

SPECIFIC CONDITIONS I7 – MICROSOFT APPLICATION SUPPORT SERVICES

These Specific Conditions govern the Microsoft Application Support Services that may be provided by the Company under an Order Form, together with any other document or terms and conditions referred to in the Order Form including but not limited to the General Terms & Conditions for the Supply of Products and/or Services (the “**Conditions**”), and Specific Conditions X3 – Standard Operational Services (“**Specific Conditions X3**”), which shall be deemed to be incorporated into the Contract for the performance of any Microsoft Application Support Services performed under these Specific Conditions.

1 DEFINITIONS

1.1 Capitalised terms used in these Specific Conditions shall have the following meanings for the purposes of these Specific Conditions only:

“Additional Charges”	means all Charges due to the Company by the Customer that are in addition to the Support Charge in consideration of the provision of the Additional Services;
“Additional Services”	means those additional services to be provided by the Company, including but not limited to those provided in accordance with the procedure as set out at paragraph 4.4, paragraph 4.3.1, and any other additional services provided by the Company in accordance with these Specific Conditions;
“Dynamics 365 Application”	means the Dynamics 365 Application suite as provided by Microsoft;
“Dynamics 365 Application Support”	means Service Request and Incident support in relation to the operation of the Dynamics 365 Application in accordance with the Service Tier as set out in the Order Form;
“Excepted Matters”	has the meaning set out in paragraph 7.1;
“Fair Use Policy”	means the policy for the reasonable and fair use of the Microsoft Application Support Services as set out in paragraph 12;
“Faults”	means fault or issue relating to hardware;
“First Contact Resolution”	means an Incident or Service Request that is resolved at the point that the End User first raises the Incident Notification and/or Service Request with the Service Desk;
“Go Live Date”	means two dates within a 30 day cycle as set out in the Order Form whereby a Service Request will be released by the Resolution Group into the Dynamics 365 Application live environment, and/or the live environment of the Power Platform Application;
“Microsoft”	means Microsoft Corporation and its affiliates;
“Microsoft Application Support Services”	means the Services provided by the Company to the Customer in accordance with these Specific Conditions;
“Operating System”	means the operating system software that manages the Customer’s computer hardware and software resources and provides common services for software and computer programs to run on the hardware;
“Power Platform Application”	means the Power Platform Application suite as provided by Microsoft;
“Power Platform Application Support”	means Service Request and Incident support in relation to the operation of the Power Platform Application in accordance with the Service Tier as set out in the Order Form;
“Rate Card”	means the relevant rate card for the Support Charges and Additional Charges as provided by the Company on request;
“Resolution Group”	means the party, person or entity responsible for resolving Incidents and/or fulfilling Service Requests as set out in the Order Form;
“Sandbox Environment”	means a safe and secure testing environment within the Operating System which the Company and the Third Party Resolution Group may access, and interact with to create and test proposed new or changed features or functionality of the Supported Software following receipt of a Service Request, or an Incident Notification;
“Service Tier”	means the applicable tier and level of Microsoft Application Support Services to be applied to Dynamics 365 Application Support and/or Power Platform Application Support as set out in the Order Form;
“Support Charge”	means the recurring Charges due to the Company by the Customer in consideration of the provision of the Microsoft Application Support Services, as set out in the Order Form;
“Supported Software”	means the Operating System and/or any other software listed as supported software on the Order Form for the purposes of the Microsoft Application Support Services;
“Third Party Resolution Group”	means a Resolution Group other than the Company agreed in writing by the parties in the Order Form;
“Third Party Support”	means support provided by the Company’s subcontractor as specified in the Order Form; and
“Web Portal”	means the online End User interface access to which is provided by the Company to the End Users for the purpose of raising Incident Notifications and Service Requests and for End Users to check for status updates on tickets logged with the Service Desk.

1.2 All other capitalised terms used in these Specific Conditions that are not defined in paragraph 1.1 have the meanings stated in the Conditions and/or Specific Conditions X3.

2 COMMENCEMENT DATE

2.1 The Commencement Date of the Microsoft Application Support Services shall be the date specified as such in the Order Form or, if no date is specified, the date on which the Company commences provision of the Microsoft Application Support Services to the Customer.

3 MINIMUM TERM

3.1 The Minimum Term shall be the date specified as such in the Order Form or, if no Minimum Term is specified, 12 (twelve) calendar months from the Commencement Date of the Microsoft Application Support Services.

4 FLOW DOWN TERMS

4.1 The Company reserves the right to make any modifications, changes, additions to or replacements of any part of the Microsoft Application Support Services at any time on providing the Customer with 2 (two) Business Days’ prior notice.

- 4.2 The Company reserves the right to withdraw (without any liability to the Customer) any element of the Microsoft Application Support Services at any time.
- 4.3 If, immediately prior to the Commencement Date, the Supported Software:
- 4.3.1 is not already supported by the Company; or
- 4.3.2 was not installed by the Company within the last 12 (twelve) months;
- then:
- (i) the Customer will provide to the Company a complete list of all known issues, the Company may at its discretion inspect the Supported Software and investigate the list of known issues. The Customer will pay for such investigate as an Additional Service in accordance with paragraph 11; and/or
- (ii) the Company may in its complete discretion carry out a technical audit (at the Customer's cost) of the Supported Software. The Customer will pay for such technical audit as an Additional Service in accordance with paragraph 11.
- 4.4 If, following the inspection or technical audit referred to at paragraph 4.3, any Supported Software is not functioning normally, free from recurring faults or otherwise is not suitable for inclusion within the Microsoft Application Support Services, as notified by the Company to the Customer in writing following such inspection, the Customer shall at its option either:
- 4.4.1 withdraw that piece of Supported Software from the Microsoft Application Support Services; or
- 4.4.2 permit the Company to undertake such repair work as may be necessary to put the Supported Software back into good working order;
- and the Customer will pay for such repair as an Additional Service in accordance with paragraph 11.

5 SERVICE DELIVERABLES

5.1 Service Desk

- 5.1.1 Where the Company is providing Dynamics 365 Application Support or Power Platform Application Support, as identified on the Order Form, it will provide a Service Desk during the Support Hours for the End User for the purpose of raising, recording, and managing Service Requests and Incident Management in relation to the Supported Software. The Service Desk will be shared between the Customer and other customers of the Company;
- 5.1.2 An End User may at any time, during the Support Hours, raise an Incident Notification and/or a Service Request with the Service Desk either by telephone and/or via Web Portal as directed by the Company from time to time.
- 5.1.3 When an End User contacts the Service Desk, the Company will:
- (a) follow an authorisation process to validate the identity of the End User and the rights of each such End User in relation to Service Requests and Incident Notifications;
- (b) record all Service Requests and Incident Notifications;
- (c) update the status and record the progress for Incidents and Service Requests;
- (d) provide system generated e-mails to confirm the progress and status of Incident Notifications and Service Requests to End Users;
- (e) provide First Contact Resolution where possible;
- (f) assign all Incidents and Service Requests that have not been resolved by First Contact Resolution to the relevant Resolution Group;
- (g) where the Company is the relevant Resolution Group use reasonable endeavours to correctly diagnose and take steps to resolve Incidents in accordance with Specific Conditions X3;
- (h) where the Third Party Resolution Group is the relevant Resolution Group, liaise with the Third Party Resolution Group, where appropriate; and
- (i) manage the Third Party Resolution Group to provide updates on Incidents and Service Request through to resolution.
- 5.1.4 The Customer's use of the Microsoft Application Support Services will be subject to the Fair Use Policy.

5.2 Sandbox Environment

- 5.2.1 Where the Company is providing Dynamics 365 Application Support or Power Platform Application Support, as identified on the Order Form, the Service Request will, prior to its release on the Go Live Date, be tested by the Company or the Third Party Resolution Group in the Sandbox Environment.
- 5.2.2 Where the Company is providing Dynamics 365 Application Support or Power Platform Application Support, as identified on the Order Form in relation to Incidents, any response, resolution, and fix to the Incident will, where deemed appropriate by the Company, be tested in the Sandbox Environment prior to its release into the live environment of the Dynamics 365 Application or Power Platform Application.

5.3 Third Party Support

- 5.3.1 Where the Company is providing Third Party Support for Dynamics 365 Application or Power Platform Application Support as identified on the Order Form, it will, in respect of the Supported Software provide ongoing support as defined in the Order Form.

6 CUSTOMER OBLIGATIONS

- 6.1 The Customer will provide or otherwise comply with the following obligations set out in this paragraph 6.1, which are Customer Obligations for the purposes of this Contract:
- 6.1.1 the Customer shall at all times operate and maintain the Microsoft Dynamics 365 Application and Microsoft Power Platform Application in a prudent manner and at all times in accordance with the Vendor's recommendations, and the end user licence terms for such platforms;
 - 6.1.2 unless otherwise provided by the Company under this Contract, the Customer will remain responsible for all third party hardware, software, services and/or infrastructure that is necessary to enable the provision of the Microsoft Application Support Services;
 - 6.1.3 ensuring timely participation and engagement with the Change Management process;
 - 6.1.4 any configuration changes, software updates, post software upgrade review, annual review meeting and training requests relating to the Supported Software will be logged by the Customer through a Service Request;
 - 6.1.5 any Incidents will be logged by the Customer with the Service Desk to allow the Company to follow the Incident Management process;
 - 6.1.6 the Customer shall remain responsible for the security and firewalls of the Customer's communications links, equipment, software, services and processes unless agreed otherwise in writing with the Company;
 - 6.1.7 the Customer will ensure it has paid for all necessary licenses and Vendor support for the Supported Software, the Microsoft Dynamics 365 Application, and the Microsoft Power Platform Application, and shall promptly make available to the Company access to such Vendor support services; and
 - 6.1.8 the Customer shall make available to the Company and any Third Party Resolution Group a safe and secure Sandbox Environment to allow the Company and Third Party Resolution Group to perform tests, and trials in relation to any Service Request and Incident Notification.

7 EXCEPTED MATTERS

- 7.1 Unless expressly provided for under the Order Form as Additional Services and except where agreed by the Company to be provided as Additional Services pursuant to paragraph 10, the Microsoft Application Support Services will not include the following (the "**Excepted Matters**"):
- 7.1.1 the cost of any software licenses or hardware. The Company will only deliver particular Microsoft Application Support Services where the relevant Microsoft Dynamics 365 Application and Microsoft Power Platform Application licenses have been purchased by the Customer;
 - 7.1.2 any Service Requests and Incident support request relating to any Microsoft Dynamics 365 Application and/or Power Platform Application where the Company or its subcontractor is not able to access the Customer's Vendor support for the purpose of resolving an Incident or Service Request;
 - 7.1.3 application maintenance, configuration, and changes carried out by the Customer or a third party (other than the Resolution Group) to the Supported Software;
 - 7.1.4 any Service Requests and Incident which is as a result of a change, or configuration attempt made by the Customer, an End User or a third party (other than the Resolution Group);
 - 7.1.5 any Service Requests that cannot in the Company's reasonable opinion be completed within 30 minutes of the Service Request ticket being raised with the Service Desk;
 - 7.1.6 any request to implement a Change to the live environment of the Microsoft Power Platform Application or Microsoft Dynamics 365 Application outside the Go Live Date;
 - 7.1.7 any Faults; and
 - 7.1.8 requests for technical consulting or software updates (that is not a Service Request).

8 GENERAL

- 8.1 The Microsoft Application Support Services will be provided from the Company's sites.
- 8.2 The Company will have no liability (whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise) for any failure to provide the Microsoft Application Support Services (including failing to meet any Service Level), or to pay any service credit (if applicable), to the extent caused by any interruption or failure of the Microsoft Application Support Services arising directly or indirectly as a result of any of the following circumstances set out in this paragraph:
- 8.2.1 any act or omission of the Customer, its agents, representatives or users (including the End Users);
 - 8.2.2 any act or omission of Microsoft or any other relevant third party;
 - 8.2.3 as a result of any delay or failure by the Customer to provide or otherwise comply with the Customer Obligations;
 - 8.2.4 the Customer's failure or delay in complying with the Company's reasonable instructions;
 - 8.2.5 any software other than the Microsoft Dynamics 365 Application and Microsoft Power Platform Application; and
 - 8.2.6 incorrect or unauthorised use of the Microsoft Dynamics 365 Application and Microsoft Power Platform Application;
- and the Company reserves the right to levy additional charges to the Customer on a time and materials basis in respect of any Additional Services provided by the Company that have been necessitated by such matters.

9 SERVICE LEVELS

- 9.1 The Company will supply the Microsoft Application Support Services in accordance with the Service Levels set out in Specific Conditions X3.

10 ADDITIONAL SERVICES

- 10.1 The Company may, in its sole and absolute discretion, use its reasonable endeavours to provide all or any of the Additional Services or all or any of the Excepted Matters as Additional Services and in doing so, will be entitled to charge the Customer for the same by levying Additional Charges in accordance with the Rate Card.
- 10.2 The Company's performance in relation to responding to and/or otherwise providing any Additional Services will not be counted in relation to its achievement or otherwise of the Service Levels. Such Additional Services will be performed during Normal Working Hours, unless otherwise agreed in writing by the Company.

11 CHARGES

- 11.1 The Support Charges for the Microsoft Application Support Services are as identified in the Order Form.
- 11.2 The Support Charges for the Microsoft Application Support Services will be invoiced monthly in advance, with the first invoice issued by the Company on or around the Commencement Date.

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11.3 Additional Charges will be levied and invoiced by the Company in accordance with the then applicable Rate Card following completion of the applicable Additional Service as notified by the Company. Unless otherwise stated in the Order Form, Additional Charges will be payable by the Customer within thirty (30) days of the date of the Company's invoice for such Additional Charges.

12 FAIR USE POLICY

12.1 All Microsoft Application Support Services are provided on a 'reasonable use' basis, as determined by the Company.

12.2 If, using its reasonable judgement, the Company considers that the use of the Microsoft Application Support Services by the Customer has consistently or notably exceeded typical usage by other customers, exceeded the Fair Use Policy, or that an individual request made by the Customer is not reasonable in nature, the Company may take reasonable steps to address the usage pattern or request. Such steps may include:

12.2.1 remedial work to address the root cause of the issues that are causing overuse of the Microsoft Application Support Services, such work being chargeable by the Company on a time and materials basis;

12.2.2 revising recurring charges or imposing additional time and materials charges in consideration of the overuse/request;

12.2.3 limiting the Customer's use of the Microsoft Application Support Services in line with typical customer use; and/or

12.2.1 implementation of or change to a Fair Use Policy relating to the Microsoft Application Support Services or to a particular element of the Microsoft Application Support Services.

12.3 All use of the Microsoft Application Support Services which is covered by a Fair Use Policy will be measured using a three (3) month rolling average.