

## INTERACT TECHNOLOGY MAINTENANCE TERMS AND CONDITIONS

### 1. Interpretation

- 1.1 In the contract unless the context otherwise requires:
- 'Contract' means the contract for the provision of Services.
  - 'Bankruptcy' means the making of a voluntary arrangement with creditors, becoming bankrupt, becoming subject to an administration order, going into liquidation (other than for the purpose of a solvent reconstruction or amalgamation), the appointment of a receiver of any property of the Client or the ceasing or threatening to cease to carry on business or if Interact Technology Limited reasonably apprehends that any of these occurrences are about to take place.
  - 'Service' means the repair and maintenance service as set out in Clause 2.2 below.
  - 'The Client' means the person or company named on the Specification Sheet for whom Interact Technology has agreed to provide the Specified Service.
  - 'Conditions' means the terms and conditions of service supply set out in this document.
  - 'Consultancy Service' means the advisory service to be provided.
  - 'Equipment' means equipment, the subject of the Contract as notified to Interact Technology Limited by the Client.
  - 'Force Majeure' means any circumstances beyond the reasonable control of a party (including, without limitation, any strike, lock-out or industrial action), excluding any strike, lock-out or industrial action of the party attempting to rely on the force majeure event.
  - 'Liability' means liability arising from any representation (unless fraudulent), or any breach of an implied term or common law duty, or under statute, or under express terms of the Contract.
  - 'Location' means the location of the Equipment agreed from time to time between parties.
  - 'Loss' means, relating to the Client, any loss (whether loss of profit or otherwise), damages, costs or other compensation and any expenses which is or are awarded against or incurred by or paid or agree to be paid to settle any claim by the Client, however it arises and whether occasioned by the negligence of Interact Technology, its employees or agents or otherwise who visit any premises of the Client.
  - 'Normal Working Hours' means the hours of 9am to 5pm (inclusive) on such days according to the level of service set out on the Specification Sheet.
  - 'Specification Sheet' means the sheet to which these Conditions are attached.
  - 'Specified Service' means any of the Service and Consultancy Service as selected by the Client on the Specification Sheet or otherwise.
  - 'Support Fee' means the fee due to Interact Technology in respect of the Service.

1.2 The headings in the Contract are for convenience only and shall not affect its interpretation.

### 2. Services to be provided

- 2.1 During the continuance of the Contract, Interact Technology Limited shall use its reasonable endeavours to provide the Client with: (a) a repair and maintenance service for the Equipment; and (b) an advisory service relating to the application and use of the Equipment within such response times as set out in clause 2.4.
- 2.2 The Basic Service shall consist of:
- 2.2.1 routine maintenance of the Equipment at such intervals as Interact Technology Limited may reasonably determine to be necessary in order to keep the Equipment in good working order; and
- 2.2.2 repair of any defect in or malfunction of the Equipment which is discovered by Interact Technology Limited representatives during the course of routine maintenance checks or is reported to Interact Technology Limited by the Client from time to time.
- 2.3 All reports of defects in or malfunctions of the Equipment must be made by telephone, facsimile transmission or in writing, as appropriate, by a representative of the Client and otherwise in such a manner as Interact Technology Limited may reasonably require from time to time.
- 2.4 Response times for the Basic Service shall be Interact Technology Limited using its reasonable endeavours to respond to calls for service from the Client categorised as intermittent faults, minor failures and major failures within (a) 16 working hours for non-critical items such as intermittent faults and failure of handsets (if covered), (b) 8-16 working hours for minor failures and faults, such as failure of an extension card, and (c) 4 working hours for major failures and faults, which shall be categorised as Partial switch or transmission equipment failure which affects 20% (or greater) trunk or extension ports.
- 2.5 For the purposes only of determining the period of time within which Interact Technology Limited representative makes an attendance pursuant to clause 2.4, any period between the end of Normal Working Hours on one Working Day and the beginning of Normal Working Hours on the next Working Day shall be disregarded. If the Client reports a defect in or malfunction of the Equipment after Normal Working Hours on any day, then unless Interact Technology Limited expressly agrees otherwise, the report shall be deemed to be made at the beginning of Normal Working Hours on the next Working Day, and this clause shall take effect accordingly.
- 2.6 Routine maintenance of the Equipment shall be carried out by one of Interact Technology Limited's suitably qualified and duly authorised representatives attending at the Location at such times during Normal Working Hours as may be agreed in advance between Interact Technology Limited and the Client from time to time.
- 2.7 If an Interact Technology Limited representative discovers a defect in or malfunction of the Equipment in the course of routine maintenance, he will use all reasonable endeavours to repair it at the Location, but if that is not reasonably practicable (for example in the time available), Interact Technology Limited's representative will seek to make suitable arrangements with the Client for (a) a further visit to be made to the Location during Normal Working Hours for the repair of the defect or malfunction; or (b) if the Equipment is inoperative as a result of the defect or malfunction, its repair at the Location outside Normal Working Hours; or (c) if it is not reasonably practicable for the defect or malfunction to be repaired otherwise, the removal of the Equipment (or, where practical, the part of the Equipment in question) for the purposes of repair.
- 2.8 Pursuant to the Consultancy Service Interact Technology shall (a) provide the Client from time to time in writing with such up to date and accurate information as to the application and use of the Equipment as may be available to Interact Technology Limited and as Interact Technology Limited may reasonably determine to be necessary or desirable to be provided; and (b) use its best endeavours to respond promptly, during Normal Working Hours, by telephone, facsimile transmission or in writing, as appropriate, to any request from the Client for information concerning the application and use of the Equipment, or the repair of any defect in or malfunction of the Equipment.

### 3. Spare parts and replacements

- 3.1 Interact Technology Limited shall use all reasonable endeavours to supply minor spare parts and replacement components required to maintain the Equipment in good working order, and no extra charge will be made for the supply. If, however the Equipment is damaged otherwise than by fair wear and tear or the Equipment requires a major spare part or replacement component (as to whether either of which events has occurred Interact Technology Limited decision shall be final and binding on the Client), Interact Technology Limited may charge the Client for supplying the same.
- 3.2 Spare parts and replacement components supplied by Interact Technology Limited shall become part of the Equipment and parts and components removed from it shall become Interact Technology Limited's property.
- 3.3 If Interact Technology Limited determines that it is necessary to move the Equipment or any part of the Equipment from the Location in order to carry out any repairs, and as a consequence a significant part of the Client's operations are affected, Interact Technology Limited shall use all reasonable endeavours to supply on loan to the Client equivalent equipment while the Equipment or the part in question is being repaired.
- 3.4 If any part of the Equipment can no longer be maintained in good working order by fitting replacement spare parts or the whole of the Equipment is damaged beyond economic repair otherwise than by Interact Technology Limited fault (as to whether either event has occurred, Interact Technology Limited decision shall be final and binding on the Client), Interact Technology Limited may terminate the Contract with respect to all or part of the Equipment immediately on notice to the Client, and shall repay to the Client a fair proportion of the Support Fee already paid for the year.

### 4. Services not included

- 4.1 The Basic Service shall not apply to any design defect in the Equipment, or any defect or malfunction which is due to faulty materials or workmanship in manufacture or which in Interact Technology Limited's opinion has arisen as a result of:
- 4.1.1 damage, improper use operation or neglect of the Equipment or the subjection of the Equipment by the Client to unusual physical or electrical stress, the neglect or misuse of the Equipment or any failure or fluctuation of electrical power, air conditioning, humidity control or other environmental controls or where the environment in which the Equipment operates and is sited does not meet BS6701 requirements,
- 4.1.2 modification of the Equipment or its merger (in whole or in part) with any other equipment unless approved in writing by Interact Technology Limited,
- 4.1.3 the Client failing to implement recommendations for and solutions to faults advised by Interact Technology Limited,
- 4.1.4 faults due to failures of electrical supplies, networks and PABX systems,
- 4.1.5 electrical work external to the Equipment,
- 4.1.6 transportation or relocation of the Equipment not performed by or on behalf of Interact Technology Limited,
- 4.1.7 use of the Equipment for a purpose for which it was not designed or breach by the Client of any maintenance agreement covering the Equipment,
- 4.1.8 any repair, adjustment, alteration or modification of the Equipment by a third party and without Interact Technology Limited prior written consent,
- 4.1.9 Force Majeure or other causes (except fair wear and tear) not due to Interact Technology Limited neglect or default.
- 4.2 If on investigation Interact Technology Limited reasonably determines that any defect in or malfunction of the Equipment is the result of any of the matters referred to in clause 4.1, the Client shall be liable for all costs incurred by Interact Technology Limited in investigating the same and determining its cause, as if that work formed part of the Consultancy Service.
- 4.3 Except as expressly provided in the Contract or as agreed between the parties in writing, Interact Technology Limited shall have no obligation to provide any of the Specified Service to the Client outside Normal Working Hours.

### 5. Client's obligations

- 5.1 The Client shall:
- 5.1.1 at all times keep the Equipment in the environmental conditions recommended by the manufacturer of the Equipment;
- 5.1.2 not move the Equipment from the Location without obtaining the prior written consent of Interact Technology Limited;
- 5.1.3 use the Equipment only in accordance with such instructions and recommendations relating to the care and operation of the Equipment as may be issued by the manufacturer of the Equipment or as may from time to time be advised in writing by Interact Technology Limited; and
- 5.1.4 not allow any person other than Interact Technology Limited representatives to adjust, maintain, repair, replace or remove any part of the Equipment.
- 5.2 The Client shall ensure that Interact Technology Limited representatives have full and free access to the Equipment and to any records of its use kept by the Client to enable Interact Technology Limited to perform its duties.
- 5.3 The Client shall provide Interact Technology Limited with such information concerning the Equipment, its application, use, location and environment as Interact Technology may reasonably request to enable it to carry out its duties.
- 5.4 The Client shall take all such steps as may be necessary to ensure the safety of any of Interact Technology Limited representatives who visit any premises of the Client.

### 6. Charges

- 6.1 In consideration of provision of the Basic Service, the Client shall, within 7 days of receipt of an invoice from Interact Technology Limited, pay to Interact Technology Limited the Support Fee itemised on the Specification Sheet, provided that Interact Technology Limited may (subject to clause 8.1) waive the Support Fee in respect of the first year of the Contract with the agreement of the Client.
- 6.2 Interact Technology Limited may vary the Support Fee annually on 7 days' notice to the Client.
- 6.3 The price payable by the Client at each anniversary for the following years services will be adjusted to account for any additions made to the maintained equipment during the course of the preceding maintenance year, and in addition, Interact Technology Limited reserves the right to increase the Basic Fee at any time in the event that significant additions are made to the maintained equipment during the course of a maintenance year.
- 6.4 If the Client moves the Equipment from the Location to a new site, without prejudice to any other rights that Interact Technology Limited may have, Interact Technology Limited may make a reasonable increase to the Support Fee as shall be necessary to take account of any increased costs that it shall incur in providing the Specified Service at the new site.
- 6.5 In consideration of the provision of the Consultancy Service the Client shall pay to Interact Technology Limited charges calculated at the rate of £150.00 per hour for the time spent by Interact Technology Limited representative in providing the Consultancy Service to the Client; Interact Technology Limited shall invoice the Client for the Consultancy Service monthly in arrears or at such other intervals as may be agreed from time to time between the parties, and the Client shall, within 30 days after the receipt of each invoice from Interact Technology Limited, pay to Interact Technology Limited the amount shown in the invoice.
- 6.6 If Interact Technology Limited services are requested without any reasonable justification, or by reason of any defect in or malfunction of the Equipment due to causes not covered under the Contract, the Client shall be liable to pay Interact Technology Limited standard charges from time to time in force for such services.
- 6.7 The Client shall, within 30 days after the receipt of an invoice from Interact Technology Limited, reimburse Interact Technology Limited for all travelling, accommodation and other expenses reasonably incurred by any representatives of Interact Technology Limited in connection with the performance by Interact Technology Limited of its obligations under the Contract.
- 6.8 All charges and other sums due to Interact Technology Limited are exclusive of any applicable value added tax, which shall be additionally payable by the Client.
- 6.9 If the Client fails to pay on the due date any amount which is payable to Interact Technology Limited pursuant to the Contract then, without prejudice to Interact Technology Limited other rights, that amount shall bear interest from the due date until payment is made to Interact Technology Limited (both before and after any judgment at 5% per annum over Barclays Bank PLC base rate from time to time).
- 6.10 With respect to all obligations of payment contained in this Clause 6, time shall be of the essence.
- 7. Liability**
- 7.1 Interact Technology Limited shall have no Liability to the Client for any indirect, special or consequential. Loss of the Client arising out of or in connection with the provision of any goods or services pursuant to the Contract (except in respect of death or personal injury resulting from negligence) and the total Liability of Interact Technology Limited for any other Loss of the Client so arising in any year of the Contract in respect of any one event or series of connected events shall not exceed the charges payable by the Client for the Basic Service for that year.
- 7.2 If Interact Technology Limited is affected by Force Majeure it shall promptly notify the Client of the nature and extent of the circumstances in question and notwithstanding other provisions of this Contract Interact Technology Limited shall not be deemed to be in breach of the Contract or otherwise be liable to the Client for any delay in performance or the non-performance of any of its obligations under the Contract, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the Client and the time for performance of that obligation shall be extended accordingly.
- 8. Duration and termination**
- 8.1 This Contract shall come into force upon first submission of a Specification Sheet and shall continue in force for a period of 5 years provided that (in the case that a Support Fee is paid in the first year of the Contract) the Client may terminate the Contract on 90 days' notice of the third and fourth anniversary of submission of the Specification Sheet. No such cancellation on notice shall be permissible if no Support Fee is levied for the first year of the Basic Service by agreement of Interact Technology Limited and the Client, and the Contract shall have a duration of 5 years.
- 8.2 Interact Technology Limited may terminate the Contract immediately by written notice to the Client if (a) if any sum payable under the Contract is not paid on the due date, (b) the Client commits any continuing or material breach of any provisions of the Contract and, in the case of such a breach capable of remedy, fails to remedy the same within 10 days of receipt of a notice giving particulars of the breach and requiring remedy, (c) the Client suffers an event of Bankruptcy.
- 8.3 Any waiver by Interact Technology Limited of a breach of any provision of the Contract shall not be considered as a waiver of any subsequent breach of the same or any other provision.
- 8.4 The rights to terminate the Contract given by this clause shall not prejudice any other right or remedy of Interact Technology Limited in respect of the breach concerned (if any) or any other breach.
- 9. Nature of agreement**
- 9.1 Interact Technology Limited may carry out its obligations under the Contract through any agents or sub-contractors appointed by it in its absolute discretion for that purpose.
- 9.2 The Contract is personal to the Client which it may not assign without Interact Technology Limited written consent.
- 9.3 Nothing in the Contract shall create, or be deemed to create, a partnership between the parties.
- 9.4 The Contract contains the entire agreement between the parties regarding its subject matter, supersedes all previous agreements and understandings between the parties, and may not be modified except in writing signed by the duly authorised representatives of the parties.
- 9.5 The Client enters into the Contract on the basis of no representation, warranty or other provision except as expressly provided in the Contract, and accordingly all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.
- 9.6 The Client acknowledges that these Conditions are entirely fair and reasonable but if any provision of the Contract is held by any court or other competent authority to be void or unenforceable in whole or part, the other provisions of the Contract and the remainder of the affected provisions shall continue to be valid.
- 9.7 The Contract shall be governed by and construed in all respects in accordance with the laws of England, and the Client agrees to submit to the non-exclusive jurisdiction of the English courts.
- 10. Notices and service**
- 10.1 Any notice or other information required or authorised by the Contract to be given by either party to the other may be given by hand or sent (by first class pre-paid post, facsimile transmission or comparable means of communication) to the other party at its registered office (or such other address as notified by that party to the other party from time to time), provided that notice of termination by the Client may only be given by registered post.