

# Terms and Conditions

## 1. Application

- These Terms and Conditions shall apply to the provision of IT Services by the Provider to the Customer.
- In the event of conflict between these Terms and Conditions and any other terms and conditions (of the Customer or otherwise), the former shall prevail unless expressly otherwise agreed by the Provider in writing.

## 2. Definitions and Interpretation

- In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

"Agreement"	means the Contract, Invoice, Quotation or Agreement entered into by the Customer and the Provider to which these Terms and Conditions apply, this includes agreement in principle through email.
"Business Day"	means, any day (other than Saturday and Sunday) on which ordinary banks are open for [their full range of normal] business in England;
"Commencement Date"	means the commencement date for these Terms and Conditions as set out in the Contract, Invoice, Quotation or Agreement to these Terms and Conditions.
"Customer"	name of individual or organisation stated on the Contract, Invoice, Quotation or Agreement.
"Provider"	Employee Zero Ltd
"Services"	means the services to be provided by the Provider to the Customer as set out on the Contract, Invoice, Quotation or Agreement.
"Equipment"	means the Equipment listed on the Contract, Invoice, Quotation or Agreement, and shall include any foreseeable updated or replacement parts and any additional equipment supplied by the Provider.
"Fees"	means any and all sums payable by the Customer to the Provider arising out of the performance of the Provider's obligations under these Terms and Conditions;
"Software"	means any and all programs, applications, instructions or similar that may from time to time be installed on the Customer's computer systems; and
"Working Hours"	means the normal working hours of Employee Zero Ltd which are 09:00 to 17:00, Monday to Friday.

- Unless the context otherwise requires, each reference in these Terms and Conditions to:

- "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
  - a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - "these Terms and Conditions" is a reference to these Terms and Conditions and each of the Schedules, as amended or supplemented at the relevant time;
  - a Schedule is a schedule to these Terms and Conditions; and
  - a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.
6. a "Party" or the "Parties" refer to the parties to these Terms and Conditions.

- The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- Words imparting the singular number shall include the plural and vice versa.
- References to any gender shall include the other gender.

## 3. Provider's Obligations

- With effect from the Commencement Date the Provider shall, in consideration of the Fees being paid in accordance with the terms of payment, provide the Services expressly identified on the Contract, Invoice, Quotation or Agreement, or otherwise agreed under these Terms and Conditions.
- The Provider will use reasonable care and skill to perform the Services identified on the Contract, Invoice, Quotation or Agreement or otherwise agreed under these Terms and Conditions.
- The Provider will, subject to Clause 4, use reasonable endeavours to maintain the functionality of any Software which may be installed or otherwise operative on the Customer's Equipment and undertakes to re-install any Software which may have been corrupted or otherwise made unavailable due to hardware failure and to render such technical assistance as may be necessary to secure the satisfactory operation of the Equipment and Software for the period of the contract.
- Upon receipt of the Customer's request for support or rectification of a defect, the Provider shall (subject to its then current commitments) normally begin work agreed time, and shall carry out all Services as specified on the Contract, Invoice, Quotation or Agreement during Working Hours until all required work is completed to the reasonable satisfaction of the Customer.
- The Provider will not guarantee the performance of any Software which the Provider has undertaken to re-install under sub-Clause 3.3.
- The Provider shall use all reasonable endeavours to complete its obligations under the Contract, Invoice, Quotation or Agreement. The Parties agree that time will not be of the essence in the performance of these obligations.

## 4. Customer's Obligations

- The Customer shall:
  - allow the Provider access to the Equipment and all relevant Software for investigation purposes;
  - provide adequate working space and facilities for the Provider's staff; and
  - co-operate with them in the diagnosis of any defect or malfunction in the Equipment or Software;
  - agree to the terms of any license for software that has been requested to be installed by the Provider on behalf of the Customer.
- The Customer shall allow the Provider the use of any Equipment, computer systems, peripherals or other hardware necessary to enable it to provide the Services and shall be

responsible for procuring, installing and maintaining all communications media not supplied by the Provider.

- The Customer will not allow any changes or modifications to the Software to be made by any party other than those authorised by the Provider. If such changes or modifications are carried out without authorisation of appropriate notification, the Provider reserves the right to review these Terms and Conditions and make adjustments accordingly.
- The Customer will make freely available to the Provider all documentation associated with the Equipment, working documents, original software installation media, current data backups, Equipment and any other relevant hardware for the efficient maintenance of the Equipment and the Software.
- The Customer shall create regular data backups in such a manner as to minimise any potential data loss and to ensure that these are made available to the Provider as required. The Provider is not liable for any data loss or corruption as a result of work carried out under any circumstances.
- The Customer shall take all reasonable precautions to ensure the safety and health of the Provider's personnel while such personnel are at the Customer's premises.

## 5. Price

- The Customer agrees to pay the Fees in accordance with Clause 6 and the Contract, Invoice, Quotation or Agreement.
- The Provider shall be entitled to recover from the Customer his reasonable incidental expenses for materials used and for third party goods and services supplied in connection with the provision of the Services.
- The Customer shall pay the Provider for any additional services provided by the Provider that are not specified in the Contract, Invoice, Quotation or Agreement in accordance with the Provider's hourly rate in respect of any sum due under these Terms and Conditions but such other rate as may be agreed. Any such charge for additional services shall be invoiced separately from any Fees due under the Contract, Invoice, Quotation or Agreement.
- All sums payable by either Party pursuant to these Terms and Conditions are exclusive of any value added or other tax or other taxes on profit, for which that Party shall be additionally liable.

## 6. Payment

- All payments required to be made pursuant to these Terms and Conditions by either Party shall be made before any physical goods are supplied (including repaired equipment), or in the case of consultancy services only within 14 days of the date of the relevant invoice, without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.
- The time of payment shall be of the essence of these terms and conditions. If the Customer fails to make any payment on the due date in respect of any sum due under these Terms and Conditions then the Provider shall have the right to charge the Customer interest on any amount payable at the rate of 10% above the base rate of HSBC Bank PLC from the due date for payment until the date on which the payment is received.

## 7. Variation and Amendments

- If the Customer wishes to vary any details of the Contract, Invoice, Quotation or Agreement it must notify the Provider in writing as soon as is reasonably possible. The Provider shall use all reasonable endeavours to make any required changes and any additional costs thereby incurred shall be separately invoiced to the Customer.
- If, due to circumstances beyond the Provider's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Customer forthwith. The Provider shall endeavour to keep such changes to a minimum and shall seek to offer the Customer arrangements as close to the original arrangements as is reasonably possible in the circumstances.

## 8. Termination

- The Provider may terminate the Agreement forthwith if:
  - the Customer is in breach of any of its obligations hereunder;
  - the Customer has entered into liquidation (other than for the purposes of a bona fide amalgamation or reconstruction) whether compulsory or voluntarily or compounds with its creditors generally or has an administrator, administrative receiver or receiver appointed over all or a substantial part of its undertaking or assets;
  - the Customer has become bankrupt or shall be deemed unable to pay its debts by virtue of Section 123 of the Insolvency Act 1986;
  - the Customer ceases or threatens to cease to carry on business; or
  - any circumstances whatsoever beyond the reasonable control of the Provider necessitate and justify the termination of the Services.
- In the event of Termination under clause 8.1 the Provider shall retain any sums already paid to by the Customer without prejudice to any other rights may have whether at law or otherwise.

## 9. Liability

- The Customer shall indemnify the Provider against all damages, costs, claims and expenses suffered by the Provider arising from loss or damage to any equipment (including that of third parties) caused by the Customer, or its agents or employees.
- Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.
- The Provider shall not be liable to the Customer or be deemed to be in breach of these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of the Provider's obligations if the delay or failure was due to any cause beyond the Provider's reasonable control.

## 10. Confidentiality

- During the term of the Agreement and after termination or expiration of the Agreement for any reason for a period of 5 years starting on the date work commences, the following obligations shall apply to the Party disclosing Confidential Information (the Disclosing Party) to the other Party (the Receiving Party):
  - may not use any Confidential Information for any purpose other than the performance of his obligations under these Terms and Conditions;
  - may not disclose any Confidential Information to any third person except with the prior written consent of the Disclosing Party; and
  - shall make every effort to prevent the use or disclosure of the Confidential Information.
- The obligations of confidence referred to in the provisions of this clause shall not apply to any Confidential Information that:

1. is in the possession of and is at the free disposal of the Receiving Party or is published or is otherwise in the public domain before its receipt by the Receiving Party;

2. is or becomes publicly available on a non-confidential basis through no fault of the Receiving Party;

3. is required to be disclosed by any applicable law or regulation;

4. is received in good faith by the Receiving Party from a third party who, on reasonable enquiry by the Receiving Party, claims to have no obligations of confidence to the other Party to these Terms and Conditions in respect of it and who imposes no obligations of confidence upon the Receiving Party.

4. Without prejudice to any other rights or remedies the Disclosing Party may have, the Receiving Party acknowledges and agrees that in the event of breach of this clause the Disclosing Party shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which he may be entitled.

5. The obligations of the Parties under the provisions of this clause shall survive the expiry or the termination of the Agreement for whatever reason.

## 11. Sub-Contracting and Assignment

- The Provider may sub-contract to third parties all or any part of the work to be performed hereunder.
- The Customer shall not assign to a third party any or all of its rights or obligations under these Terms and Conditions without the prior written consent of the Provider.

## 12. Force Majeure

Neither Party to these Terms and Conditions shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

## 13. Waiver

- No waiver by the Provider of any breach of these Terms and Conditions by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of these Terms and Conditions shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which any waiver is given.
- No failure or delay on the part of any Party in exercising any right, power or privilege under these Terms and Conditions shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of or the exercise of any other right, power or privilege.

## 14. Severance

If any provision of these Terms and Conditions is held by any competent authority to be invalid, or unenforceable in whole or in part the validity of the other provisions of these Terms and Conditions and the remainder of the provision in question shall not be affected thereby.

## 15. Notices

- All notices under these Terms and Conditions shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- Notices shall be deemed to have been duly given:
  - when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
  - when sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or
  - on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
  - on the tenth business day following mailing, if mailed by airmail, postage prepaid in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.
- Service of any document for the purposes of any legal proceedings concerning or arising out of these Terms and Conditions shall be effected by either Party by causing such document to be delivered to the other Party at its registered or principal office, or to such other address as may be notified to one Party by the other Party in writing from time to time.

## 16. Law and Jurisdiction

1. These Terms and Conditions shall be governed by the laws of England and Wales.

2. Any dispute between the Parties relating to these Terms and Conditions shall fall within the jurisdiction of the courts of England and Wales.

## 17. Limitations of Service

- The Provider limits Service to Intel based Apple Macintosh computers, and Apple iOS devices. Hardware and Software from manufacturers other than Apple, are not supported by the Services described in the Agreement.
- The Provider is not responsible for making backups of data, or moving data to new media on behalf of the Customer.
- Upon inspection of any hardware to be repaired, the Provider may deny Service if hazardous or harmful substances or liquids are found, and will charge a fee for labour.

## 18. Service Parts

If the Customer accepts these Terms and Conditions of the Agreement, it is with an understanding that:

- Equipment supplied by the Provider listed on the Agreement, may be factory new, used or refurbished as long as it meets a satisfactory quality.
- Supplied Equipment is warranted for ninety (90) days from the date of Service, all parts used in service will be free from defects in materials and workmanship, unless otherwise specified by the Provider. If a defect with the replacement part should arise within the warranty period, the Provider will first inspect the part for damage caused by abuse, misuse or any external cause, and if the Provider is not responsible for such failure or damage, no remedial service will be carried out, and will charge the Customer a Fee for labour.
- The Provider will retain the defective part that is replaced as its property, and the replacement part will become the property of the Customer. The Provider may refurbish, sell or exchange the defective part if it chooses to do so.

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