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Internet Central Limited - Main Terms and Conditions

This page (together with the documents referred to on it) sets out the terms and conditions as amended by IC from time to time (Conditions) on which you (Customer) may access IC's Website and on which the goods and/or services listed on IC's Website are supplied to you. By checking the tick box on any order page on an IC Website, placing an Order and / or by setting up an account with IC you are accepting these terms of service and supply. Please understand that if you refuse to accept these Conditions, you will not be able to order any goods or services.

Please read these Conditions carefully and make sure that you understand them before placing any orders for goods or services from the IC Website. You should understand that by ordering from IC's Website you agree to be bound by these Conditions. You should also print and / or save a copy of these Conditions for future reference.

1. For the purposes of the document the definitions defined below have the meanings specified:-

- "Agreement" or "Contract" the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions, the Order and any terms and conditions contained in any relevant Service Specification or Goods Specification; Together with any individual product / service terms (see Annexes below) or specific service level agreement (SLA) / AUP directly associated with a particular Internet Central Limited service or Contract, and constitute the entire and only agreement between Internet Central Limited and the Customer (including its designated users) with respect to the Service and supersede all other communications and agreements with regard to the subject matter hereof.
    i. Annex - Domain Name Services (https://kb.ic.uk/article.php?id=16)
    ii. Annex - Ethernet Services (https://kb.ic.uk/article.php?id=31)
    iii. Annex - IC-air Terms (https://kb.ic.uk/article.php?id=30)
    iv. Annex - IC-Talk HC (https://kb.ic.uk/article.php?id=167)
    v. Annex - IP Transit / Internet Access (https://kb.ic.uk/article.php?id=175)
    vi. Annex - IP Voice Services Terms (https://kb.ic.uk/article.php?id=32)
    vii. Annex - Line & Calls Terms (https://kb.ic.uk/article.php?id=26)
    viii. Annex - SIP Trunks (https://kb.ic.uk/article.php?id=168)
    ix. Annex - SLA & Service Credits (https://kb.ic.uk/article.php?id=29)
    x. Annex - System in a box terms (https://kb.ic.uk/article.php?id=27)
    xi. Annex - VM and Colocation Terms (https://kb.ic.uk/article.php?id=28)
    xii. Annex - Web Hosting Terms (https://kb.ic.uk/article.php?id=33)
    xiii. Annex - Continuous Data Protection (https://kb.ic.uk/article.php?id=182)
    xiv. Annex- Data Protection and Personal Information Handling (https://kb.ic.uk/article.php?id=206)
    xv. Annex - IC Fortigate Support (https://kb.ic.uk/article/22/annex-fortigate-support-213.html)
- " Business Day " - a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.
- " Company " or " IC " means [Internet Central Limited] registered in [England and Wales] with company number [03079542] whose registered office is at [Ivy House Foundry, Leek Road, Hanley, Stoke-on-Trent, Staffordshire ST1 3NR].
- " Customer " or " User Organisation " is the company, firm or individual who purchases Goods and/or Services from the Supplier.
- " **Customer Equipment** " any equipment necessary for the Customer to obtain or receive the Services which is not provided by the Supplier.
- " Data Controller " - has the meaning set out in section 1(1) of the Data Protection Act 1998.
- " Data Subject " - an individual who is the subject of Personal Data.
- " Deliverables " - all products and materials developed or supplied by the Supplier in relation to the Services, including, without limitation, computer programs, software, hardware or equipment (other than Loan Equipment) data, diagrams, reports and specifications (including drafts).
- " Force Majeure " Event any act, event, omission or accident that is beyond the reasonable control of the Supplier (but that does not constitute an MBORC).
- " Goods " the goods (or any part of them) set out in the Order (including the Deliverables).
- " Goods Specification " any specification for the Goods, including any relevant plans or drawings, that is confirmed in writing by IC to the Customer.
- " IC Corporate Marks " means the registered or unregistered trade marks and service marks, house marks and marks of ownership, trading names brand names, distinctive colour schemes, devices, styles, emblems and other manifestations associated with IC including the logotype comprising the letters IC and the IC sphere logo's and/or the letters IC and the connected world device and/or any elements of these marks.
- " IC Group Company " means a IC subsidiary or holding company, including without limitation a holding company of IC or any subsidiary of any such holding company, all as defined by Section 1159 of the Companies Act, 2006.
- " IC Helpdesk " means the helpdesk for the Goods and / or Services as listed on the IC Website.
- " IC Website " or in the plural means websites operated by IC including but not limited to those located at URLs [www.ic.co.uk, ic.co.uk, ic.uk, ic.net.uk, my.ic.uk, kb.ic.uk] or such other website or URL as IC may notify the Customer from time to time.
- " Intellectual Property Rights " patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- " IP " means Internet Protocol.
- " KB " Means the IC Knowledgebase system located at http://kb.ic.uk (http://kb.ic.uk/)
- " Liability and Liabilities " means all awards, compensation, costs, expenses, losses, liabilities, damages, claims, proceedings, awards, fines, orders, demands, actions, payments by way of settlement, penalties, tribunal awards and other liabilities (including legal and other professional fees and expenses on an indemnity basis) whenever or howsoever arising or brought.
- " Loan Equipment " all products and materials (excluding the Goods) which is the property of IC and which is provided on loan to the Customer by IC for the purpose of the Customer receiving the Services.
- " MBORC " a matter beyond a party's reasonable control including, but not limited to;
    i. act of God, lightning;
    ii. flood;
    iii. exceptionally severe weather;
    iv. subsidence;
    v. fire;
    vi. explosion;
    vii. war;
    viii. civil disorder;
    ix. national or local emergency;

x. statutory obligation;
xi. industrial disputes (including industrial disputes involving that party's own employees, provided that such party has taken all reasonable steps to prevent and or resolve such industrial disputes from arising);
xii. delay or failure of that party's suppliers;
xiii. delay or failure or rationing of energy supplies;
xiv. acts or omissions of local or of central government or of other competent authorities;
xv. acts or omissions of persons for whom a party is not responsible;
xvi. or any other cause whether similar or dissimilar outside its reasonable control.

- " myIC Portal " means the portal provided by IC to the Customer for maintaining or ordering services with IC.
- " Order " the Customer's order for the Goods and/or Services (including any service level agreement/support package selected by the Customer and provided to the Customer by IC in writing).
- " Personal Data " has the meaning set out in section 1(1) of the Data Protection Act 1998 and relates only to personal data, or any part of such personal data, in respect of which the Company is the Data Controller and in relation to which the Processor is providing services under this Agreement.
- " Pre-existing Materials " materials which existed before the commencement of the Services.
- " Reseller " means those Customers of IC who resell the Service(s) to their End Users.
- " RMA " Return Merchandise Authorisation, is the procedure to be followed in order to return goods to IC.
- " Service " or " Services " mean the information technology services (including any additional services subsequently provided to the Customer by IC) to be provided by the IC to the Customer under the Contract.
- " Service Specification " the description or specification of the Services including any service specific terms provided in writing by IC to the Customer or as set out on the IC website or selected by the Customer in their Order.
- " Works " means consultancy, IT engineering, IT and IT equipment/cabling installation, removal or configuration.
- " VAT " value added tax chargeable under English law for the time being and any similar additional tax.

Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

1. **Interpretation**
   a. The definitions and rules of interpretation in this clause apply in these terms and conditions.
   b. Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement or Annexes.
   c. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
   d. A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
   e. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
   f. Unless the context otherwise requires, a reference to one gender shall include a reference to all genders and transgenders.
   g. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
   h. A reference to **writing** or **written** includes faxes and e-mail.
   i. References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedules or Annexes.
2. **Basis of Contract**
   a. IC does not accept online orders outside [the UK and Channel Islands].
   b. By placing an Order through IC's Website the Customer warrants that it is;
      i. legally capable of entering into binding contracts;
      ii. (where purchasing as a consumer) over 18 years of age; and
      iii. resident in, and accessing IC's Website from, the countries set out in this section.
   c. Submission of an Order through IC's Website constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
   d. All Orders are subject to acceptance by IC and the Order shall only be deemed to be accepted when IC issues written acceptance of the Order, at which point and on which date the Contract shall come into existence (**Commencement Date**).
   e. The Contract constitutes the entire agreement between the parties. These Conditions apply to the Contract 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 dealings. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of IC which is not set out in the Contract.
   f. Any descriptive matter or advertising issued by IC and any illustrations or descriptions of the Goods and/or Services contained in IC's brochures or on IC's Website (other than the Service Specification and Goods Specification) are published for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.
   g. If there is any inconsistency between the provisions contained in these Conditions and the provisions of any relevant Service Specification, the terms of the relevant Service Specification shall prevail.
   h. Any quotation given by IC shall not constitute an offer, and is only valid for a period of 14 days from its date of issue.
3. **Accessing and Using IC's Website**
   a. Access to IC's Website is permitted to any Customer who registers with the IC Website and complies with these Conditions, and IC reserves the right to withdraw or amend access to IC's Website without notice.
   b. IC shall use commercially reasonable endeavours to make IC's Website available 24 hours a day, seven days a week, except for;
      i. planned maintenance carried out during normal business hours; and
      ii. unscheduled maintenance.
   c. Notwithstanding the clause above, IC;
      i. does not warrant that that the Customer's access to, or use of, the IC Website will be uninterrupted or error free; and
      ii. is not responsible for any delays, delivery failures (including but not limited to Orders submitted through the IC Website), or any other loss or damage resulting from the transfer of data over communications networks and facilities and the Customer acknowledges that the IC Website may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
   d. Subject to the Customer complying with these Conditions, IC grants to the Customer a non-exclusive, non-transferable right to;
      i. access and use IC's Website for the purpose of ordering Goods and/or Services; and
      ii. edit, monitor and amend any data submitted by the Customer for the purposes of registering with IC's Website or placing an Order.
   e. From time to time, IC may restrict access to some parts of, or the entire IC Website, to Customers who have registered with the Site.
   f. If the Customer chooses, or is otherwise provided with, a user identification code, password or any other piece of information as part of the security procedures implemented by IC, the Customer agrees to treat such information as confidential, and agrees not to disclose it to any third party. IC has the right to disable any user identification code or password, whether chosen by the Customer or allocated by IC, at any time, if in the opinion of IC the Customer has failed to comply with any of the provisions of these Conditions.
   g. The Customer is responsible for making all arrangements necessary for the Customer to have access to IC's Website. The Customer is also responsible for ensuring that all persons who access IC's Website through the Customer's internet connection are aware of these Conditions, and that they comply with them.
   h. The Customer may use IC's Website only for lawful purposes. The Customer agrees and warrants that they will not use IC's Website;

i. in any way that breaches any applicable local, national or international law or regulation;
ii. in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
iii. for the purpose of harming or attempting to harm minors in any way;
iv. to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation; or
v. to knowingly transmit any data, send or upload any material that contains viruses.

i. The Customer also acknowledges that IC or its licensors own all Intellectual Property Rights in IC's Website and warrants;
i. not to reproduce, duplicate, copy or re-sell any part of IC's Website in contravention of the provisions of these Conditions; and
ii. not to access without authority, interfere with, damage or disrupt;
a. any part of IC's Website;
b. any equipment or network on which IC's Website is stored;
c. any software used in the provision of IC's Website; or
d. any equipment or network or software owned or used by any third party

4. **Goods**
a. The Goods are as described in the Goods Specification.
b. To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify IC against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by IC in connection with any claim made against IC for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with IC's use of the Goods Specification. This clause shall survive termination of the Contract.
c. Where software is supplied the publisher's terms and conditions apply, no software may be returned for refund once the packaging has been opened or the software installed. If the software media is faulty this will be replaced within 7 days of supply and after this period a charge may be levied. IC makes no warranty for any software or licences supplied and use is entirely at the Customers own risk.
d. IC reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

5. **Delivery of Goods**
a. IC shall ensure that;
i. if IC requires the Customer to return any packaging material to IC, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as IC shall reasonably request. Returns of packaging materials shall be at IC's expense.
b. IC shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after IC notifies the Customer that the Goods are ready.
c. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
d. Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The IC shall not be liable for any delay in delivery of the Goods that is caused by an MBORC, a Force Majeure Event or the Customer's failure to provide IC with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
e. If IC fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. IC shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by an MBORC, a Force Majeure Event or the Customer's failure to provide IC with adequate delivery instructions under the Contract in respect of the Goods.
f. If the Customer fails to accept or take delivery of the Goods within 5 Business Days of IC notifying the Customer that the Goods are ready, then except where such failure or delay is caused by an MBORC, a Force Majeure Event or by IC's failure to comply with its obligations under the Contract in respect of the Goods:
i. delivery of the Goods shall be deemed to have been completed at 9.00am on the sixth Business Day following the day on which IC notified the Customer that the Goods were ready; and
ii. IC shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
g. If 10 Business Days after IC notified the Customer that the Goods were ready for delivery the Customer has not accepted or taken delivery of them, IC may resell or otherwise dispose of part of all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
h. The Customer shall not be entitled to reject the Goods if IC delivers up to and including 5 per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.
i. IC may deliver the Goods by installments, which shall be invoiced and paid for separately. Each installment shall constitute a separate contract. Any delay in delivery or defect in an installment shall not entitle the Customer to cancel any other instalment.
j. Where the Goods relate to software or licences delivery shall be assumed to be complete upon download and / or provision of licence key either via the IC Website or email.

6. **Quality of Goods**
a. IC warrants that on delivery the Goods shall:
i. conform in all material respects with the Goods Specification;
ii. be free from material defects in design, material and workmanship; and
iii. be of satisfactory quality (within the meaning of the Sale of Goods Act 1970).
b. Where the Goods are sold with a manufacturer's warranty (Manufacturer's Warranty), the Customer shall also comply with any terms and conditions associated with such warranty. In the event of a defect or fault with Goods that are subject to a Manufacturer's Warranty that occurs within the relevant warranty period (unless specified otherwise in the Manufacturer's Warranty documentation) the Goods should be returned to IC at the Customer's expense for return to the manufacturer.
c. Subject to failure to comply with warranty, IC shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full providing;
i. the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty;
ii. IC is given a reasonable opportunity of examining such Goods; and
iii. the Customer (if asked to do so by IC) returns such Goods to IC's place of business at the Customer's cost in accordance and following the RMA proceedure.
d. IC shall not be liable for the Goods' failure to comply with the warranty if;
i. the Customer makes any further use of such Goods after giving a notice of the goods failure;
ii. the defect arises because the Customer failed to follow IC's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
iii. the defect arises as a result of IC following any drawing, design or Goods Specification supplied by the Customer;
iv. the Customer alters or repairs such Goods without the written consent of IC;
v. the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal working conditions;
vi. the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards
e. Except as provided in this clause, IC shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out.

f. The terms of these Conditions shall apply to any repaired or replacement Goods supplied by IC.
g. Where the Goods relate to software or licences no warranties as to fitness for purpose or warranties of any kind shall be provided by IC. The software vendors terms and licence agreements shall apply.

7. **Free Goods**
   a. Where goods are provided free of charge or are rented IC are not selling you the goods and in this instance the following shall not apply;
      i. the Sales of Goods Act;
      ii. Consumer Contracts (information, cancellation and additional charges) Regulations 2013.
8. **Supply of Services**
   a. IC shall provide the Services in accordance in all material respects with the Order and any relevant Service Specification.
   b. IC shall use reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
   c. IC shall have the right to make any changes to the Services that are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services and IC shall notify the Customer in any such event.
   d. IC warrants to the Customer that the Services will be provided using reasonable care and skill.
   e. Unless specifically stated in the Order or relevant Service Specification, no support in respect of the Goods or Services shall be provided by IC.
   f. IC exercises no control whatsoever over the content of the information passing over or using the IC Services and specifically denies any responsibility for the accuracy or quality of information obtained.
   g. The Customer acknowledges that it is technically impracticable to provide a fault free Service and IC does not undertake to do so. The Company will use reasonable endeavours to procure a continuous high quality Service in accordance with our SLA's and the Customers chosen / purchased service levels.
   h. The Customer expressly agrees that use of the service is at their sole risk. Neither IC nor any of its re-sellers, agents, information providers, licensers or employees make any warranty as to the results to be obtained from use of the Service.
   i. The Services are distributed on an "as is" basis without warranties of any kind, either expressed or implied, including but not limited to warranties of title or implied warranties of merchant ability or fitness for a particular purpose, other than those warranties which are implied by and incapable of exclusion, restriction, or modification under the law applicable to this agreement. Neither IC nor anyone else involved in creating, producing or delivering the service shall be liable for any direct, indirect, incidental, special or consequential damages arising out of use of the Services or inability to use the Services or out of any breach of any warranty.
   j. The majority of Services IC provide are classed as Communications as defined by the Communications Act and if you provide any of ICs services to a third party even if for no charge you may become a Communications Provider and therefore become subject to the Communications Act. Upon becoming a Communications provider this will materially change the contracts with IC and can also include VAT charge changes. You must immediately inform IC of your status change and apply under the IC Partner & Reseller scheme so IC can correctly reflect your legal status.
   k. IC have a policy of continuous improvement and may, from time to time, add, modify or remove parts of Services. We may temporarily disconnect Services for system maintenance or to make changes to the Service we provide. Notices of all works will be published on the system status page on the IC website and can be subscribed to for push notification purposes. If IC make a change that requires any change to the Customers computers or systems then the Customer is responsible for making those changes in order to continue using the Services. IC shall not be liable for compensation or costs associated with any changes required by the Customer.
9. **Service Level Guarantees, service credits / compensation**
   a. Please refer to the Annex - SLA & Service Credits (https://kb.ic.uk/article.php?id=29)
10. **Cancellation of Services**
   a. The Customer may cancel any current live Service subject to the following Cancellation Notice Period **following the completion of any minimum contract term** or as specified in a specific contract, Annex, service level agreement (SLA) or service description document. Cancellation charges prior to the completion of a minimum term contract shall be equivalent to the remaining term fees plus an administrative charge or as set out within a specific services Annex:-
      Standard Service Cancellation Notice Period(s);
      - Analogue Phone Line / Dial (modem/ISDN) / Email & Shared Hosting Services / ADSL Broadband - 1 month
      - Domain Names at any time at least 3 months prior to renewal date
      - Ethernet Connect / Fixed Lines / IC-Air / SHDSL - 3 months
      - Dedicated & Virtual Server Hosting - 3 months
      - Bundled Service Packages - 3 months
        EXAMPLE: If you subscribed to a bundled service on a 24 month contract the minimum term will be 24 months and to cease at the end of this initial period you should notify us in writing 3 months before the end of the term. Notification is deemed to be served upon acknowledgement of receipt of such notice from IC.
   b. Cancellation should be performed by either the IC Website, by email to sales@ic.co.uk (mailto:sales@ic.co.uk) or by post from the primary account contact, cancellation shall only be binding once acknowledged by IC and proof of the request should be retained in the event of a dispute arising. The cancellation notice date shall be the date that acknowledgement from IC of the request is received by the Customer.
   c. Upon notice of cancellation IC shall provide an estimated date for service cease in line with the notice periods above or as per an individual Service.
   d. Some services may have a disconnection charge / cease charge (e.g. a Broadband where an engineer has to visit an exchange or cabinet and physically remove cables).
   e. For the avoidance of doubt if the Customer cannot show we acknowledged receipt of cancellation and has continued to pay for services, IC shall take this as confirmation that cancellation was not sent and no refunds will be provided.
11. **Customer's Obligations**
   a. The Customer shall;
      i. co-operate with IC in all matters relating to the Goods and/or Services;
      ii. provide in a timely manner such access to the Customer's premises and data, and such office accommodation and other facilities, as is requested by IC;
      iii. supply any Customer Equipment and maintain the same in good working order throughout the term of the Contract;
      iv. provide in a timely manner such information as IC may request (including just not limited to completion of information necessary in order for IC to collect payment via direct debit), and ensure that such information is accurate in all material respects;
      v. be responsible (at its own cost) for preparing the relevant premises for the supply of the Services;
      vi. ensure that the terms of the Order are complete and accurate; and
      vii. keep and maintain any Loan Equipment at the Customer's premises in safe custody at its own risk, maintain the Loan Equipment in good condition until returned to IC and not dispose of or use the Loan Equipment other than in accordance with IC's written instructions or authorisation.
   b. If IC's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligations (Customer Default);
      i. IC shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays IC's performance of any of its obligations;
      ii. IC shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from IC's failure or delay to perform any of its obligations as set out in this clause; and

iii. the Customer shall reimburse IC on written demand for any costs or losses sustained or incurred by IC arising directly or indirectly from the Customer Default.

c. The Customer shall not, without the prior written consent of IC, at any time from the Commencement Date to the expiry of six months after the completion of the Services, solicit or entice away from IC or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of IC.

d. Any consent given by IC in accordance with the previous condition shall be subject to the Customer paying to IC a sum equivalent to 20% of the then current annual remuneration of IC's employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Customer to such employee or sub-contractor.

12. **Change Control**

a. If either party wishes to change the scope of the Services, it shall submit details of the requested change to the other in writing.

b. If either party requests a change to the scope or execution of the Services, IC shall, within a reasonable time, provide a written estimate to the Customer of;

i. the likely time required to implement the change;

ii. any variations to IC's charges arising from the change; and

iii. any other impact of the change on the terms of the Contract.

c. Subject to IC's right to make any changes, if IC requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it.

d. If the Customer wishes IC to proceed with the change, IC has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges and any other relevant terms of the Contract to take account of the change.

13. **Use of Goods and/or Services**

a. The Customer may use the Goods and/or Services only for lawful purposes. In particular, the Customer must not (and shall procure that its customers shall not) use the Goods and/or Services:

i. in any way that breaches any applicable local, national or international law or regulation;

ii. in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;

iii. for the purpose of harming or attempting to harm minors in any way;

iv. to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation;

v. to knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, logic-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware;

vi. in any way which is defamatory of any person, obscene, offensive, hateful or inflammatory;

vii. in any way which promotes sexually explicit material, violence or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;

viii. in any way that infringes any copyright, database right or trade mark of any other person;

ix. in any way that is likely to deceive a person;

x. in any way that is likely to be in breach of any legal duty owned to a third party, such as a contractual duty or a duty of confidence, or promotes any illegal activity;

xi. in any way that is threatening, abusive or invades another's privacy, causes annoyance, inconvenience or needless anxiety or is likely to harass, upset, embarrass, alarm or annoy any other person;

xii. in any way that is designed to impersonate any person, or to misrepresent your identity or affiliation with any person or to give the impression that they emanate from IC, if this is not the case;

xiii. in a way that advocates, promotes or assists any unlawful act such as (by way of example only) copyright infringement or computer misuse; or

xiv. in any way that negatively impacts or is likely to negatively impact on any other user of the Goods and/or Services' use of such Goods and/or Services.

b. Without prejudice to any other of its rights under the contracts in the event of a breach by the Customer of the clause above, IC reserves the right to suspend performance of the Services or terminate the Contract with immediate effect (at IC's sole option).

14. **Charges and Payment**

a. The total price for the Services and the Deliverables shall be the amount set out in the Order. All set-up fees, one-off costs and any equipment or hire charges set out in the Order shall become payable on the Commencement Date, such amount to be paid (unless stated otherwise in the relevant Service Specification) by the Customer within 14 days of the Commencement Date.

b. Unless specifically stated otherwise in the relevant Service Specification, the Customer shall pay monthly in advance for recurring service charges and monthly in arrears for usage charges by direct debit in respect of any other charges.

c. The Customer shall pay any service-specific registration or quarterly fees, connect time charges, international traffic charges, call charges, data usage charges or any other charges incurred by the Customer or its designated users at the rates in effect for the billing period in which those charges are incurred in connection with the Services.

d. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by IC to the Customer, the Customer shall pay to IC such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of Services.

e. Time for payment shall be of the essence of the Contract.

f. Without prejudice to any other right or remedy that IC may have, if the Customer fails to pay IC on the due date IC may:

i. charge interest on such sum from the due date for payment at the annual rate of 6% above the base lending rate from time to time of the Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment;

ii. suspend all Services until payment has been made in full, and in the event that the Services are suspended, all charges in respect of the Services and any remaining minimum term shall immediately become due.

g. The Customer shall indemnify IC for any costs associated or incurred by IC in exercising its rights under these terms, including but not limited to legal and any other professional fees.

h. All payments payable to IC under the Contract shall become due immediately on termination of the Contract, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

i. The Customer agrees that IC may make credit status enquiries. Subject to credit status, IC may require a pre-payment or a non-interest bearing deposit.

j. The Customer shall pay all amounts due under the Contract in full without any deduction, set-off or withholding except as required by law and the Customer shall not be entitled to accept any credit, set-off or counterclaim against IC in order to justify withholding payment of any such amount in whole or in part.

k. IC may, without prejudice to any other rights it may have, set off any amount owed by the Customer against any amount payable by IC to the Customer.

l. IC reserves the right to vary the charges payable for the Services at any time prior to or during the term of the Contract provided that such charges shall not be increased by more than a cumulative 10 per cent above the Retail Price Index in any 12 month period. Where Services are within a minimum term period increases are not considered normal and IC shall where possible negotiate a fixed price for the term from our Suppliers, however as this is a regulated industry it may be necessary to enact this clause to reflect changes enforced on IC or where the material costs for delivery (e.g. IP Transit or aggregate consumption for unlimited data packages) increases above

inflation. Any increases will be notified 1 month in advance and shall normally be on the invoice or accompanying an invoice in addition to our website notices.

m. In the event that IC proposes to increase the charges beyond the limit set out above, IC shall give the Customer written notice of any such increase one month before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify IC within one week of the date of IC's notice and the Customer shall have the right (notwithstanding its other rights and remedies) to terminate the contract by giving 30 days' notice to IC. Failure to notify IC within one week shall constitute acceptance of the proposed increase.

n. Where a Customer requires IC to complete surveys, carry out tests or procedures for compliance or complete other paperwork or similar processes an hourly rate will apply and an appropriate quote will be raised prior to completion of the works.

15. **Intellectual Property Rights**
    a. All Intellectual Property Rights and all other rights in the Goods shall be owned by IC or its licensees. IC hereby licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Goods and/or the Services as is envisaged by the parties. If IC terminates the Contract this licence will automatically terminate.
    b. The Customer acknowledges that the Customer's use of rights in any Pre-existing Materials is conditional on IC obtaining a written end-user licence (or sub-licence) of such rights from the relevant licensor or licensors on such terms as will entitle IC to license such rights to the Customer.
16. **Confidentiality and IC's Property**
    a. the Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by IC or its agents, and any other confidential information concerning IC's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the Customer's obligations to IC, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
    b. All materials, Loan Equipment and tools, drawings, specifications and data supplied by IC to the Customer (excluding the Goods) shall at all times be and remain the exclusive property of IC, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to IC, and shall not be disposed of or used other than in accordance with IC's written instructions or authorisation.
    c. The **Confidentiality and IC's Property** condition shall survive termination of the Contract, however arising.
17. **Data Protection**
    - This section is now in Annex- Data Protection and Personal Information Handling (https://kb.ic.uk/article.php?id=206)
18. **Title and Risk**
    a. The risk in the Goods shall pass to the Customer on completion of delivery.
    b. Title to the Goods shall not pass to the Customer until IC has received payment in full (in cash or cleared funds) for:
        i. the Goods; and
        ii. any other goods that IC has supplied to the Customer in respect of which payment has become due.
    c. Until title to the Goods has passed to the Customer, the Customer shall:
        i. hold the Goods on a fiduciary basis as IC's bailee;
        ii. store the Goods separately from all other equipment held by the Customer so that they remain readily identifiable as IC's property;
        iii. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
        iv. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on IC's behalf from the date of delivery;
        v. notify IC immediately if it becomes subject to any of the events that may change the trading status of the business ;
        vi. give IC such information relating to the Goods as IC may required from time to time;
        vii. but the Customer may resell or use the Goods in the ordinary course of its business.
    d. If before title to the Goods passes to the Customer, the Customer becomes subject to any of events that may change the trading status of the business or IC reasonably believes that any such event is about to happen, and without limiting any other right or remedy IC may have, IC may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
19. **Limitation of Liability**
    a. Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
    b. Nothing in these Conditions is intended to restrict or exclude any statutory rights or remedies that are available to any Customer that is purchasing as a consumer and any such Customer's statutory rights shall not be affected.
    c. Nothing in these Conditions excludes the liability of IC:
        i. for death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors;
        ii. for fraud or fraudulent misrepresentation;
        iii. breach of terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
        iv. breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
        v. defective products under the Consumer Protection Act 1987; or
        vi. any other liability which would be unlawful to exclude.
    d. Subject to the condition above IC shall not in any circumstances be liable, whether in tort (including for breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
        i. loss of profits; or
        ii. loss of business; or
        iii. depletion of goodwill or similar losses; or
        iv. loss of anticipated savings; or
        v. loss of goods; or
        vi. loss of contract; or
        vii. loss of use; or
        viii. loss or corruption of data or information; or
        ix. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
    e. IC's total liability in contract, tort (including negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited as follows:
        i. where the Services are provided and paid for on a monthly basis, to the price paid for the Services in the one month period directly preceding the breach; and
        ii. where the Services are provided and paid for on an annual or greater basis, to the price paid for the Services in the 12 month period directly preceding the breach.
20. **Safety of Life**
    a. IC accept that it cannot limit or exclude liability for death or personal injury resulting from our negligence but the Customer shall;
        i. not use any Services where failure of such Services could result in death or personal injury;
        ii. indemnify IC against any claims should the Services be used in this manner;
        iii. upon discovery by IC of the Customer using our Services in the above manner IC reserve the right to terminate the Services

immediately and the Customer shall be subject to any such termination fees and minimum term charges.

21. **Termination**
    a. Without prejudice to any other rights or remedies to which the parties may be entitled, and unless specifically stated otherwise in any relevant Service Specification, either party may terminate the Contract without liability to the other if:
        i. the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
        ii. the other party suspends, or threatens to suspend, payment of its debts or is deemed to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
        iii. an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
        iv. the other party suspends, ceases, or threatens to suspends or ceases, to carry on all, or substantially the whole, of its business; or
        v. in any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which is it subject that has an effect equivalent or similar to any of the events that may change the trading status of the business .
    b. Without prejudice to its other rights or remedies and subject to any contrary provision in any relevant Service Specification, IC may terminate the Contract:
        i. by giving the Customer [3] months' written notice; or
        ii. with immediate effect by giving written notice to the Customer where the Customer fails to pay any amount due under this Contract on the due date for payment.
    c. Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.
22. **Consequences of Termination**
    a. On termination of the Contract for any reason:
        i. the Customer shall immediately pay to IC all of IC's outstanding unpaid charges and interest and the Customer shall indemnify (and shall keep indemnified) IC in respect of all uninvoiced costs up to and including the date of termination plus any uninvoiced costs for the remainder of any outstanding minimum term commitments;
        ii. the Customer shall return all Loan Equipment and any Goods which have not been fully paid for. If the Customer fails to do so, then IC may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
        iii. the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
        iv. clauses which expressly or by implication have effect after termination shall continue in full force and effect.
23. **Force Majeure**
    The IC shall not in any circumstances have any liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents that occurs as a result of a Force Majeure Event.
24. **Waiver**
    a. A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
    b. Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
25. **Severance**
    a. If any provision of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
    b. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
26. **Entire Agreement**
    a. Each of the parties acknowledges and agrees that in entering into the Contract and the documents referred to in it or annexed to it, it does not rely on any statement, representation (whether innocent or negligent), assurance or warranty (Representation) (whether in writing or not) of any person (whether party to this Agreement or not) other than as expressly set out in the Contract or those documents.
    b. Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract.
27. **Assignment**
    a. The Customer shall not, without the prior written consent of IC, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
    b. IC may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
28. **No Partnership or Agency**
    Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
29. **Third Party Rights**
    The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else. The Customer agrees to indemnify IC against and claims made indirectly or via a third party (i.e. bank or insurance company).
30. **Variation**
    a. Except as set out in these Conditions, any variation to the Contract proposed by the Customer shall only be binding when agreed in writing and signed by IC.
    b. IC reserves the right to vary these Conditions from time to time (such changes to be published on IC's Website) and the Customer's continued use of the Goods and/or Services shall constitute acceptance of such variation.
31. **Notices**
    a. Any notice under the Contract shall be in writing and shall be delivered by hand or sent by recorded delivery post to the other party at its address as set out in the Contract, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in the Contract.
    b. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not during business hours, at 9.00 am on the first business day following delivery). A correctly addressed notice sent by recorded delivery post shall be deemed to have been received upon time of signing for it. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).
32. **Dispute Resolution**
    a. Any disputes arising in connection with the Contract shall be dealt with in accordance with IC's complaints procedure from time to time as set out on IC's Website.
    b. In the event that a dispute cannot be settled in accordance with the clause above, the parties shall attempt to settle it in accordance with the independent industry arbitrator as set out in IC's complaints procedure.
    c. The commencement of alternative dispute resolution as set out in this clause shall not prevent the parties commencing or continuing

court proceedings.

d. Where the Customer enacts improper use of the industry arbitrator (i.e. if you have more than 10 employees or are a Communications Provider) or fails to follow the complaints procedure, the Customer agrees to cover any costs levied to IC from those parties.

33. **Governing Law and Jurisdiction**

a. The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.

b. The parties irrevocably agree that the courts of England have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

Posted by: Jonathan - Mon, Jul 24, 2017 at 6:57 PM. This article has been viewed 15713 times.

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