

Terms & Conditions/Service Level Agreement

TN4 Solutions LTD ("THE COMPANY") IS ONLY WILLING TO SUPPLY GOODS AND SERVICES UNDER THESE CONDITIONS. These Conditions impose obligations on Purchasers to notify the Company of certain matters within the time limit stated and they limit the liability of the Company. Throughout this document the word 'Goods' will encompass all and any products (physical and intellectual) and all services. This Contract shall run for an Initial Term of thirty six months from the Commencement Date (the "Initial Term") and shall then renew automatically for successive twelve month terms, unless either party gives written notice of termination no later than ninety days before the end of the Initial Term or any renewal term, in which case this Contract shall terminate at the end of that term.

1: CREATION OF CONTRACT

A quotation by the Company shall not constitute an offer and no Contract shall be taken as formed, except by the Purchaser's Order ("Order") being accepted in writing by the Company or by delivery of goods/services. Each Order shall be deemed to be a separate offer by the Purchaser which the Company will be free to accept or decline at its absolute discretion.

2: CONDITIONS OF TRADING

(a) The placing of an Order by the Purchaser shall be deemed to be unconditional acceptance by the Purchaser of these Conditions and its acknowledgement that they supersede, override and oust:

- (i) all previous negotiations, representations, or agreements between the parties
- (ii) any other terms and conditions in any document or other communication used by the Company or Purchaser

(b) No variation or addition to these Conditions shall form part of any Contract unless specifically accepted by the Company in writing. For the avoidance of doubt "in writing" shall include email correspondence.

(c) Without the Company's written consent, no addition or variation to an Order may be made by the Purchaser after the Company has accepted the Order to which it relates. Any purported addition or variation shall be treated as a separate Order at the time it is made and priced accordingly.

(d) The construction validity and performance of all Contracts shall be governed by the laws of England and any claim or dispute arising there from shall be subject to the exclusive jurisdiction of the English Courts.

3: PRICES

Unless otherwise expressly stated in writing by the Company, Orders are accepted on the basis that the price stated in the Order is the net price in accordance with the Contract and sold subject to these Conditions and shall be available for acceptance for 30 days from the date of the quotation. Thereafter, the Company will need to requote and if it does not do so, then it may still increase the stated price to reflect all or part of the increased costs suffered by the Company since the price was stated. Where any amendment or variation to these Conditions is agreed in writing by the Company, the price may also be increased. It is accepted by the Purchaser that the prices for goods paid overtime (i.e. a subscription) will reasonably increase from time to time, without the necessity of any notice being given.

4: PAYMENT

(a) Payment shall be made in accordance with the payment terms contained in the relevant Contract. In the absence of such terms, payment shall be made within 14 days of delivery/completion.

(b) If the Purchaser shall fail to make payment, then:

- (i) the Company shall be entitled to suspend without incurring any liability all or any other deliveries to be made under that or any other Contract with the Purchaser. In such

an event, the Purchaser shall not in any respect be released from its obligations to the Company under that or any such Contract: or

(ii) instead of such suspension the Company shall be entitled to terminate the relevant Contract or any other Contract with the Purchaser and to claim damages from the Purchaser

- (c) The Purchaser shall not, without the written agreement of the Company, be entitled to deduct or set off from any payment due pursuant hereto any claim for loss or expense alleged to have been incurred by the Purchaser by reason of any breach or failure to observe the provisions of this or any other Contract by the Company and the Purchaser expressly waives any common law right to set off to which it may be entitled.
- (d) The Company shall be entitled to sue for the price of the goods/subscriptions/services and such other charges whether or not title in such goods shall have passed to the Purchaser in accordance with Condition 7 below

5: CANCELLATION OF AGREED DATES

In the event of the Purchaser having to cancel an agreed day for the provision of services, then a cancellation fee will, at the Company's sole discretion, be payable. If the cancellation occurs with less than 5 clear working days' notice, then 90% of the fee will become due. If the cancellation occurs with less than 10 but more than 5 clear working days' notice, then 50% of the fee will be due. The Company may, at its discretion, waive these fees if the consultant can be successfully re-booked for another client for the same time. For the avoidance of doubt "services" shall mean the provision of consultancy services by a consultant of the Company to the Purchaser and which have been agreed in writing.

6: LIABILITY FOR DELAYED DELIVERY OR FAILURE TO SUPPLY

- (a) Whilst the Company will use all reasonable endeavours to keep to any stated delivery dates or times of the day as set out in the Contract, it accepts no liability whatsoever for any damage or loss (including any consequential loss) resulting from delayed delivery unless:
- (i) the Company has failed for at least 60 working days after the agreed date to make a delivery: and
- (i) the Purchaser has then given the Company at least 10 working days' notice in writing of its intention to rescind the Contract or bring a claim and at the end of that period for which the goods have not been delivered.
- (b) In the event that a valid claim is notified to the Company in accordance with this Condition, the Company shall under no circumstances whatsoever have any liability to pay a Purchaser a sum greater than the price of the goods in respect of which failure to deliver is alleged.

7: AGREEMENTS WITH THIRD PARTIES & DURATION OF SOFTWARE RENTAL/ SUBSCRIPTION

- (a) The Company shall be entitled to call itself an "Authorised Reseller" of the Product but shall not at any time purport the Company to be an agent of the manufacturer of the Product.
- (b) The Company has no right title or interest in the Product which at all times remains with the manufacturer of the Product.
- (c) It is a strict condition of these Conditions that the Purchaser on or before the delivery of the Product has entered into the Product's manufacturer's portal and has entered into an agreement to be bound by the terms and conditions of the manufacturer insofar as they relate to the Product. Where such terms and conditions are less onerous than our Condition then our conditions will prevail.
- (d) Unless stated otherwise within a proposal the duration of any given subscription shall run for an Initial Term of thirty six months from the Commencement Date (the "Initial Term") and shall then renew automatically for successive twelve month terms, unless either party gives written notice of termination no later than ninety days before the end of the Initial Term or any renewal term, in which case this Contract shall terminate at the end of that term.

8: CLAIMS FOR DEFECTIVE GOODS ETC

- (a) If the Purchaser has any reason to believe there is a defect of any nature in any of the goods supplied, it shall so notify the Company without delay and confirm the same in writing within 7 days
- (b) Insofar as the goods supplied have the benefit of a manufacturer's warranty or guarantee, the Company will use its reasonable endeavours to ensure the benefits thereof are available to the Purchaser. Otherwise, no warranty or guarantee is provided by the Company except as expressly set out in these Conditions.
- (c) Under no circumstances shall the Company be liable to the Purchaser for any claim arising out of any description, specification or other particulars relating to the goods or their suitability for any particular purpose or for use under specific conditions unless they form part of this Contract. If the Purchaser intends that any such particulars form part of this Contract, it must so notify the Company in writing. Such notification must be made prior to the goods being ordered and shall only apply to goods ordered after the Company has confirmed in writing to the Purchaser that the particulars are accepted.

9: WARRANTY AND INDEMNITY AND LIMITS ON CLAIMS

- (a) In the event that the Company and the Purchaser have agreed in writing a performance specification for the goods, then the goods shall be capable of meeting the same without modification, or with modifications carried out efficiently and free of charge.
- (b) The nature of some of the goods supplied is such that they may, e.g. contain errors in the program which cause it not to always perform to specification. No warranty is given that the goods supplied will be totally free from such matters.
- (c) The Company shall be under no liability:
 - (i) If the total price for the goods has not been paid by the due date for payment
 - (ii) If the goods have been modified adjusted or in any way interfered with other than by an agent of the company
- (d) Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- (e) Notwithstanding any other provision of these Conditions the maximum liability of the Company in respect of all and any claims shall be limited to 100% of the value of any sums paid.
- (f) Any claim by the Purchaser which is based on the matters referred to in these Conditions shall be notified in the manner and within the time limits set out therein and in the event that a valid claim is notified to the company in accordance with these Conditions, the Company shall deliver replacement goods free of charge or at the Company's sole discretion refund to the Purchaser the price of the goods.
- (g) Except as provided herein or in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Purchaser by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract or any advice or assistance given relating to the goods or their handling installation use or disposal for any direct or consequential loss or damage (whether caused by negligence of the Company, its employees or agents or otherwise) which shall arise out of or in connection with the supply of the goods or their use or resale by the Purchaser, except as expressly provided in these Conditions.
- (h) The Purchaser shall indemnify the Company in respect of any claims, proceedings, liabilities, damages, costs and expenses of whatsoever nature made against or incurred by the Company and arising out of a failure by the Purchaser to observe the Company's or manufacturer's instructions (whether oral or in writing) relating in any way whatsoever to the goods.

10: FORCE MAJEURE

The Company shall not be liable for any loss or damage caused by non-performance or delay in the performance of any of its obligations to the Purchaser due to act of God, war, civil disturbance, government action, strike, lock out or trade dispute (whether involving its own employees or those of any other person), difficulties in obtaining materials, breakdown in machinery, fire or accident or any other causes whatsoever beyond the control of the Company. Should any such event occur, the Company reserves the right to cancel or suspend the Contract with the Purchaser without incurring any liability for any loss or damage thereby caused.

11: DEFAULT

- (a) If the Purchaser is in default of any of the Purchaser's obligations under this or any other agreement with the Company or the Company has reason to believe the Purchaser may be insolvent or the Company becomes aware of any threatened act of insolvency within the meaning given to that word in the Insolvency Act 1986 the Company may, without notice, terminate this Contract and the Company shall be entitled to retain the whole of any payments made by the Purchaser.
- (b) In the event of any such termination, the Company shall in addition be exercising its rights to repossession of the goods including software be entitled by notice in writing to the Purchaser to declare (and there shall forthwith become) immediately due and payable any amounts outstanding from the Purchaser to the Company under this or any other Contract.

12: SOFTWARE SUPPORT

Sage Technical Support & Contract

(a) RESPONSE ARRANGEMENTS

If the Purchaser requires software support or assistance one of the Purchaser staff will contact the Company via the support portal, by email or by telephone.

(b) OUR OBLIGATIONS

(i) The Company undertakes to provide software support in the form of counsel and advice on the telephone or via e-mail on any problem reported by the Purchaser's staff and identified by the Company as about the functioning of the software. The enquiry must relate to the software listed in the relevant Contract and no other software is covered. Software support other than that authored by Sage is provided by the authors themselves and is therefore excluded from this agreement.

(ii) The Company undertakes to respond to the Purchaser's request within eight working hours. Normal working hours are Monday to Friday, 0900 hours to 1700 hours excluding Bank/Public holidays.

(c) EXCLUSIONS TO CLAUSE (b)

(i) Where the Company deems the Purchaser's staff require further training - see Clause (d).

(ii) On-site Software support visits, including training of the Purchaser's staff, made when deemed necessary by the Company.

(iii) Where the Company is requested by the Purchaser to rectify problems or supply support by on-site visits then this will be undertaken at our prevailing daily or half daily rates. The Company reserve the right not to provide on-site support to Company's clients.

(iv) Installations, upgrades, and report writing are not covered by telephone support.

(d) THE PURCHASER'S OBLIGATIONS

(i) The Purchaser will adopt all the necessary maintenance and backup procedures to protect the Software data.

(ii) The Purchaser will not use telephone support for "telephone training" of staff unfamiliar with any of the Software. The Company shall determine whether any training is required and if so, this will be offered at the Company's discretion. The Company reserves the right to withdraw telephone support without notice if the Company consider further training is required.

(iii) If requested the Purchaser will supply the Company with any information, documents and/or data that the Company may need to provide adequate support.

(iv) If at any time the Purchaser is not satisfied with any feature of our support service the Purchaser must notify the Company in writing without delay.

(e) PAYMENT AND CHARGES

(i) The Company's charges will be payable before the commencement of the support period. If payment is not received by the Company on this date, the Company shall be entitled to suspend providing support or to immediately terminate this Agreement. Any termination will be without prejudice to any other rights the Company have.

(ii) Unless the Company expressly agree otherwise, our charges are not fixed for any particular period. Instead, the Company may increase our charges by reasonable amounts at any time and our invoices will always be at the rate prevailing at the time they are issued.

(f) OUR LIABILITY

(i) The Company shall not be liable if the Company fail to provide Software Support where such failure is due to circumstances beyond our reasonable control.

(ii) Our liability for any injury, damage or loss to any person or any property whether direct or indirect or consequential caused by the Company's employee's servants, agents or sub-Contractors (except for death or personal injury) shall be limited to the amount paid by the Purchaser to the Company under this Agreement. For the avoidance of doubt, the Company shall under no circumstances be liable for any indirect or consequent loss or damage including but not limited to the loss of the use of the Software or earnings or profits deriving from such use or for any loss of recorded data.

(iii) All representations and warranties whether express or implied and all our liabilities except those expressly set out in the terms are excluded to the maximum extent allowed by law.

(l) GENERAL

(i) The Company may sub-Contract the services to be provided under this Agreement either in whole or part. You are expressly prohibited from engaging directly with TN4 subcontractors or third parties financially in relation to any services, without obtaining our prior written consent.

(ii) The Company may assign this Agreement, but it cannot be assigned by the Client without our written consent.

(iii) The Company shall not be liable for any delays in meeting any of our obligations under this Agreement.

13: NOVATION AND ASSIGNMENT

THE COMPANY may at any time novate this Contract, in whole or in part, to any third party, including any member of its group, by giving written notice to the Customer. The Customer shall, at THE COMPANY's request, promptly execute any novation agreement or other document reasonably required to give effect to such novation. The Customer shall not novate, assign or otherwise transfer this Contract or any of its rights or obligations under it without the prior written consent of THE COMPANY.

14: GOVERNING LAW AND JURISDICTION

This Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.