at which point a new contract for a further one year period may be entered into.

**3. Charges**

- 3.1 The cost will be invoiced quarterly and payable on or prior to the Commencement Date unless credit or monthly Direct Debit arrangements have been agreed with Microsys. Any Additional Charges will be invoiced by Microsys to the Company and payment shall be made within fourteen (14) days from the date of invoice. All charges are exclusive of value added tax.
- 3.2 If Microsys's personnel are called to the Company's premises and Microsys considers in its reasonable opinion that there is no good reason for requesting such a service, Microsys reserves the right to make Additional Charges and to charge the travelling expenses incurred by Microsys's personnel as a result of the call and travelling to and from the premises.
- 3.3 Time of payment shall be a material condition and of the essence of the Contract and interest at the rate of 2 per cent per month will be payable by the Company on all sums remaining unpaid after the due date for payment therefor. The Company shall not be entitled to make any deduction from or set-off against or withhold payment of any of the charges from Microsys.

**4. Period of Cover**

- 4.1 Microsys will respond to service calls between the hours of 9.00 am and 5.30 pm Monday to Friday excluding public holidays at Christmas and New Year (total of 4 working days). Additional Charges will be invoiced for any of the Services which Microsys may provide service at the Company's request outside those hours.
- 4.2 Microsys will use its reasonable endeavours to provide the Services within the estimated maximum response time shown in the Schedule. Although the dates or times given by Microsys for performance of the Services are given in good faith they are only estimates. If the performance of the Services shall be delayed due to circumstances or conditions beyond the control of Microsys the obligation of Microsys shall be suspended for as long as such circumstances prevail.

**5. Company's Undertaking**

- 5.1 The Company undertakes
- 5.2 to use the Equipment correctly in accordance with the manufacturer's operating manuals and with such operating supplies as are in accordance therewith and promptly and regularly carry out all operators maintenance routines (if any) as set out therein;
- 5.3 not to allow any person other than Microsys's personnel to adjust, repair or maintain the Equipment except for the operator's maintenance routines (if any) as specified above;
- 5.4 constantly to maintain the environmental conditions specified in the manufacturer's manuals where applicable; and
- 5.5 that the Equipment and any computers, operating systems or software used in conjunction therewith, which Microsys is asked to use or modify for the purpose of the Services are either the property of the Company or are legally licensed to the Company and to indemnify Microsys in respect of any claims against the Company by third parties including all related costs, expenses or damages in the event of actual or alleged violations of third party proprietary rights or licences.
- 5.6 to allow Microsys full access to their system including remote access to allow them to carry out any work required
- 5.7 to ensure backup disks or tapes are changed each day, and stored in a way that they
- 5.8 will not be at risk of damage or loss
- 5.9 to designate 2 people who have the responsibility for dealing with changing backup
- 5.10 disks or tapes, and to inform Microsys if these people change

**6. Intellectual Property**

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Microsys.

**7. Insurance**

- 7.1 The Equipment shall at all times be at the risk of the Company except during times when it has been removed by Microsys or it has been delivered into Microsys's possession when it shall be at the risk of Microsys until the delivery of the Equipment back to the Company.

**8. Warranty**

- 8.1 Microsys warrants that it shall provide the Services with reasonable care and skill in accordance with generally accepted industry standards.

**9. Limitations of Warranty and Liability**

- 9.1 THE COMPANY'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CLAUSE 9.
- 9.2 Microsys shall perform the Services using reputable diagnostic software and such Services shall be provided relative to the Contract and the Equipment only. No warranty or representation is given by Microsys that the hardware or software fixes provided are appropriate for any other purpose or use or as to the fitness or suitability of the fixes for any software, hardware or operating systems which are not part of the Equipment.
- 9.3 Microsys makes no representations and gives no warranties, guarantees or undertakings concerning its performance or non-performance of the Services except as expressly set out in the Contract. Any condition or warranty which might otherwise be incorporated within the Contract by reason of statute or common law or otherwise is hereby expressly excluded.
- 9.4 The following provisions set out Microsys's entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the

Company in respect of any breach of its contractual obligations arising under the Contract and any representation statement or delictual act or omission including negligence arising under or in connection with the Contract.

- 9.5 Microsys's liability for death or injury resulting from the negligence of Microsys shall not be limited.
- 9.6 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.7 Subject to clause 9.4 above Microsys's entire liability in respect of any loss or damage arising from any act or omission by Microsys, including negligence, shall be limited to the aggregate of the Basic Charge and the Additional Charges for the 12 months preceding the date of such act or omission for each event or series of connected events and Microsys shall under no circumstances be liable to the Company in respect of any loss of profits, goodwill or any type of special, indirect or consequential loss (including business interruption, loss of business information or data and loss or damage suffered by the Company as a result of any action brought by any third party) even if such loss was reasonably foreseeable or Microsys had been advised at any time of the possibility of the Company incurring the same.

**10. Services Exclusions**

- 10.1 Microsys's obligation to provide the Services is contingent upon the proper use of the Equipment and does not cover Equipment which has been subjected to unusual physical or electrical stress. Microsys will be under no obligation to furnish the Services where, in Microsys's reasonable opinion, these are required because of
- 10.2 failure of the Equipment because of accident, neglect, misuse, failure of electrical power, air conditioning or humidity control;
- 10.3 damage occurring during transport of the Equipment by the Company;
- 10.4 modifications or attempts to repair the Equipment made without Microsys's prior approval;
- 10.5 damage caused through use of the Equipment by unauthorised personnel;
- 10.6 causes external to the Equipment including but not limited to failure or modification of electrical power, inadequate cooling, fire, flood or other natural disasters;
- 10.7 failure by the Company to maintain software on the Equipment;
- 10.8 If Services are required, in Microsys's reasonable opinion, as a result of such causes Microsys shall charge Additional Charges, save that Microsys reserves the right not to provide the Services and to charge for costs and expenses incurred if a call is not warranted, access to the System is hindered or the environmental conditions at the Company's premises are considered by Microsys to be unsafe or hazardous.
- The Services do not include operating supplies and accessories such as magnetic media and disk packs and other consumables, electrical or signal cabling work external to the Equipment, or maintenance of accessories, alterations, attachments or other devices or installation, removal, re-location or reconfiguration of the Equipment, unless specifically agreed with Microsys, or equipment, software or operating systems not covered by the Contract unless specifically agreed with Microsys.

**11. Sale of Goods**

- 11.1 Any New Equipment which is to be sold by Microsys to the Company including any software, hardware or operating systems shall remain the property of Microsys until the Company has paid all sums due to Microsys, whether under the Contract or under any prior or subsequent agreement with Microsys and Microsys shall be entitled to repossess any such New Equipment in respect of which title has not passed to the Company as aforesaid.
- 11.2 Where New Equipment is to be sold by Microsys to the Company, Microsys shall use reasonable endeavours to despatch the New Equipment by the date agreed with the Company, but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond the control of Microsys.
- 11.3 Where any New Equipment is to be sold by Microsys to the Company, if the Company cannot accept delivery of the New Equipment, Microsys may at its option: (a) store and insure the New Equipment at the Company's expense and risk or (b) sell the New Equipment at the best price reasonably obtainable and (after deducting reasonable storage insurance and selling costs) pay to the Company any excess over the sale price or charge the Company for any shortfall or (c) rearrange delivery provided that Microsys may charge the Company for the additional delivery costs incurred.

**12. Parts**

- 12.1 Any parts of the Equipment which have been replaced by Microsys shall upon replacement become the property of Microsys and the Company warrants that either it shall have a free and unencumbered title to such replaced parts or (where the Equipment is leased or charged) that it shall have obtained all necessary consents and authorities to part with possession and give good title to the replaced parts.
- 12.2 Any replacement parts inserted or installed into the Equipment including any software, hardware or operating systems shall remain the property of Microsys until the Company has paid all sums due to Microsys, whether under the Contract or under any prior or subsequent agreement with Microsys and Microsys shall be entitled to repossess any such parts in respect of which title has not passed to the Company as aforesaid.

**13. Termination**

- 13.1 Microsys shall be entitled without prejudice to its other rights and remedies either to terminate wholly or in part the Services in any of the following events
- 13.2 non-payment of monies due by the Company to Microsys [within 30 days] of the due date for payment thereof;
- 13.3 the failure of the Company to accept performance of any of the Services otherwise than in accordance with the Company's contractual rights;
- 13.4 the Company threatening to cease trading or the sale of the whole or any part of its assets or the event of a change of its beneficial ownership and
- 13.5 the Company having a liquidator, receiver or administrator appointed.
- 13.6 the failure of the Company to provide a safe and secure working environment free from harassment (of whatever nature, whether in person, by telephone or by electronic communication) to allow Microsys staff to perform their duties.

**14. General**

- 14.1 No other agreement or understanding of any kind shall form part of or operate as a waiver to the Contract unless expressly accepted by Microsys in writing and signed by the owner of Microsys.
- 14.2 These Conditions and the Contract to which they apply shall in all respects apply to any further items of equipment which shall from time to time be added to the Equipment.
- 14.3 The Company shall not be entitled to assign the Contract or any benefit thereunder. Microsys shall be entitled to assign, transfer or sub-contract the performance of all or any part of the Contract to any third party at any time.
- 14.4 The Contract shall be governed by and construed in accordance with the Law of Scotland and the parties submit to the non-exclusive jurisdiction of the Courts of Scot