



Red Dragon I.T. Ltd. - TERMS AND CONDITIONS

DEFINITIONS

“The Customer” means The Customer as detailed on the front cover.

“The Company” means Red Dragon I.T. LTD.

“The System” means the collective items of equipment as installed and inter connected.

1. THE AGREEMENT

- a) These terms and conditions shall prevail over any proposals by ‘The Customer’ or implied by trade custom, practice or any oral representations made by ‘The Company’ or its employee’s agents or servants.
- b) These Terms and Conditions together with any documents expressly referred to in them, contain the entire Agreement between The Company and will replace any previous Agreements, undertakings, arrangements or proposals, written or oral, between The Company and The Customer. No oral explanation or oral information given by any party will alter the interpretation of these Terms and Conditions. By accepting these Terms and Conditions, The Customer agrees to have no redress in respect of any representation which has not been made expressly in this Agreement.
- c) The failure or delay of The Company to exercise or enforce any right in these Terms and Conditions, in every instance does not amount to a relinquishing of The Company’s rights. Changes to the Terms and Conditions will be announced on The Company’s web site. Failure to receive notice of a change does not invalidate the change.
- d) By accepting this Agreement, you have agreed to be bound by the Terms and Conditions and by that, any subsequent agreement or policy, and that there are no circumstances where deviation from the agreed Terms and Conditions is permitted. The Customer should be aware that failure to carry out obligations under this Agreement could be seen as a breach of contract, leading to the termination of services provided by The Company.

2. EXTENT OF SERVICES

The following are excluded from this Agreement:

- a) inspection repair or maintenance of any electrical power supply to the system or the work external to the system
- b) relocation or reinstallation of the system or any items of equipment
- c) line wiring
- d) requests to re-attend the site at The Customer’s convenience. In the event that The Customer requests The Company’s representatives to re-attend the site at The Customer’s convenience, The Company reserves the right to charge The Customer such additional sums as maybe appropriate in accordance with The Company’s current charging rate

3. EXTENT OF REPAIR SERVICES

- a) The Company will inspect the equipment and shall carry out such repair work as may be necessary in order to put the equipment in good working order. The Customer shall meet the costs of such inspection and repair.
- b) If The Company reasonably forms the opinion that the equipment or any part of it cannot be economically maintained, The Company will notify The Customer of The Company’s estimate of cost for reconditioning, replacing or repairing all or part the equipment.
- c) Additional works such as programming, training, cabling and out of hours work will be chargeable at The Company’s current charging rate and such charges will be met by The Customer.

4. CUSTOMER RESPONSIBILITIES

- a) The Customer is to ensure The Company’s Technical Staff have full free and timely access to the equipment and The Customer shall provide adequate working and storage space and other such facilities as the Technical Staff may reasonably require.
- b) The Customer shall observe all statutory requirements in respect of Health and Safety Legislation and GDPR.

5. LOST OR DAMAGE TO HIRED EQUIPMENT

- a) If the hired equipment is returned in a damaged, unclean and/or in a defective state, except where due to fair wear and tear and/or an inherit fault in the hire equipment, the customer shall be liable to pay The Company for the cost of any repair required to return the hire equipment to a condition fit for re-hire and to pay the rental in accordance with the provisions of clause 5a, until such repairs have been completed.
- b) The Customer will pay to The Company the replacement cost of any hire equipment which is lost, stolen and/or damaged beyond economic repair during the hire period.
- c) The Customer shall pay the rental for the hire equipment up to and including the date it notifies The Company that



the hire equipment has been lost, stolen and/or damaged beyond economic repair and from that date until The Company has replaced such hire equipment the Customer shall pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages being equal to two thirds of the rental that would have applied for such hire equipment for that period, The Company shall use its reasonable commercial endeavours to purchase replacements for such hire equipment as quickly as possible using the monies paid under clause 5b.

6. LIMITATIONS

The Company will not be liable for failure to meet its obligations under this Agreement if the failure is a result of:

- a) "force majeure"
- b) act of god
- c) refusal of licence
- d) illegality
- e) fire explosion, accident or industrial dispute
- f) unavailability of materials or spare parts

7. CHARGES

- a) The company reserves the right to make a charge in respect of time and expenses incurred by The Company in the event of a call-out to attend to faults which then transpire not to be contained within the equipment or reported as having developed a fault and this proves not to be the case.
- b) In the event any additional payment becomes due under the terms of this agreement, such sums shall be paid within 30 days of the date of The Company's invoice.
- c) In the event any account is in arrears for more than 30 days, The Company reserves the right to charge a late payment fee of up to 1.5% net per day or £250.00 + VAT per calendar month. In the event any account is in arrears for more than 30 days, The Company reserves the right to cancel this agreement and upon such cancellation The Customer shall immediately settle any overdue amount owed to The Company.
- d) In the event of a breach of this agreement by The Customer, The Company shall be at liability to terminate this Agreement, whereupon The Customer shall pay to The Company compensation.
- e) The Company is entitled to make an additional charge for any extra work entailed in making alterations to an approved specification, necessitated by changes in The Customer's instructions, or any other cause beyond the control of The Company. The Customer will be notified of any extra cost which may be incurred by a change of brief. If the changes are major, it is possible that the project will need to be re-estimated and started again as a new commission.
- f) In addition to fees, costs incurred by The Company at The Customer's request or with The Customer's approval shall be charged separately.
- g) In addition to fees, The Company shall be reimbursed at cost for all reasonable out of pocket expenses, actually and properly incurred in the execution of the commission. Such expenses will include without limitation, hotel, subsistence and travelling expenses.

8. LIMITATION OF LIABILITY

- a) To the maximum extent permitted by applicable law, in no event will The Company be liable for any indirect, special, incidental or consequential damages arising out of interruption in service or the use of or inability to use the Services, including, but not limited to, damages for loss of goodwill, stoppage of work, computer failure or malfunction, or any and all other commercial damages or losses, even if advised of the possibility thereof, and regardless of the legal or equitable theory of contract, tort or otherwise, upon which the claim is based. In any such case, The Company's entire liability under any provision of this Agreement will not exceed in total, the sum of the fees paid for the services (if any) which are the subject of any such claim, with the exception of death or personal injury caused by the negligence of The Company to the extent the applicable law prohibits the limitation of damages in such cases.
- b) The Company is not responsible for any liability arising out of content provided by The Company or a Third Party, that is accessed by way of the services and/or any material linked to, via such content.

9. LEGAL CONSTRUCTION

- a) This Agreement shall be covered by English Law. The headings shall not be constructed as forming part of this Agreement.



10. INVALIDITY

- a) If any provision of this Agreement becomes invalid, illegal or unenforceable, other provisions of this Agreement shall stand unaffected.

11. ENTIRE AGREEMENT

- a) This Agreement along with the schedule/s attached, sets forth the complete Agreement between The Company and The Customer. No amendment or modification of the Agreement will be effective or binding unless it is in writing signed by a duly authorised representative of The Company and The Customer.

12. ASSIGNMENT

- a) The Company may assign its rights, benefits and obligations under this Agreement without prejudice to those rights, benefits and obligations. The Customer may not assign the benefit of this agreement without the previous written authority of The Company.

13. DATA PROTECTION

- a) To fulfil The Company's contractual obligation with The Customer, The Company will retain the following elements of The Customer's personal data in order to facilitate the contract, i.e. Name, Address, Email, IP Address, Telephone, Bank Details. This personal data will NOT be sold to a third party but will be given (as required) to The Company's approved Third-Party Suppliers when services are subcontracted out. The Company can certify that its Third-Party Suppliers meet with GDPR Compliance.
- b) The Company can certify its own GDPR compliance by its registration with the Information Commissioners Office (ICO) and through the following policy documents, which can be viewed on The Company's website; Data Protection Policy, Marketing & Privacy Policy and Information Security Policy.

14. CONFIDENTIALITY

- a) The Company undertakes not to disclose any confidential information obtained from The Customer concerning the business methods know-how and affairs of The Customer without The Customer's prior approval.
- b) The Company shall ensure that any sub-contractor involved shall be bound by the same conditions and confidentiality.

15. INTELLECTUAL PROPERTY RIGHTS

- a) Any design or registered design right arising in all or any of the work created by The Company, are and shall remain the property of The Company unless assigned in writing after payment of all fees, costs and expenses have been paid in full. Any fees paid to The Company shall be deemed to include the assignment of any such intellectual property rights. Any pre-existing designs supplied and owned by The Customer will however, remain the property of The Customer, e.g. business logos.

16. TERMINATION OF CONTRACT

- a) Either party may terminate this Agreement immediately at any time by notice in writing if:
 - i. the other party commits a breach of this Agreement (including failure to pay) and ceases to remedy it within 30 days of being given written notice from the other party to do so; or
 - ii. the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect; or
 - iii. the other party is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- b) Under all other circumstances, either party may terminate this Agreement at any time by giving 3 full months written notice to the other party, but not earlier than 12 months from the commencement date, and excluding individual contractual terms imposed by third party suppliers.
- c) In the event The Customer requests immediate termination of the services agreed, The Customer shall be required to pay to the Company 3 full months of services from the date of written notice in addition to a 'Release Fee' of £299 +VAT to cover administration costs. Additional charges may apply subject to contractual agreements with other third-party suppliers.
- d) In the event The Customer is switching the agreed services to an alternative supplier, The Company will supply all relevant information to conduct the switch to The Customer, but The Company will not compromise the security or integrity of the information stored on behalf of The Customer. All passwords required to complete the switch will be supplied by The Company to The Customer within a 10-day window of the agreed switch date, subject to all outstanding invoices being paid.



17. REFUNDS

- a) The Company reserves the right to suspend and/or terminate this Agreement at any time and in this event The Customer will be entitled to a pro rata refund based upon the remaining period of pre-payment, unless The Customer's account has been suspended due to a breach of the Terms and Conditions.
- b) No refunds will be made if The Customer's account was suspended due to a breach of the Terms and Conditions
- c) Where payment has been made by credit or debit card, any refund will only be issued to the same credit or debit card.
- d) On the termination/suspension of this Agreement, The Company reserve the right to immediately stop access to The Customer's web site and to remove all of The Customer's data stored on The Company's Servers.

18. CONSUMER RIGHTS

- a) If The Customer is a 'consumer', The Customer may have a right to cancel this Agreement under the Consumer Protection Regulations 2008 or similar laws amending or replacing it. This right must be requested in writing within Ten working days of the start of this Agreement.
- b) Whenever a cancellation decision has been taken, access to services supplied by The Company, will be removed and any account or services will be terminated.

19. INDEMNITY

- a) The Customer will indemnify and keep The Company indemnified and hold The Company harmless from and against, any breach by The Customer, of these Terms and Conditions and any claim brought against The Company by a Third Party resulting from the provision of services by The Company to The Customer and The Customer's use of the services and Servers, including, but not limited to, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses, including reasonable legal costs and expenses, however endured or incurred by The Company as a result of The Customer's breach of, or non-compliance with, this Agreement.

20. COMMUNICATION OF NOTICES

- a) Any notice to be given by The Company to The Customer or The Customer to The Company, may be sent by email or recorded delivery to the address of the other party as appearing in this Agreement or other address/s which may have been communicated to either in writing. If a communication is sent by email, it shall, unless the contrary is proved, be deemed to be received on the day it was sent, or if sent by recorded delivery, will be deemed to be served two days following the date of posting.

21. SEVERABILITY CLAUSE

- a) If any condition of this Agreement is declared by The Company, The Customer, or any legal or other proficient authority to be illegal, unenforceable, void, or subject to being declared void, The Company will modify that condition in a way that achieves the objectives of the parties within this Agreement without irregularity. The Company reserve the right at The Company's discretion, to remove the condition in question from this Agreement, but all residual conditions of this Agreement will remain in effect as if the unenforceable condition (or part thereof) did not exist.

22. APPLICABLE LAW AND DISPUTE

- a) The interpretation construction and effect of this Agreement shall be construed in all respects in accordance with English Law and both parties within this Agreement thereby submit to the exclusive jurisdiction of the Courts of England & Wales.

23. CONFIDENTIALITY AGREEMENT

- a) The parties within this Agreement are entering into a mutually beneficial collaborative agreement and for this purpose, need to disclose confidential information to one another.
- b) The parties within this Agreement should be willing to disclose the said information on the basis that it is protected and adhered to by the GDPR as provided within this Agreement.
- c) In consideration of the mutual premises and covenants contained within this Agreement, the "Disclosing Party" applies to either party as appropriate where it discloses confidential information to the other party and the term "the Receiving Party" applies to either party as appropriate where it receives confidential information from the other party.
- d) "Confidential Information" shall mean all information disclosed, whether orally, in writing or by any other means, including without limitation obtained as a result of any demonstration or being allowed access to any premises where the Disclosing Party may carry on business, by the Disclosing Party to the Receiving Party whether before or for 12 months after the date of this Agreement, including but not limited to information relating to that party's operations, processes, plans or intentions, production information, know-how, copyrights, design rights, trade secrets, market



- opportunities and business affairs, but shall not include any part of such information which comes into the public domain in any way without breach of this Agreement by the Receiving Party or any person to whom makes the disclosure or the Receiving Party can show was in their possession or known to it by being in its use or being recorded in its files prior to receipt from the Disclosing Party and was not acquired by the Receiving Party from the Disclosing Party under an obligation of confidence to have been independently developed by the Receiving Party without recourse to the Confidential Information.
- e) The Receiving Party obtains or has available from a source other than the Disclosing Party without breach by the Receiving Party or such source of any obligation of confidentiality or non-use.
 - f) It is hereafter furnished by the Disclosing Party to a third party without restriction on disclosure or use or are disclosed by the Receiving Party with the prior written approval of the Disclosing Party.
 - g) Both The Company and The Customer shall be responsible for and primarily liable for any acts or omissions of its associate companies and associates (as defined the Income and Corporation Taxes Act 1988 sections 416 and 417) and all officers, employees, servants, agents or professional advisers of such person which would have been a breach of this Agreement were it done or omitted to be done by the Receiving Party.
 - h) In relation to Confidential Information received from the other party or from a Third-Party on behalf of the other party, the Disclosing Party and the Receiving Party also agree as follows:
 - i. to treat the Confidential Information in confidence and to use it only for the Purpose
 - ii. not to copy or write down any part of the Confidential Information except as are reasonably necessary for the Purpose
 - iii. to disclose the Confidential Information only to such of their directors, employees or third parties as may need to know the Confidential Information for the Purpose
 - iv. to treat the Confidential Information with the same degree of care and with sufficient protection from unauthorised disclosure as the Receiving Party use to maintain its own confidential or proprietary information
 - i) If no business relationship between the Disclosing Party and the Receiving Party shall be established or at the request of the Disclosing Party the Receiving Party shall promptly return all documents, materials and records and all copies of the Confidential Information to the Disclosing Party and permanently delete any such Confidential Information from any electronic storage media or memory; remain bound by clause 4 above [without limit in time] [for period of [5] years.
 - j) If a party within this Agreement doesn't enforce a right available to it under this Agreement in any particular instance, then that won't prevent it from enforcing that right in future or in any other instance
 - k) Neither The Company or The Customer shall assign or transfer any of its rights or obligations under this agreement without the prior written consent of the other party.
 - l) This agreement does not grant any right or licence under either The Company's or The Customer's intellectual property rights.
 - m) This Agreement constitutes the entire understanding between The Company and The Customer related to the protection of Confidential Information disclosed under it.
 - n) The interpretation construction and effect of this Agreement shall be construed in all respects in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English courts.

END.