

**ICON BUSINESS SYSTEMS LIMITED
AND ITS SUBSIDIARIES AND ASSOCIATES
STANDARD TERMS AND CONDITIONS GOVERNING
PROVISION OF TECHNICAL SERVICE OFFERINGS (Version 1.1)**

1. DEFINITIONS

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Company" means ICON BUSINESS SYSTEMS LIMITED, a private limited company duly incorporated in Hong Kong SAR under the Companies Ordinance whose registered office is situated at Unit 1003-11, 10/F, Tins Enterprises Centre, 777 Lai Chi Kok Road, Cheung Sha Wan, Kowloon, Hong Kong and its subsidiaries and associates.

"the Client" means the party commissioning the Services as named on the Invoice.

"the Products" means computer hardware, software or peripheral products which are the subject of the Service Offering and ordered by the Client, accepted by THE COMPANY, and specified on the Invoice, and such additions or changes thereto as may from time to time be agreed in writing between the parties. For the purposes of interpretation of this Agreement, the Products shall also include any part or component of them.

"the Location" means the place where the Products are situated as notified to THE COMPANY and specified on the Invoice. If no particular location is specified, the Location shall be taken to be the Client's address specified on the Invoice.

"the Invoice" means the document sent by THE COMPANY to the Client, demanding, inter alia, payment for the Services and evidencing the Service Offering purchased by the Client.

"the Service Offering (s)" means the different service options offered by THE COMPANY for the Products or any part of them and for varying periods,

"the Emergency Services" means the emergency Services to be provided by THE COMPANY.

"the Services" means the Service Offerings and the Emergency Services.

"the Service Fee" means the charge for the Services as specified by THE COMPANY in the relevant Service Offering or over the telephone and as evidenced in THE COMPANY's Invoice.

"Standard Service Hours" means the hours between 9.00 a.m. and 6.00 p.m. each day excluding Saturdays, Sundays and public holidays. Additional service hours may be available at THE COMPANY's discretion in consideration of the payment of additional fees.

"this Agreement" means the THE COMPANY Terms and Conditions of Service and Support, and the provisions contained within THE COMPANY's other standard agreements pertaining to the Service Offerings provided by THE COMPANY.

"Telephone Support" means telephone and remote hardware fault diagnosis provided by THE COMPANY at its sole option and on such terms and conditions as it may, from time to time determine pursuant to clause 2.1.

2. THE SERVICE OFFERINGS

During the continuance of this Agreement, THE COMPANY shall provide the following Services in

respect of the Products:-

2.1 THE COMPANY Telephone Support THE COMPANY shall provide at its sole option and for as long and for such hours as it may decide Telephone Support for the Client. Enhancements to this service may be purchased by the Client and will be as described in the relevant Service Offering.

2.2 Remedial Support Upon receipt of notification from the Client that the Products have failed or are malfunctioning, and in the event that the fault is unable to be rectified using THE COMPANY Telephone Support, THE COMPANY undertakes to use all reasonable endeavours during the Standard Service Hours to make such corrections, repairs or adjustments to or replace such parts of the Products as may be necessary to restore the Products to their proper operating condition. The extent of such remedial support and whether this is achieved remotely or by an on-site visit by a THE COMPANY engineer depends upon the particular Service Offering chosen and purchased by the Client (as evidenced on the Invoice) from amongst the Service Offerings or the specific Service Offering packaged with the Product.

2.3 Response Time THE COMPANY undertakes to use all reasonable endeavours to dispatch a suitable qualified service engineer to the Location to arrive within the response time specified by THE COMPANY in relation to the Products and Service Offering purchased by the Client as recorded on the Invoice. Response times shall commence upon the THE COMPANY Telephone Support engineer deciding that on-site remedial support is necessary. Product upgrades are not eligible for on-site service. Unless otherwise specified in the relevant Service Offering, a response time measured in hours includes only business hours within the Standard Service Hours of 9.00 a.m. to 6.00 p.m., Monday to Friday excluding public holidays and any replacement holidays determined by THE COMPANY.

3. CHARGES

3.1 In consideration of the provision of the selected Service Offerings the Client shall pay the Service Fee stated in THE COMPANY's standard price list current at the time of THE COMPANY's acceptance of the Client's Order, or such other charge as may be agreed in writing. No payment shall be considered made until it is received by THE COMPANY.

3.2 If any sum payable under this Agreement is not paid within 10 days after the due date then, without prejudice to THE COMPANY's other rights and remedies, THE COMPANY reserves the right, to the extent permitted under applicable law, to charge interest on such sum (as well after as before any judgment) from the due date to the date of payment (both dates inclusive) at the rate of 3% per month. Such interest charged is payable on demand.

4. EXCEPTIONS

4.1 When Services consist of repair of THE COMPANY systems, such Services shall be those repair services that are necessary because of any existing defect or a defect occurs in materials or workmanship in the system or in any system component covered by this Agreement. Preventive

maintenance is not included. **Repairs necessitated by software problems, or as a result of alteration, adjustment, or repair by anyone other than THE COMPANY (or its representatives) are not included.**

4.2 THE COMPANY's Service Offerings do not include support which is necessitated as a result of any cause other than a result of THE COMPANY's neglect or fault, including, without limitation:-

(a) failure or fluctuation of electric power, air conditioning, humidity control or other environmental conditions; or

(b) accident, transportation, neglect, misuse, abuse or default of or by the Client its employees or agents or any third party, including but not limited to broken or cracked plastics; or

(c) any fault in any products or components which are not supplied by THE COMPANY, whether or not

(i) they form part of a Client's configuration of the Products; or

(ii) they comprise the Client's configuration and the Products form an integral part of them; or

(d) any fault in attachments or associated products or components (whether or not supplied by THE COMPANY) which do not form part of the Products covered by this Agreement under the relevant Service Offering; or

(e) any fault in the Products caused by the failure of any products or components not supplied by THE COMPANY or caused by any software installed on the Products; or

(f) act of God, lightning, fire, flood, war, act of violence or any similar occurrence; or

(g) any attempt by any person other than THE COMPANY personnel or any person authorised by THE COMPANY (via the telephone or otherwise) or an authorised THE COMPANY sub-contractor, to adjust, repair or support the Products.

4.3 The Service Offerings do not include:-

(a) Services at places other than the Location except where THE COMPANY specifically agrees otherwise;

(b) the correction or avoidance of software defects or errors or the loading or re-loading of a Client's application software or the Client's data or any re-configuration of the Products beyond loading the operating system software (ie basic install of the OS and Drivers using the factory supplied CDs) as carried out before shipment;

(c) repair or renewal of diskettes, printing ribbons, typefaces or other consumable supplies;

(d) electrical or other environmental work external to the Products; and

(e) the support of any attachments or associated products which do not form part of the Products.

4.4 Collection of Products by THE COMPANY, or it's appointed carrier, under any of the Service Offerings, shall not be construed as invalidating the exceptions stated above and shall not imply that THE COMPANY accepts the validity of the client's claim.

5. REPLACEMENT

5.1 THE COMPANY reserves the right to replace the whole of the Products or any part or parts thereof which may be found to be faulty or in need of investigation even where only a part of the Products are so faulty or in need of investigation.

5.2 THE COMPANY, in effecting such replacement, is under no obligation to use Products or any parts thereof which are identical in all respects to the faulty Products. Unless local laws determine otherwise, THE COMPANY reserves the right to supply used or reconditioned parts or Products which are equivalent to new in functionality and appearance. THE COMPANY shall ensure that any Products or parts thereof used in replacement shall have substantially the same fittings and at least an equivalent specification to the faulty Products or parts thereof. THE COMPANY reserves the right to supply Products or parts thereof manufactured by whomsoever it shall, from time to time, deem appropriate.

5.3 The products or parts supplied to replace the Products shall become the property of the owner of the Products. The Products or any part or parts thereof removed shall become the property of THE COMPANY.

5.4 The warranty term for a spare part used in repairing Products ("Replacement Part") is 90 days from its installation in the Product or the remainder of the warranty term for the Product into which it is installed, whichever is longer. For the avoidance of doubt, the warranty term of a Product is not extended after its repair or replacement. Client will pay THE COMPANY for a Replacement Part when the part replaced is not returned by Client to THE COMPANY within 10 days after the date the Replacement Part was delivered to Client by THE COMPANY. Prices of the part replaced will be at THE COMPANY's then current standard price in the Territory.

5.5 The provisions of this Agreement shall apply to all replacements of any part or parts of the Products made by THE COMPANY during the continuance of this Agreement.

6. SERVICES NOT COVERED BY THE SERVICE OFFERINGS

6.1 THE COMPANY shall impose an additional charge on the Client, in accordance with its standard scale of charges for the time being in force, for any Services provided by THE COMPANY at the request of the Client which:-

- (a) fall within any of the exclusions referred to in clause 4.2 above; or
- (b) in the opinion of THE COMPANY, were not necessary; or
- (c) were not provided because the Client was not present or available to allow THE COMPANY access to the Location.

6.2 For the avoidance of doubt, nothing in this clause shall impose any obligation on THE COMPANY to provide Services which fall within the exclusions referred to in clause 4.2 above.

6.3 Emergency Services In addition to the Services, THE COMPANY shall, at its sole discretion, provide during the continuance of this Agreement an emergency corrective service outside the Standard Service Hours. THE COMPANY shall respond to a request for such Emergency Services as

soon as practicable after its receipt of such request. All requests for Emergency Services shall be made during the Standard Service Hours. The Emergency Services shall be provided at THE COMPANY's standard scale of charges for such service from time to time in force. Such charges shall take into account not only the time that THE COMPANY's service engineer spends at the Location but also his traveling time to, and where appropriate from, that Location.

7. CLIENT'S OBLIGATIONS

7.1 During the continuance of this Agreement, the Client shall:-

Facilities:

- (a) Provide THE COMPANY with full, safe and prompt access to the Products to enable THE COMPANY to carry out its obligations under this Agreement.
- (b) Provide adequate working space around the Products for the use of THE COMPANY's personnel and make available all reasonable facilities as may be requested from time to time by THE COMPANY for the storage and safe keeping of any test equipment and spare parts
- (c) Use all reasonable endeavours to provide a suitable vehicle parking facility for use by THE COMPANY's personnel which is not used for any other testing, diagnostic and remedial purposes at the Client's expense.
- (d) Use all reasonable endeavours to provide a suitable vehicle parking facility for use by THE COMPANY's personnel which is free from any legal restrictions and which is immediately close to the Location.
- (e) Ensure, in the interest of health and safety, that THE COMPANY's personnel are met promptly by a member of the Client's staff and while on the Client's premises for the purposes of this Agreement, are at all times accompanied by a member of the Client's staff familiar with the Client's premises and safety procedures.
- (f) Make available to THE COMPANY, free of charge, all facilities and services reasonably required by THE COMPANY to enable THE COMPANY properly to provide the Services under this Agreement.
- (g) Provide such telecommunication facilities as are reasonably required.

Use and Care:

- (a) Make sure that proper environmental conditions (in particular those (if any) defined in the relevant Product user manuals) are maintained for the Products and shall further maintain in good condition the place where the Products are situated, the cables and fittings to the Products and associated with the Products, and the electricity supply thereto.
- (b) Save for discrete additions generally recognised as being compatible with the Products, not make any modifications to the Products without THE COMPANY's prior consent.
- (c) Ensure that the Products are used in a proper manner, in accordance with the Product user manuals and by competent trained employees only or by persons under their supervision.
- (d) Ensure that the external surfaces of the Products are, where appropriate, kept clean and in good

condition and shall carry out any minor maintenance requirements recommended by THE COMPANY (or recommended in the relevant Product user manual) from time to time.

(e) Save as aforesaid, and except when operating under:

(i) an THE COMPANY Agreement or in accordance with a Service Offering which provides otherwise; or

(ii) under instructions from the THE COMPANY Telephone Support; not attempt to adjust, repair, support or maintain the Products and shall not request, permit or authorise anyone other than THE COMPANY or the manufacturer of the Products (where such Products are under a warranty from a manufacturer other than THE COMPANY) to carry out any adjustments, repairs, support or maintenance of the Products.

(f) Use on or with the Products only such accessory, attachment, component or additional equipment or products as THE COMPANY recommends, or are recommended in accordance with the Product user manuals, or are commonly and properly used on or with the Products.

(g) Not use in conjunction with the Products any accessory, attachment, component or additional equipment or products other than those which have been supplied or approved by THE COMPANY for use in the manner proposed, or which are specifically approved as compatible by the relevant Product user manuals.

Notification and Information:

(a) Promptly notify THE COMPANY if the Products need service or are not operating correctly. Failure by the Client to notify THE COMPANY within 2 weeks of the Client first becoming aware of such failure or incorrect working shall free THE COMPANY from all obligations to investigate or correct such failure or incorrect working.

(b) Make available to THE COMPANY, free of charge, such information as may be necessary to enable THE COMPANY properly to conduct telephone diagnosis as part of the THE COMPANY Telephone Support service and/or remote-login site checking, and in addition, such programs, operating manuals and information to enable THE COMPANY properly to perform its obligations under this Agreement and shall use its best endeavours to provide staff familiar with the Client's programs and operations, which staff shall co-operate fully with THE COMPANY personnel operating THE COMPANY's Telephone Support or present on-site, as the case may be, in the diagnosis of any malfunction of the Products.

Database and Software Keep full security copies of any of the Products comprising Software and of the Client's programs, databases and computer records in accordance with best computing practice and in any case before requesting Services from THE COMPANY. The Client acknowledges that they are responsible for re-loading their own application software after any such Services have been provided. It is the Client's responsibility to backup data on the system. THE COMPANY WILL NOT BE RESPONSIBLE FOR LOSS OF OR DAMAGE TO DATA OR LOSS OF USE OF ANY OF THE COMPUTER OR NETWORK SYSTEMS.

7.2 To receive service and support, the Client is responsible for complying with the following:

(a) Prepare for the Call. The Client can help the technical personnel serve better if the Client has the following information and materials ready when the call is made: the Client System's invoice and serial numbers; service tag number; model number; the current version of the operating system being used; and the brand names and models of any peripheral devices (such as a modem, printer or scanner) being used.

(b) Explain the Problem to the Technical Personnel. The Client should describe the problem the Client is having with the System. Let the technical personnel know what the error message is and when it occurs; what was being done when the error occurred; and what steps have already been taken to solve the problem.

(c) Cooperate with the technical personnel. Listen carefully to the technical personnel and follow the technical personnel's directions.

(d) If the technical personnel is unable to resolve the problem over the phone, the technical personnel will recommend to the Client the next course of action to be taken.

UNTIL THE CLIENT HAS COMPLIED WITH THE ABOVE PROCEDURES, THE COMPANY CANNOT DISPATCH A TECHNICAL PERSONNEL TO PERFORM ONSITE REPAIRS.

8. FORCE MAJEURE

Neither party shall be liable for any delay in performing any of its obligations hereunder if such delay is caused by circumstances beyond the reasonable control of the party so delaying and such party shall be entitled to a reasonable extension of time for the performance of such obligations.

9. CONFIDENTIALITY

Each party shall treat as confidential all information obtained from the other pursuant to this Agreement which is marked "confidential" or the equivalent or has the necessary quality of confidence about it and shall not divulge such information to any persons (except to such party's own employees and then only to those employees who need to know the same) without the other party's prior written consent provided that this clause shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to this Agreement, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause) or which is trivial or obvious. Each party shall ensure that its employees are aware of and comply with the provisions of this clause. If THE COMPANY shall appoint any sub-contractor then THE COMPANY may disclose confidential information to such sub-contractor subject to such sub-contractor giving an undertaking in similar terms to the provisions of this clause. The foregoing obligations as to confidentiality shall survive any termination of this Agreement.

10. LIABILITY

10.1 Limited Warranty. THE COMPANY WARRANTS THAT SERVICES WILL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER. EXCEPT AS EXPRESSLY STATED IN THE PRECEDING SENTENCE, THE COMPANY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT OF THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY RELATING TO THIRD PARTY PRODUCTS, ANY WARRANTY WITH RESPECT TO THE PERFORMANCE OF ANY HARDWARE OR SOFTWARE USED IN CONDUCTING SERVICES, ANY EXPRESS OR IMPLIED WARRANTIES CONCERNING THE RESULTS TO BE OBTAINED FROM THE SERVICES OR WARRANTIES CONCERNING THE RESULTS TO BE OBTAINED FROM THE SERVICES OR THE RESULTS OF ANY RECOMMENDATION THE COMPANY MAY MAKE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES CONCERNING THE PERFORMANCE, MERCHANTABILITY, SUITABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE DELIVERABLES OR OF ANY SYSTEM THAT MAY RESULT FROM THE IMPLEMENTATION OF ANY RECOMMENDATION THE COMPANY MAY PROVIDE. NOTHING IN THIS AGREEMENT OR ANY OTHER WRITTEN DOCUMENTATION OR ANY ORAL COMMUNICATIONS WITH CLIENT MAY LATER ALTER THE TERMS AND CONDITIONS OF THIS PARAGRAPH.

10.2 THE COMPANY shall not be liable for any loss or damage sustained or incurred by the Client or any third party (including without limitation of any loss of use of the Products or loss of or spoiling of any of the Client's programs or data) resulting from any lines down or fault in the Products, unless such lines down or fault is caused by the negligence or wilful misconduct of THE COMPANY, its employees, agents or sub-contractors, or to the extent that such loss or damage arises from any negligent delay by THE COMPANY in providing the particular Services purchased by the Client and then only to the extent not excluded by this Agreement.

10.3 THE COMPANY shall indemnify the Client and keep the Client fully and effectively indemnified against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or wilful misconduct of THE COMPANY, its employees, agents or sub-contractors, or by any breach of its contractual obligations arising under this Agreement.

10.4 The Client shall indemnify THE COMPANY and keep THE COMPANY fully and effectively indemnified against any loss of or damage to any property or injury to or death of any persons caused by any negligent act or omission or willful misconduct of the Client, its employees, agents or sub-contractors or by any breach of its contractual obligations arising out of this Agreement.

10.5 Except in respect of injury to or death of any person, for which no limit applies, the respective liability of THE COMPANY and the Client under sub-clauses 10.1, 10.2, and 10.3 in respect of each event or series of connected events shall not exceed the charge made by THE COMPANY to the Client for the Services purchased by the Client under the relevant Service Offering as evidenced on the Invoice.

10.6 Any service response times stated by THE COMPANY in the Service Offerings are approximate only and shall not form part of the Contract. THE COMPANY will use all reasonable endeavours to meet the stated response times, however THE COMPANY shall not be liable for any direct or indirect loss or damage arising from its failure to meet such response times, howsoever occasioned.

10.7 Notwithstanding anything else contained in this Agreement, THE COMPANY shall not be liable to the Client for loss of business, profits or contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever.

10.8 Some Services may require THE COMPANY to access hardware or software that is not manufactured by THE COMPANY. Some manufacturers' warranties may become void if THE COMPANY or anyone else, other than the manufacturer or its authorized representative, works on the hardware or software. THE COMPANY DOES NOT TAKE RESPONSIBILITY FOR THIRD PARTY WARRANTIES OR FOR ANY EFFECT THAT THE THE COMPANY SERVICES MAY HAVE ON THOSE WARRANTIES.

11. DURATION

This Agreement shall commence when the Client's order for Services is accepted by THE COMPANY or upon Client's signing of relevant THE COMPANY quotation and shall remain in force for the period relevant to the Service Offering purchased by the Client.

12. TERMINATION

12.1 Notwithstanding anything else contained herein, this Agreement may be terminated:-

- (a) By THE COMPANY forthwith on giving notice in writing to the Client if the Client shall fail to pay any sum due under the terms of this Agreement (otherwise than as a consequence of any default on the part of THE COMPANY) and such sum remains unpaid for 14 days after written notice from THE COMPANY that such sum has not been paid; or
- (b) By either party forthwith on giving notice in writing to the other if the other commits any material breach of any of the terms of this Agreement (other than any failure by the Client to make any payment due hereunder in which event the provisions of paragraph (a) above shall apply) and, in the case of a breach capable of being remedied, shall have failed within 30 days after the receipt of a request in writing from the other party so to do, to remedy the breach; or
- (c) By either party forthwith on giving notice in writing to the other if the other shall have a receiver or administrative receiver appointed of it or over any part of its undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a Court of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business.

12.2 Any termination of this Agreement, howsoever occasioned, shall not affect any accrued rights or liabilities of either party, nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

13. WAIVER

Except as otherwise expressly provided for in this Agreement, no forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party, nor shall any waiver of its rights operate as a waiver of any subsequent breach, and no right, power or remedy herein conferred upon or reserved for either party, is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

14. CONSUMERS

Nothing in this Agreement shall affect the statutory right of a Client dealing with THE COMPANY as a consumer as defined in any consumer protection legislation intended to protect consumers in similar transactions.

15. ASSIGNMENT; SUBCONTRACTING

Unless otherwise provided in the Standard Service Description, SOW or Technical Specification Form, Client may not assign this Agreement without the prior written consent of THE COMPANY. THE COMPANY has the right to subcontract the Services provided under this Agreement.

16. NOTICES

16.1 All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause. Any such notice may be delivered personally or by first class prepaid letter, telex or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by telex or facsimile transmission when dispatched.

16.2 Any notice which affects the validity or existence of this Agreement shall be delivered personally or sent by registered letter post only.

17. SEVERANCE

If any provision of this Agreement (including terms contained in a relevant Service Offering) is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement and the remainder of the provisions in question shall not be affected thereby.

18. HEADINGS

The headings to the clauses of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

